

# NEW CENTRAL FUND AND PROPERTY OF THE SOCIETY BYELAW

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## Commencement

This byelaw will come into force immediately after the Council declares that all Equitas reinsurance contracts have become wholly unconditional in accordance with their terms.

## Amendments

This byelaw was amended by

- New Central Fund (Amendment) Byelaw (No. 27 of 1996)
- New Central Fund (Amendment No. 2) Byelaw (No. 35 of 1996)
- New Central Fund (Amendment No. 3) Byelaw (No. 22 of 1997)
- New Central Fund (Amendment No. 4) Byelaw (No. 32 of 1997)
- Amendment Byelaw (No. 9 of 2001)
- New Central Fund (Amendment No. 5) Byelaw (No. 5 of 2004)
- New Central Fund And Funds And Property Of The Society (Miscellaneous Provisions) Byelaw (No. 2 of 2014)
- New Central Fund (Amendment No.6) Byelaw (No. 2 of 2023)

## Explanatory Note

(This note is not part of the byelaw)

This byelaw provides for the establishment of a New Central Fund in succession to the Central Fund held under the Central Fund Byelaw (No. 4 of 1986).

Save in respect of liabilities of the Society existing at the time when the byelaw comes into force, or with the prior sanction of a resolution passed at a general meeting of members of the Society, the New Central Fund may not be used directly for the purpose of extinguishing or reducing liabilities which have been reinsured by Equitas Reinsurance Limited.

Underwriting members will be required to pay annual contributions to the fund and may be required to pay “callable contributions” (not exceeding £200 million in aggregate in any one year or such other

amount as prescribed by the Council by special resolution) and also, if the Council thinks it requisite or expedient, special contributions.

The byelaw also contains provisions relating to the application of “general funds of the Society” that are not part of the New Central Fund. In accordance with undertakings already given to members in the membership agreement pursuant to the provisions of the Powers of Charging Byelaw (No.12 of 1990), the Council will announce the maximum level of all such contributions for a particular year no later than 30 September in the preceding year and such level may not be exceeded except with the prior sanction of a resolution passed at a separate meeting of the members liable to pay the contribution.

This byelaw may be referred to as the New Central Fund and Property of the Society Byelaw (No. 23 of 1996).

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

## Part A - Constitution of New Central Fund

### 1. Establishment of New Central Fund

The *Society* shall establish, hold, manage and apply in accordance with the provisions of this byelaw a fund to be known as the *New Central Fund* (in this byelaw “the Fund”).

### 2. Assets of Fund

The Fund shall consist of:

- (a) contributions to the Fund for the time being paid or payable under paragraph 3;
- (b) moneys borrowed by the *Society* under paragraph 5;
- (c) recoveries for the time being paid or payable to the *Society* under paragraph 9;
- (d) any other moneys or assets which may from time to time be paid or added to or accrue to the Fund;
- (e) the investments or other property for the time being representing such contributions, moneys or assets;
- (f) income arising from investments or other moneys or assets from time to time constituting the Fund.

### 3. Contributions to Fund

- (1) Every underwriting *member* of the *Society* shall in each calendar year, in accordance with the provisions of this paragraph –
  - (a) pay to the *Society* a contribution to the Fund (an “*annual contribution*”); and
  - (b) be liable to pay to the *Society*, if called upon to do so from time to time, a contribution or contributions not exceeding a specified amount (that amount being in this paragraph referred to as a “*callable contribution*”).
- (2) If it appears requisite or expedient to do so the *Council* may from time to time levy from *members* of the *Society* in addition to *annual contributions* and *callable contributions* under sub-paragraph (1) such further contributions (each a “*special contribution*”) as the *Council* may by *special resolution* prescribe.

