

FROM: Head of Market Reporting EXTN: 5129  
DATE: 15 December 2004 REF: Y3460  
SUBJECT: **31 DECEMBER 2004 SOLVENCY TEST: ELIGIBLE ASSET RULES AND MEMBERSHIP AND UNDERWRITING REQUIREMENTS**

SUBJECT AREA(S):

ATTACHMENTS:

---

ACTION POINTS: **Rules for the 31 December 2004 solvency exercise**

DEADLINE(S): **For immediate attention**

---

## **Eligible Asset Rules**

The Eligible Asset Rules (EARs) form part of the 'Conditions and Requirements Relating to Solvency and Reporting' (the Solvency Requirements).

This bulletin contains the updated appendices following the earlier issue of the Market Bulletin Y3436 dated 25 November 2004, which gave advance notification of the changes being made. For ease of reference these are repeated below:

## **Waivers**

Under the EARs, reflecting the requirements of the LLD, the permitted asset exposure limit in relation to unsecured debts (other than those arising under the terms of listed debt securities or debts from a regulated institution) which have or are to become due from any one company is 1%. Additional Securities Limited (ASL) is not a "regulated institution" as defined in the EARs. Nevertheless, the FSA has agreed a waiver in respect of debts due from ASL. These assets are therefore acceptable without limit until 31 December 2005.

## **Commercial Paper**

The Franchise Board has authorised unlisted Commercial Paper (CP) as an eligible asset for solvency. Accordingly, managing agents are now permitted in accordance with the Premiums Trust Fund (Investment) Requirements to invest syndicate PTF in such assets, subject to their having an investment grade rating of "1" from one of the major ratings agencies (Moody's – P1, S&P – A1 or Fitch – F1).

## **Securities traded on a regulated market**

The Franchise Board have agreed to broaden the definition of "listed" to include securities that are traded on a regulated market. For the purpose of the EARs, in relation to a security, "listed" will now mean the security is of a class quoted or listed on an approved stock exchange or is dealt with on a regulated market.

A “regulated market” is defined as “a market which is characterised by:

- (a) regular operation;**
- (b) the fact that regulations issued or approved by the appropriate authority of the state where the market is situated –**
  - (i) define the conditions for the operation of and access to the market,**
  - (ii) define the conditions to be satisfied by a financial instrument in order for it to be effectively dealt in on a market, and**
  - (iii) require compliance with reporting and transparency requirements comparable to those laid down in articles 20 and 21 of the Investment Services Directive, and**
- (c) in the case of a market situated outside the EEA States, the financial instruments dealt in are of a quality comparable to those traded in a regulated market in the United Kingdom”.**

**A list of regulated markets situated in the EEA is set out in Annex 5G to SUP 17 (the FSA’s Supervision Manual).**

**Managing agents are reminded that they are not permitted to invest syndicate PTFs in assets other than those specified in the EARs, subject always to the overriding requirement that any investment must be prudent and to the limitations and conditions set out in the EARs, including the permitted asset exposure and counterparty credit limits. In order to satisfy the requirement for prudence and the requirements specified in the EARs, PTFs may only be invested in assets that are readily realisable, capable of objective and verifiable valuation and that do not give rise to unacceptable custody risk or onerous holding duties.**

## **MEMBERSHIP AND UNDERWRITING REQUIREMENTS**

The above provisions in relation to securities traded on a regulated market have been extended to the Membership and Underwriting Requirements.

Any queries on these rules should be referred to Mike Steer via e-mail at [mike.steer@lloyds.com](mailto:mike.steer@lloyds.com) or Kevin Nethersell at [kevin.nethersell@lloyds.com](mailto:kevin.nethersell@lloyds.com)

This bulletin has been sent to the compliance officer of all underwriting agents and recognised accountants and for information to all market associations.

John Parry  
Head of Market Reporting

**CONDITIONS AND REQUIREMENTS RELATING TO  
SOLVENCY AND REPORTING**

1. These conditions and requirements are made under paragraph 9 of the Solvency and Reporting Byelaw (No. 13 of 1990) as amended and may be cited as the Eligible Assets and Valuation of Liabilities Rules.

**INTERPRETATION**

2. The provisions of Appendix 1 hereto shall have effect.

**ELIGIBLE ASSETS**

3. (1) The assets listed in Appendix 2A hereto are eligible to be taken into account for the purposes of paragraphs 2, 4, 4A, 4B, 6, 7, 7A and 8 of the byelaw in the manner, to the extent and subject to the conditions provided in these requirements.
- (2) Except where otherwise expressly provided in these requirements, an asset shall only be eligible to be taken into account where it is held in accordance with any conditions and requirements for the time being made under the provisions of the trust deed governing the trust fund of which it forms (or purports to form) a part.
- (3) Except where otherwise expressly provided in these requirements, the market value of any asset referred to in Appendix 2A hereto shall be determined in accordance with the provisions of Appendix 2C hereto.
- (4) Except where otherwise expressly provided in these requirements, the assets listed in Appendix 2A hereto shall be taken into account at their respective market values determined as at:-
  - (a) in the case of assets to be included in any syndicate return or asset return, the solvency test date to which such return relates; and
  - (b) in the case of assets to be included in any supplementary asset return or asset report, the date on which they were paid or transferred to: -
    - (i) the trustees of any trust fund or a person approved by such trustees to hold such assets on their behalf; or
    - (ii) the Society (other than in its capacity as a trustee of any trust fund), as the case may be.

**EXCLUDED ASSETS**

4. For the purposes of paragraphs 7 and 7A of the byelaw, the amount of any global assets made available by the Council in respect of a member shall be disregarded in ascertaining whether that member has a solvency shortfall or a currency shortfall.

## **RELEVANT LIABILITIES IN A PRESCRIBED CURRENCY**

5. (1) Liabilities which are shown in any prescribed currency in the accounting records of any syndicate shall be calculated in accordance with the provisions of the valuation of liabilities rules (market bulletin Y3421) subject to any necessary modifications.
- (2) Except where otherwise expressly provided in these requirements, the exchange rate to be applied in valuing any relevant liability shall be that set out in a notice issued by the Head of Market Reporting for the purpose.

## **COMMENCEMENT**

6. (1) Subject to the following provisions of this paragraph, these conditions and requirements shall come into force on 1st January 2000 and shall apply in relation to the solvency test date of 31 December 1999 and each subsequent solvency test date.
- (2) Save as provided in sub-paragraph (3), in determining the extent to which an individual member's FAL asset is eligible to be taken into account for the purposes of the annual solvency test, the provisions of -
  - (a) paragraph 9.4 of Appendix 2A of; and
  - (b) in relation to assets of any of the descriptions in 1, 2 or 3 of Column 1 of Part II of Appendix 2B, paragraph (B) of Column 4 of Part II of Appendix 2B to,these conditions and requirements shall apply in relation only to the solvency test date of 31 December 2002 and each subsequent solvency test date.
- (3) In the case of an individual member who becomes a former underwriting member before 1 January 2003, the provisions of -
  - (a) paragraph 9.4 of Appendix 2A of; and
  - (b) in relation to assets of any of the descriptions in 1, 2 or 3 of Column 1 of Part II of Appendix 2B, paragraph (B) of Column 4 of Part II of Appendix 2B to,

these conditions and requirements shall not apply in determining the extent to which that individual member's FAL assets are eligible to be taken into account for the purposes of the annual solvency test.

