

# MARKET BULLETIN

REF: Y5033

<b>Title</b>	Membership & Underwriting Conditions and Requirements (Funds at Lloyd's) (M&URs)
<b>Purpose</b>	To issue the full text of the M&URs
<b>Type</b>	Scheduled
<b>From</b>	Steve Jules, Head of Market Finance Contact details: +44 (0)20 7327 5314, <a href="mailto:Steve.Jules@lloyds.com">Steve.Jules@lloyds.com</a>
<b>Date</b>	2 November 2016
<b>Deadline</b>	Coming into line Deadline 2017
<b>Related links</b>	N/A

## Summary

The Membership & Underwriting Conditions and Requirements (Funds at Lloyd's) (M&URs) have been revised, and the full text is attached. An overview of the main changes is set out in this Bulletin below.

## Background

A consultation document on the proposed changes was issued to interested parties (including the LMA, members' agents and the ALM) earlier in the year, and notified to the Prudential Regulatory Authority (PRA) and the Financial Conduct Authority (FCA). The final version of the M&URs incorporates changes that were made as a result of this process.

## Overview of Main Changes

### *Solvency II*

The M&URs have been revised to reflect, amongst other things, a change to the methodology for calculating the Minimum Capital Requirement within the member solvency calculations, and those provisions of the PRA Rulebook for Solvency II firms relevant to the investment and valuation of assets for Funds at Lloyd's (FAL) purposes.

### *Inter-availability*

A number of technical changes have been made to allow bank guarantees and letters of credit, held on an inter-available basis, to continue to support the underwriting of a successor member beyond the period by which they otherwise have to be discounted for capital purposes pursuant to paragraph 16 of the M&URs. The process works by modifying the terms of the inter-available Security & Trust Deed under which the assets are held so that they are available to support the underwriting of the successor member only. This avoids the need for the bank to re-issue the bank guarantee / letter of credit in the name of the successor member.

### *Legal & regulatory changes*

References to certain legal and regulatory provisions in the M&URs have been brought up to date, in particular where provisions of the PRA Handbook have been amended following the implementation of Solvency II.

### *Tax Retention*

An amendment has been made to paragraph 4(D) to provide for an authorised person to permit a tax indemnity to be given in lieu of a member's Total Funding Requirement. This is subject to that member being within the same corporate group as an actively underwriting member.

### *Covenant & Charge*

Paragraph 5(7) prohibits any new Covenant & Charge arrangements being established under the M&URs, although any existing arrangements already in place may continue.

### *Solvency Capital Requirement (SCR)*

Paragraph 6(3) is a new provision that requires a member to make good within 30 days any deficit between the value of their FAL and their SCR (a definition of which has been added to Appendix 1 of the M&URs).

### *Counterparty exposure*

In accordance with the approach under Solvency II, Lloyd's will no longer apply concentration limits to a member's FAL (paragraph 8 of Appendix 3 has been deleted accordingly). However, as per paragraph 8(5) of the M&URs, Lloyd's will monitor counterparty exposure within a member's FAL against a benchmark exposure of 10% (by value) to any one counterparty; should exposure exceed this level a Relevant Person may require the member to remedy the position by (for example) providing alternative or additional FAL, or may otherwise restrict the release of FAL to the member. Attached at Annex 1 are guidelines indicating how we will monitor counterparty exposure.

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*Cut-off date for bank guarantees (BG) and letters of credit (LoC)*

Paragraph 7(3) is a new provision to give effect to Lloyd's Ancillary Own Funds (AOF) obligations under Solvency II. As BGs / LoCs are treated as AOF their use requires prior PRA approval. The composition of such assets in FAL must be finalised before Coming into Line (CiL) in order that Lloyd's can submit an application to the PRA in accordance with its timetable. Appendix 1, paragraph 2 of the M&URs sets out the "cut-off" date after which new BGs / LoCs, or any changes to existing BGs, LoCs and Covenant & Charge arrangements, may not be submitted for the purposes of paragraph 7(3). The "cut-off" dates were published in MBY5016 "Coming into Line" dated 22 August 2016.

A number of comments were raised during the consultation process on the "cut-off" date and its impact on CiL. Attached is an FAQ guide which draws together the questions raised.

Attached at Annex 2 are the criteria applied in the approval of credit institutions to issue BGs and LoCs.

*Minimum Capital Requirement (motor business)*

The lower minimum FAL requirement (25% of Overall Premium Limit (OPL)) for members with 85% or more of their OPL allocated to syndicates underwriting direct EU motor business has been removed. The performance of motor business in recent years has been such that members writing this business have, in any event, had capital requirements exceeding 40% of OPL, irrespective of the allocation of motor business in the member's portfolio. The reduced level of 25% of OPL is therefore no longer justified.

**Implementation**

The M&URs have been approved on behalf of the Council and came into force on 31<sup>st</sup> October 2016.

Any queries relating to this bulletin should be addressed to Kevin Nethersell ext. 6253 (kevin.nethersell@lloyds.com)

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**MEMBERSHIP AND UNDERWRITING CONDITIONS AND REQUIREMENTS**

**(FUNDS AT LLOYD'S)**

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**MEMBERSHIP AND UNDERWRITING CONDITIONS AND REQUIREMENTS  
(FUNDS AT LLOYD'S)**

**ARRANGEMENT OF PARAGRAPHS**

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**MEMBERSHIP AND UNDERWRITING CONDITIONS AND REQUIREMENTS  
(FUNDS AT LLOYD'S)**

These conditions and requirements are made under paragraphs 6, 7, 16, and 40 of the Membership Byelaw (No. 5 of 2005) and all other powers enabling.

**PART A - PRELIMINARY**

**1. Interpretation and Definitions**

The provisions of Appendix 1 (Interpretation and Definitions) shall have effect.

**PART B – OVERALL PREMIUM LIMITS**

**2. Overall premium limits**

Every member who wishes to commence or to continue underwriting for a year of account shall determine, in respect of either or both general business and long term business to be written by him, an OPL for that year of account.

**PART C - FUNDS AT LLOYD'S**

**3. Provision and maintenance of funds at Lloyd's**

- (1) Subject to sub-paragraphs 2 and 3, every member shall as at the next coming into line date or mid-year coming into line date maintain funds at Lloyd's in an amount not less than his Total Funding Requirement, as calculated in accordance with clause 4 below ("funds at Lloyd's requirement").
- (2) Any member who has a Total Funding Requirement for both general business and long term business must maintain separate funds at Lloyd's each in the appropriate amount as determined by the respective Total Funding Requirement.
- (3) For the avoidance of doubt, a member in respect of which a managing agent is a connected company and which participates only on one syndicate managed by that managing agent may, in lieu of all or part of its funds at Lloyd's requirement, hold all or part of its capital in the managing agent's sub-fund ("funds in Syndicate" or "FIS"). The amount of such capital shall, when aggregated with the member's funds at Lloyd's (if any), be of an amount not less than the member's Total Funding Requirement.

