

FROM: Head, Market Risk and Reserving Unit
LOCATION: G5/86
EXTENSION: 5235
DATE: 30 May 2003
REFERENCE: Y3067
SUBJECT: RISK-BASED-CAPITAL PROCESS FOR THE 2004 UNDERWRITING YEAR – ARRANGEMENTS FOR DISTRIBUTION OF RBC RATIOS AND SOFTWARE AND FOR COMPLETION OF SOFTWARE LICENCING AGREEMENTS
SUBJECT AREA(S):
ATTACHMENTS: Timetable, nomination form and software licence agreement
ACTION POINTS: **Managing agents, members' agents, Lloyd's advisers and direct corporate members to sign and return the attached software-licence agreement and nomination form for the receipt of RBC ratios and software**
DEADLINE: **30 May and 25 July**

Introduction

This bulletin describes the risk-based-capital ("RBC") process for the 2004 underwriting year including the distribution of RBC ratios and software, together with arrangements for signing software-licence agreements and for obtaining the software encryption passwords. The bulletin outlines the responsibilities for the various parts of the process and details some key dates. A summary timetable is attached at Appendix 1.

Responsibilities

The Market Risk and Reserving Unit (“MRRU”) continues to be responsible for the RBC process, the development of the RBC model and the calculation of capital ratios for new syndicates. The Admissions Department of the Risk Management Division will handle the authorisation of new syndicates. Agents requiring information on the process for new syndicates should approach the Admissions Department.

The Franchise Board is now responsible for approving the RBC model and any changes made to it.

Distribution of the RBC software and ratios will be carried out by Information Services, MSU (“MSU”). Agents are advised that the software will require a 32-bit operating system.

Distribution of Software and Ratios

Managing agents will receive **RBC syndicate-modelling software** by 30 May that will permit indicative capital requirements to be determined for any assumed business-plan for the 2004 underwriting year. Agents shall note that the model may be reparameterised when the syndicate premium income forecasts are received at the end of June in order to control the total loss exposure of the Central Fund.

An early indication of member capital requirements will be available on the L-net by 13 June. It should be stressed however that these figures will not include 2004 syndicate business forecasts, final operating risk adjustments, or final RDS adjustments.

Managing agents, members’ agents and Lloyd’s advisers will receive the **RBC member-modelling software**, together with **indicative member RBC ratios**, by 25 July. The software and ratios will be based on the revised RBC formula for the 2004 underwriting year, including the operating risk and RDS adjustments, and the following data inputs:

1. syndicate premium-income forecasts for the 2004 underwriting year (as submitted by 20 June 2003);
2. actual 2003-and-prior member participations; and,
3. member participations for the 2004 underwriting year assumed to be as for the 2003 underwriting year.

All software and ratios will be distributed electronically via the MSU L-net, as in previous years. Agents must:

- sign and return two copies of the software-licence agreement;
- be in possession of software encryption passwords.

A nomination form for the receipt of RBC ratios and software on CD-ROM will be required and is attached to this bulletin at Appendix 2. L-net users need not complete a nomination form.

Managing agents should collect passwords from the Risk Management Reception area located on Gallery 5, '86 Building (access via Tower 3) as soon as possible in order to be in a position to use the syndicate-modelling software upon receipt. Similarly, members' agents and advisers are advised to collect passwords before 25 July in order to use the RBC member-modelling software without delay.

Agents will also have access to RTF (rich-text format) files that detail the member RBC ratios; passwords will not be required to access these files.

Agents who are experiencing problems with electronic transmission (which will involve some 20Mb of data) should cancel the download and contact the MSU Helpdesk (ext. 2200) or Alessandra Walker at the MRRU (ext. 5643) from whom a copy of the modelling software on CD-ROM can be obtained.