**INTERPRETATION**

1. Except where otherwise provided the words and expressions used in these requirements shall have the meaning given to them in the byelaw.
2. In these requirements, unless the context otherwise requires:-

references to "Agent" shall include the managing agent, any delegate of the managing agent and any other person who may hold premiums trust fund assets subject to the direction of the managing agent (or its delegate);

"annual solvency test" means the audit of the accounts of a member relating to the insurance business carried on by him at Lloyd's and the issue of a report by an auditor appointed by the Council evidencing that in the opinion of the auditor the value of the assets available to meet that member's liabilities in respect of insurance business is sufficient to meet such liabilities;

"approved charge" has the meaning given in Appendix 1 to the M&UR (FAL);

"approved counterparty" means any of the following –

- (a) an approved credit institution;
- (b) a person who is an exempt person within the meaning of section 417(1) of the Financial Services and Markets Act 2000;
- (c) a person permitted under the Financial Services and Markets Act 2000 to conduct investment business of a kind which includes entering into unlisted derivative contracts as principal; or
- (d) in respect of a transaction involving a new issue of securities which are to be listed, the issuer or an approved investment firm acting on behalf of the issuer;

"approved covenant" has the meaning given in Appendix 1 to the M&UR (FAL);

"approved credit institution" means in relation to any of the following purposes -

- (a) holding sums forming the whole or part of a premiums trust fund held under a premiums trust deed,
- (b) holding sums comprised (or to be comprised) in a member's funds at Lloyd's,
- (c) providing guarantees and issuing or confirming letters of credit comprised (or to be comprised) in a member's means or funds at Lloyd's,
- (d) issuing certificates of deposit comprised (or to be comprised) in a member's funds at Lloyd's, or
- (e) issuing or guaranteeing loan notes comprised (or to be comprised) in a member's funds at Lloyd's,

a credit institution approved by or on behalf of the Council for those purposes;

“approved financial institution” means any of the following –

- (i) the European Central Bank;
- (ii) the central bank of an EEA State;
- (iii) the International Bank for Reconstruction and Development;
- (iv) the International Finance Corporation;
- (v) the International Monetary fund
- (vi) the Inter-American Development Bank;
- (vii) the African Development Bank;
- (viii) the Asian Development Bank;
- (ix) the Caribbean Development Bank;
- (x) the European Investment Bank;
- (xi) the European Community;
- (xii) the European Atomic Energy Community; and
- (xiii) the European Coal and Steel Community;

“approved investment firm” means an investment firm as defined in the Investment Services Directive;

“approved security” means –

- (a) any security issued or guaranteed by, or the repayment of the principal of which, or the interest on which, is guaranteed by, and any loans to or deposits with, any government, public or local authority or nationalised industry or undertaking, which belongs to a Zone A country;
- (b) any loan to, or deposit with, an approved financial institution; or
- (c) any debenture issued before 31 December 1994 by the Agricultural Mortgage Corporation Limited or the Scottish Agricultural Securities Corporation Limited;

“approved stock exchange” has the meaning given in Appendix 1 to the M&UR (FAL);

"asset" includes part of an asset (including any undivided interest in such asset under a trust);

"authorised insurer" means an insurer authorised to carry on insurance business in any country in the European Union, Switzerland, the USA, Canada, Australia, Norway, Japan or South Africa;

“authorised unit trust scheme” means a unit trust scheme which is authorised for the purposes of the Financial Services and Markets Act 2000 by an authorisation order in force under section 243 of that Act;

"the byelaw" means the Solvency and Reporting Byelaw (No. 13 of 1990) as amended;

“cash call” means a request for funds made by a managing agent to members of a syndicate under (as the case may be) the terms of the standard managing agent’s agreement or any other agency or sub-agency agreement governing the member’s membership of a syndicate;

"Central Fund" has the meaning given in the Schedule to the Central Fund Byelaw (No. 4 of 1986) as amended;

"collective investment scheme" has the meaning given in section 235 of the Financial Services and Markets Act 2000;

"connected company" means, in relation to a company, any subsidiary and any holding company of that company and any subsidiary of such holding company and "subsidiary", "holding company" and "company" have the meanings given to them in the Companies Act 1985;

"contract for differences" means a contract for differences or any other contract the purpose or pretended purpose of which is to secure a profit or loss by reference to fluctuations in the value or price of property of any description or in an index or other factor designated for that purpose in the contract;

"corporate member" has the meaning given in the Schedule to the Membership Byelaw (No.17 of 1993);

"corporate member's FAL assets" means the assets listed at paragraph 6(a), (b) ,(c), (e) and (f) of Appendix 2A hereto;

"counterparty" means, in relation to a syndicate or a member:

- (a) any individual;
- (b) any unincorporated body of persons;
- (c) any company which is not a member of a group;
- (d) any group of companies, excluding any companies within the group which are subsidiary undertakings of the Society, a syndicate or member; or
- (e) any government of a State or any public bodies, local authorities or nationalised industries of a State;

in which a syndicate or member has made investments or against which it has rights under a contract entered into by the syndicate or member;

"credit institution" means a credit institution within the meaning of the First Council Directive on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions (77/780/EEC);

"debt security" has the meaning given in the FSA Handbook: Glossary;

"derivative contract" means an option, a futures contract or a contract for differences and includes a contract under which the amount payable by either party is calculated by reference to the amortised value of any property;

"Derivative Requirements" means the Premiums Trust Fund (Investment) Requirements (Derivatives) made by Resolution of the Council of Lloyd's on 8 September 1999;

"EEA" means the European Economic Area;

“EEA State” means a State which is a contracting party to the agreement on the European Economic Area (EEA) signed at Oporto on 2 May 1992, as it has effect for the time being; as at 1 May 2004, the following are the EEA States: Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and the United Kingdom;

“eligible asset” means an asset that may be taken into account for the purposes set out in paragraph 3(1) of these conditions and requirements;

"estate reinsurance contract" means a contract of reinsurance whereby the reinsurer agrees to indemnify the other party to the contract in accordance with the terms thereof in respect of or in connection with losses arising from an underwriting member's insurance business at Lloyd's and for which the estate of the underwriting member (whether or not a party to the contract) is, or may become, liable;

“former underwriting member” means a person ceasing to be an underwriting member on, or at any time after, 24 December 1996;

“futures contract” means rights under a contract for the sale of a commodity or property of any other description under which delivery is to be made at a future date;

"global assets" means assets in the Central Fund, assets in the New Central Fund, and funds and property of the Society put in trust, charged, appropriated, set aside or made available, conditionally or otherwise, pursuant to a resolution of the Council, in respect of members to enable them to pass an annual solvency test;

"hardship member" means an individual member or former individual member of the Society who has entered into a Lloyd's Hardship Agreement with the Society;

“individual member” has the meaning given in the Schedule to the Membership Byelaw (No.17 of 1993);

"individual member's FAL assets" means the assets listed at paragraph 4(a), (b), (c) and (d) of Appendix 2A hereto;

"inter-syndicate loan" means, in relation to a syndicate, the aggregate value of loans made by the trustees of such syndicate out of the premiums trust funds of members of the syndicate to the other members;

“Investment Services Directive” means the European Council Directive of 10 May 1993 on investment services in the securities field (No. 93/22/EEC);

“listed”, in relation to an investment, means that –

- (a) there has been granted and not withdrawn a listing in respect of that investment on any stock exchange in an EEA State which is a stock exchange within the law of that EEA State; or
- (b) facilities for dealing in that investment have been granted on a regulated market;

“LLD” means the Lloyd's sourcebook made by the Financial Services Authority under the Financial Services and Markets Act 2000;



"Lloyd's American Trust Deed" means the instrument so entitled and dated 3 September 1996;

"Lloyd's American Trust Deed for Long-Term Business" means the instrument so entitled and dated 9 December 1993;

"Lloyd's deposit", "Lloyd's life deposit" and "additional Lloyd's deposit" have the meanings respectively given to them in paragraph 5 of the Membership Byelaw (No. 17 of 1993) as amended;

"Lloyd's Hardship Agreement" means a Lloyd's Hardship Deed together with any other supplemental deeds concluded between a hardship member and the Society pursuant to the agreement reached between them concerning the funding of his underwriting liabilities at Lloyd's;

"Lloyd's Hardship Deed" means an agreement entered into between a member or former member of the Society and the Society concerning the funding of his actual and contingent underwriting liabilities at Lloyd's;

"Lloyd's Hardship Deposit Trust" means the trust established by condition 8 of certain Lloyd's Hardship Deeds for the benefit of the hardship member;

"Lloyd's Policy Signing Office" means any service provider (as that expression is defined in the Lloyd's Policy Signing Office Byelaw (No. 11 of 2000)) for the time being carrying on or out (under whatever name) all or any of the services or operations formerly carried on or out by the Society under the name of Lloyd's Policy Signing Office or the acronym LPSO;

"M&UR (FAL)" means the conditions and requirements made under the Membership Byelaw (No. 17 of 1993) on 1 September 2000 entitled "Membership and Underwriting Conditions and Requirements (Funds at Lloyd's) (Individual/Corporate Member)" and as amended from time to time;

"member's margin" means the amount determined in accordance with LLD11.3.1R (general insurance business) or LLD 11.3.4R (long term insurance business), as the case may be;

"New Central Fund" means the fund so designated in and constituted under the New Central Fund Byelaw (No. 23 of 1996) as amended;

"non-active individual member" means an individual member of the Society who was not underwriting insurance business at Lloyd's as a principal as at the solvency test date;

"the other members" has the meaning given in Schedule 1 to the premiums trust deed;