- (3) The amounts of *annual contributions* and of any *special contributions*, the manner of calculating such amounts and the date or dates on which such contributions shall be payable shall be such as the *Council* shall by *special resolution* prescribe.
- (4) The amounts of the *callable contribution* of each underwriting *member* for each year shall be such that the aggregate amount of the callable contributions of all members for that year is as nearly as may be equal to £200,000,000, or such other sum as the *Council* may by *special resolution* determine. The *Council* may also by *special resolution* determine the manner in which *callable contributions* are to be calculated, demanded and paid.
- (5) The *Council* may from time to time by *special resolution* exempt a *member* or any class or classes of *member* from liability to make contributions under this paragraph.
- (6) Any exemption granted under sub-paragraph (5):
  - (a) may apply indefinitely or for such period as the *Council* may specify; and
  - (b) may be general or limited to a particular levy or levies, whether in respect of *annual contributions*, *callable contributions* or *special contributions*.
- (7) The *Council* shall not levy any *annual contribution*, *callable contribution* or *special contribution* on a *member* in a manner inconsistent with an undertaking given to that *member* under the Powers of Charging Byelaw (No. 12 of 1990) which is for the time being in force; and for the purposes of this paragraph and of that byelaw any undertaking given to a *member* before this byelaw comes into force and relating to the exercise of powers of the *Council* under the Central Fund Byelaw (No. 4 of 1986) shall be construed as if:
  - (a) any reference in that undertaking to the exercise of powers of the *Council* under the Central Fund Byelaw (No. 4 of 1986) included a reference to the exercise of powers of the *Council* under this byelaw;
  - (b) any reference to contributions to the *Central Fund* included a reference to contributions to the Fund under any provision of this paragraph 3.
- (8) Any contribution shall be levied on a *member* by service on him or on any one or more of his *underwriting agents* of a notice specifying the amount payable and, except in the case of a *callable contribution*, the date or dates on which it is payable.
- (9) Payment of contributions in accordance with this paragraph shall be a condition relating to permission to underwrite *insurance business* at Lloyd's pursuant to paragraph 42 of the Membership Byelaw (No. 5 of 2005) and the provisions of the Membership Byelaw

(No. 5 of 2005) shall apply accordingly where any *member* fails to comply with such condition.

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

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

(11) While a determination made by the *Council* under paragraph 8(2) is in force, no contribution made under this paragraph shall be repaid to any *member* or *former member* of the *Society* (whether in the course of a winding-up of the *Society* or otherwise) if or to the extent that such repayment would contravene or be inconsistent with any *Regulatory Capital Requirement* specified in the determination.

4. Power to require undertakings etc.

(1) The *Council* may as a condition of permission to underwrite *insurance business* at Lloyd's require a *member* to execute a written undertaking to the *Society* duly to pay any contribution levied on him under paragraph 3 (whether under sub-paragraph (1) or sub-paragraph (2) of that paragraph).

(2) Subject to any undertaking given by the *Council* under the Powers of Charging Byelaw (No.12 of 1990) for the time being in force, the *Council* may require that any undertaking under sub-paragraph (1) of this paragraph be in such form and contain such provisions as the *Council* may specify, including, in particular, an agreement that any contribution levied on the *member* shall be paid free and clear from any set-off, counterclaim or deduction on any account whatsoever.

5. Borrowing for Fund

The *Society* may from time to time borrow moneys to be held, managed or applied as assets of the Fund, and may secure such borrowing in any manner on the whole or any part of the Fund or on any other property of the *Society*.

6. Management and investment of Fund

- (1) Moneys for the time being forming part of the Fund shall be invested or lent or deposited (with or without security and with or without interest or premium on repayment) in such manner as the *Council* may from time to time provide or permit.
- (2) Moneys or other assets of the Fund may be vested in a trustee or nominee on behalf of the *Society* on such terms as the *Council* may from time to time provide or permit.
- (3) The *Council* may cause the whole or any part of the Fund to be vested in such *person* or *persons* as trustees on such trusts for the benefit of such *person* or *persons* and subject to such provisions as may appear to the *Council* to be expedient for, or incidental or conducive to, any of the purposes set out in paragraph 8.
- (4) Any moneys and other assets vested in trustees under sub-paragraph (3) shall remain part of the Fund for the purposes of this byelaw, but so that –
  - (a) the powers of the *Council* under this byelaw apply, as regards any moneys and other assets so vested, subject to the terms of the trust deed or trust instrument concerned;
  - (b) the *Council* may exercise any power conferred on it by that trust deed or trust instrument, subject to any obligations or restrictions imposed by law or by the terms of that trust deed or trust instrument, in such manner as may appear to it to be expedient for or incidental or conducive to any of the purposes set out in paragraph 8.
- (5) Subject to sub-paragraphs (3) and (4) of this paragraph, no policyholder or other *person* shall have any right to payment from the Fund or to any account of the management, investment or application of the assets compromised in the Fund.