Software Licenses

The potentially price-sensitive nature of RBC capital requirements means that agents and advisers are required to sign a software-licence agreement. The licence agreement, which has been revised this year, is attached at Appendix 3. The following points should be noted in respect of these agreements:

- two copies of the licence agreement must be signed by an authorised person (i.e., a director or the compliance officer) on behalf of each organisation and brought to the Reception area on Gallery 5;
- all software-licence agreements will be countersigned by an authorised Lloyd's signatory and one copy returned to the agent / adviser / member in due course.

Passwords

A password is required to operate the software this year instead of dongles. All entities that sign the software-licence agreement will be issued with 2 passwords.

To start the install process, you will need:

- A Serial Number - supplied by Lloyd's upon receipt of the software-licence agreement; and,
- A Password - supplied by Lloyd's upon receipt of the software-licence agreement.

To obtain the passwords, you will also need to know:

- Your User Identifier – this is your agent code (for agents) or your membership number (for members only).

Once you have these please follow the on screen instructions through the install process.

More detailed instructions on how to download the modelling software, and about the install process which is new for the 2004 modelling software, will be issued in an e-mail to users accompanying notification of the release of the software.

Changes to the RBC Methodology for the 2004 Year of Account

The RBC system was reviewed for the 2003 Year of Account. Some of the changes were phased in and it is planned that this phasing be continued for the 2004 Year of Account.

Operating Risk – Phased

The 2003 Year of Account model introduced syndicate specific adjustments to allow for differences in the operating risk characteristics of individual syndicates. For the 2003 Year of Account, approximately half the adjustment was applied. For the 2004 Year of Account model, the full adjustment will be applied, based upon updated syndicate data.

Portfolio Diversification Credit (“PDC”) – Phased

PDC gives members credit for diversifying risk exposure across different Years of Account. The model recognises that a member can diversify not just over classes of business and syndicates, but over time (Years of Account).

For the 2003 Year of Account, the model was significantly improved in this area and a ‘cap’ placed to protect those adversely affected by this change. For the 2004 Year of Account the ‘cap’ is being retained.

New Realistic Disaster Scenarios (“RDS”)

For the 2003 Year of Account, the RBC model was amended to include RDS data directly in the RBC calculation for three natural catastrophe events (California Earthquake, Florida Hurricane and New Madrid Earthquake).

For the 2004 Year of Account these will be extended to include two new specific events:

- UK Windstorm
- Japanese Earthquake

E-mail Help Line

An e-mail helpline will be in operation to deal with queries on the RBC process and software, and with other RBC-related questions. Agents with a Market Mail connection should access “Lloyds-RBC-Help”; the full e-mail address is:

<mailto:Lloyds-RBC-Help@lloyds.com>

The helpline will be staffed by the MRRU and will provide assistance with all software installation / distribution and member-specific queries as quickly as possible. Wherever possible, agents are requested to use the e-mail help line to resolve queries in preference to telephoning.

If you require any more information, please contact:

Alessandra Walker (ext. 5643) alessandra.walker@lloyds.com

Or,

Simon Falk (ext. 5683) simon.falk@lloyds.com

Summary of Action Points

- Bring two signed copies of the software-licence agreement together with a completed nomination form (if appropriate) to the Reception are on Gallery 5 in return for passwords;
- Syndicate-modelling software will be released to managing agents on 30 May;
- Preliminary indicative member-level RBC figures will be available on 13 June (although this is not guaranteed);
- Member-modelling software and indicative RBC ratios will be available to members' agents, managing agents and Lloyd's advisers on **25 July 2003**.

This bulletin is being sent to all underwriting agents, Lloyd's advisers and direct corporate members.