"option" means an option to acquire or dispose of –

- (a) a security or contractually based investment;
- (b) currency of the United Kingdom or any other country or territory;
- (c) palladium, platinum, gold or silver; or
- (d) an option to acquire or dispose of an investment of the kind specified in paragraph (a), (b) or (c) of this definition;

“overall value of a member’s fund” means, in relation to a member, the aggregate value of:

- (a) that member’s total funds at Lloyd’s; and
- (b) those parts of the premiums trust funds which are held at syndicate level by or under the control of the managing agent’s trustees of that member’s managing agents;

“personal reserve fund” means all monies and other assets paid to or retained by the Regulating Trustee and subject to the trusts of a premiums trust deed;

“personal stop loss contract” means a contract of reinsurance whereby the reinsurer agrees to indemnify in accordance with the terms thereof the other party to the contract in respect of or in connection with the overall net loss or part thereof of an underwriting member (whether or not he is a party to the contract) in a particular year or years of account but does not include -

- (a) an estate reinsurance contract; and
- (b) a resigning member’s open year reinsurance contract

and references to “personal stop loss business” shall be construed accordingly;

“premiums trust deed” means a trust deed, in the form for the time being required by the Council, constituting a premiums trust fund;

“premiums trust funds” means a fund of premiums and other monies held from time to time by or under the control of trustees upon the trusts of a premiums trust deed;

“private successor member” has the meaning given in Appendix 1 to the M&UR (FAL);

“qualifying successor member” has the meaning given in Appendix 1 to the M&UR (FAL);

“recognised accountant” has the meaning given in Schedule 1 to the Audit Arrangements Byelaw (No. 7 of 1998);

“recognised scheme” means a scheme recognised under –

- (a) section 264 (schemes constituted in other EEA States; or
- (b) section 270 (schemes authorised in designated countries or territories); or
- (c) section 272 (individually recognised overseas schemes) of the Financial Services and Markets Act 2000;

“regulated institution” means any of the following:

- (a) an EEA insurer or UK insurer;
- (b) an approved credit institution;
- (c) a body which is registered under the enactments relating to friendly societies and which is authorised to carry on insurance business;
- (d) an approved investment firm;

“regulated market” means a market characterised by –

- (a) regular operation;
- (b) the fact that regulations issued or approved by the appropriate authority of the state where the market is situated –
  - (i) define the conditions for the operation of and access to the market,
  - (ii) define the conditions to be satisfied by a financial instrument in order for it to be effectively dealt with on the market, and
  - (iii) require compliance with reporting and transparency requirements comparable to those laid down in articles 20 and 21 of the Investment Services Directive, and
- (c) in the case of a market situated outside the EEA States, the fact that the financial instruments dealt in are of a quality comparable to those in a regulated market in the United Kingdom;

“Regulating Trustee” mean Lloyd’s or other the trustee for the time being of a premiums trust deed designated under clause 6(a) of that deed as the Regulating Trustee;

"relevant date" means, in relation to the valuation of a derivative contract, the date when it falls to be valued;

“required amount” has the meaning given in the Lloyd’s sourcebook;

“resigning member” has the meaning given in Schedule 1 to the Membership Byelaw (No. 17 of 1993);

“resigning member’s open year reinsurance contract” means a contract of reinsurance whereby the reinsurer agrees to indemnify in accordance with the terms thereof the other party to the contract in respect of or in connection with a resigning member’s liabilities (whether or not he is a party to the contract) for losses arising from the resigning member’s participation on a syndicate as respects a year of account of that syndicate which has not been closed in accordance with the Lloyd’s syndicate accounting rules and which contract of reinsurance is effected in a year subsequent to that in which the resigning member gave notice of his resignation;

“secured debt” means a debt owed to (or an obligation to be fulfilled for the benefit of) a member of the Society, secured by an eligible asset;

“security” has the meaning given in the FSA Handbook: Glossary;

“short term deposit” means a sum of money which may be withdrawn at the discretion of the lender without penalty or loss of accrued interest by giving notice of withdrawal of one month or less;

"special reserve funds" means the funds set up in accordance with the arrangements referred to in section 175(1) of the Finance Act 1993;

"syndicate asset" means an asset listed in paragraph 2 or 3.1 of Appendix 2A hereto;

“UCITS directive” means the Council Directive of 20 December 1985 on the co-ordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (no. 85/611/EEC);

"undiversified contract for differences" means any contract for differences whose value depends to a significant extent on fluctuations in the value of, or income from, any asset listed in Appendix 2A hereto;

“Zone A country” means all EEA States and all other countries which are full members of the Organisation for Economic Co-operation and Development and those countries which have concluded special lending arrangements with the International Monetary Fund associated with the Fund’s general Arrangements to Borrow.

3. In these requirements, except where the context otherwise requires, the following phrases have the following meanings respectively for the purpose of determining any specified litigation recoveries of a member:-

"member's action group payments" means, in relation to that member, any monies or other assets payable or otherwise transferable whether directly or indirectly to (or at the direction of or for the benefit of) the member by (or at the direction of or otherwise on behalf of) any relevant action group which represent the member's share under the rules of that action group of:

- (a) any relevant fruits of action of any relevant cause of action pursued by that action group; or
- (b) any relevant fruits of action of any similar cause of action or other claim of any other member of that action group in relation to the conduct on behalf of that other member of all or any part of that other member's underwriting business at Lloyd's;

"member's direct litigation recoveries" means any relevant fruits of action (except any which are or have been paid or transferred to a relevant action group and are or will be reflected in the member's action group payments) of any relevant cause of action;

"relevant action group" means, in relation to any syndicate and year of account, the action group listed in Appendix 2D;

"relevant cause of action" means any cause of action or other claim of the member against any of the underwriting agents of the member or their current past or future directors, officers, partners, employees, agents or professional advisers, or against any sponsor, Lloyd's broker, syndicate auditor or syndicate professional adviser for breach of contract, negligence, misrepresentation, non-disclosure or other breach of duty in relation to, or to the conduct on behalf of the member of, all or any part of the member's underwriting business at Lloyd's including (without prejudice to the generality of the foregoing) any cause of action or other claim of the member:

- (a) in respect of the rights and obligations at any time existing between the member and any such person or persons which, although not part of the member's underwriting business at Lloyd's are or were part of the internal arrangements between those parties as a means of enabling the member's underwriting business at Lloyd's, or some part of it, to be conducted; or

- (b) in respect of the giving or, the failure to give, advice to the member as regard the member's underwriting business at Lloyd's, or any part thereof, or in relation to the selection or possible selection of any syndicate by or for the member or as regards the amount or proportion of premium limit to be underwritten;

"relevant fruits of action" means, in respect of any cause of action or other claim, all fruits of action and other proceeds whatsoever of that cause of action or claim whether under or in discharge of any judgement or arbitral award or compromise or other agreement or otherwise in satisfaction or settlement of that cause of action or claim, including (for the avoidance of doubt) all payments or other transfers made under or by virtue of the Third Parties (Rights Against Insurers) Act 1930;

"relevant syndicate" means any of the syndicates listed in Appendix 2D;

"relevant year of account" means, in relation to a relevant syndicate, any of the years of account listed in respect of that syndicate in Appendix 2D;

"specified litigation recoveries" means any of that member's direct litigation recoveries or of the member's action group payments.

4. In these requirements, reference to a person includes any natural person, firm, partnership, corporation, association or other body of persons (whether corporate or unincorporate).
5. In relation to a corporate member which has provided its Lloyd's deposit by way of approved covenant and approved charge, references to the provision of further eligible assets shall be treated as including the procuring of an increase in the value of the mortgaged assets attributable to that corporate member or in the nominal value of the approved covenant provided in respect of that corporate member, or in both, to the extent that such increase extinguishes or reduces any solvency shortfall or currency shortfall, as the case may be, which the corporate member may have.

