

CENTRAL ACCOUNTING BYELAW

Commencement

This byelaw came into force on 2 December 1998.

Amendments

This byelaw was amended by

Lloyd's Policy Signing Office Byelaw (No. 11 of 2000)

Lloyd's Brokers Byelaw (No. 7 of 2004)

Miscellaneous Provisions Byelaw (No. 4 of 2006)

The Legislative Reform (Lloyd's) Order (Market Provisions) Byelaw (No. 1 of 2009)

Explanatory Note

(This note is not part of the byelaw).

This byelaw comes into force on 2 December 1998.

This byelaw provides the legal framework for the operation of the Central Accounting System (the "System").

The byelaw empowers the Council to prescribe in relation to participants in the System such conditions and requirements as the Council may think fit to be satisfied or complied with as a condition to participation in the System (paragraph 4(1)).

In addition to the general powers conferred on the Council, the Council is specifically empowered to prescribe, among others, conditions and requirements enabling the Society:

- (a) to require participants to lodge collateral with the Society in circumstances where the Society deems it appropriate (paragraphs 4(2)(d) and 4(2)(e));
- (b) to refuse to settle a transaction where the Society deems it appropriate (paragraph 13(2)(a));
- (c) to debit a recipient account where the amount due from another participant has not been paid (paragraph 14); and

- (d) to suspend settlements where a participant is unable or appears to the Society to be unable to fund a transaction (paragraph 16).

The byelaw also prescribes rights, duties and obligations of the Society and System participants respectively, designed to minimise settlement and liquidity risk.

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Schedule

The Council of Lloyd's in exercise of its powers under section 6(2) of, and paragraphs (19), (24), (32) and (37) of Schedule 2 to, Lloyd's Act 1982 by special resolution hereby makes the following byelaw.

Part A - Preliminary

1. Interpretation

The provisions of the Schedule to this byelaw (interpretation) shall have effect.

Part B - Insurance Services

2. Provision of services
 - (1) The Society may provide the services referred to in sub-paragraph (2) on the terms prescribed under this byelaw.
 - (2) The services referred to in sub-paragraph (1) are:
 - (a) a service for the accounting, netting and settlement of insurance transactions and the transfer of funds more particularly described in Part C;
 - (b) any service incidental or relating to any of the foregoing services; and
 - (c) any other service which the Council considers it is in the interests of any of the persons referred to in sub-paragraph (4) or any class of them to receive in conjunction with any of the foregoing services.
 - (3) All or any of the services may be provided wholly or partly by electronic means and by the use of electronic documents.
 - (4) The services may be provided to or on behalf of:
 - (a) the Society (in its capacity as principal payee or payor under insurance transactions or otherwise);
 - (b) any subsidiary of the Society;
 - (c) any member or group of members of the Society;
 - (d) any underwriting agent (including any substitute agent);
 - (e) any approved run-off company;
 - (f) any person pursuant to paragraph 27 of the Underwriting Byelaw from or through whom a *managing agent* may accept business on behalf the *members* of a *syndicate* which it manages;
 - (g) [deleted by The Legislative Reform (Lloyd's) Order (Market Provisions) Byelaw (No.1 of 2009).]
 - (h) any trustee of any premiums trust deed or acting pursuant to any power under a trust deed; and
 - (i) any other person to whom the Council or any service provider agrees to provide a service.
 - (5) The Society may provide any service to or on behalf of a participant whether that participant is acting, or appears to the Society to be acting, as:
 - (a) a principal;
 - (b) an agent for a person, whether or not that person is a participant; or

- (c) a trustee or pursuant to powers under a trust deed, in either case whether or not the beneficiary of the trust concerned is, or where this is more than one, includes, another person referred to in sub-paragraph (4).

Provided that in each of cases (b) and (c) the Society may treat such a trustee or agent as if it were a transacting principal in respect of the provision of the services and shall have no obligation to provide the services to, or claim unpaid amounts owed by an agent or trustee hereunder from, underlying principals or beneficiaries. The Society shall have a right to claim against any agent or trustee.

- (6) The Society may delegate the provision of all or any of the services referred to in paragraph 2(2) to any person on such terms and conditions as the Council thinks fit and/or may agree with another person that such other person may provide all or any of such services on the terms and conditions set out or referred to in this byelaw, on such terms and conditions as may be agreed with the Society (including, without limitation, in relation to the provision of information and assistance to the Society) or otherwise as the Council thinks fit. If agreed with the Society, any such person may provide any such services in the name of the Society and may, with prior written consent from the Council, sub-delegate or delegate (as the case may be) the provision of all or any of such services to another person on such terms as may be stipulated in the Council's consent.
- (7) Nothing in sub-paragraph (6) shall prevent any person (including, without limitation, any service provider) other than the Society from providing services to any person referred to in sub-paragraph (4), on such terms as it may agree with that person provided such terms do not, without the Council's prior written consent, amend, alter or make ineffective any of the terms and conditions on which the Society has agreed that the services referred to in paragraph 2(2) may be provided by such person, whether as a delegate or sub-delegate of the Society or otherwise.

3. Use of Services

- (1) The Council may direct that any member of the Society and any underwriting agent or approved run-off company acting on his behalf shall use any service referred to in paragraph 2(2) as may be specified in the Council's direction in the course of the member's underwriting business at Lloyd's (whether such service is provided or is to be provided by the Society or by any service provider).
- (2) Without prejudice to sub-paragraph (1), the Council may direct that any person falling within any of sub-paragraphs 2(4)(b), (d) to (i) shall use any service referred to in paragraph 2(2) as may be specified in the Council's direction in the course of that

person's business at Lloyd's (whether such service is provided or is to be provided by the Society or by any service provider) or, in the case of any trustee of any premiums trust deed, in the course of his activities as such.