**4. Total Funding Requirement**

- (1) For the purposes of paragraph 3, the Total Funding Requirement of a member shall be determined for both general business and long term business (as applicable) as follows:

	Status of member	TFR
(a)	if the member is actively underwriting in the current underwriting year, and provided the member's OPL for the current underwriting year is not less than 50 per cent of the member's OPL for the immediately preceding underwriting year -	(A)

(b)	if the member is actively underwriting in the current underwriting year but his OPL for the current underwriting year is less than 50 per cent of his OPL for the immediately preceding underwriting year -	(B)
(c)	subject to (d) and (e) below, if the member has open years of account but is not actively underwriting in the current underwriting year -	(B)
(d)	if the member is not actively underwriting in the current underwriting year but is part of a group which includes other corporate members, one or more of whom is actively underwriting in the current underwriting year (each an “active member”), where:  (i) the OPL of the active member or, where more than one active member, the aggregate OPL of those members, for the current underwriting year is not less than 50% of their OPL or aggregate OPL (as the case may be) for the immediately preceding underwriting year; and  ii) the member is subject to the obligations contained in clause 15 (connected companies) of the Membership Agreement –	(A)
(e)	if the member is no longer actively underwriting but has open years of account and has made his funds at Lloyd’s interavailable and the successor member concerned is actively underwriting in the current underwriting year -	(A)
	unless the successor member’s OPL for the current underwriting year is less than 50 per cent of its OPL for the immediately preceding underwriting year, in which case –	(B)
(f)	if the member is a commencing member -	(C)
(g)	if the member is no longer actively underwriting and all of its underwriting years of account have closed –	(D)
(h)	if the member is a participant which is no longer actively underwriting and all of its underwriting years of account have closed but the successor member concerned is actively underwriting in the current underwriting year –	(E)

(2) For the purposes of sub-paragraph (1) above, (A), (B), (C), (D) and (E) shall be determined as follows:

(A) is the aggregate of:

- (1) the member’s adjusted QMC result; and
- (2) liabilities in respect of any request for funds made by the managing agent; and
- (3) whichever of (a) or (b) below is the greater:



- (a) the member's economic capital assessment requirement; or
  - (b) the minimum FAL requirement.
- (B) is the aggregate of:
  - (1) the member's adjusted QMC result; and
  - (2) liabilities in respect of any request for funds made by the managing agent; and
  - (3) the member's economic capital assessment requirement multiplied by a factor of 1.1.
- (C) is the amount determined by the provisions of Appendix 2.
- (D) is an amount which makes provision for any outstanding overseas tax liabilities of the member in respect of its underwriting business at Lloyd's (as adjusted from time to time). This amount shall be as determined by the Tax Department at Lloyd's, and notified to the member (or his members' agent); until such time as such notification is given, the amount required shall be the higher of (i) the member's Total Funding Requirement, and (ii) the member's economic capital assessment requirement for the year of account prior to the closure of the member's last underwriting year of account. With the prior approval of an authorised person, a member may arrange for an indemnity to be provided to Lloyd's in lieu of its Total Funding Requirement if that member is within the same corporate group as an actively underwriting member.
- (E) is the value of the successor member's Total Funding Requirement calculated in accordance with (A) **less** the aggregate value of (i) any funds at Lloyd's held by or on behalf of the successor member, (ii) any funds at Lloyd's provided on an interavailable basis to the successor member and included in the calculation of the value of the funds at Lloyd's of the successor member and (iii) any assets included in the calculation of the value of the funds at Lloyd's of the successor member pursuant to paragraph 8(4) below (other than assets provided by the member whose Total Funding Requirement is being determined under paragraph 4(1)(h)).

## **5. Maintenance of funds at Lloyd's**

- (1) Subject to sub-paragraph (6) below, no member shall underwrite general business or long term business unless he has executed one or more Lloyd's deposit trust deeds and/or Lloyd's security and trust deeds in the respective form for the time being prescribed and pursuant to which a Lloyd's deposit or Lloyd's life deposit is held in accordance with these conditions and requirements.
- (2) Subject to sub-paragraphs (3) and (4), a member's Lloyd's deposit and Lloyd's life deposit (if any) shall comprise –
  - (a) any sums and investments held under the terms of a Lloyd's deposit trust deed in the prescribed form;
  - (b) any guarantee or letter of credit, in each case in the prescribed form, provided to the Society and held under the terms of the Lloyd's

- security and trust deed in the prescribed form; or
- (c) partly such sums and investments and partly such guarantees and letters of credit.
- (3)
    - (a) For the purposes of sub-paragraph (1), and with the prior consent of an authorised person, a Lloyd's deposit or Lloyd's life deposit may constitute sums and investments provided by a third party and held under the terms of a Lloyd's Deposit Trust Deed (Third Party Deposit) in the appropriate prescribed form;
    - (b) Subject to paragraph 8(3), for the purposes of sub-paragraph (1), and with the prior consent of an authorised person, a Lloyd's deposit or Lloyd's life deposit may constitute sums, investments, guarantees or letters of credit provided by a participant held under the terms of an interavailable deposit trust deed and/or interavailable Lloyd's security and trust deed in the respective form for the time being prescribed whether or not the participant has open years of account and (in the case of an interavailable security and trust deed) whether or not the guarantees or letters of credit remain held on interavailable terms.
  - (4) Subject to sub-paragraph (7), with the prior written consent of an authorised person, a corporate member may, wholly or partly in lieu of the forms of Lloyd's deposit referred to in sub-paragraph (2), provide a Lloyd's deposit (but not a Lloyd's life deposit) in the form of an approved covenant by a third party secured by an approved charge over property of the third party and subject, if so agreed between the third party and an authorised person, to a master agreement in the prescribed form, such approved covenant and approved charge being entered into together with such custody agreements, investment management agreements and other supporting agreements as are applicable and may be requested by an authorised person;
  - (5) Where an authorised person gives his consent under sub-paragraph (3), he may require any one or more of the following to be given:
    - (a) a Third Party Funding Arrangements Questionnaire, Declaration and Deed of Undertaking in the prescribed form;
    - (b) a Legal Opinion in the prescribed form;
    - (c) a Confirmation of Financial Position in the prescribed form.
  - (6) For the avoidance of doubt, a member may underwrite general business or long term business if he holds funds at Lloyd's in the amount of his Total Funding Requirement for general business or long term business respectively solely in the form of monies and other assets in his personal reserve funds.
  - (7) With effect from the date on which these conditions and requirements came into force (as stated in paragraph (22) hereof), a corporate member may no longer provide a Lloyd's deposit in the form otherwise permitted by sub-paragraph (4) above, but any Lloyd's deposit in such form at such date may continue to be provided in that form.

## **6. Reduction in value of funds at Lloyds**

- (1) A member shall not by any voluntary act or omission effect or permit any reduction in the value of that member's funds at Lloyd's below the amount of his most recent Total Funding Requirement, save for the purpose of meeting any Lloyd's obligations in accordance with the terms of the trust deed under which the funds concerned are held.
- (2) Where at any time during the course of a year the value of a member's funds at Lloyd's has reduced below the amount of the member's Total Funding Requirement by virtue of-
  - (a) a withdrawal for the purposes of meeting any Lloyd's obligations in accordance with the terms of the trust deed under which the funds concerned are held; or
  - (b) a diminution in value of any assets or monies comprised in the member's funds at Lloyd's by more than 10 per cent of the required value;

the member (by his member's agent if he has one) shall notify the Relevant Person and shall, unless otherwise permitted by the Relevant Person, make good the deficit within 28 days of the deficit arising.

- (3) Where at any time during the course of a year the value of a member's funds at Lloyd's falls below the member's solvency capital requirement ("the solvency deficit"), the member (by his member's agent if he has one) shall notify the Relevant Person and shall, unless otherwise permitted by the Relevant Person, make good the solvency deficit forthwith, and in any event within a period no longer than 30 days.

## **7. Funds at Lloyd's – acceptable assets**

- (1) Subject to sub-paragraph (3), a member's funds at Lloyd's shall consist only of assets listed in Part 1 of Appendix 3 ("acceptable assets") and may be included in the valuation of a member's funds at Lloyd's provided the conditions set out in Part 1 of, and the general principles in the introductory paragraphs 1 to 3 (inclusive), of Appendix 3 are complied with.
- (2) In the event that a member's funds at Lloyd's comprise assets which cease to be acceptable assets, and the member (or his members' agent, if applicable) has been advised that this is the case, the member shall procure that such assets are replaced no later than the next coming into line date or such earlier date as may be prescribed by Lloyd's.
- (3) Assets in the form listed in paragraphs 5 and 6 of Part 1 of Appendix 3 (letters of credit and guarantees) may not be submitted into a member's funds at Lloyd's after the cut-off date, nor may any changes be made after the cut-off date to the amount of any letter of credit, guarantee, approved covenant and approved charge or life assurance policy already comprising a member's funds at Lloyd's.
- (4) Assets in the form of a letter of credit, guarantee, approved covenant and approved charge or life assurance policy may be substituted in full after the cut-off date, provided that they are replaced with assets of the type listed in

paragraphs 1 – 4 of Part 1 of Appendix 3.