**ELIGIBLE ASSETS**

1. Save as otherwise specified herein, only readily realisable assets, held free of any charge, lien or encumbrance (except where given or made for the purpose of the member's underwriting) may be brought into account for the purpose of the annual solvency test.
2. In relation to syndicates and members, and subject to paragraphs 8 and 9 below, the assets held within premiums trust funds in accordance with the provisions of the members' premiums trust deeds, including:-
  - (a) temporary cash loans to discount houses approved by the Council of Lloyd's, subject to any such loan being fully secured by any or all of the following -
    - (i) British Government securities;
    - (ii) certificates of deposit and banker's acceptances issued by banks approved by the Council of Lloyd's; and
    - (iii) securities issued by local authorities;and
  - (b) the amount of any inter-syndicate loan which is readily realisableare eligible assets.
- 3.1 In relation to syndicates and members, and subject to paragraphs 8 and 9 below, the following assets held outside the members' premiums trust funds are also eligible assets:-
  - (a) assets held in Lloyd's American Trust Funds;
  - (b) in relation to long-term business, assets held in American Trust Funds for long-term business;
  - (c) assets held in Lloyd's Canadian Trust Funds;
  - (d) assets held in Lloyd's Dollar Trust Funds;
  - (e) the full amount of advances deposited with the Attorney-in-Fact in the State of Illinois as security for the payment of claims on Illinois code risks;
  - (f) assets held in Lloyd's Kentucky Trust Funds;
  - (g) assets held in Lloyd's Kentucky Joint Asset Trust Funds;
  - (h) assets held in Lloyd's United States Situs Credit for Reinsurance Trust Funds;
  - (i) assets held in Lloyd's United States Situs Surplus Lines Trust Funds;
  - (j) assets held in Lloyd's American Surplus or Excess Lines Insurance Joint Asset Trust Funds;

- (k) assets held in Lloyd's American Credit for Reinsurance Joint Asset Trust Funds;
- (l) subject to paragraph 3.2 below, net brokers' balances, including retained premiums, for settlement through the Central Accounting system or due from a broker who is a Lloyd's broker on the date when the syndicate return which includes the net broker's balance due from that broker is filed with Market Reporting;
- (m) subject to paragraph 3.2 below, net brokers' balances due from a broker who has ceased to be a Lloyd's broker prior to the date when the syndicate return which includes the net broker's balance due from that broker is filed with Market Reporting where specifically permitted by the Franchise Board as the result of an application made to them for the purpose;
- (n) as far as can reasonably be determined, premiums, additional premiums and estimated accruals in respect of business written but not yet signed through Lloyd's Policy Signing Office;
- (o) any deposits to meet the requirements of overseas insurance legislation and/or advances approved by the Council of Lloyd's in connection therewith, provided that such deposits or advances are held in cash and/or investments which are readily realisable;
- (p) subject to paragraph 3.3 below, the amount of any UK motor business premiums due and payable direct by instalments;
- (q) the amount of any loans to, or deposits with, Additional Securities Limited or any other company nominated for the purpose of clause 22(a)(3) of the premiums trust deed;
- (r) any contracts which are judged under the principles of financial reporting standard 5 (FRS5) to be investments rather than contracts of reinsurance, such contracts to be valued at their net present value;
- (s) assets held in Lloyd's South African Trust Fund;
- (t) assets held in Lloyd's South African Transitional Trust Fund;
- (u) assets held in Lloyd's Australian Joint Asset Trust Funds No. 1 and No. 2;
- (v) assets held in Lloyd's Australian Trust Fund.
- (w) Lloyd's Asia Singapore Policies Trust Funds;
- (x) Lloyd's Asia Offshore Policies Trust Funds; and
- (y) Lloyd's Canadian Margin Fund;

3.2 In calculating net brokers' balances for the purposes of paragraph 3.1(l) and (m) above, premiums or instalments thereof (due account being taken of rebates, refunds and commissions payable) which are due and payable are to be excluded if they have been outstanding for more than 90 days at the solvency test date.

- 3.3 Without prejudice to paragraph 3.2 above, any debts due from policyholders or intermediaries other than Lloyd's brokers which do not fall within paragraph 3.2 above which are due and payable shall be excluded if they have been outstanding for more than 90 days at the solvency test date.
- 3.4 For the purposes of paragraphs 3.1, 3.2 and 3.3 above, a premium or instalment thereof and any other debt due from a policyholder or intermediary as the case may be shall be treated as due and payable on the date stipulated for payment in the relevant terms of trade or terms of credit or if payable under a direct dealing arrangement it shall be treated as due and payable on the later of the inception date of the risk in respect of which the premium is payable or the agreed settlement date of the instalment.
- 3.5 Cash calls, which are due but unpaid, are eligible assets in relation to syndicates.
4. In relation to individual members, and subject to paragraphs 5.1, 8 and 9 below, the following are also eligible assets -
- (a) any personal reserve fund of the member, including undistributed profits of the member's underwriting business and any undistributed investment income arising from monies and assets held in such fund;
  - (b) any assets in a special reserve fund established by the member;
  - (c)
    - (i) any assets in a Lloyd's deposit of the member;
    - (ii) any assets in an additional Lloyd's deposit of the member;
    - (iii) any assets in an additional solvency deposit of the member;
    - (iv) any assets in a premium limit excess deposit of the member; and
    - (v) any letter of credit or guarantee issued or confirmed in relation to the member's means provided that any such letter of credit or guarantee is due to remain in full force and effect until 31 December next following the solvency test date;
  - (d) in relation to long-term business, assets in any Lloyd's life deposit of the member;
  - (e) the amount of any global assets made available by the Council in respect of the member;
  - (f) the amount of any anticipated recoveries under Lloyd's estate reinsurance contracts which meet the conditions set out in paragraph 7.2 below;
  - (g) the amount of any anticipated recoveries under members' personal stop loss contracts which meet the conditions set out in paragraphs 7.2 to 7.7 inclusive below;
  - (h) in relation to resigning members, the amount of any anticipated recoveries under resigning members' open year reinsurance contracts which meet the conditions set out in paragraphs 7.2 and 7.3 below;



- (i) in relation to a non-active individual member, the amount secured by any legal charge taken by the Society over any freehold or leasehold interest the member may have in any real property (in so far as and to the extent that the secured amount does not exceed the value of the property) as security for the actual or contingent indebtedness due by the member to the Society in respect of the application of Central Fund or other assets of the Society on his behalf;
- (j) in relation to a hardship member -
  - (i) the amount secured by any legal or equitable charge taken by the Society over real or personal property (in so far as and to the extent that the secured amount does not exceed the value of the property) owned by him in whole or in part as security for the actual or contingent indebtedness due by the hardship member to the Society; and
  - (ii) any assets held under a Lloyd's Hardship Deposit Trust established for that member,
 

pursuant to the terms of the Lloyd's Hardship Agreement concluded between the Society and that member; and
- (k) where the member is a member of any relevant action group, the amount of any specified litigation recoveries in relation to a relevant syndicate and relevant year of account which the member has assigned to the trustees of his premiums trust deed.

5.1 Where any of the funds or deposits referred to in paragraph 4(a), (c) and (d) above includes any bank guarantee provided, or letter of credit issued or confirmed, by the UK branch of an approved credit institution which since providing such bank guarantee or issuing or confirming such letter of credit has ceased to be an approved credit institution, such bank guarantee or letter of credit may be included as an eligible asset at its market value at the relevant time only if so permitted in writing by the General Manager, Member's Financial Services Department of the Corporation of Lloyd's or any one of the Managers, Members' Funds Department of the Corporation of Lloyd's.

5.2 In deciding the eligibility and value of any bank guarantee or letter of credit for the purposes of paragraph 5.1 above, the General Manager, Member's Financial Services Department of the Corporation of Lloyd's or any one of the Managers, Members' Funds Department of the Corporation of Lloyd's shall have regard to the following matters -

- (a) whether the net tangible assets of the institution that provided the bank guarantee or issued or confirmed the letter of credit exceed £100 million;
- (b) whether all encashments of other bank guarantees provided, or letters of credit issued or confirmed, by such institution in respect of or in relation to other members for funds at Lloyd's purposes have been met in full; and

- (c) whether, in the opinion of a member of the Legal Services Department of the Corporation of Lloyd's who is a barrister or solicitor, legal problems may arise as a result of the encashment of the bank guarantee or letter of credit concerned in the jurisdiction in which the head office of the institution concerned usually trades.
6. In relation to corporate members, and subject to paragraphs 8 and 9 below, the following are also eligible assets -
- (a) any assets in a personal reserve fund of the corporate member, including: -
    - (i) any undistributed profits of the corporate member's underwriting business;
    - (ii) any undistributed investment income from the monies and assets held in such fund;
  - (b) any assets in a Lloyd's deposit of the corporate member;
  - (c) in relation to long term business, any assets in a Lloyd's life deposit of the corporate member; and
  - (d) the amount of any global assets made available by the Council in respect of the corporate member.
  - (e) the amount of any anticipated recoveries under the members' personal stop loss contracts which meet the conditions set out in paragraphs 7.2 to 7.7 inclusive below;
  - (f) in relation to resigning members, the amount of any anticipated recoveries under resigning members' open year reinsurance contracts which meet the conditions set out in paragraphs 7.2 or 7.3 below.