- (3) Any direction given under sub-paragraph (1) or (2) may:
 - (a) impose conditions or requirements which are absolute or which are to vary from time to time by reference to such factors as are specified in or are determined in accordance with such conditions and requirements;
 - (b) make different provision for different classes of person or for specific persons (including, without limitation, different classes of member of the Society or underwriting agent or specific members or underwriting agents) and for different classes of insurance transaction or for specific insurance transactions;
 - (c) make different provision for bodies corporate, Scottish limited partnerships and individuals;
 - (d) contain incidental, supplementary and transitional provisions.

4. Conditions and requirements

- (1) The Council may prescribe such conditions and requirements to be satisfied or complied with as a condition for the use or provision of a service as it thinks fit and without consulting any participant (whether such service is provided or is to be provided by the Society or by any service provider), and may add to, alter or withdraw any condition or requirement so prescribed.
- (2) Without prejudice to the generality of sub-paragraph (1), any conditions and requirements prescribed under that sub-paragraph may:
 - (a) include the requirement to complete applications, notices and other documents in the prescribed form;
 - (b) include the requirement to execute, complete or execute and deliver or otherwise become a party to any prescribed form of application, notice, deed, trust deed, contract, assignment, undertaking, mandate, authority, power of attorney, negotiable instrument, agreement or other document or instrument whatsoever;
 - (c) include requirements relating to the provision of certificates, confirmations, declarations, information, opinions or reports, relating to a person applying to use a service (each such person being referred to in this byelaw as an "applicant") or to its directors, partners, managers, controllers, major shareholders or connected companies or to its members in the case of a limited liability partnership, in the prescribed form and to be given by such persons as the Council may prescribe or approve;

- (d) include requirements relating to the financial position of the participant including, without limitation, the imposition of requirements limiting the individual and/or aggregate value of insurance transactions processed through the system by any participant or the provision of security by any participant whose financial position is uncertain;
 - (e) include requirements relating to the provision by participants of funds or other security (including, but not limited to, letters of credit, charges or guarantees) for the settlement and payment of insurance transactions on their behalf or to discharge any obligation incurred by them as a participant to any person;
 - (f) prescribe warranties and confirmations to be given by a participant or applicant;
 - (g) prescribe exclusions of liability to apply for the benefit of any person providing the services or any of them;
 - (h) prescribe indemnities to apply for the benefit of any person providing the services or any of them or any participant;
 - (i) prescribe provisions relating to the use and disclosure of information by any person providing the services or any of them or any participant;
 - (j) provide that any authority to be given to any person providing the services or any of them is irrevocable or may be revoked only under certain conditions; and
 - (k) provide for responsibility for the accuracy and/or completeness of information supplied to or by any person providing the services.
- (3) Without prejudice to the generality of sub-paragraph (1), any conditions and requirements prescribed under that sub-paragraph may:
- (a) impose conditions and requirements which are absolute or which are to vary from time to time by reference to such factors as are specified in or are determined in accordance with such conditions and requirements;
 - (b) make different provision for different classes of person or for specific persons (including, without limitation, different classes of member of the Society or underwriting agent or specific members or underwriting agents) and for different classes of insurance transaction or for specific insurance transactions;
 - (c) make different provision for bodies corporate, Scottish limited partnerships and individuals;
 - (d) specify circumstances in which an applicant or a participant is to be exempt from any such condition or requirement or may be excused from compliance with any such condition or requirement to such an extent as the Council may think fit;
 - (e) require any underwriting agent to execute, complete or execute and deliver or otherwise become a party to any applications, notices, deeds, trust deeds, contracts, assignments, undertakings, mandates, authorities, powers of attorney, negotiable instruments, agreements or other documents or instruments whatsoever on behalf of any member of the Society on whose behalf the

underwriting agent has the power and authority to so execute, complete or execute and deliver; and

- (f) contain incidental, supplementary and transitional provisions.
- (4) Any application, notice, deed, trust deed, contract, assignment, undertaking, mandate, authority, power of attorney, negotiable instrument, agreement or other document or instrument whatsoever which a person is required to execute, complete or execute and deliver or otherwise become a party to under sub-paragraphs (2) or (3) may provide that it can be amended by resolution of the Council from time to time.
- (5) In exercise of its powers under this paragraph, the Council may at any time require:
- (a) any applicant or participant;
 - (b) any controller of an applicant or of a participant;
 - (c) any director of an applicant or of a participant;
 - (d) any partner in an applicant or in a participant;
 - (e) any major shareholder of an applicant or of a participant;
 - (f) any member of an applicant or of a participant which is a limited liability partnership;
 - (g) any manager of an applicant or of a participant; or
 - (h) in relation to a Scottish limited partnership, a specified person in relation to that Scottish limited partnership

to execute or execute and deliver (and may require the applicant or participant to procure that he executes or executes and delivers) an undertaking in favour of the Society in the prescribed form.

- (6) An undertaking in the form prescribed for the purposes of sub-paragraph (5) may include terms to the effect that the person giving the undertaking:
- (a) submits to the disciplinary, regulatory and general jurisdiction of the Council;
 - (b) will, both while he remains an applicant, participant, or a controller, director, partner, major shareholder, manager or in the case of a limited liability partnership, a member or specified person of or in relation to the applicant or participant concerned and at all times thereafter, provide to the Council such information, explanations, documents and other material relating to the applicant or participant or its business of insurance at Lloyd's or to any persons involved in or connected with such applicant, participant or business (including, without limitation, any service provider), or any other information, explanations, documents or other material which the Council may consider necessary or appropriate to be given or produced.