## **8. Funds at Lloyd's - calculation, valuation and counterparty exposure**

- (1) Subject to sub-paragraphs (2) and (3), the assets comprised in a member's funds at Lloyd's shall be taken into account for the purposes of these conditions and requirements at their respective values determined in accordance with Chapter 2 of the Valuation Part of the PRA Rulebook applicable to Solvency II firms. Letters of credit, guarantees and life assurance policies will be valued by Lloyd's at their net realisable value as at the relevant valuation date, taking into account all appropriate deductions including (i) the expenses of realisation, and (ii) any reduction in value that would be likely to occur if the asset needed to be realised at short notice to meet liabilities falling due earlier than expected.
- (2) In respect of the proportion of the amount of a member's funds at Lloyd's which is equal in amount to 30 per cent of the member's OPL, no credit shall be taken for the value of any SRF held by the member (but for all other purposes of these conditions and requirements a member's SRF (if any) shall be taken into account in determining the value of his funds at Lloyd's).
- (3) In the case of a successor member, the value of any funds at Lloyd's that have been made interavailable by a participant to the successor member under an interavailability arrangement shall be included in the calculation of the value of the successor member's funds at Lloyd's save to the extent that such interavailable funds are earmarked to cover any Total Funding Requirement of the participant (as calculated in accordance with paragraph 4).
- (4) Where a participant who has entered into an interavailability arrangement has no open years of account and in respect of which an instrument in the form for the time being prescribed is entered into by the Society, the effect of which is to release the participant's obligations under an interavailable deposit trust deed or interavailable security and trust deed which relate to the member's own underwriting business but not those which relate to the underwriting business of the successor member, the assets held subject to that trust deed shall be treated as no longer being held on interavailable terms and shall be included in the calculation of the value of the successor member's funds at Lloyd's.
- (5) Lloyd's will monitor counterparty exposure within a member's funds at Lloyd's on an ongoing basis. In the event of a material exposure to a single counterparty (in excess of 10% of funds at Lloyd's by value), a Relevant Person may require that the member take steps to remedy the position (including but not limited to the provision of alternative or additional capital within 30 days), or may otherwise restrict the release of funds at Lloyd's to the member.

## **9. Valuation of Covenant and Charge**

- (1) For the purposes of these conditions and requirements the value at any time of a Lloyd's deposit provided in the form of an approved covenant and an approved charge shall be taken to be whichever is the lesser of -

- (a) the maximum sum which may at that time be demanded under the approved covenant given in respect of or by the relevant member (after taking account of any sums already paid under that approved covenant); and
  - (b) the value at that time attributable to the relevant member of the acceptable assets which are subject to the fixed charges granted to the Society under the approved charge by way of security for the performance of the approved covenant referred to in (a) above and of any other approved covenants secured by the approved charge.
- (2) The value of the acceptable assets which are subject to the fixed charges granted to the Society under an approved charge ("the mortgaged assets") shall be attributed to the members in respect of which the approved covenants secured by that approved charge are provided ("the relevant members") as follows -
  - (a) when the approved covenants are first provided, such value shall be attributed to the relevant members in proportion to the respective nominal values of the approved covenants provided in respect of each of them;
  - (b) any increase or decrease in the value of the mortgaged assets between the time referred to in (a) above and the first adjustment event (as defined in sub-paragraph (3)) shall be attributed to the relevant members in the proportions referred to in (a) above;
  - (c) where a payment is made to the Society under any approved covenant, the amount (if any) by which the value of the mortgaged assets is reduced by reason of that payment (whether as a result of the exercise of the powers of sale of the Society under the relevant approved charge or as a result of a release granted by the Society to enable the relevant payment to be made) shall be deducted from the value of the mortgaged assets attributed to the relevant member in respect of which the relevant approved covenant was provided;
  - (d) where the nominal amount of any approved covenant is altered with the agreement of the Society, the value of the mortgaged assets immediately following the relevant valuation date or other date by reference to which the alteration was agreed shall be attributed, and shall be deemed to have been attributed, to the relevant members in such proportions as shall, before or at the time the alteration takes effect, be agreed by the relevant members and approved by an authorised person;
  - (e) any increase or decrease in the value of the mortgaged assets occurring between one adjustment event and the next shall be attributed to the relevant members in the proportions in which the value of the mortgaged assets was attributed to them immediately after the former such adjustment event.
- (3) For the purposes of this paragraph an "adjustment event" occurs whenever -

- (a) a payment is made to the Society under any approved covenant provided in respect of a relevant member and the value of the mortgaged assets is reduced by reason of that payment; or
  - (b) the nominal amount of any approved covenant is altered with the agreement of the Society (but so that for this purpose the adjustment event shall be deemed to occur on the relevant valuation date or other date by reference to which the alteration is agreed).
- (4) In relation to a relevant member, the reference in the definition of "relevant valuation date" to the provision of further assets and monies shall be treated as a reference to the procuring of an increase in the value of the mortgaged assets attributable to that relevant member or in the nominal value of the approved covenant provided in respect of that relevant member, or in both, to the extent that such increase reverses any diminution in the value of the funds at Lloyd's provided in respect of that relevant member.
- (5) In the case of an approved covenant and an approved charge where the provider of the covenant is a third party located outside of the United Kingdom, the percentage of a member's funds at Lloyd's that may be provided by way of approved covenant and approved charge shall be limited to 70%.
- (6) In this paragraph 9 references to the Society shall be deemed to include references to any other person who is for the time being the trustee of any Lloyd's security and trust deed under which the benefit of the approved covenant concerned is held.

#### **10. Restriction on mortgage – corporate member**

No corporate member shall, except with the prior written consent of the Council, create or permit to exist over all or part of the monies and assets comprising its funds at Lloyd's or any other fund established by it as security for the payment of its underwriting liabilities (or, in either case, any interest therein) any mortgage, charge, pledge, lien, assignment, encumbrance, right of set-off, title transfer or retention arrangement or agreement, or any security interest whatsoever (other than in favour of the Society or as permitted or required under these conditions and requirements).

### **PART D – ADDITIONAL UNDERWRITING REQUIREMENTS**

#### **11. Solvency shortfall**

No member shall underwrite insurance business for the year of account next following the coming into line date if he has failed to extinguish not later than the coming into line date any solvency shortfall shown in the most recent solvency statement issued by the Society in relation to him.

#### **12. Requests for funds**

- (1) Subject to sub-paragraphs (2) and (3), no member shall underwrite insurance business for the year of account next following the coming into line date if that member has failed to meet in full by the coming into line date any request for funds made by a managing agent where such request was due to be met by such date.

- (2) In determining for the purposes of sub-paragraph (1) whether a member has failed to meet in full a request for funds no account shall be taken of any interest for which he is liable under clause 7.1(c) of any agreement in the form of the standard managing agent's agreement (general) or the standard managing agent's agreement (corporate member) (as the case may be).
- (3) Sub-paragraph (1) shall not apply if no later than the coming into line date the member has duly authorised the application of such amount of funds at Lloyd's as is sufficient to meet his liabilities in respect of all requests for funds referred to in sub-paragraph (1).

### **13. Power of Attorney**

No member shall underwrite insurance business at Lloyd's unless he has executed a power of attorney in the form for the time being prescribed by the Council relating to the carrying on of insurance business of all classes and matters incidental thereto in jurisdictions outside the United Kingdom.

### **14. Franchise Board**

Nothing in these conditions and requirements shall prevent the Franchise Board or any person or body of persons authorised by the Franchise Board from prescribing other categories of assets at some future date which are acceptable for funds at Lloyd's.