**7. PERSONAL STOP LOSS CONTRACTS, ESTATE REINSURANCE CONTRACTS AND RESIGNING MEMBER'S OPEN YEAR REINSURANCE CONTRACTS**

Contracts underwritten at Lloyd's

- 7.1 Anticipated recoveries under any personal stop loss contract, estate reinsurance contract, or (in relation to a resigning member) resigning member's open year reinsurance contract, underwritten in each case at Lloyd's, are eligible assets to the extent that the conditions set out in paragraph 7.2, 7.3 or 7.4 below are satisfied.
- 7.2 The following are the conditions referred to in paragraph 7.1 above:-
- (a) in relation to the contract:-
    - (i) save where the member has executed a premiums trust deed in the form prescribed by the Council on 2 October 1998 (as amended from time to time), the contract must contain an assignment of any recovery to the trustees of the member's premiums trust deed;

- (ii) the contract must provide for the payment of cash on account before determination of the final outcome of an underwriting account where it can be demonstrated that such payment is required to meet the member's underwriting liabilities (e.g. to pay claims and expenses or to fund a currency shortfall where there is an overall estimated loss which would give rise to a claim under the contract);
  - (iii) the terms of the contract must be such that the amount of any recovery (or anticipated recovery) can be ascertained with reasonable certainty at any stage of the underwriting account; and
  - (iv) the contract must be non-cancellable; and
- (b) that it can be established to the satisfaction of -
- (i) in the case of corporate member which has no members' agent, the recognised accountant appointed by that corporate member; or
  - (ii) in any other case, both the recognised accountant appointed by the members' agent and the members' agent;
- that the recovery is due or is likely to become due.

7.3 Where a personal stop loss contract or resigning member's open year reinsurance contract does not meet the conditions set out in paragraph 7.2(a) above, the amount of any anticipated recovery may nonetheless be taken into account if it can be established to the satisfaction of the recognised accountant appointed by the members' agent or the corporate member which has no members' agent, as the case may be, that -

- (a) a recovery is due or is likely to become due under a personal stop loss contract;
- (b) the amount of such recovery can be ascertained with reasonable certainty;
- (c) the recovery will or is likely to be collected; and
- (d) save where the member has executed a premiums trust deed in the form prescribed by the Council on 2 October 1998 (as amended from time to time), either:-
  - (i) the personal stop loss contract or resigning member's open year reinsurance contract is the subject of a letter which is substantially in the form and terms of either letter A or letter B which appear in Appendix 2E hereto; or
  - (ii) the member has signed a letter which is substantially in the form and terms of letter C, or in the case of a corporate member which has no members' agent, letter D, which appear in Appendix 2E hereto; or
  - (iii) the rights to the recovery have been otherwise assigned to the trustees of the member's premiums trust deed.

- 7.4 Where a personal stop loss pool contract which is underwritten at Lloyd's does not meet the condition referred to in paragraph 7.2(a)(iii) above because of any uncertainty in ascertaining the amount of funds remaining (after discharging to each member of the pool the minimum guaranteed recovery that is payable to him) for pro rata distribution to the members in accordance with the terms of the policy, the minimum guaranteed recovery shall constitute an eligible asset in relation to that member.
- 7.4A For the purposes of this paragraph 7, a contract underwritten at Lloyd's includes a contract underwritten by Centrewrite Limited.

Non-Lloyd's Personal Stop Loss Contracts

- 7.5 Anticipated recoveries under a personal stop loss contract not underwritten at Lloyd's and taken out with an authorised insurer are eligible assets provided that:
- (a) the conditions set out in paragraph 7.2 or 7.3 are satisfied; and
  - (b) either –
    - (i) the best financial strength rating for the time being ascribed to the authorised insurer by any one or more of the Acceptable Rating Agencies is equivalent to or better than the best financial strength rating for the time being ascribed to the member's of Lloyd's taken together by any one or more of the Acceptable Rating Agencies, in which case -
      - (aa) 75 percent of such anticipated recoveries; and
      - (bb) the amount of such anticipated recoveries in excess of the amount referred to in sub-paragraph (aa) in so far as and to the extent that such excess amount is supported by a guarantee or letter of credit issued by an approved credit institution in favour of the trustees of the member's premiums trust deed;may be included as eligible assets; or
    - (ii) where the best financial strength rating for the time being ascribed to the authorised insurer by any one or more of the Acceptable Rating Agencies is less than the best financial strength rating for the time being ascribed to the member's of Lloyd's taken together by any one or more of the Acceptable Rating Agencies, the amount of any anticipated recoveries from non-Lloyd's sources in excess of £25,000 in the aggregate must be supported by a guarantee or letter of credit, issued by an approved credit institution, in favour of the trustees of the member's premiums trust deed.
- 7.6 For the purpose of paragraph 7.5(b) -
- (a) an "Acceptable Rating Agency" means any of A.M. Best, Standard & Poor's, Moody's or such other rating agency as the Head, Market Reporting, or any one of the Managers, Market Reporting, may from time to time specify; and

- (b) the financial strength ratings referred to in:
- (i) Row 1 of the table below are deemed to be the equivalent of each other and better than those referred to in Rows 2, 3 and 4 of the table below;
  - (ii) Row 2 of the table below are deemed to be the equivalent of each other and better than those referred to in Rows 3 and 4 of the table below;
  - (iii) Row 3 of the table below are deemed to be the equivalent of each other and better than those referred to in Row 4 of the table below; and
  - (iv) Row 4 of the table below are deemed to be the equivalent of each other.

	<b>A.M. Best</b>	<b>Standard &amp; Poor's</b>	<b>Moody's</b>
<b>Row 1</b>	A++	AAA	Aaa
<b>Row 2</b>	A+	AA+, AA or AA-	Aa1, Aa2 or Aa3
<b>Row 3</b>	A or A-	A+, A or A-	A1, A2 or A3
<b>Row 4</b>	B++ or B+	BBB+, BBB or BBB-	Baa1, Baa2 or Baa3

7.7 Anticipated recoveries under non-Lloyd's personal stop loss contracts taken out with an insurer that is not an authorised insurer are eligible assets provided that:

- (a) the conditions set out in paragraph 7.2 or 7.3 are satisfied; and
- (b) the full amount of any anticipated recoveries from non-Lloyd's sources must be supported by a guarantee or letter of credit issued by an approved credit institution in favour of the trustees of the member's premiums trust deed.

## 8. **PERMITTED ASSETS**

An asset shall only be eligible to be taken into account for the purposes set out in paragraph 3(1) of these conditions and requirements if it falls within the categories of permitted assets set out in Part I of Appendix 2B.

9. **ASSETS TO BE TAKEN INTO ACCOUNT ONLY TO A SPECIFIED EXTENT**

9.1 Subject to the following provisions of this paragraph 9, an asset specified in Part II of Appendix 2B shall only be eligible to be brought into account for the purposes of the annual solvency test to the extent that the maximum permitted holdings for that category of asset, determined either on the basis set out in paragraph 9.2 or on the basis set out in paragraph 9.9 or 9.10, as the case may be, are not exceeded. In the case of an asset (other than a derivative contract) not covered by any of the descriptions in Part II of Appendix 2B, the maximum permitted holding is 100 per cent.

Maximum permitted holding calculated by reference to syndicate assets and member's FAL assets

9.2 An asset covered by any of the descriptions in Part II of Appendix 2B shall be eligible to be taken into account for the purposes of the annual solvency test:

- (a) if it is a syndicate asset, to the extent that the maximum permitted syndicate holding for assets of that description is not exceeded;
- (b) if it is a corporate member's FAL asset, to the extent that the maximum permitted holding for assets of that description is not exceeded; and
- (c) if it is an individual member's FAL asset, to the extent that the maximum permitted holding for assets of that description is not exceeded.

9.3 For the purposes set out in paragraph 9.2(a) above, a syndicate's maximum permitted syndicate holding in respect of an asset shall be:

- (a) in respect of general business, an amount equal to the percentage of the aggregate syndicate assets of that syndicate (excluding reinsurance recoveries) which is set out in Column 2 Part II of Appendix 2B, which are available to cover the syndicate's liabilities in respect of general business; and
- (b) in respect of long term business, an amount equal to the percentage of the aggregate syndicate assets of that syndicate (excluding reinsurance recoveries) which is set out in Column 2 Part II of Appendix 2B, which are available to cover the syndicate's liabilities in respect of long term business.

9.4 In addition to the limitations on admissibility applying under paragraph 9.2, the aggregate market value of assets eligible to be taken into account for the purposes of the annual solvency test shall be reduced by the amount of exposure to a counterparty in excess of the permitted counterparty exposure limit for that counterparty, as determined under paragraphs 9.15 to 9.19 (inclusive).