- (7) The Council may provide that its liability under paragraph 29 of this byelaw is amended in whatever manner, form and extent that it sees fit.

Part C - Central Accounting System

5. Central Accounting

- (1) The Society may, as part of the services referred to in paragraph 2(2), maintain a system to be known as the Central Accounting System (the “System”) for the processing, advice, accounting, netting and settlement of insurance transactions (including monetary obligations arising from insurance transactions) and other transfers of funds.
- (2) In providing the services, the Society is acting as the settlement agent of each of the participants and undertakes no liability as a principal to any participant in respect of any insurance transaction.

6. Demand and collection of moneys

- (1) The Society, as principal in respect of amounts due to it as principal payee under any Insurance transaction, or as agent of any other participant, may demand and/or collect from any participant any moneys which are, or which appear to the Society to be, due on any settlement date from that participant (whether as agent or principal) to any other participant or participants (whether as agent or principal) (each a “payee”) under any System transaction.
- (2) The Society may give a receipt (which may be conditional) on behalf of any participant for moneys collected under sub-paragraph (1).
- (3) The Society, as principal in respect of amounts due from it as principal payor under any insurance transaction, or as agent of any other participant may pay or procure payment of any of the amounts referred to under sub-paragraph (1) to the relevant payee.
- (4) The Society may, in making payments to and collecting payments from participants, pursuant to sub-paragraphs (1) and (3) above, aggregate and net all such payments in accordance with paragraph 10.
- (5) Subject to paragraph 10, payments under System transactions shall be made by participants in full and without set-off, deduction or counterclaim.

7. Establishment of bank accounts

- (1) The Society may open and maintain one or more bank accounts for the purpose of operating, or providing any service under, the System.
- (2) Every participant shall open and maintain such accounts with approved banks as the Council may prescribe.
- (3) Without prejudice to the generality of the Council's powers under paragraph 4, the Council may as a condition of participation, or continued participation, in the System require participants to establish irrevocable direct debit arrangements and/or direct credit arrangements in favour of the Society or such other persons as the Council may specify.

8. Currencies

- (1) System transactions shall be settled only in a System currency.
- (2) Subject to sub-paragraph 8(3), participants shall agree currency conversion arrangements between themselves as are necessary to effect settlement in respect of insurance transactions expressed in convertible currencies which are required to be settled under the System.
- (3) The Council may, but shall not be obliged to, prescribe the exchange rate to be used, and the procedures and requirements to be followed, for the conversion of amounts payable in respect of underlying insurance transactions expressed in a convertible currency into a System currency and for making adjustments to exchange rates.
- (4) The Council may on written notice to participants declare that a convertible currency is to become a System currency or declare that a System currency is no longer a System currency.

9. Advice and accounting of System transactions

- (1) In respect of any System transaction, the participants concerned shall provide to the Society such information and documents relating to it as the Council may require in order to facilitate the advice and, if necessary, the accounting, netting and settlement of the System transaction.

- (2) Without prejudice to the generality of sub-paragraph (1), any requirement made under that sub-paragraph may:
 - (a) impose conditions which are absolute or which are to vary from time to time by such factors as are specified in or are determined in accordance with such conditions and requirements;
 - (b) make different provision for different classes or categories of participants;
 - (c) make different provision for different classes or categories of insurance transaction;
 - (d) be made in respect of a specific insurance transaction or a specific class or category of insurance transaction or be of general application;
 - (e) contain incidental and supplementary provisions.
- (3) The Society shall be entitled to rely on information and documents provided under sub-paragraph (1) in effecting System transactions.

10. Settlement of System transactions

- (1) Subject to paragraphs 10(5) and 16, prior to each settlement date (the “relevant settlement date”) the Society shall calculate in respect of each participant and in respect of each System currency:
 - (a) the aggregate amount due to be paid to that participant by the other participants under all System transactions of which the Society has notice which are denominated in that System currency and are due to be settled on the relevant settlement date (the “entitlements”);
 - (b) the aggregate amount due to be paid by that participant to other participants under all System transactions of which the Society has notice which are denominated in that System currency and which are due to be settled on the relevant settlement date (the “gross payments”).
- (2) If the entitlements exceed the gross payments the amount of such excess shall, subject to sub-paragraph 13(4), be directly credited or otherwise paid by the Society to the participant on the relevant settlement date.
- (3) If the gross payments exceed the entitlements, the amount of such excess shall be directly debited by the Society from such participant’s account(s) or paid by the participant to the Society on the relevant settlement date.
- (4) The Society shall settle a System transaction otherwise than in accordance with sub-paragraphs (1) to (3) where the Council so directs and the Council shall consider

representations from participants that a System transaction that would otherwise be settled in accordance with sub-paragraphs (1) to (3) should not be so settled.

- (5) Any direction made under sub-paragraph (4) may be given in respect of a specific System transaction or a specific class of System transaction or be of general application.

11. Agreed settlement dates

- (1) Amounts due for settlement under the System shall be settled or brought into settlement between participants on one of the applicable settlement dates as specified from time to time by the Council.
- (2) The Council may prescribe the forms to be used, and the procedures and requirements to be followed, by participants to indicate to the Council the settlement date or dates agreed by participants under sub-paragraph (1).