7. Derivative transactions

- (1) The *Council* may from time to time –
  - (a) provide for or permit the entering into by the *Society*, in the course of or in connection with the management and investment of the Fund under paragraph 6, of transactions of any of the kinds referred to in sub-paragraph (2);
  - (b) cause any moneys or other assets for the time being forming part of the Fund, or any other property of the *Society*, to be applied in or towards the discharge of any obligations incurred by the *Society* under or in connection with any transaction so entered into.

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

## Part B - Application of Fund

8. Availability and application of Fund
  - (1) Subject to and in accordance with the following provisions of this paragraph, the Fund is available, and moneys or assets may be applied out of the Fund (including application by way of loan or on any other terms as to repayment) –
    - (a) for the purpose of complying with, and for any purpose required or permitted by, a *Regulatory Capital Requirement* (including, to the extent required or permitted by any relevant *Regulatory Capital Requirement*, for the purposes specified in sub-paragraph (5)(a) or (b), or both); and
    - (b) subject to (a), for any of the purposes specified in sub-paragraph (5).
  - (2) The *Council* at any time may, and shall if so directed by the *Prudential Regulation Authority*, make a determination that the Fund, or a part of the Fund of an amount or value fixed by the *Council* and specified in the determination, be made available for the purpose of complying with a *Regulatory Capital Requirement* (and such a determination may specify different parts of the Fund as available for the purpose of complying with different *Regulatory Capital Requirements*).
  - (3) The *Council* may from time to time –
    - (a) vary any such determination by increasing the amount of any part of the Fund specified in the determination;
    - (b) with the prior consent of the *Prudential Regulation Authority* where the *Council* has been directed by the *Prudential Regulation Authority* under sub-paragraph (2) above, vary any such determination by reducing the amount of any part of the Fund specified in the determination, or revoke any such determination.
  - (4) Where any part of the Fund is specified as available for the purpose of complying with a *Regulatory Capital Requirement* in a determination made under sub-paragraph (2) and for the time being in force –
    - (a) money or assets corresponding to that part of the Fund may be applied out of the Fund for any purpose required or permitted by the relevant *Regulatory Capital Requirement* (including, if applicable, the purposes specified in sub-paragraph (5)(a) or (b), or both), and for no other purpose;
    - (b) if the part or parts of the Fund so specified comprise less than the whole of the Fund, moneys or assets corresponding to the excess may be applied out of the Fund for any of the purposes specified in sub-paragraph (5).

- (5) The purposes referred to in sub-paragraph (1) are:
- (a) directly or indirectly extinguishing or reducing any liability of a *member* to any *person* arising out of or in connection with *insurance business* carried on by that *member* at Lloyd's;
  - (b) repaying moneys previously borrowed for the purposes of this byelaw and paying interest, premium or other charges on such moneys;
  - (c) any other purpose (whether or not similar to any purpose mentioned in (a) and (b) above) which may appear to the *Council* to further any of the objects of the *Society*.
- (6) Subject to sub-paragraph (7), no moneys or other assets shall be applied out of the Fund:
- (a) by way of payment (other than a payment on arm's length terms in respect of property, assets, services or other benefits) to any member of the *Equitas group*;  
or
  - (b) directly for the purpose of extinguishing or reducing any liability of a *member* in respect of which Equitas Reinsurance Limited has, under an *Equitas reinsurance contract*, undertaken to reinsure and indemnify that *member*.
- (7) Sub-paragraph (6) shall not preclude the *Council* from applying moneys or assets out of the Fund for any of the purposes mentioned in sub-paragraph (5):
- (a) in discharge of any legally binding obligation of the *Society* arising under a contract entered into or other instrument executed at or before the time at which this byelaw comes into force; or
  - (b) in any other case, with the prior sanction of a resolution of the *members* in general meeting.
- (8) In this paragraph, except sub-paragraph (7)(b), references to a "*member*" shall be taken to refer also to *former members* and to the estates of deceased *members* of the *Society*.

## 9. Liability of members in respect of payments made out of the Fund

- (1) Where moneys or other assets have been applied out of the Fund (including any part of the Fund vested in trustees under paragraph 6) for the purpose mentioned in paragraph 8(5)(a), any *member* in relation to whom such moneys or assets have been so applied

shall within 28 days after demand pay to the *Society* an amount not exceeding the aggregate of any sums so applied in relation to that *member*.