9.5 For the purposes of calculating the aggregate exposure of the relevant premiums trust fund to a specified category of assets, in addition to any such assets which are held by the fund (and have not already been left out of account):

- (a) the Agent shall be deemed to have acquired or disposed of assets pursuant to a futures contract if, at the relevant date, it has entered into (and not closed out) a futures contract which:
  - (i) provides for the acquisition of assets by the Agent; or

- (ii) is listed and provides for the disposal of assets by the Agent; or
  - (iii) is not listed but provides for the disposal of the assets by the Agent to an approved counterparty and it is prudent to assume that such disposal will take place within one year of the relevant date;
- (b) the Agent shall be deemed to have acquired or disposed of assets pursuant to an option if, at the relevant date, it is party to an option and it is prudent to assume that the option will be exercised and the option is one which:
- (i) provides for the acquisition of assets by the Agent; or
  - (ii) is listed and provides for the disposal of assets by the Agent; or
  - (iii) is not listed but provides for the disposal of assets by the Agent to an approved counterparty and it is prudent to assume that such disposal will take place within one year of the relevant date;
- (c) if, at the relevant date, the Agent has entered into (and not closed out):
- (i) a contract or asset other than a diversified contract for differences which has the effect of a derivative contract; or
  - (ii) an undiversified contract for differences,

it shall be deemed to have achieved the effect of such contract or asset by entering into appropriate futures contracts or options and to have acquired or disposed of assets under such futures contracts or options in accordance with the provisions in sub-paragraphs (a) and (b) above respectively; and

- (d) aggregate exposure to a specified category of assets shall be increased by an amount representing the value of any assets of that description which have been transferred by the Agent by way of initial margin.

9.6 For the purposes set out in paragraph 9.2(b) above, and subject to paragraph 9.8 below, the maximum permitted holding of a FAL asset of a corporate member shall be:

- (a) in respect of general business, an amount equal to the percentage of the aggregate of the corporate member's FAL assets which is set out in Column 3 of Part II of Appendix 2B, excluding any Lloyd's life deposit of the corporate member or any other of the corporate member's FAL assets which are available to cover the corporate member's liabilities in respect of long-term business; and
- (b) in respect of long-term business, an amount equal to the percentage of the Lloyd's life deposit of the corporate member (if any) and any of the other corporate member's FAL assets (if any) available to cover the corporate member's liabilities in respect of long term business, which is set out in Column 3 of Part II of Appendix 2B.

9.7 For the purposes set out in paragraph 9.2(c) above, the maximum permitted holding of a FAL asset of an individual member shall be:

- (a) in respect of general business, an amount equal to the percentage of the aggregate of the individual member's FAL assets which is set out in Column 4 of Part II of Appendix 2B, excluding any Lloyd's life deposit of the individual member or any of the other individual member's FAL assets which are available to cover the individual member's liabilities in respect of long-term business; and
- (b) in respect of long-term business, an amount equal to the percentage of the Lloyd's life deposit of the individual member (if any) and any of the other individual member's FAL assets (if any) available to cover the individual member's liabilities in respect of long term business, which is set out in Column 4 of Part II of Appendix 2B.

9.8 For the purposes of paragraph 9.2(b) above and in relation to a private successor member or a qualifying successor member, until such time as the last open year of account of the participant has been closed by reinsurance to close or until 30 December 2002 if earlier the maximum permitted holding of a FAL asset of such member shall be determined by reference to the percentage specified in relation to that category of asset in column 4 of Part II of Appendix 2B.

Maximum permitted holdings calculated by reference to overall value of a member's fund

9.9 Notwithstanding the provisions of paragraphs 9.2 and 9.6 above, a corporate member's maximum permitted holding of an asset specified in Column 1 of Part II of Appendix 2B shall not be exceeded if the value of such assets held by the member does not exceed the percentage of the overall value of the member's fund (excluding reinsurance recoveries) which is set out in Column 3 of Part II of Appendix 2B.

9.10 Notwithstanding the provisions of paragraphs 9.2 and 9.7 above, an individual member's maximum permitted holding of an asset specified in Column 1 of Part II of Appendix 2B shall not be exceeded if the value of such assets held by the member does not exceed the percentage of the overall value of the member's fund (excluding reinsurance recoveries) which is set out in Column 4 of Part II of Appendix 2B.

9.11 The conditions at paragraphs 9.1 and 9.4 above shall not apply to:

- (a) debts due to, or rights of, a syndicate or member under contracts of reinsurance;
- (b) debts due to a syndicate arising out of salvage rights or subrogation;
- (c) debts in respect of premiums due and payable;
- (d) debts due from members in respect of outstanding cash calls;
- (e) approved securities or any interest accrued on them;
- (f) monies due from, or guaranteed by, the government of any Zone A country;
- (g) holdings in a scheme falling within the UCITS directive;
- (h) guarantees and letters of credit issued by an approved credit institution or authorised insurer; and



(i) verifiable sums arising out of life insurance policies.

9.12 Where in respect of a syndicate the amount of syndicate assets held in US mutual funds administered by the trustee of the US Situs Trust Funds exceeds the maximum permitted syndicate holding limit for such assets determined in accordance with paragraphs 9.3 and 9.4 above, the managing agent of the syndicate may apply in writing to the Head of Market Reporting for an exceptional derogation from the conditions in paragraph 9.1 above in respect of such assets and that person may consent to the inclusion of all or part of those assets as eligible assets in relation to that syndicate.

#### Debts

9.13 The value of any debt due, or to become due, to a syndicate shall be the amount which can be reasonably expected to be recovered in respect of that debt (due account being taken of the terms and conditions for payment thereof).

9.14 Notwithstanding the provisions of paragraph 9.13 above, the value of any debt due to a syndicate under a contract of reinsurance shall be reduced where that debt has been outstanding –

(a) for more than three months but not more than six months, by 10 per cent;

(b) for more than six months but not more than 12 months, by 20 per cent;

(c) for more than 12 months, by 50 per cent.

#### Counterparty exposure limits

9.15 For the purposes set out in paragraph 9.4 and subject to paragraph 9.16, the permitted counterparty exposure limits shall be:

(a) if the counterparty is an individual, an unincorporated body or a government of a state or any public body, local authority or nationalised industry of a state, 5% of all eligible assets (excluding reinsurance recoveries);

(b) if the counterparty is a body corporate or a group of companies, the lower of:

(i) if the exposure is to a body which is not an approved counterparty, 5% of all eligible assets (excluding reinsurance recoveries);

(ii) if the exposure is to a body which is an approved counterparty and the exposure does not arise from debts which are, or will become, due as a result of short term deposits made with an approved credit institution, 10% (or where prudent a lower amount) of all eligible assets (excluding reinsurance recoveries); or

(iii) 20% of all eligible assets (excluding reinsurance recoveries).

9.16 In respect of an individual member's FAL assets, the permitted counterparty exposure limits shall be double those specified in paragraphs 9.15 and 9.20.

- 9.17 For the purpose of calculating counterparty exposure and subject to paragraph 9.18, the value of all investments issued by any one counterparty and the value of all rights against that counterparty, in each case up to the amount of the relevant maximum permitted holding for such assets, must be aggregated.
- 9.18 The aggregation required pursuant to paragraph 9.17 need not include the value of rights referred to in paragraph 9.17 if those rights exist in respect of an obligation to be fulfilled by a counterparty and:
- (a) the obligation is a secured obligation which:
    - (i) is secured by cash deposited with, a letter of credit established with, or securities issued by, or a guarantee provided by, an approved credit institution or an approved financial institution; and
    - (ii) is due to be fulfilled within 12 months of the valuation date; or
  - (b) the obligation is secured by listed securities which are readily realisable, or by approved securities which:
    - (i) were deposited with an approved credit institution, an approved financial institution or an approved investment firm; and
    - (ii) are beneficially owned by the counterparty but will not be available for the benefit of creditors generally if the counterparty is wound up.
- 9.19 The deduction for an amount of exposure to a counterparty in excess of the permitted counterparty exposure limit must be calculated by subtracting from the amount of the exposure to the counterparty, the amount of the permitted counterparty exposure limit and if the figure arrived at is negative, it must be taken to be zero.
- 9.20 If there is exposure to more than one counterparty of the type mentioned in paragraph 9.15(b)(ii), the aggregate of these exposures must not exceed 40% of all eligible assets.
- 9.21 For the purposes of paragraph 9.20:
- (a) exposure to a counterparty shall be taken into account only up to the level of the permitted counterparty exposure limit for that counterparty;
  - (b) exposure to a counterparty shall not to be taken into account if it does not exceed 5% of all eligible assets (excluding reinsurance recoveries); and
  - (c) exposure to a counterparty shall not be taken into account if the permitted counterparty exposure limit does not exceed 5% of all eligible assets (excluding reinsurance recoveries).