12. Settlement information statements

- (1) The Society may deliver to every participant settlement information statements in accordance with this paragraph.
- (2) A settlement information statement delivered to a participant may provide such information as to enable the participant to ascertain (from the settlement information statement alone or in conjunction with other information) those System transactions to which the participant is a party and which have been, or which will be, accounted and, if such is the case, settled under the System during the period covered by the settlement information statement.
- (3) Settlement information statements delivered under sub-paragraph (1) may:
 - (a) contain different information for different classes of participant and for different classes of System transaction;
 - (b) be delivered at such intervals as the Council may determine; and
 - (c) contain such additional information as the Council may determine.
- (4) A participant may appoint such person as the Society, operating its customary procedures for transmission, is able to send settlement information statements to, to receive settlement information statements on its behalf.

- (5) The members of a syndicate shall for the purposes of sub-paragraph (4) be deemed to have appointed the managing agent of the syndicate to receive all settlement information statements on their behalf.
- (6) Where a participant has appointed a person under sub-paragraph (4), the participant shall give written notification to the Council of the appointment together with such additional information as the Council may require.
- (7) Where a participant has appointed a person under sub-paragraph (4), the obligations of the Council to the participant under sub-paragraph (1) shall be discharged by delivery of settlement information statements to the person so appointed by the participant.

13. Obligation to fund settlements

- (1) Every participant shall, in accordance with any conditions and requirements of the Council, make available, or procure that there are made available, sufficient funds on the applicable settlement date for the settlement of any System transaction in respect of which amounts are to be paid by or on behalf of that participant.
- (2) Where a participant is required to make funds available for the settlement of System transactions and does not make the full amount of such funds available on or before the applicable settlement date the Society may:
 - (a) refuse to settle any or all System transactions until sufficient funds have been made available; or
 - (b) apply any funds received from the participant in the pro rata settlement of outstanding System transactions to which it is a party; or
 - (c) settle any or all System transactions in respect of, on account of or on behalf of the participant.
- (3) Where the Society settles a System transaction under sub-paragraph (2)(c), the participant shall on demand pay forthwith to the Society amounts equal to any sums so paid in settlement in respect of, on account of or for the benefit on behalf of that participant, together with (if so demanded) interest thereon charged in accordance with sub-paragraph (4) and shall indemnify the Society in respect of any interest paid or payable or any charges, expenses or liabilities incurred by the Society by reason of the Society having settled the System transaction, and the Society may bring proceedings to recover the same as a civil debt. All amounts payable pursuant to this sub-paragraph by any participant carrying on an underwriting business shall be treated for all purposes as an expense of that underwriting business.

- (4) Where the Society refuses to settle any System transaction under sub-paragraph 2(a) the Society shall reduce the amount of the entitlements of any participant payable to it pursuant to paragraph 10 by the amount which such participant would have received in respect of such System transaction had it been settled in full. Where the Society makes a pro rata partial settlement of a System transaction under subparagraph 2(b) the Society shall reduce the amount of the entitlements of any participant payable to it pursuant to paragraph 10 by an amount equal to the amount which such participant would have received in respect of such System transaction had it been settled in full less the amount of the pro rata partial settlement made by the Society.
- (5) The Society may charge interest on any amount paid under sub-paragraph (2)(b) from the applicable settlement date until the date of repayment of such amount to the Society. The rate of interest shall be 5 per cent above the then current base lending rate of National Westminster Bank plc (or such other leading bank as the Council may select).
- (6) Without prejudice to any other powers of the Society or the Council, the Society may treat any sum payable under sub-paragraph (3) or (4) as a System transaction which may be settled, or brought into settlement, under the System.
- (7) Without prejudice to the provisions of paragraph 20, the rights and liabilities conferred or created by this paragraph shall subsist notwithstanding that the participant in respect of, or on account of or for the benefit of whom a transaction has been settled under sub-paragraph 2(b) has, if a member of the Society, ceased to be such a member by reason of resignation, death or otherwise or, if not such a member, has ceased to be a participant.

14. Wrongful and unpaid credits

- (1) Where, in calculating the entitlements due to a participant under paragraph 10(1)(a), the Society has taken into account any amount which is due to be paid to that participant and which is not subsequently paid on the relevant settlement date or any amount which is not due to that participant on the relevant settlement date, the Society may directly debit the accounts of that participant in respect of that amount or make demand for the prompt repayment of that amount. Such participant shall repay the Society immediately on its making such demand and that participant shall indemnify the Society against any loss, liability, charge or expense arising from the crediting or other payment of such amount to its account.
- (2) Where, at any stage during the operation of a service a participant becomes aware of an inputting or similar or analogous error such participant shall immediately notify the

Society of the error. The Society may, where it is practicable so to do, reverse any transaction notified to it as having been erroneously made or of which the Society has itself become aware.

15. Default declarations

(1) Where -

(a) a participant -

- (i) is unable to fulfil its obligations in respect of any System transaction; or
- (ii) appears to the Council to be or likely to be so unable; or

(b) an insolvency event occurs in relation to the participant or any relevant principal or beneficiary on whose behalf it acts

the Council may make a default declaration in respect of that participant, whereupon the following provisions of this Part shall apply.

- (2) Where the Council makes a default declaration, it shall as soon as is reasonably practicable thereafter give written notice of the default declaration to the defaulter and such other persons as the Council thinks fit.
- (3) The form of the default declaration and the manner in which notice thereof is given to the persons referred to in sub-paragraph (2) shall be as the Council thinks fit.
- (4) The Council may at any time it thinks fit revoke a default declaration.
- (5) Where the Council revokes a default declaration it shall give written notice thereof to the defaulter and such other persons as the Council thinks fit.