Henry Johnson
Head,
Market Risk and Reserving Unit

RBC Capital Timetable – 2004 Year of Account
(External)

<i>Date</i>	<i>Event</i>	<i>Comments</i>
Fri 30 May	▪ Syndicate Modelling Software issued (SMS)	Business modelling (based on 2003 business plans)
Fri 13 June	▪ Indicative RBC ratios to members agents	No software (based on 2003 business plans and member participations)
Wed 20 June	▪ Premium Income Forecast and Syndicate Business Forecasts to MSU	
Fri 25 July	▪ RBC Software / Ratios issued –1	No Risk Management loadings
Fri 1 Aug	▪ Revised Premium Income Forecast and Syndicate Business Forecasts to MSU	Syndicate Modelling Software (SMS) reissued (loadings included)
Fri 22 Aug	▪ RBC Software / Ratios issued – 2	
Tues 9 Sept	▪ First Auction	Software only, no ratios issued
Wed 10 Sept	▪ Premium Income Forecasts updates to MSU	
Tues 23 Sept	▪ Second Auction	
Fri 26 Sept	▪ RBC Software issued – 3	
Tues 7 Oct	▪ Third Auction	
Fri 17 Oct	▪ Pre-emption acceptances and Resignations notified to MSU ▪ Drop reallocated and advised to MSU	
Thurs 13 Nov	▪ Final RBC Software / Ratios issued – 4	
Fri 21 Nov	▪ Coming into Line	

Nomination form for Receipt of Risk Based Capital Ratios and Software

I do not have access to the Lloyd's L-Net. I nominate the person named below to collect the software and ratios on behalf of (organisation).

Name: _____ (collector)

Authorised Signatory Details (Director or Compliance Officer):

Name: _____ Signature: _____

Date: _____

Licence No.

**SOFTWARE LICENCE
AGREEMENT**

THIS AGREEMENT is made the _____ day of _____ 2003

Parties:

- 1 The Society incorporated by Lloyd's Act 1871 by the name of Lloyd's ("**Lloyd's**") whose principal place of business is at One Lime Street, London EC3M 7HA; and
- 2 _____ (registered number _____) ("**The Licensee**") whose registered office/principal place of business is at:

RECITALS:

- (A) A computer program has been developed to enable users to model capital requirements and to calculate indicative funds at Lloyd's ratios on a risk based capital basis.
- (B) Lloyd's has agreed to grant the Licensee a non-exclusive licence to use the computer program referred to in Recital A for the purposes of calculating indicative funds at Lloyd's upon the terms and conditions of this Agreement.

NOW IT IS HEREBY AGREED as follows:

1 DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement unless the context otherwise requires:

'LICENSED PROGRAMS' means the software programs in object code form and supporting data files.

'LICENSED PROGRAM MATERIALS' means the Licensed Programs and the Program Documentation.

'PASSWORD' means the password to be supplied by Lloyd's to enable the Licensee to access and use the Licensed Program Materials and where appropriate the Program Documentation.

'PROGRAM DOCUMENTATION' means any instruction manuals, user guides and other information (identified by title and reference number in the Schedule) to be made available by Lloyd's at its discretion in either printed or machine readable form to the Licensee

'SERVICES' means the provision of support and training services in accordance with clause 4 below

'SITE' means the address for delivery of the Licensed Program Materials specified by the Licensee and set out in the Schedule

'USE' means the copying or transmission of the Licensed Programs (or where in machine-readable form) the Program Documentation into a computer located at the Site for the processing of the instructions contained in the Licensed Programs (or as the case may be) the Program Documentation.

- 1.2 In this Agreement unless the context otherwise requires:
 - 1.2.1 words denoting any gender include all genders;
 - 1.2.2 words denoting the singular include the plural and vice versa;
 - 1.2.3 references to persons include individuals, companies, bodies corporate, unincorporated associations and partnerships;
 - 1.2.4 references to any statutory provision or byelaw or regulation include references to any amendment or re-enactment for the time being in force;
 - 1.2.5 the Schedule forms part of the operative provisions of this Agreement and references to this Agreement shall include references to the Schedule.

2 GRANT OF LICENCE AND PROVISION OF SERVICES

- 2.1 Lloyd's in consideration of the mutual promises and undertakings in this Agreement hereby:
 - 2.1.1 (subject to clause 2.2 below) grants to the Licensee a non-exclusive licence to Use the Licensed Programs (and where appropriate the Program Documentation) and to possess and refer to the Program Documentation;
 - 2.1.2 undertakes to the Licensee to provide the Services upon the terms and conditions of this Agreement; and
- 2.2 The Licensee undertakes not to install the Licensed Programs onto any computer system that will enable access to the Licensed Programs by more than one user at a time.