### **15. Residency for tax purposes**

- (1) Subject to sub-paragraph (2), with effect from 1<sup>st</sup> January 2015 no member shall underwrite insurance business at Lloyd's unless that member is resident in the United Kingdom for tax purposes.
- (2) In the case of a member which is a SLP or a LLP, with effect from 1<sup>st</sup> January 2015 that member shall not underwrite insurance business at Lloyd's unless all of the partners of the SLP or all of the members of the LLP (as applicable) are resident in the UK for tax purposes.
- (3) Prior to the commencement of a year of account, every member wishing to underwrite for that year of account shall complete a tax declaration in the prescribed form confirming that he (or in the case of a member which is a LLP or SLP, the members or partners thereof) will be resident in the United Kingdom for tax purposes for the tax year in which that year of account commences (and fully expects to be so resident for the next tax year thereafter). Should such a declaration fail to be provided by the coming into line date for that year of account, Lloyd's will take steps to cease the member from underwriting at the end of the preceding year of account.

### **16. Interavailability arrangements**

- (1) Subject to paragraph 8(4), in relation to an interavailability arrangement, with effect from the later of:
  - (a) 24 months from the end of the year in which closure of the last year of account of the member takes effect; and
  - (b) 31<sup>st</sup> December 2015

the funds at Lloyd's of a successor member may not include a Lloyd's deposit or Lloyd's life deposit held on an interavailable basis between the member and the successor member. Any funds at Lloyd's still in place at that time shall, subject to paragraph 8(4), be disregarded for the purposes of determining whether the successor member has met his funds at Lloyd's requirement under paragraph 3(1).

## **PART E - SUPPLEMENTAL AND COMMENCEMENT**

### **17. Exemptions and variations**

The Director, Finance, the Head of Market Services or the Head of Market Finance may grant any member or members exemption from such provisions of these conditions and requirements, or vary the application of these conditions and requirements to that member or those members, on such terms and conditions as they see fit.

### **18. Confirmation Form**

- (1) A members' agent (or where the member has more than one members' agent, the co-ordinating agent) shall, in the case of each member for whom it acts as such, lodge with Market Services by such date as may be prescribed in each year a statement in the form set out in Appendix 4 confirming that that member has either complied with these conditions and requirements or has been excused compliance with these conditions and requirements pursuant to paragraph 17 above.
- (2) A corporate member which has not retained the services of a members' agent for the next following year of account shall lodge with Market Services by such date as may be prescribed in each year a statement in the form set out in Appendix 5 confirming that the corporate member has either complied with all these conditions and requirements or has been excused compliance with these conditions and requirements pursuant to paragraph 17 above.
- (3) A members' agent, or as the case may be, a co-ordinating agent, or a corporate member which has not retained the services of a members' agent shall, upon being required to do so by a Relevant Person, have the statement referred to in sub-paragraph (1) or (2) (as appropriate), or any calculation made in confirming the member's required funds at Lloyd's, audited by a recognised accountant.

### **19. Accredited Investors**

- (1) Subject to paragraph 15, an individual member who is domiciled or resident in the US shall not underwrite insurance business for any year of account unless he has provided confirmation (in the required format) to his members' agent between 31 March and 30 June in the previous year that he is an accredited investor.
- (2) Subject to paragraph 15, a member: (i) whose shareholders, if a company; (ii) whose limited partners, if a SLP; or (iii) whose members, if a LLP, include individuals who are domiciled or resident in the US shall not underwrite insurance business for any year of account unless confirmation (in the required format) has been provided to the member's members' agent (or



Lloyd's, if none) between 31 March and 30 June in the previous year that each such individual is an accredited investor.

**20. Prescribed Forms**

A form or other document is in the prescribed form if it is in the form as an authorised person may prescribe from time to time or have prescribed for the purposes of these conditions and requirements and for the purposes of the Membership and Underwriting Requirements (Corporate Member).

**21. Revocation**

The Membership & Underwriting Conditions and Requirements (Funds at Lloyd's) which came into force on 22<sup>nd</sup> October 2014 are hereby revoked.

**22. Commencement**

These conditions and requirements shall come into force on 31<sup>st</sup> October 2016.

## APPENDIX 1

### INTERPRETATION AND DEFINITIONS

1. Except where otherwise provided or where the context otherwise requires, the words and expressions used in these conditions and requirements shall have the meanings given to them in the Definitions Byelaw (No. 7 of 2005) or, where shown in italics, the Glossary of the *PRA Handbook*.

2. In these conditions and requirements, except where the context otherwise requires -

**acceptable assets** means the assets listed in Appendix 3;

**accredited investor** means -

- (a) an individual who has attested that his net worth, or joint net worth with his spouse, exceeds \$1,000,000; or
- (b) an individual who in each of the two most recent years, has individual income in excess of \$200,000, and has a reasonable expectation that his individual income in the current year will be in excess of \$200,000; or
- (c) an individual who in each of the two most recent years, has joint income with his spouse in excess of \$300,000, and has an expectation that his joint income with his spouse in the current year will be in excess of \$300,000.

**adjusted QMC result** means the net balance available for a member derived from the Solvency II balance sheet (QMC002) as stated in Section B of the member's most recent Release Test Statement;

**approved *building society*** means a *building society* authorised by the PRA which has a general reserve (as shown in its most recent audited accounts) of at least £100m, excluding revaluation reserve;

**approved charge** means a fixed and floating charge in the prescribed form with such variations or additions as may be approved by an authorised person, provided by way of Lloyd's deposit, or Lloyd's life deposit, in respect of a corporate member or corporate candidate under paragraph 5(4);

<b>approved covenant</b>	means a deed of covenant in the prescribed form with such variations or additions as may be approved by an authorised person, provided by way of Lloyd's deposit, or Lloyd's life deposit, in respect of a corporate member or corporate candidate under paragraph 5(4);
<b>approved <i>credit institution</i></b>	means a <i>credit institution</i> that has been approved by the Council in accordance with the 'Criteria to be Applied in the Approval of Credit Institutions', as made by the Council from time to time;
<b>approved currency</b>	means Hong Kong dollars, Malaysian ringgits, Singapore dollars, South African rand, the currency of any <i>EEA State</i> , the currency of any <i>OECD</i> member country and any other currency approved by an authorised person;
<b>approved depository</b>	means the Depository Trust Company (DTC), the Canadian Depository for Securities (CDS), CHESSE, fedwire, Euroclear, Clearstream and any depository system approved by an authorised person for the purpose of acting as a depository through which securities may be traded;
<b>approved life assurance company</b>	means an insurance company which - <ul style="list-style-type: none"> <li>(a) <ul style="list-style-type: none"> <li>(i) has permission given by the <i>PRA</i> under Part IV of the Financial Services and Markets Act 2000 to carry on long term business in the UK; or</li> <li>(ii) is authorised under the European Communities (Life Assurance) Regulations 1984 (S.I. No. 360 of 1994) of the Republic of Ireland to carry on the business of life assurance (as defined therein) in the Republic of Ireland; or</li> <li>(iii) is authorised under the Insurance Act 2008 of the Isle of Man to carry on long term business (as defined therein) in the Isle of Man; and</li> </ul> </li> <li>(b) has a financial strength rating for the time being ascribed to it by any one or more of Standard and Poor, Moody's, AM Best or Fitch Ratings of not less than "A";</li> </ul>

<b>approved stock exchange</b>	means the principal stock exchange in each <i>EEA State</i> and each <i>OECD</i> member country, the principal stock exchange in each of Hong Kong, Malaysia, Singapore and South Africa and any other stock exchange as may from time to time be added to this list by an authorised person;
<b>authorised person</b>	means, in relation to any provision in these requirements and the Membership and Underwriting Requirements (Corporate Member), the Franchise Board or any sub-committee or officer or employee of the Society authorised by the Council or Franchise Board to discharge the duties and functions or to exercise the powers and discretions specified in that provision;
<b>close relative</b>	means a person's spouse, his children and step-children, his parents and step-parents, his brothers and sisters and his step-brothers and step-sisters;
<b>coming into line date</b>	means, in relation to a year of account, the date (or such other date as the Council may from time to time prescribe) in the calendar year immediately preceding that year of account by which a member of the Society or a candidate must have provided its funds at Lloyd's if it is to be eligible to underwrite in that year of account;
<b>commencing member</b>	means a member that is due to commence underwriting for the first time, either during the course of the current underwriting year or on 1 <sup>st</sup> January in the next underwriting year;
<b>connected individuals</b>	means persons each of whom is or is to be – <ul style="list-style-type: none"> <li>(a) a director of the successor member;</li> <li>(b) a director of the holding company of the successor member;</li> <li>(c) in the case of an SLP, a director of the operator of the SLP;</li> <li>(d) a close relative of any person falling within sub-paragraphs (a) to (c) above;</li> <li>(e) in the case of a SLP, in relation to any limited partner each of the other limited partners who is a close relative of that limited partner;</li> <li>(f) in the case of a LLP, in relation to any member of that LLP each of the other members of the LLP who is a close relative of that member of the LLP;</li> </ul>
<b>connected person</b>	in relation to an individual participant, means -