16. System transactions involving defaulters

As soon as is reasonably practicable after a participant has been declared a defaulter, the Society may

- (a) suspend the settlement of sums due to or from the defaulter which would otherwise be settled or brought into settlement on settlement dates after the date on which the participant has been declared a defaulter; and

- (b) take such steps and make such arrangements as the Council thinks fit to facilitate the settlement of amounts due to the defaulter from other participants and other persons and amounts due from the defaulter to other participants and other persons, provided that the Society shall not be obliged to take any action in respect of the settlement of sums for which instructions have already been given to any relevant clearing institutions.

17. General saving relating to default

Nothing in this Part shall prevent the Council, the Society, any other participant or any other person from exercising any lawful right or fulfilling any lawful obligation in respect of the defaulter whether or not the right or obligation concerned arises in respect of a System transaction.

18. Termination of the System

- (1) The Council may in its absolute discretion upon giving not less than twelve months' notice (or such lesser period as the Council may determine at any time, having regard to the prevailing circumstances) to participants terminate any or all of the services including the provision of the System.
- (2) As soon as practicable after any notice to terminate the System has taken effect the Council shall take such steps as it considers appropriate -
 - (a) to account to participants for any sums that may be due to them under the System; and
 - (b) to facilitate the orderly winding up of the System.
- (3) Termination of the System or any service shall not release any participant from any liability which at the time of termination had already accrued to another participant or the Society nor affect in any way the provisions of paragraphs 30 and 31.

19. Exclusion from participation in the System

- (1) The Council may exclude a participant from participation in the System where -
 - (a) in the opinion of the Council, the participant has used or is using or is proposing to use the System in a way which has caused or is causing or will cause material harm or damage to the System, other participants or information processed, held or transmitted on, under or through the System;

- (b) the participant has ceased to be a person referred to in paragraph 2(4)(b) to (h);
 - (c) the Council has made a default direction in respect of the participant under paragraph 15;
 - (d) an insolvency event has occurred in relation to the participant or any principal or beneficiary on whose behalf it acts;
 - (e) the participant has failed to comply with a condition or requirement prescribed under paragraph 4 or any other provision of this byelaw or any provision of any regulation, code of practice or manual made or published by the Society issued under paragraph 25;
 - (f) the participant has failed to pay a charge payable under paragraph 24 within the period for the time being prescribed; or
 - (g) having regard to the circumstances then pertaining the Council thinks fit that a participant is excluded from participation in the System.
- (2) Before exercising the powers conferred on the Council by this paragraph in respect of a participant referred to in paragraph 2(4)(c) to (h), the Council shall:
- (a) inform the participant concerned in writing of its intention and of the grounds for the intended exclusion; and
 - (b) allow the participant to make representations as to the intended exclusion within such a period and in such form as the Council may allow.
- (3) If in the opinion of the Council the power conferred by sub-paragraph (1) is required to be exercised immediately, the Council may exercise such powers without having first taken the steps referred to in sub-paragraph (2).
- (4) In any case falling within subparagraph (3) the Council shall:
- (a) as soon as possible inform the participant concerned of the reasons for the exclusion; and
 - (b) allow the participant to make representations within such period as the Council may require.
- (5) The Council shall as soon as practicable after the exclusion of a participant from participation in the System notify in writing all the other participants thereof.
- (6) An appeal shall lie to the Appeal Tribunal in accordance with the Appeal Tribunal Byelaw (No. 32 of 1996) against the exclusion from participation in the System under sub-paragraph (1)(a), (c) or (e) of a System participant referred to in paragraph 2(4)(c) to (h).

20. Saving of rights on termination or exclusion

The termination of the System under paragraph 18 or the exclusion from participation of a participant under paragraph 19 shall not affect any right, obligation or liability of any person accrued, due or outstanding at the date of termination or exclusion and arising under the System or from his participation in the System or in respect of any System transaction.

Part D - Information

21. Provision of information

- (1) The Council may require any participant to provide the Society and/or any service provider with such information as the Council may specify in connection with the provision of any service.
- (2) Each participant shall immediately notify the Council and any service provider on becoming aware that an insolvency event has occurred or is likely to occur in relation to it or any principal or beneficiary on whose behalf it acts.

22. Storage and distribution of information

The Society and any service provider may as part of, or for the purposes of, or in connection with, providing a service hold information provided under paragraph 21 or any other provisions of this byelaw or otherwise provided to, or obtained by, it in providing a service and, subject to paragraph 23, may distribute such information or any of it.

23. Confidentiality of information

- (1) Subject to sub-paragraph (2) and paragraph 26(2), information provided to, or obtained by, the Society under this byelaw or in providing any service shall be held subject to the provisions of the Information and Confidentiality Byelaw (No. 21 of 1993) provided that the Council may:
 - (a) use or disclose such information in so far as it is necessary for the purposes of the exercise by the Council of powers contained in Lloyd's Acts 1871 to 1982 or in byelaws or regulations made thereunder, and
 - (b) disclose such information to any service provider in so far as it thinks fit.
- (2) Information provided to, or obtained by, any service provider under this byelaw or in providing any service shall be held subject to the provisions relating to disclosure and use as may be agreed between the service provider and the Society.