## 10. **US DOLLAR SOLVENCY TEST - OLD AMERICAN BUSINESS**

- 10.1 The amount of an individual member's US dollar surplus in relation to his Old American Business shall be treated for the purposes of Article 4.1(D) of the Lloyd's American Trust Deed as being in excess of the amount required to be held in his Lloyd's American Trust Fund for the purposes of the annual solvency test.

10.2 For the purposes of this paragraph:-

- (a) "Lloyd's American Trust Fund" has the meaning given in the Lloyd's American Trust Deed;
- (b) "Old American Business" means "American business" as that term is defined in the Lloyd's American Trust Deed;
- (c) "relevant year of account" means any of the 1992 and subsequent years of account in which the member conducted insurance business at Lloyd's;
- (d) "US dollar surplus" means, in relation to a member, the aggregate amount, where positive, of his US dollar results for the relevant year of account; and
- (e) "US dollar result" means, in relation to a member and a syndicate:-
  - (i) in relation to every relevant year of account later than the 1992 year of account, other than any year of account which has been closed by a reinsurance to close, the member's proportion of the amount described as "Dollar Solvency result for UK purposes" set out in the relevant column of the syndicate return entitled "LATF Business Balance Sheet"; and
  - (ii) in relation to any 1993 or subsequent year of account which has been closed, the amount of any cash balances and investments held in the member's Lloyd's American Trust Fund in relation to that year of account, after payment of any reinsurance to close premium in respect of the business concerned (whether payable in respect of that syndicate or any other syndicate);

10.3 In determining whether a member has a US dollar surplus regard shall be had to the guidance notes at Appendix 2F hereto.

## **11. US DOLLAR SOLVENCY TEST - AMERICAN LONG-TERM BUSINESS**

11.1 The amount of an individual member's US dollar life surplus in relation to his American Long-Term Business shall be treated for the purposes of FIFTH (C) of the Lloyd's American Trust Deed for Long-Term Business as being in excess of the amount required to be held in his American Trust Fund.

11.2 For the purposes of this paragraph:-

- (a) "American Long-Term Business" has the meaning given in the Lloyd's American Trust Deed for Long-Term Business;
- (b) "American Trust Fund" has the meaning given in the Lloyd's American Trust Deed for Long-Term Business;
- (c) "relevant year of account" means the 1991 year of account or any later year of account in which the member conducted insurance business at Lloyd's;
- (d) "US dollar life surplus" means, in relation to a member, the aggregate amount, where positive, of his US dollar life results for the relevant year of account; and

- (e) "US dollar life result" means, in relation to a member and a syndicate:
- (i) in relation to every relevant year of account later than the 1991 year of account, other than any year of account which has been closed by a reinsurance to close, the member's proportion of the amount described as "Dollar Solvency result for UK purposes" set out in the relevant column of the syndicate return entitled "LATF Business Balance Sheet"; and
  - (ii) in relation to any 1991 or subsequent year of account which has been closed, the amount of any cash balances and investments held in the member's American Trust Fund in relation to that year of account, after payment of any reinsurance to close premium in respect of the business concerned (whether payable in respect of that syndicate or any other syndicate).

11.3 In determining whether a member has a US dollar life surplus regard shall be had to the guidance notes at Appendix 2F hereto *mutatis mutandis*.

**CATEGORIES OF PERMITTED ASSETS AND  
ASSETS TO BE TAKEN INTO ACCOUNT ONLY  
TO A SPECIFIED EXTENT**

**PART I - CATEGORIES OF PERMITTED ASSETS**

- (a) listed debt securities, bonds and other money and capital market instruments (including certificates of deposit);
- (b) secured or unsecured debts;
- (c) listed shares (including listed equity shares) and other listed variable yield participations;
- (d) units or other beneficial interests in schemes falling within the UCITS directive, authorised unit trust schemes or recognised schemes;
- (e) debts due to, or rights of, a syndicate or member under contracts of reinsurance;
- (f) deposits with and debts owed by ceding undertakings;
- (g) debts in respect of premiums arising out of direct and reinsurance operations (due account being taken of rebates, refunds and commissions payable);
- (h) claims arising out of salvage rights and subrogation;
- (i) claims against guarantee funds;
- (j) cash at bank and in hand, deposits with approved credit institutions and any other bodies permitted to receive deposits;
- (k) accrued interest and other accrued income and prepayments;
- (l) letters of credit or guarantees, including approved covenants and approved charges\*;
- (m) verifiable sums arising out of life insurance policies\*;
- (n) bonds and securities issued by governments state and regional and local authorities;
- (o) derivative contracts; and
- (p) unlisted commercial paper which have an investment grade rating of not less than P1 (Moody's), A1 (S&P) or F1 (Fitch)

\* These assets are permitted in relation to members' funds at Lloyd's only.

PART II - ASSETS TO BE TAKEN INTO ACCOUNT ONLY TO A SPECIFIED EXTENT

Column 1 Description		Column 2 % of aggregate syndicate assets (excluding reinsurance recoveries) for general and long-term business	Column 3 % of (a) overall value of corporate member's fund (excluding reinsurance recoveries) or (b) of corporate member's FAL assets, in each case for general and long-term business	Column 4 % of overall value of individual member's fund or of individual member's FAL assets, in each case for general and long-term business
1	All listed shares and hybrid securities issued by any one issuer with all such securities issued by a connected company of that issuer	2.5%	(a) 2.5% or (b) 5%	(A) 20% (except in relation to permanent interest bearing shares, where 100% will apply) <sup>1</sup>  (B) 10% <sup>2</sup>
2	All listed debt securities and unlisted commercial paper issued by any one issuer which is not an approved counterparty, taken with all such securities issued by a connected company, except an approved counterparty, of that issuer	5%	5%	(A) 100%. <sup>3</sup>  (B) 10% <sup>4</sup>

<sup>1</sup> applies prior to 31 December 2002

<sup>2</sup> applies on and after 31 December 2002.

<sup>3</sup> applies prior to 31 December 2002

<sup>4</sup> applies on and after 31 December 2002

<b>Column 1</b>		<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Description</b>		<b>% of aggregate syndicate assets (excluding reinsurance recoveries) for general and long-term business</b>	<b>% of (a) overall value of corporate member's fund (excluding reinsurance recoveries) or (b) of corporate member's FAL assets, in each case for general and long-term business</b>	<b>% of overall value of individual member's fund or of individual member's FAL assets, in each case for general and long-term business</b>
3	All listed debt securities and unlisted commercial paper issued by any one approved counterparty	10%	10%	(A) 100% <sup>5</sup> (B) 20% <sup>6</sup>
4	All debts due, or to become due, from an individual	0.25%	Not applicable	Not applicable
5	All unsecured debts (other than those arising under the terms of listed debt securities or debts from a regulated institution) which have, or are to, become due from any one counterparty other than an individual, body corporate or group	1%	Not applicable	Not applicable

<sup>5</sup> applies prior to 31 December 2002

<sup>6</sup> applies on and after 31 December 2002

<b>Column 1</b>		<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Description</b>		<b>% of aggregate syndicate assets (excluding reinsurance recoveries) for general and long-term business</b>	<b>% of (a) overall value of corporate member's fund (excluding reinsurance recoveries) or (b) of corporate member's FAL assets, in each case for general and long-term business</b>	<b>% of overall value of individual member's fund or of individual member's FAL assets, in each case for general and long-term business</b>
6	All unsecured debts (other than those arising under the terms of listed debt securities or debts from a regulated institution) which have, or are to, become due from any one company (and any connected company of that company)	1%	Not applicable	Not applicable
7	All unsecured debts (other than those arising under the terms of listed debt securities or debts from an approved counterparty) which are, or are to become, due from any one regulated institution, taken together with all such debts which are, or are to become, due from a connected company of that institution	2.5%	Not applicable	Not applicable