	<ul style="list-style-type: none"> <li>(a) a participant's spouse, his children and step-children, his parents and step-parents, his brothers and sisters, his step-brothers and step-sisters; or</li> <li>(b) the trustee or trustees of a trust set up wholly for the benefit of the participant and/or one or more persons falling within (a) above; or</li> <li>(c) a body corporate of which the entire issued share capital is wholly-owned by the participant and/or one or more persons falling within (a) or (b) above;</li> </ul>
<b>conversion arrangement</b>	has the meaning given in the Conversion and Related Arrangements Byelaw (No. 22 of 1996);
<b>Conversion Official</b>	means the person appointed as such pursuant to the Conversion and Related Arrangements Byelaw (No. 22 of 1996);
<b>co-ordinating agent</b>	means, in relation to a member, the members' agent appointed by the member to co-ordinate the administration of that member's affairs at Lloyd's in circumstances where more than one members' agent is obliged to provide services as a members' agent to that member;
<b>corporate candidate</b>	means a candidate for membership of the Society as a corporate member;
<b>cut-off date</b>	means (i) in relation to the coming into line date, [12] November, or (ii) in relation to the mid-year coming into line date, [19] May;
<b>double taxation arrangements</b>	means arrangements that have effect under section 2(1) of the Taxation (International and Other Provisions) Act 2010;
<b>economic capital assessment requirement</b>	means in relation to a member or a participant, the amount required by Lloyd's in accordance with its economic capital assessment model, as from time to time varied or supplemented, of the capital resources required to support the insurance business of the member or of the participant;
<b>employee group</b>	means two or more individual members who are connected with an underwriting agent by reason of their employment;
<b>Ineligible Group</b>	means a group which includes a corporate member or an underwriting agent where the

turnover of the corporate member or the underwriting agent is greater than 5 per cent of the turnover of the group as a whole;

**interavailability arrangement**

means an arrangement whereby –

- (a) a member ceases to underwrite insurance business at Lloyd's; and
- (b) its Lloyd's deposit or its Lloyd's life deposit is held so as to provide security both for its past underwriting business at Lloyd's and the future underwriting business of a successor member whether by way of variation or modification to the trusts, powers, terms, conditions and other arrangements under which its Lloyd's deposit or its Lloyd's life deposit is held;

**Lloyd's obligations**

means, in relation to any member, all underwriting obligations incurred by the member as an underwriting member, including obligations to the Society and to the trustees of any trust deed under which any part of the member's funds at Lloyd's are held and obligations arising under:

- (a) any byelaw, regulation, rule, direction or other requirement of the Society; and
- (b) any deed, contract, instrument or other arrangement of any kind approved by the Society;

but does not include obligations arising in respect of any letter of credit, guarantee or other security given to secure the performance of any of the member's underwriting obligations in favour of the person giving such guarantee or other security;

**LLP**

means a limited liability partnership;

**managing agent's sub-fund**

in relation to a member, has the meaning given in that member's premiums trust deed;

**Market Services**

means the department at Lloyd's by that name (or any successor thereto);

**Membership Agreement**

means the Lloyd's Membership Agreement in the relevant prescribed form executed by a corporate member on its admission to membership of Lloyd's;

<b>Membership and Underwriting Requirements (Corporate Member)</b>	means the conditions and requirements so-called and made under the Membership Byelaw (No.5 of 2005) and for the time being in force;
<b>mid-year coming into line date</b>	means, in relation to the current year of account, 30 <sup>th</sup> June (or such other date as the Council may from time to time prescribe) by which a member's funds at Lloyd's must be in an amount equal to or greater than the member's Total Funding Requirement for the current year of account;
<b>minimum FAL requirement</b>	means 40% of OPL;
<b>OPL</b>	means overall premium limit;
<b>participant</b>	means a member of Lloyd's (other than the successor member) which takes part in an interavailability arrangement including in circumstances where, as a result of paragraph 8(4), the assets in question are treated as no longer being held on interavailable terms;
<b>private successor member</b>	<p>means a qualifying successor member under a conversion arrangement in which there is only one participant or two or more participants who are connected individuals or an employee group and where the participant or participants (as the case may be) and/or any connected person, either:</p> <ul style="list-style-type: none"> <li>(a) in relation to a qualifying successor member which is a body corporate, hold shares in that body corporate which represent: <ul style="list-style-type: none"> <li>(i) not less than 85 per cent. (or such other percentage as the Council may prescribe) of the voting rights exercisable at a general meeting of the body corporate on all matters; and</li> <li>(ii) the right to receive not less than 85 per cent. (or such other percentage as the Council may prescribe) of the amount distributable by way of dividend or on a winding up of the body corporate; or</li> </ul> </li> <li>(b) in relation to a qualifying successor member which is an SLP, are entitled to: <ul style="list-style-type: none"> <li>(i) exercise not less than 85 per</li> </ul> </li> </ul>

	cent. (or such other percentage as the Council may prescribe) of the voting rights exercisable at any meeting of the partners of the SLP; and
	(ii) receive not less than 85 per cent. (or such other percentage as the Council may prescribe) of the distributable income of the SLP or of the SLP's assets available for distribution on a winding up of the SLP; or
	(a) in relation to a qualifying successor member which is a LLP, are entitled to:
	(i) exercise not less than 85 per cent. (or such other percentage as the Council may prescribe) of the voting rights exercisable at any meeting of the members of the LLP; and
	(ii) receive not less than 85 per cent. (or such other percentage as the Council may prescribe) of the distributable income of the LLP or of the LLP's assets available for distribution on a winding up of the LLP.
<b>qualifying successor member</b>	means a successor member under an interavailability arrangement under which not less than 75 per cent of the successor member's funds at Lloyd's are provided directly or indirectly by one or more of the participants (which for this purpose would include by a corporate LLP member or corporate limited partner of a successor member in which the participant has an ownership interest);
<b>Release Test Statement</b>	means the most recent such statement relating to a member issued by Market Services;
<b>Relevant Person</b>	means for the purposes of paragraphs 6, 8(5) and 18, the Head of Market Finance or the Head of Market Services;
<b>relevant valuation date</b>	(i) in the case of a corporate member which wishes to commence underwriting insurance business at Lloyd's on a date prior to 1 January next following its admission to membership of the Society, the date on which that member provides



	funds at Lloyd's;
	(ii) in relation to the mid-year coming into line date, 31 December in the previous calendar year;
	(iii) in any other case -
	(aa) 30 June or such later date as may be prescribed next before the coming into line date; or
	(bb) where assets are received after the valuation date referred to in (aa), the date on which they are paid or transferred to the trust fund concerned;
<b>request for funds</b>	means a request for funds made by the managing agent of a syndicate under any standard managing agent's agreement (general) or any standard managing agent's agreement (corporate member);
<b>required funds at Lloyd's</b>	means, in relation to a member and any given year of account, the funds at Lloyd's that a member is required to provide if that member is to be eligible to underwrite insurance business at Lloyd's;
<b>resident in the United Kingdom for tax purposes</b>	means (i) in the case of an individual, as determined in accordance with the provisions of the Finance Act 2013, and (ii) in the case of a company, as determined in accordance with the provisions of the Corporation Tax Act 2009 and any applicable double taxation arrangements;
<b>SLP</b>	means a Scottish limited partnership;
<b>solvency capital requirement</b>	means, in relation to a member, the amount which is the higher of: <ul style="list-style-type: none"> <li>(i) the member's most recent economic capital assessment requirement divided by 1.35; or</li> <li>(ii) the member's minimum FAL requirement divided by 1.35;</li> </ul>
<b>solvency statement</b>	has the meaning given in Schedule 1 to the Solvency and Reporting Byelaw (No. 5 of 2007);
<b>SRF</b>	means special reserve funds;