Part E - Miscellaneous And General

24. Power of the Council to prescribe charges
- (1) Every applicant and every participant shall pay to the Society such charges as the Council may require.
 - (2) For the purposes of this paragraph the Council may -
 - (a) determine the amount of any charges in accordance with a specified scale or other specified factors;
 - (b) determine the time or times of payment of charges;
 - (c) provide for the exemption from payment of, or the return or abatement of, any charges in specified circumstances;
 - (d) charge interest on such amounts of charges as are unpaid on the due date until the date of payment at a rate determined by the Council; and
 - (e) make different provision for different cases.
25. Regulations, codes of practice and manuals
- (1) The Council may make, amend and terminate regulations, and issue codes of practice and manuals in respect of the provision and operation of the services or any of them and the administrative and technical procedures to be observed by participants.
 - (2) Where any provision in a regulation, code of practice or manual made or issued under sub-paragraph (1) conflicts with a provision of this byelaw or any condition or requirement made under this byelaw, the latter shall prevail.
26. Power to enter into agreements, etc.
- (1) The Society may enter into such contracts and arrangements as the Council considers are necessary or expedient for the purposes of or in connection with the provision of any service under this byelaw.
 - (2) Where the Society has entered into a contract or arrangement as described in sub-paragraph (1), and, as a result thereof, the Council uses systems and equipment owned, maintained, operated or controlled by third parties, the Council may disclose to such third parties information about participants and System transactions to the extent that such disclosure is necessary for the purpose of, or giving effect to, the contract or

arrangement concerned.

- (3) Any service provider may, if the Council so agrees, disclose to third parties information about participants and their businesses to the extent that such disclosure is necessary for the purpose of or in connection with the provision of any service.

27. Variation of services

- (1) Subject to this paragraph, the Council may vary a service or any part of a service.
- (2) Subject to sub-paragraph (3), the Council shall not vary a service to any material extent without giving prior notice of the proposed variation to the affected participants. The Council shall consider the representations (if any) of the affected participants on any such variation before reaching any decision on the variation.
- (3) If in the opinion of the Council any material variation is required to be made as a matter of urgency in order to enhance a service or any part of a service or to preserve the integrity of the services or any part of a service or to preserve the interests of participants or any of them the Council may make that variation without first having taken the steps referred to in sub-paragraph (2).
- (4) In any case falling within sub-paragraph (3) the Council shall
 - (a) as soon as practicable thereafter inform the affected participants in writing of the variation; and
 - (b) permit the affected participants to make representations to the Council on the action taken by the Council within such period as the Council may prescribe

and where such representations are received by the Council, it shall reconsider the action taken under sub-paragraph (3).

28. Service of notices

- (1) All notices and other communications by the Society or a service provider which are required to be given to a participant under this byelaw shall for all purposes be treated as effectively given if left at or sent by post to the address from time to time notified to the Society or the service provider in question by that participant as the address to which notices and other communications are to be sent or, if given by telex or facsimile transmission, by submitting it to such number from time to time notified to the Society or the service provider in question as appropriate by that participant.

- (2) Any notice or communication sent to a participant by internal or ordinary post shall be treated as having been effectively given by properly addressing and posting (and, in the case of ordinary post, prepaying) a letter containing that notice or communication and shall be deemed to have been served 24 hours after the letter is posted. Any notice or communication sent by telex or facsimile transmission shall be deemed to have been received when evidence of its receipt is transmitted to the person sending it and any notice or communication sent by electronic means shall be deemed to have been received when transmitted.

29. Liability

- (1) Neither the Society nor any delegate of the Society (each a “service provider”) shall have any liability (whether direct or indirect, in contract, tort or otherwise) to any participant or any principal or beneficiary of any participant or any of their respective shareholders or any other person (each such person a “claimant”) for or in connection with the services except for direct losses suffered by the claimant to the extent that such losses are found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted directly and primarily from the negligence or wilful misconduct of that service provider and in no event shall that service provider be liable for any claimant’s loss of profits, business or anticipated savings or for any indirect or consequential loss whatsoever.
- (2) Without limiting any provision of sub-paragraph (1), the Society shall not be responsible for the negligence or misconduct of, or any other loss or liability arising in connection with, the action or inaction of any delegate selected by the Society with reasonable care.
- (3) The Society will have no liability or responsibility, except as expressly provided in this byelaw, for the good faith or acts or omissions, creditworthiness, performance or standing of any participant or any other person whomsoever or for admitting any participant to the System, making or failing to make any default declaration in respect of a participant or taking or failing to take any action to terminate or suspend the provision of any service to any participant.
- (4) The Society assumes no liability or responsibility for the consequences arising out of delay or loss in transmission of any messages, letters, cheques or documents, or for delay, mutilation or other errors arising in transmission of any telecommunication or other electronic notification and will not be liable or responsible for any delays resulting from the need to obtain clarification of any instructions received.

- (5) Each participant agrees to indemnify and hold harmless the Society from and against any and all claims, damages, losses, liabilities, costs and expenses (including, without limitation, legal fees and disbursements) that may be incurred by or asserted or awarded against the Society, in each case arising out of or in connection with any investigation, litigation or other proceeding commenced by any person against the Society which arises out of or in connection with the provision by the Society of any of the services to that participant or as a result of any breach by that participant of its obligations to the Society, except to the extent such claim, damage, loss, liability, cost or expense has resulted directly and primarily from the Society's negligence or wilful misconduct. All amounts payable pursuant to this sub-paragraph by any participant carrying on an underwriting business shall be treated for all purposes as an expense of that underwriting business.

30. Records/Determinations

- (1) In the absence of manifest error, the records of the Society relating to the settlement of System transactions shall constitute conclusive evidence as to the matter.
- (2) Any determination or notification by the Society concerning any rate or amount to be determined or calculated in connection with the services shall, in the absence of manifest error, be conclusive evidence as to the matter.

31. Compliance with laws

In carrying out the services the Society may refrain from doing anything which might, in its opinion, constitute a breach of any law or regulation or any duty of confidentiality or be otherwise actionable at the suit of any person and may do anything which, in its opinion, is necessary or desirable to comply with any law or regulation of any jurisdiction or to comply with the order of any court.