3 TERM AND TERMINATION

- 3.1 The Licensee shall install the Licensed Programs on a computer located at the Site and shall (subject to clauses 3.2 and 3.3) be entitled free of charge from the date of this Agreement until 31 December 2004 (or such other date as Lloyd's in its sole discretion may determine) (the "Term") to Use the Licensed Programs (in association with the Program Documentation) not for the purpose of its trade or business but solely for the purpose of assessing (together with Lloyd's and other licensees of the Licensed Program Materials) indicative Funds at Lloyd's requirements for the 2004 year of account. For the avoidance of doubt, the Licensed Program Materials are only valid for capital setting for the 2004 year of account.
- 3.2 During the Term Lloyd's and the Licensee shall each be entitled by notice to the other to terminate this Agreement forthwith.
- 3.3 Without prejudice to clause 3.2 above this Agreement may be terminated:
- 3.3.1 forthwith by either party if the other commits any material breach of any term of this Agreement and which (in the case of a breach capable of being remedied) shall not have been remedied within 7 days of a written request to remedy the same;
- 3.3.2 forthwith by either party if the other shall convene a meeting of its creditors or if a proposal shall be made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or if the other shall be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee, receiver, administrative receiver, administrator or similar officer is appointed in respect of all or any part of the business or assets of the other or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up or bankruptcy of the other or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction).
- 3.4 Any termination of this Agreement pursuant to this clause shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

4 TECHNICAL SUPPORT AND TRAINING

- 4.1 With effect from the date of this Agreement and for the duration of this Agreement Lloyd's shall use all reasonable endeavours to provide in respect of the Licensed Programs such support to enable the Licensee to operate the Licensed Programs and to interpret the Program Documentation as the Licensee may from time to time reasonably require.
- 4.2 Support shall not include the diagnosis and rectification of any fault resulting from:

- 4.2.1 the improper use operation or neglect of the Password the Licensed Program Materials or the computer on which it is installed;
- 4.2.2 the modification of the Licensed Programs or their merger (in whole or in part) with any other software;
- 4.2.3 the failure by the Licensee to implement recommendations in respect of or solutions to faults previously advised by Lloyd's;
- 4.2.4 any repair adjustment alteration or modification of the Licensed Programs by any person other than Lloyd's without Lloyd's prior consent;
- 4.2.5 any breach by the Licensee of any of its obligations under this Agreement or any maintenance agreement in respect of any computer on which the Licensed Programs are installed; or
- 4.2.6 the use of the Licensed Programs for a purpose for which they were not designed.
- 4.3 Lloyd's shall not be obliged to provide support in circumstances where any reasonably skilled and competent data processing operator would have judged the Licensee's request to have been unnecessary.

5 PROPERTY AND CONFIDENTIALITY IN THE LICENSED PROGRAM MATERIALS

- 5.1 The Licensed Program Materials contain confidential information and data of Lloyd's and all copyright trade marks and other intellectual property rights in the Licensed Program Materials are the exclusive property of Lloyd's.
- 5.2 The Licensee shall not:
 - 5.2.1 save as provided in clause 2.1.1 above and clause 6 below copy the whole or any part of the Licensed Program Materials;
 - 5.2.2 modify merge or combine the whole or any part of the Licensed Program Materials with any other software or documentation;
 - 5.2.3 assign transfer sell lease rent charge or otherwise deal in or encumber the Licensed Program Materials nor use on behalf of or make available the same to any third party; or
 - 5.2.4 reverse compile the whole or any part of the Licensed Program Materials from object code into source code except in so far as permitted by the Copyright (Computer Programs) Regulations 1992.
 - 5.2.5 attempt to bypass the software security mechanisms employed by the Licensed Program Materials.
 - 5.2.6 use the password for any improper, immoral, fraudulent or unlawful purposes.