**successor member** means, in relation to an interavailability arrangement including an arrangement where, in accordance with paragraph 8(4), the assets in question are treated as no longer being held on interavailable terms, a corporate member which will continue to underwrite for the next following year of account and to which the Lloyd's deposit or Lloyd's life deposit of one or more participants is made interavailable or which, in accordance with paragraph 8(4) is included in the funds at Lloyd's of the corporate member;

**Total Funding Requirement** means the amount determined pursuant to paragraph 4;

**year of account** means an accounting year at Lloyd's.

3. For the purposes of the conditions and requirements, a year of account of a syndicate shall be treated as being closed at the time as from which reinsurance to close that year of account takes effect, and a year of account shall be treated as open until it is closed.
4. In these conditions and requirements:
  - (1) Words and expressions importing the masculine gender include the feminine and neuter and words and expressions importing the feminine gender include the masculine and neuter; and
  - (2) Words in the singular include the plural and vice versa.
5. The headings in these conditions and requirements shall not affect the interpretation of these conditions and requirements.

## APPENDIX 2

### Total Funding Requirement for a commencing member

The highest of:

- (a) 40% of OPL;
- (b) the member's economic capital assessment requirement as set by the Council;
- (c) (i) in the case of a private successor member, but only in respect of the first year of account in which the member underwrites insurance business at Lloyd's, whichever is the lowest of -
  - (aa) £100,000 multiplied by the number of participants in the relevant arrangement;
  - (bb) £350,000; or
  - (cc) such amount as the Conversion Official may specify;
- (ii) in any other case, but only in respect of the first year of account in which the member underwrites insurance business at Lloyd's, £350,000.

## APPENDIX 3

### FUNDS AT LLOYD'S

#### General principles for the determination of acceptable assets

1. A member's FAL shall only be invested in assets and instruments which comply with the PRA Rulebook applicable to Solvency II firms and all other applicable legal and regulatory requirements, and whose risks can be properly identified, measured, monitored, managed, controlled, reported and appropriately taken into account in the assessment of the member's overall solvency needs.
2. Assets should be (a) invested in such a manner so as to ensure the security, quality, liquidity and profitability of the portfolio as a whole, and (b) localised such as to ensure their availability.
3. Assets must be properly diversified in such a way so as to avoid excessive reliance on any particular asset, issuer or group of undertakings, or geographical area and excessive accumulation of risk in the portfolio as a whole.

#### Categories of assets which are acceptable for funds at Lloyd's

##### 1. Debt securities, bonds and other money and capital market instruments

- (a) *Debt securities*, bonds and other money and capital market instruments (other than those falling within sub-paragraphs (b), (c), (d) and (e)) which -
  - (i) are denominated in an approved currency; and
  - (ii) are of a class quoted or listed on an approved stock exchange or are traded on a *regulated market*;
  - (iii) are neither in, nor have been issued by, a corporate member;
  - (iv) are neither in, nor have been issued by, any company in an Ineligible Group;
  - (v) are neither in, nor have been issued by, an underwriting agent registered to act as such by the Society.
- (b) Loan notes which -
  - (i) are denominated in an approved currency; and
  - (ii) are of a class quoted or listed on an approved stock exchange or are issued by a company incorporated in England, Wales or Scotland, all or some of the securities of which company are quoted or listed on an approved stock exchange; or
  - (iii) are issued or guaranteed by an approved *credit institution*;
- (c) US municipal bonds which -
  - (i) are denominated in an approved currency; and
  - (ii) have a Standard and Poor's rating and a Moody's rating of at least AA in each case, and, if only having one such rating, of AA or better;
- (d) Certificates of deposit which -

- (i) are denominated in an approved currency; and
  - (ii) are issued by an approved *building society* or approved *credit institution*;
- (e) Commercial paper which –
- (i) is denominated in an approved currency;
  - (ii) has one or more of the following ratings:
    - (aa) Moody's rating of at least Prime 1;
    - (bb) Standard and Poor's rating of at least A1;
    - (cc) Fitch Ratings rating of at least F1; and
  - (iii) has a maturity of not more than 30 days.

## 2. Shares and other variable yield participations

- (a) *Shares* and other variable yield participations which -
- (i) are of a class quoted or listed on an approved stock exchange or are traded on a *regulated market*;
  - (ii) are denominated in an approved currency;
  - (iii) are held either in an approved depository or by Market Services;
  - (iv) are neither in, nor have been issued by, a corporate member;
  - (v) are neither in, nor have been issued by, any company in an Ineligible Group;
  - (vi) are neither in, nor have been issued by, an underwriting agent registered to act as an underwriting agent by the Society.
- (b) The figures to be used for the purposes of sub-paragraphs (a)(v) and (vii) shall be those shown in -
- (i) the then latest published audited accounts of the corporate member or underwriting agent, as the case may be; and
  - (ii) the then latest published audited consolidated accounts of the group of which the corporate member or underwriting agent, as the case may be, is a member.

## 3. Holdings in *collective investment schemes*

- (a) Subject to sub-paragraph (b), holdings in collective investment schemes (as defined in s.235(1) of *FSMA*);
- (b) Holdings in collective investment schemes within the scope of sub-paragraph (a) above shall not be accepted into funds at Lloyd's unless the documentation required to transfer the ownership of the holdings into the

name of Lloyd's (as trustee) has been submitted to Market Services no later than 30 days before the next occurring coming into line date or mid-year coming into line date. In the event that the holdings have not been transferred by the applicable coming into line date or mid-year coming into line date, the member shall, no later than a date specified by Lloyd's, provide alternative acceptable assets to be held as funds at Lloyd's.

**4. Cash at bank, in hand and in deposits with *credit institutions* and building societies**

- (a) Cash which -
  - (i) is in an approved currency; and
  - (ii) is held by an approved *credit institution* or approved *building society*.
- (b) Cash in hand, namely cash which is in an approved currency and held by Market Services.
- (c) National Saving Certificates.

**4A. Forward currency contracts**

Forward currency contracts which satisfy the requirements of Rule 5.2(1) of the Investment Part of the PRA Rulebook applicable to Solvency II firms.

**5. Letters of credit**

Letters of credit which –

- (a) in the case of letters of credit issued on behalf of an individual member, contain the terms set out in Lloyd's prescribed form without any material additions to such terms and have been completed in strict compliance with the notes for completion set out therein;
- (b) in the case of letters of credit issued on behalf of a corporate member, contain the terms set out in Lloyd's prescribed form without any material addition to such terms and have been completed in strict compliance with the notes for completion set out therein;
- (c) have been issued or confirmed by an approved *credit institution*, an approved *building society* or an approved life assurance company;
- (d) have been issued on the headed notepaper of the issuer or confirmer or sent by an authenticated teletransmission system such as SWIFT;
- (e) are denominated in an approved currency;
- (f) unless an authorised person otherwise agrees, are effective as of 1st January or 30<sup>th</sup> June of the year in relation to which they are given;
- (g) are clean and irrevocable;
- (h) are subject to not less than 4 years' notice of cancellation;

- (i) are governed by English law and subject to the exclusive jurisdiction of the English courts;
- (j) if issued or confirmed after 31 December 1994 have not been issued or confirmed on the basis that the collateral (if any) securing the repayment of any amounts payable under them comprise directly or indirectly a security interest over a principal private residence unless the members' agent of the member on whose behalf such a letter of credit has been issued has satisfied itself that the person who has provided such collateral security has readily realisable assets outside Lloyd's at least equal in value to the face value of the letter of credit. This limitation shall not apply in relation to a letter of credit issued in connection with an interavailability arrangement in substitution of a letter of credit issued on or before 31 December 1994; and
- (k) if under notice of cancellation must not be due to expire on or before 30th September in the fourth year following the then last coming-into-line date so that, for example, if it is due to expire on or before 30th September 2020 it will not be an acceptable asset for the 2017 and any subsequent year of account.