- (2) The *Council* may at any time agree to reduce or waive any amount demanded by the *Society* or owed by a *member* to the *Society* under this paragraph.
- (3) In this paragraph references to a “*member*” shall be taken to refer also to any *person*, or to the estate of any *person*, who has been a *member* at any time on or after the date when this byelaw comes into force, notwithstanding that that *person* is no longer a *member* at the time of any application referred to in or demand made under this paragraph.

## Part C – General Funds of the Society

10. Application of general funds of the *Society*
  - (1) In this paragraph 10 “the general funds of the *Society*” means funds and property of the *Society* (including the income therefrom) other than funds or property forming part of the Fund.
  - (2) Subject to and in accordance with the following provisions of this paragraph, the general funds of the *Society* are available, and moneys or assets forming part of the general funds of the *Society* may be applied, for the purpose of complying with, and for any purpose required or permitted by, a *Regulatory Capital Requirement*.
  - (3) The *Council* at any time, may and shall if so directed by the *Prudential Regulation Authority*, make a determination that the general funds of the *Society*, or a part of the general funds of the *Society* of an amount or value fixed by the *Council* and specified in the determination, be made available for the purpose of complying with a *Regulatory Capital Requirement* (and such a determination may specify different parts of the general funds of the *Society* as available for the purpose of complying with different *Regulatory Capital Requirements*).
  - (4) The *Council* may from time to time –
    - (a) vary any such determination by increasing the amount of any part of the general funds of the *Society* specified in the determination;
    - (b) with the prior consent of the *Prudential Regulation Authority* where the *Council* has been directed by the *Prudential Regulation Authority* under sub-paragraph (3) above, vary any such determination by reducing the amount or any part of the general funds of the *Society* specified in the determination, or revoke any such determination.
  - (5) Where any part of the general funds of the *Society* is specified as available for the purpose of complying with a *Regulatory Capital Requirement* in a determination made under sub-paragraph (3) and for the time being in force –
    - (a) moneys or assets corresponding to that part of the general funds of the *Society* may be applied for any purpose required or permitted by the relevant *Regulatory Capital Requirement*, and for no other purpose;

- (b) if the part or parts of the general funds of the *Society* so specified comprise less than the whole of the general funds of the *Society*, moneys or assets corresponding to the excess may be applied for any of the purposes specified in section 7 of Lloyd's Act 1911.

11. General funds of the Society: derivative transactions

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

- (e) otherwise facilitating efficiency in the management of the general funds of the *Society*.

## Part D - Miscellaneous and Supplementary

12. Enforcement of contributions etc.; publicity in respect of non-payment
  - (1) Any sum payable to the *Society* under any of the provisions of this byelaw which is not paid on the due date for payment shall bear interest from the due date until the date of payment (as well after as before judgment) at the rate prescribed from time to time as applicable to judgment debts or such other rate as the *Council* may from time to time prescribe.
  - (2) Any sum payable to the *Society* under any of the provisions of this byelaw (including any interest payable under sub-paragraph (1)) –
    - (a) shall be paid free and clear from any set-off, counterclaim or deduction on any account whatsoever; and
    - (b) shall be recoverable in any court of competent jurisdiction as a civil debt.
13. Information
  - (1) Every *member* shall furnish to the *Society* such information as the *Council* may from time to time require in writing for the purposes of this byelaw.
  - (2) Any information required under sub-paragraph (1) shall be furnished in such manner and at such time or times as the *Council* may specify in writing.
  - (3) A *member* shall only be required under this paragraph to furnish such information as he or his *underwriting agent* or agents possess or can reasonably be expected to obtain.
14. Powers of the Council to give undertakings
  - (1) The Powers of Charging Byelaw (No. 12 of 1990) is amended as follows:
  - (2) The Council may in any manner referred to in paragraph 13 of the Reconstruction and Renewal Byelaw (No. 22 of 1995), or in any other case where it appears to the Council to be expedient to do so for the furtherance of the objects of the Society, give undertakings to any person (whether or not a member of the Society) with respect to the exercise of any of the powers of the Council under this byelaw to raise money for the Fund and to apply money out of the Fund.

15. Commencement

This byelaw shall come into force immediately after the *Council* declares that all *Equitas reinsurance contracts* have become wholly unconditional in accordance with their terms.