32. Requirement for Security

The Society may require the receipt of security satisfactory to it, whether by way of payment in advance or otherwise, against any liability or loss which it will or may incur in taking any proceedings or action arising out of or in connection with the services as a condition of commencing those proceedings or taking any action.

33. Force Majeure

The Society shall have no responsibility or liability for or regarding any non-performance, improper performance, suspension of performance or delay in performance, of the Society's obligations under or in connection with the services by reason of any circumstances beyond the Society's reasonable control including, without limitation, by reason of any failure by a clearing agent to make a payment on a settlement date, any breakdown or failure of transmission, communication or computer facility or other mechanical breakdown or malfunction, work stoppage, postal or other strike or other labour disturbance or industrial action, earthquake, flood, fire, storm and other act of God, explosion, accident, sabotage, terrorism, insurrection, revolution, riot, rebellion or other unrest or disturbance or present or future law or act of any governmental or regulatory authority.

33A. Powers to prescribe etc.

- (1) The Council shall have power to prescribe the form and contents of any documents referred to in this byelaw as being in the prescribed form.
- (2) The Council shall have power to prescribe or approve (as the case may be):
 - (a) the persons referred to in paragraph 4(2)(c);
 - (b) the warranties and confirmations referred to in paragraph 4(2)(f);
 - (c) the exclusions of liability referred to in paragraph 4(2)(g);
 - (d) the indemnities referred to in paragraph 4(2)(h);
 - (e) the provisions relating to the use and disclosure of information referred to in paragraph 4(2)(i);
 - (f) the accounts with approved banks referred to in paragraph 7(2); and
 - (g) the period referred to in paragraph 27(4)(b).

34. Powers of the Council cumulative and exercisable from time to time

Except in so far as it is expressly otherwise provided, any power conferred on the Council by any provision of this byelaw -

- (a) is in addition to, and shall not be construed as limiting or being limited by, any other power of the Council whether conferred by any other provision of this byelaw or otherwise; and
- (b) may be exercised from time to time.

35. Commencement and transitional provisions

- (1) This byelaw shall come into force on 2 December 1998.
- (2) The documents entitled “Lloyd’s Policy Signing and Central Accounting Manual” and “Lloyd’s American and Canadian Trust Funds Manual” shall be deemed to be manuals issued under paragraph 25.
- (3) The Central Accounting Agreement dated 2 December 1960 made between the Underwriting Members of Lloyd’s and the Society shall be entirely superseded by this byelaw and shall be of no further effect from 2 December 1998.
- (4) Clause 4 of the L.P.S.O. Agreement (the “L.P.S.O. Agreement”) dated 1 January 1974 (as amended by the Council on 24 October 1983) made between the Several Members of Lloyd’s and the Society shall have no further effect from 2 December 1998. The remaining provisions of the L.P.S.O. Agreement shall continue in force.

36. Consequential Amendments

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

These amendments have been made on the original byelaw.

Schedule - Interpretation

1. In this byelaw, unless the context otherwise requires -

“applicant” has the meaning given to it in paragraph 4(2)(c);

“approved bank” means any company which carries on the business of banking and is approved for the purposes of this byelaw by the Council;

“approved run-off company” has the meaning given to it in the Run-Off Companies Byelaw (No. 2 of 1995);

“arrangement” includes any agreement or arrangement whether or not intended to be enforceable by legal proceedings and whether or not evidenced in writing;

“authorised person” means in any provision of this byelaw a person authorised by the Council to discharge the duties and functions conferred by the Council;

“binding authority” has the meaning given to it in the Binding Authorities Byelaw (No. 9 of 1990);

“claimant” has the meaning given to it in paragraph 29(1);

“convertible currency” means a currency which is not a System currency;

“default declaration” means a declaration made by the Council under paragraph 15(1);

“defaulter” means a participant in respect of which the Council has made a default declaration;

“direct credit arrangement” means any arrangement whereby a person is authorised to credit another person’s account;

“direct debit arrangement” means any arrangement whereby a person other than the account holder is authorised to debit, or take money from, that account;

“entitlements” has the meaning given to it in paragraph 10(1);

“general partner” means a company which is registered as a general partner of a Scottish limited partnership pursuant to the Limited Partnerships Act 1907;

“gross payments” has the meaning given to it in paragraph 10(1);

“limited liability partnership” means a limited liability partnership incorporated in accordance with section 2 of the Limited Liability Partnerships Act 2000;

“insolvency event” means

- (a) in relation to any individual or partnership, the making of a receiving order in bankruptcy against such individual or any partner in such partnership by the due process of law of any country, such individual or partner in such partnership making or proposing any composition with his creditors or otherwise acknowledging his insolvency, or being adjudicated bankrupt or adjudicated or declared insolvent by the due process of law of any country; and
- (b) in relation to any body corporate its making or proposing any composition with its creditors or otherwise acknowledging its insolvency, a proposal being made in respect of it under section 2 of the Insolvency Act 1986, a bankruptcy order being made against it by the due process of law of any country, its being adjudicated or declared insolvent by the due process of law of any country, an order being made or resolution being passed for its winding up or dissolution, an administration order being made in respect of it under section 9 of the Insolvency Act 1986, a receiver, trustee or analogous officer being appointed in respect of the whole or any material part of its property or assets, its directors presenting or filing in any court a petition in respect of its bankruptcy, winding up or other insolvency or which seeks any reorganisation, dissolution or similar relief or there occurring an event in any jurisdiction which is analogous to any of the foregoing events;

“insurance” includes assurance, reinsurance, reinsurance and suretyship;