## 6. Guarantees

Guarantees which -

- (a) in the case of guarantees issued on behalf of an individual member, are -
  - (i) if given (or to be given) by joint guarantors, in the relevant Lloyd's prescribed form and have been completed and executed in strict compliance with the relevant notes for completion;
  - (ii) if given (or to be given) by an approved *credit institution*, in the relevant Lloyd's prescribed form and have been completed and executed in strict compliance with the relevant notes for completion;
  - (iii) if given (or to be given) by an insurance company, in the relevant Lloyd's prescribed form and have been completed and executed in strict compliance with the relevant notes for completion;
- (b) in the case of guarantees issued on behalf of a corporate member, are -
  - (i) if given (or to be given) by joint guarantors, in the relevant Lloyd's prescribed form and have been completed and executed in strict compliance with the relevant notes for completion;
  - (ii) in the case of any other guarantee, in the relevant Lloyd's prescribed form and have been completed and executed in strict compliance with the relevant notes for completion;
- (c) have been provided by an approved *credit institution*, an approved *building society* or an approved life assurance company;
- (d) are denominated in an approved currency;
- (e) unless an authorised person otherwise agrees, are effective as of 1st January or 30<sup>th</sup> June of the year in relation to which they are given;

- (f) are subject to not less than 4 years' notice of cancellation;
- (g) are governed by English law and subject to the exclusive jurisdiction of the English courts;
- (h) if provided after 31 December 1994 have not been provided on the basis that the collateral (if any) securing the repayment of any amounts payable under them comprise directly or indirectly a security interest over a principal private residence unless the members' agent of the member on whose behalf such a guarantee has been issued has satisfied itself that the person who has provided such collateral security has readily realisable assets outside Lloyd's at least equal in value to the face value of the guarantee. This limitation shall not apply in relation to a guarantee issued in connection with an interavailability arrangement in substitution of a guarantee issued on or before 31 December 1994; and
- (i) if under notice of cancellation must not be due to expire on or before 30th September in the fourth year following the then last coming-into-line date so that, for example, if it is due to expire on or before 30th September 2018 it will not be an acceptable asset for the 2015 and any subsequent year of account.

## **7. Life assurance policies and bonds**

In the case of individual members only, life assurance policies and bonds that were assigned to Lloyd's no later than 22<sup>nd</sup> October 2014.



APPENDIX 4

**MEMBERS' COMPLIANCE WITH UNDERWRITING CONDITIONS AND REQUIREMENTS**

**Year of Account .....**

**Members' Agent's Confirmation Form**

Members' Agent: .....

Date: ...../...../.....

We confirm (in respect of those members underwriting on the ..... account) that each member for whom we act (either as co-ordinating or sole members' agent) has either complied with the Membership and Underwriting Conditions and Requirements (Funds at Lloyd's) or has been excused compliance with those requirements by the Council of Lloyd's and that each member has signed a syndicate list confirming that member's underwriting participations for the [ ] year of account.

**IMPORTANT NOTICE**

The confirmations made in this Form are important and will be relied upon by Lloyd's. Signatories must take care to ensure the accuracy of their confirmations. Any queries relating to this Form should be made in the first place to the Compliance Manager, Market Services.

Signature of Director .....  
(or other authorised signatory)

Name (in block capitals) .....  
Title/Position

Please return this form to the Compliance Manager, Market Services, by such date as may from time to time be prescribed.

**APPENDIX 5**

**PART 1**

**MEMBER'S COMPLIANCE WITH UNDERWRITING CONDITIONS AND REQUIREMENTS**

**Year of Account .....**

**Direct Corporate Member's Confirmation Form**

Member Name:	(“the Corporate Member”)
Membership Number:	

Date: ...../...../.....

I confirm that the Corporate Member has either:

- (a) complied with the Membership and Underwriting Conditions and Requirements (Funds at Lloyd's) and has sufficient Funds at Lloyd's/Funds in Syndicate to support the following year's underwriting as demonstrated by the calculation in Part 2 of this statement; or
- (b) has been excused compliance with those conditions and requirements by the Council of Lloyd's.

<b>IMPORTANT NOTICE</b>
The confirmations and figures stated within both pages of this Form are important and will be relied upon by Lloyd's. Signatories must take care to ensure the accuracy of their confirmations. Any queries relating to this Form should be made in the first place to the Team Manager, Custody Services, Market Services.

Signature of Director .....  
of the Corporate Member

Name (in block capitals) .....  
Title/Position

Please return this form to the Team Manager, Custody Services, Market Services, by such date as may from time to time be prescribed.

(Cont'd overleaf)

## APPENDIX 5

### PART 2

#### MEMBER'S COMPLIANCE WITH UNDERWRITING CONDITIONS AND REQUIREMENTS

Year of Account .....

DETAILS MUST BE TYPED, OR COMPLETED IN BLOCK CAPITALS

<b>Member Name:</b>	
<b>Membership Number:</b>	

**ALL FIGURES DETAILED BELOW ARE IN GBP**

A	Proposed level of Underwriting (OPL) for next year	£	
B	Economic Capital Assessment (ECA) <b>Round down to one decimal place - MINIMUM 40.0%</b>	%	
C	Calculated amount of FAL requirement (A x B)		£
D	Open Year (Surplus) / Deficiency <b>Please note: a positive result is expressed as a negative to reduce the capital requirement; a negative result is expressed as a positive to increase the capital requirement</b>	£	
E	PTF (Assets) / Debts – Net Position as at .. June 20..	£	
<b>F</b>	<b>Total FAL Requirement (C + D + E)</b>		<b>£</b>
G	FAL Value at .. June 20.. including Letters of Credit/Bank Guarantees under notice of cancellation not covering solvency deficiencies	£	
H	Lower of Covenant Deed value or Charged Assets at .. June 20..	£	
I	Value of Interavailable FAL (after Donor earmarking)	£	
J	Value of FAL / FIS assets added since .. June 20..	£	
K	Value of FAL / FIS (released) since .. June 20.. <b>Please use a minus figure</b>	£	
L	Funds in Syndicate (FIS) at .. June 20..	£	
M		£	
N		£	
<b>O</b>	<b>Total FAL available to support 20.. underwriting (G + H + I + J + K + L + M + N)</b>		<b>£</b>
P	Amount of new/additional FAL required / (Surplus FAL) (F – O)	£	

**Notes:**

- Please complete the calculation above to support a CIL application or a request to release surplus FAL in respect of an active corporate member. **If you subsequently amend the OPL you will need to re-calculate the revised ECA %.**

<b><u>Asset Concentration Guidelines (Para. 8 (5) M&amp;URs)</u></b>	
<b>Classification</b>	<b>Concentration %</b>
Government Bonds	100
Corporate Bonds	10
Structured Notes and collateralised securities	10
Equity (Shares in any one group of companies)	10
Investment Funds (Unit trust and UCITS)	100
Members Funds Cash	100
Cash deposited at a single bank	20
Certificate of Deposit	10
Bank Guarantee	100
Letter of Credit	100
Life Products	100

**CRITERIA TO BE APPLIED IN THE APPROVAL  
OF CREDIT INSTITUTIONS**

The criteria for the approval of credit institutions for the purposes indicated are set out below, ***subject to the institution remaining at all times a credit institution as defined in s.1173(1) of the Companies Act 2006 (as amended from time to time):***

- i) For holding Syndicate Premiums Trust Funds and cash in respect of members' Funds at Lloyd's (i.e. Lloyd's deposit, Special Reserve Fund and Personal Reserve Fund):-
- a) (1) Credit institutions authorised to ***accept deposits in the UK*** by the Prudential Regulation Authority ("authorised institutions") with net tangible assets \* of not less than £100 million (or equivalent) ("Lloyd's approved institutions");
  - (2) wholly owned subsidiaries of Lloyd's approved institutions which are themselves authorised institutions; and
  - (3) authorised institutions the whole of the share capital of every class of which is beneficially owned by two or more Lloyd's approved institutions to the exclusion of any other body or person.
- b) Authorised institutions which are wholly owned subsidiaries of the trustees of the Lloyd's Credit for Reinsurance Joint Asset Trust Deed or the Lloyd's Canadian Trust Fund.
- ii) For the issue or confirmation of Letters of Credit and Bank Guarantees (in Sterling, Euros, US Dollars and Canadian Dollars) in respect of members' Lloyd's deposits:-
- a) Credit institutions in the categories in i) above that have a long term debt rating with Fitch Ratings, Standard & Poor's or Moody's of 'A' or better<sup>1</sup>; or
  - b) Credit institutions in the categories in i) above which have net tangible assets in excess of £500m and which have a long term debt rating with Fitch Ratings, Standard & Poor's or Moody's of less than 'A', where an authorised person<sup>2</sup> is satisfied that:
    - i) the said rating is restricted by the status of the government of the institution's domicile; and
    - ii) there is no specific risk that the institution will default on paymentsubject to the condition that the value of any such Letters of Credit or Bank Guarantees shall not exceed £10 million in aggregate.