5.2.7 Make the password available to any third party other than those specified in clause 5.3.1 below.

5.3 The Licensee shall:

5.3.1 keep confidential the Licensed Program Materials and all data contained therein and limit access to the same to those of its employees who either have a need to know or who are engaged in the Use of the Licensed Programs (including where appropriate the Program Documentation);

5.3.2 reproduce on any copy of the Licensed Program Materials any Lloyd's copyright and trade mark notices;

5.3.3 maintain an up-to-date written record of the number of copies of the Licensed Program Materials and their location (such record to be preserved for 2 years after termination of this Agreement) and upon request forthwith produce such record to Lloyd's; and

5.3.4 without prejudice to the foregoing take all such other steps as shall from time to time be necessary to protect the confidential information and data and intellectual property rights of Lloyd's in the Licensed Program Materials (the provisions of this sub-clause to survive termination of this Agreement).

5.4 The Licensee shall inform all relevant employees agents and sub-contractors that the Licensed Program Materials and data contained therein constitute confidential information of Lloyd's and that all intellectual property rights therein are the property of Lloyd's and the Licensee shall take all such steps as shall be necessary to ensure compliance by its employees agents and sub-contractors with the provisions of this clause 5.

6 COPYING OF THE LICENSED PROGRAM MATERIALS

6.1 The Licensee shall be entitled to make one back-up copy of the Licensed Programs. Any such copy shall in all respects be subject to the terms and conditions of this Agreement and shall be deemed to form part of the Licensed Programs.

6.2 The Licensee shall not be entitled to copy in whole or in part the Program Documentation (save for that part, if any, of the Program Documentation which is in machine readable form in which case the Licensee shall be entitled to make one back-up copy of the relevant part of the Program Documentation).

7 WARRANTY

7.1 Subject to the exceptions set out in clause 7.4 below and the limitations upon its liability in clause 8 below Lloyd's warrants that:

7.1.1 its title to and property in the Licensed Program Materials is free and unencumbered and that it has the right power and authority to licence the same upon the terms and

conditions of this Agreement;

- 7.1.2 it will perform the Services with reasonable care and skill.
- 7.2 The Licensee shall give notice to Lloyd's as soon as it is reasonably able upon becoming aware of a breach of warranty referred to in clause 7.1.1.
- 7.3 Lloyd's shall have no liability to remedy a breach of warranty where such breach arises as a result of any of the circumstances described in clause 4.2 above.
- 7.4 Without prejudice to the foregoing Lloyd's does not warrant that the Use of the Licensed Programs will meet the Licensee's data processing requirements or that the Licensed Programs (including where in machine-readable form the Program Documentation) will be uninterrupted or error free. The Licensee shall give notice to Lloyd's as soon as it is reasonable upon becoming aware of any defects or errors in the Licensed Programs.
- 7.5 Subject to the foregoing all conditions warranties terms and undertakings express or implied statutory or otherwise in respect of the Licensed Program Materials and the provision of the Services are hereby excluded. In particular, the Licensee accepts that the Licensed Program Materials were not designed and produced to its individual requirements.

8 LIMITATION OF LIABILITY AND INDEMNITY

- 8.1 The Licensee shall Use the Licensed Program Materials at its own risk and in no event shall Lloyd's be liable to the Licensee for any loss or damage of any kind (except personal injury or death resulting from Lloyd's negligence) arising from the Licensee's Use or inability to Use the Licensed Program Materials or from faults or defects therein whether caused by negligence or otherwise.
- 8.2 The Licensee shall indemnify and hold harmless Lloyd's against any losses, costs, expenses or damages that may be suffered or incurred by Lloyd's arising from the Use or any other use of the Licensed Program Materials by the Licensee (or its agents, employees or sub-contractors) except where such losses, costs, expenses or damages arise from the negligence or wilful default of Lloyd's.
- 8.3 Lloyd's shall not be liable for:
 - 8.3.1 Any improper, immoral, fraudulent or unlawful use of the password by the Licensee and/or any third party; or
 - 8.3.2 Any unauthorised access and/or use of the syndicate business forecasts information and/or Licensed Program Materials by the Licensee and/or any third party.