“insurance document” means any document whether constituted by written or electronic media

- (i) constituting or relating to, or purporting to constitute or relate to, any slip, policy, contract of or for insurance, binding authority, line slip, or Lloyd’s broker’s marine line slip;
- (ii) being or purporting to be ancillary or supplemental to or by way of variation or cancellation of any document referred to in (i);
- (iii) recording or purporting to record any agreement to settle or compromise any claim under or in respect of any document referred to in (i) and (ii);

“insurance transaction” means any transaction effected, or intended to be effected, as part of, or arising from, the business of insurance or any activity whatsoever directly or indirectly related to, or arising from, the business of insurance;

“manager” means:

- (a) in relation to a body corporate, a person who exercises managerial functions under the immediate authority of the directors of a corporate member or any of them;
- (b) in relation to a Scottish limited partnership, a person who exercises managerial functions under the immediate authority of the directors of a general partner of the Scottish limited partnership or any of them;

“managing agent” means a person who is listed as a managing agent in the register of underwriting agents under the Underwriting Agents Byelaw (No. 4 of 1984);

“participant” means a person set out in paragraph 2(4) acting in one of the capacities set out at paragraph 2(5) to whom or on behalf of whom a service is for the time being provided under this byelaw;

“payee” has the meaning given to it in paragraph 6(1);

“premiums trust deed” means a trust deed in the form for the time being required by the Council and approved by H.M. Treasury under section 83 of the Insurance Companies Act 1982 constituting a premium trust fund (including all such trust deeds relating to long term business and any Overseas Direction or Special Trust Direction as therein defined);

“prescribed form” means, in relation to any application, notice or other document, such forms and contents as may from time to time be prescribed by the Council;

“Scottish limited partnership” means a limited partnership formed under the laws of Scotland;

“services” means the services referred to in paragraph 2(2) for the time being provided under this byelaw;

“service provider” means (other than in paragraph 29) a person, other than the Society, who is referred to in paragraph 2(6) and who provides any service referred to in paragraph 2(2);

“settlement information statement” means a statement as described in paragraph 12;

“settlement date” means a date agreed by participants under paragraph 11(1) for the settlement of System transactions;

“specified person” means, in relation to a Scottish limited partnership:

- (a) a company which is registered as a general partner of that Scottish limited partnership pursuant to the Limited Partnership Act 1907;
- (b) a director of a general partner;
- (c) a management company being a company appointed by a general partner under an agreement to provide certain management or administrative services;
- (d) a controller of the Scottish limited partnership; or
- (e) a controller of a general partner;

“substitute agent” means a person appointed to act as agent or sub-agent for an underwriting member under the Substitute Agents Byelaw (No. 20 of 1983);

“syndicate” means a group of underwriting members underwriting insurance business at Lloyd’s through the agency of a managing agent;

“System” means the Central Accounting System referred to in paragraph 5;

“System currency” means any currency in which the Society settles System transactions;

“System transaction” means an insurance transaction which in accordance with this byelaw is, or should be, processed under the System or in respect of which monetary obligations are, or should be, settled under the System;

“umbrella arrangement” has the meaning given to it in the Umbrella Arrangements Byelaw (No. 6 of 1988) ; and

“underwriting agent” has the meaning given to it in the Underwriting Agents Byelaw (No. 4 of 1984), and includes any substitute agent.

2. The references in paragraphs 2(3), 28(1) and 28(2) to “electronic means” and in paragraph 2(3) to “electronic documents” include references to computers, networks and any means whereby information is processed, held or transmitted in a machine-readable form and to documents which are in a machine-readable form. The references in this byelaw to any other Lloyd’s byelaw shall be deemed to be a reference to that Lloyd’s byelaw as the same may be amended from time to time;
3. In this byelaw:
 - (a) “associate” means, in relation to any person:

- (i) that person's spouse or child (including any step-child and adopted child) under the age of 18 years;
 - (ii) any body corporate of which that person or that person's spouse is a director, or in the case of a limited liability partnership, a member;
 - (iii) any partnership in which that person or that person's spouse is a partner;
 - (iv) any person who is an employer, employee or partner of that person or that person's spouse;
 - (v) any body corporate or partnership of which that person or that person's spouse, either alone or with any other connected person, has control;
- (b) "connected company" means, in relation to any body corporate any other body corporate which is under common control with that body corporate;
- (c) "connected person" means, in relation to any person:
- (i) any person who is party to any agreement, arrangement or understanding with the first person involving mutual obligations, understandings or expectations with regard to the retention or disposal of any shares in a body corporate or to the exercise of any voting power conferred by the shares or to any other influence arising from the shares;
 - (ii) any person whom the first person controls;
 - (iii) where that person is a body corporate, its directors and their associates;
 - (iv) where that person is a partnership, its partners and their associates;
 - (v) where that person is an individual, his associates,

and "connected" shall be construed accordingly;

- (d) "controller" means:
- (i) in relation to a body corporate, a person who, either alone or with any connected person or persons, is entitled to exercise, or to control the exercise of, 30 per cent. or more of the voting power at any general meeting of that body corporate or of another body corporate which controls that body corporate; or
 - (ii) in relation to a body corporate or a partnership, a person in accordance with whose directions or instructions, either alone or with those of any connected person or persons, the directors of the body corporate or the partners in the partnership are accustomed to act

and "control" shall be construed accordingly; and

- (e) "major shareholder" means, in relation to a body corporate, a person who, either alone or with any connected person or persons, is entitled to exercise, or control

the exercise of, 15 per cent. or more of the voting power at any general meeting of that body corporate or of another body corporate which controls that body corporate.