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<sup>1</sup> "+" and "-" suffix are ignored as they merely depict relative standing within major rating categories.

<sup>2</sup> 'authorised person' means the Director, Finance or the Head of Market Finance

- iii) For the issue or confirmation of Letters of Credit and Bank Guarantees (in Sterling, Euros, US Dollars and Canadian Dollars) of over £5m in respect of the Lloyd's funds of any one corporate member group:-

Credit institutions that satisfy the criteria in (ii)(a) above and have net tangible assets in excess of £500m, or that satisfy the criteria in (ii)(b) above.

*Letters of credit and bank guarantees must be issued or confirmed in the UK and be encashable in London.*

*\* Net tangible assets are defined as the aggregate of paid up share capital, consolidated reserves and subordinated loans (with a maturity greater than five years) less the amount of any intangible assets, all as shown by the latest audited accounts if available or the consolidated audited accounts of the group to which the institution belongs. Accounts prepared in foreign currencies are to be translated into sterling at the exchange rate prevailing at the balance sheet date.*

### **Aggregate Restriction**

***The aggregate quantum of guarantees and letters of credit that any one institution may issue will be restricted to the lower of:***

- i) ***the percentage, set out below, of the total net resources of the Society of Lloyd's as reported in the most recent edition of Lloyd's global results, varying according to the long term credit rating of the institution with Fitch Ratings, Standard & Poor's or Moody's:***

***for credit rating of 'A', a restriction of 12.5% of the net resources of the Society; and***

***for credit rating of 'AA' or above, a restriction of 17.5% of the net resources of the Society;***

***and***

- ii) ***20% of the institution's year end net tangible assets***

***When the aggregate limit has been reached the credit institution will not be permitted to issue any further guarantees or letters of credit.***

### **Additional Provisions**

- a) The **Council of Lloyd's** will need to satisfy itself that there are no restrictions which might inhibit an institution from meeting its obligations.
- b) The addition and deletion of credit institutions within the agreed criteria will be made on the authority of the Director, Finance, the Head of Market Finance or the Head of Market Services. In addition the **Council of Lloyd's** may exercise its discretion to add or delete credit institutions from the approved list.

## Withdrawal of Approval

Where the **Council of Lloyd's** (acting by any duly authorised person or body) considers, in its absolute discretion, that any approved credit institution has, without lawful excuse, wrongfully failed to honour any letter of credit or guarantee which it has issued, confirmed or provided to Lloyd's ***within 30 days of being duly requested to do so or at all, the council may determine that such credit institution cease to be an approved credit institution for the purpose of issuing, confirming or providing any letter of credit or guarantee as the case may be pursuant to and within the meaning of the Membership and Underwriting Conditions and Requirements (Funds at Lloyd's) made on 31<sup>st</sup> October 2016*** – PROVIDED THAT:

**the Council** shall first inform any such credit institution that it is minded to remove its name from the list of approved credit institutions and shall take into account any representations received by or on behalf of that credit institution within 35 days of notification, before deciding whether or not to remove it from the said list.

### BG / LoCs – CUT-OFF DATE – FAQs

	<u>Question / Comment</u>	Response
1	Doesn't setting a deadline for the provision of LOCs prior to 1 December disadvantage 3 <sup>rd</sup> party capital compared with aligned capital?	The indicative member modeller software update based upon the final submitted 2017 year of account Lloyd's Capital Return (LCR) and Syndicate Business Forecast (SBF) will be released on 30 September for <b>all members</b> . Updates for final ECAs for non-aligned syndicates will be included by 24 October.
2	The 11 November "cut-off" makes the capital model where reinsurers provide a LoC held within FAL in return for Quota Share Reinsurance difficult to operate.	Any aligned syndicate currently using a LoC (as notified to Market Services) will have its ECA agreed and notified by the Capital and Planning Group (CPG) by 4 November. Where possible, earlier notification will be provided and final member ECAs included in the Member Modeller release on 31 October.
3	Could the implementation have been delayed until 2018 CiL? This would allowed more time to plan and negotiate with the banks.	Unfortunately we have no discretion over the timing of this. We understand the difficulties but as part the procedures going forward to secure an ongoing up-to-date approval of AOF items, we need to ensure that sufficient time is built into the process for the PRA to consider applications.  A copy of the letter sent to managing agents, members' agents and direct corporate participants has been sent to the major LoC providers.
4	Is this a move by the PRA and Lloyd's to reduce the amount of capital lodged by LoC?	No. The timetable is driven by the need to ensure that the PRA has sufficient time to be able to consider future AOF approval applications so that we may secure an ongoing up-to-date approval of AOF items.
5	We have a LoC in place which is extended each year in order that it remains acceptable for CiL purposes. Does the extension to the expiry date have to be received by the "cut-off" date?	Yes. Although the application to the PRA will recognise the expiry date in force at the time the application for AOFs is made to the PRA.
6	When does the exclusion period end so that members understand when they can increase or substitute LoCs? Is this once the release test statements are issued for mid-year CiL?	The exclusion period ends after 31 December and 30 June.



	<u>Question / Comment</u>	Response
7	When can members expect to be able to reduce or release surplus LoCs?	Members can request to reduce LoCs provided to meet the AOF timetable after 31 December up to the May “cut-off” date and then again after 30 June until the November “cut-off”. Before requesting a release then consideration should be given to the April and September Release test statements.
8	Why are members unable to have a release of their LoC provided to meet the “cut-off” date if their ECA is subsequently reduced?	<p>Any release or reduction in a LOC following approval as AOF would make the entire remaining LOC ineligible as capital to meet Lloyd’s Solvency II requirements until a future application is approved.</p> <p>Members should therefore ensure where they are uncertain as to their final capital requirement that any potential excess is provided in the form of cash or securities.</p> <p>Members can request to reduce LoCs provided to meet the AOF timetable after 31 December up to the May “cut-off” date and then again after 30 June until the November “cut-off”.</p>
9	If excess cash or securities are provided as part of the AOF timetable when can members expect to have their surplus released?	Cash / Securities are tier 1 FAL. If a member requires a release of surplus assets (cash and securities) then an instruction must be submitted to Market Services by no later than the 9th December to enable the release to take place prior to 31 December and for mid year CIL the request for release must be made by 9 June.
10	Could a limitation be applied to an agreed level of FAL provided by way of LoC, say £5m? A small number of changes will not create a material change to the AOF submission.	Unfortunately not. All AOFs, irrespective of the level of materiality, have to be approved by the PRA for the purpose of being eligible to meet Lloyd’s Solvency II requirements.
11	The deadline for approval of aligned syndicate business plans is 21 November two weeks after the “cut-off” date and then the Member Modeller software released on 25 November	<p>The indicative member modeller software update based upon the final submitted 2017 year of account Lloyd’s Capital Return (LCR) and Syndicate Business Forecast (SBF) will be released on 30 September for <b>all members</b>. A further update for aligned syndicates will be included by 31 October.</p> <p>Any additional FAL due to revised ECAs can be provided in the form of cash / securities.</p>