9 RISK IN THE LICENSED PROGRAM MATERIALS

- 9.1 Risk in the Licensed Program Materials will pass to the Licensee upon delivery which

shall be deemed to take place when the Licensee obtains possession of the media containing the Licensed Programs and the Program Documentation.

10 CONFIDENTIALITY

10.1 Each of the parties hereto undertakes to the other to keep confidential all information (written or oral) concerning the business and affairs of the other that it shall have obtained or received as a result of the discussions leading up to or the entering into of this Agreement save that which is:

10.1.1 trivial or obvious;

10.1.2 already in its possession other than as a result of a breach of this clause;

10.1.3 in the public domain other than as a result of a breach of this clause; or

10.1.4 required to be disclosed by law or by any competent regulatory authority (including, for the avoidance of doubt, the Council of Lloyd's or the Lloyd's Regulatory Board or any person or body by whom or by which the Council or the Lloyd's Regulatory Board acts under (in the case of the Council alone) section 6(7) of Lloyd's Act 1982 or under any byelaw or regulation made under Lloyd's Act 1982).

10.2 Each of the parties undertakes to the other to take all such steps as shall from time to time be necessary to ensure compliance with the provisions of clause 10.1 above by its employees agents and sub-contractors.

11 LICENSEE'S REPRESENTATIVES

11.1 The Licensee shall communicate to Lloyd's upon the date hereof the identity of the person(s) or the department within its undertaking at the Site who shall act as the sole contact point and channel of communication for the provision by Lloyd's of the Services during the currency of this Agreement. The Licensee shall forthwith inform Lloyd's of any change in the identity of any such person(s) or department.

12 WAIVER

12.1 The waiver by either party of a breach or default of any of the provisions of this Agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omission on the part of either party to exercise or avail itself of any right power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.

13 NOTICES

13.1 Any notice request instruction or other document to be given hereunder shall be delivered or sent by first class post or facsimile (facsimile notice to be confirmed by letter posted within 12 hours) to the address of the other party set out in this Agreement (or such other address as may have been notified) and any such notice or other document shall be deemed to have been served (if delivered) at the time of delivery, (if sent by post) upon the expiration of 48 hours after posting and (if sent by

facsimile) upon the expiration of 12 hours after dispatch.

14 INVALIDITY AND SEVERABILITY

- 14.1 If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.

15 ENTIRE AGREEMENT

- 15.1 This is the entire agreement between the parties relating to the Licensed Program Materials. Lloyd's shall not be liable to the Licensee for loss arising from or in connection with any representations agreements statements or undertakings made prior to the date of execution of this Agreement. Nothing in this clause, shall, however operate to limit or exclude any liability for fraud.

16 SUCCESSORS

- 16.1 This Agreement shall be binding upon and endure for the benefit of the successors in title of the parties hereto.

17 ASSIGNMENT AND SUB-LICENSING

- 17.1 The Licensee shall not be entitled to assign this agreement nor any of its rights or obligations hereunder nor sub-license the Use (in whole or in part) of the Licensed Program Materials without the prior written consent of Lloyd's (such consent not to be unreasonably withheld).

18 RIGHTS OF THIRD PARTY

- 18.1 A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

19 LAW

- 19.1 This Agreement shall be governed by and construed in accordance with English law and the parties hereto agree to submit to the non-exclusive jurisdiction of the English courts.

AS WITNESS whereof this Agreement is executed under hand in two originals by the duly authorised representatives of the parties the day and year first written above

LLOYD'S

By

Name of Licensee (Company etc. name)

Address:

.....

.....

Contact Telephone Number:

Signatory (name and position):