<b>Column 1</b> <b>Description</b>	<b>Column 2</b> <b>% of aggregate syndicate assets (excluding reinsurance recoveries) for general and long-term business</b>	<b>Column 3</b> <b>% of (a) overall value of corporate member's fund (excluding reinsurance recoveries) or (b) of corporate member's FAL assets, in each case for general and long-term business</b>	<b>Column 4</b> <b>% of overall value of individual member's fund or of individual member's FAL assets, in each case for general and long-term business</b>
8 All debts (other than those arising under the terms of listed debt securities) which are, or are to become, due from any one counterparty which is not an approved counterparty, taken together with all such debts which are, or are to become, due from a connected company (other than an approved counterparty) of that counterparty	5%	Not applicable	Not applicable
9 All debts (other than short term deposits with an approved credit institution or debts arising under the terms of listed debt securities) which are, or are to become, due from any one approved counterparty, taken with all such debts which are or are to become, due from any connected company of that approved counterparty	10%	Not applicable	Not applicable
10 The aggregate of debts of the descriptions in 4, 5 and 6	5%	Not applicable	Not applicable

<b>Column 1</b>		<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Description</b>		<b>% of aggregate syndicate assets (excluding reinsurance recoveries) for general and long-term business</b>	<b>% of (a) overall value of corporate member's fund (excluding reinsurance recoveries) or (b) of corporate member's FAL assets, in each case for general and long-term business</b>	<b>% of overall value of individual member's fund or of individual member's FAL assets, in each case for general and long-term business</b>
11	All debts which are, or are to become, due from an approved credit institution (or a connected company of that institution) taken together	20%	20%	20%
12	All holdings in any one authorised unit trust scheme or recognised scheme	25%	25%	50%
13	Cash, other than cash at bank or deposits with credit institutions or any other bodies permitted to receive deposits	3%	Not applicable	Not applicable

**DETERMINATION OF THE MARKET VALUE OF ELIGIBLE ASSETS**

**PART I**

1. Save as provided in this Appendix, the market value of any asset listed in Appendix 2A shall be the lower of its book value and net realisable value.
2. The market value of any asset listed in Appendix 2A which is also referred to in paragraph 13 (valuation of covenant and charge) of, or Appendix 6 to, the M&UR (FAL) shall be determined in accordance with the provisions of that paragraph or that appendix, as the case may be, *mutatis mutandis* and references in any of those provisions to the “relevant valuation date” and “the relevant date” shall be construed accordingly.
3. The market value of any securities which are subject to a stock lending arrangement shall be the lower of the market value of those securities and any collateral provided in connection with that arrangement.
4. The market value of rights under, and liabilities in respect of, a derivative contract or a contract or asset having the effect of a derivative contract shall be determined in accordance with Part II of this Appendix.

**PART II**

1. The market value of rights (other than rights to recover assets transferred by way of initial margin) under a derivative contract which satisfies clauses 4 to 7 of the Derivative Requirements shall be:
  - (i) in the case of a listed derivative contract, its market value as determined in accordance with Appendix 6 to the M&UR (FAL); and
  - (ii) in the case of an unlisted derivative contract, the amount which would reasonably be paid by way of consideration for closing out that contract,in either case taking into account the market value of any assets which, at the relevant date, have been transferred by way of variation margin.
2. The market value of rights in respect of a contract or asset having the effect of a derivative contract which satisfies clauses 4 to 7 of the Derivative Requirements shall be determined on the same basis as the market value of such contract or asset would be determined under these requirements.
3. The market value of rights in respect of a contract or asset having the effect of a derivative contract which does not satisfy clauses 4 to 7 of the Derivative Requirements shall be the value of any right to recover assets transferred by way of initial margin together with the value of any other unconditional right to receive a specified amount.
4. A derivative contract or a contract or asset having the effect of a derivative contract shall not be brought into account for the purposes of paragraphs 2, 4, 4A, 4B, 6, 7, 7A and 8 of the byelaw except to the extent permitted by and provided for in this part II of this Appendix.

5. For the purposes of Part II of this Appendix, and subject to paragraph 7 below, a contract has the effect of a derivative contract if it is a contract (other than a derivative contract) which provides, whether upon the exercise of a right by the Agent or otherwise:
  - (i) for payment (at any time) of amounts which are determined by fluctuations in:
    - (a) the value of property of any description;
    - (b) an index of the value of property of any description;
    - (c) income from property of any description; or
    - (d) an index of income from property of any description;
  - (ii) for delivery of an asset;
  - (iii) for conversion of an asset to:
    - (a) an asset of a different type; or
    - (b) a different asset of the same type.
6. For the purposes of Part II of this Appendix, and subject to paragraph 7 below, an asset has the effect of a derivative contract if the asset is an asset (other than an approved security) and the holding of the asset confers contractual rights or imposes contractual obligations to make or accept payment, delivery or conversion as set out in sub-paragraphs (i) to (iii) of paragraph 5 above.
7. For the purposes of Part II of this Appendix, a contract or asset does not have the effect of a derivative contract by reason only that:
  - (i) it provides for the unconditional delivery of assets, or for the payment for unconditional delivery of assets, such delivery or payment to be made within a period commencing at the date of the contract and extending:
    - (a) in the case of a listed security, for the usual period for delivery or payment as determined by the rules of the stock exchange on which the securities are listed;
    - (b) in any other case, for twenty working days; or
  - (ii) the contract provides for the conversion of currency and:
    - (a) either:
      - (1) the contract provides for the conversion into another currency of an amount representing the sale of an asset which has, on the relevant date, been sold but not delivered; or
      - (2) the contract provides for the purchase of currency for the purpose of settling the purchase of an asset which has, on the relevant date, been purchased but not delivered;

- (b) the conversion is to take place during a period which is:
    - (1) where the contract is in connection with the delivery of a listed security, a period commencing on the date of the contract and extending for the usual period of settlement as laid down by the rules of the relevant stock exchange; or
    - (2) where the contract is in connection with the delivery of any other asset, a period commencing on the date of the contract and extending for twenty working days thereafter; and
  - (c) the contract is listed on an approved stock exchange or has been entered into with an approved counterparty; or
- (iii) it is a stocklending transaction.
8. For the purposes of Part II of this Appendix and for the purpose of determining whether a contract or asset has the effect of a derivative contract which satisfies the requirements of clauses 4 to 7 of the Derivative Requirements, it shall be deemed to have the effect of a derivative contract which is listed or transacted with an approved counterparty if it is itself so listed or so transacted.

#### Valuation of liabilities in respect of derivative contracts

9. Liabilities in respect of derivative contracts shall be determined in accordance with generally accepted accounting concepts, bases and policies or, where appropriate, other generally accepted methods appropriate for members of Lloyd's.
10. In addition, an Agent which has or may have (following the exercise of any right by the Agent or any other party) an obligation under a derivative contract or a contract or asset having the effect of a derivative contract to deliver assets or make a payment shall:
- (a) at all times identify the assets held by it which it considers the most suitable to cover such obligation; and
  - (b) make prudent provision for the effect on the Amount of Excess Assets of adverse variations between the value of the assets identified and the value of the assets which it is or may be obliged to deliver or the amount of the payment which it is or may be obliged to make, and for these purposes the Agent shall take into account all reasonably foreseeable adverse variations and shall have particular regard to past volatility in the value of the assets concerned (or assets of a similar nature) and the possibility of adverse changes in such volatility in the future.
11. For the purposes of paragraph 10 above, the "Amount of Excess Assets" means the amount by which the aggregate value of assets held in the relevant premiums trust fund, to the extent they may be brought into account for the purposes of paragraphs 2, 4, 4A, 4B, 6, 7, 7A and 8 of the byelaw, determined in accordance with these requirements, exceeds the amount of liabilities of that fund also as so determined.

**LITIGATION RECOVERIES**

**THIS APPENDIX IS NOT AVAILABLE IN ELECTRONIC FORM**

**APPENDIX 2E**

**FORM OF LETTER RELATING TO PERSONAL STOP LOSS CONTRACTS REFERRED  
TO IN PARAGRAPH 7 OF APPENDIX 2A**

**THIS APPENDIX IS NOT AVAILABLE IN ELECTRONIC FORM**

**GUIDANCE NOTES FOR THE  
LATD ARTICLE 4(1)(D) AND LATD (LIFE) ARTICLE FIFTH (C)  
SOLVENCY TEST**

**A Calculation of each member's solvency position**

1. The open year solvency results shown on line 20 of SR17(LATF) forms will be apportioned through the mainframe US dollar solvency system.
2. Where applicable members will be credited with any US dollar balances still held at the solvency test date, including those which have arisen from:
  - (i) the 1993 and 1994 PTF releases; and
  - (ii) the triple release made in 1996.
3. Solvency statements will be produced for each member.

**B Calculation of dollars available for transfer**

1. Managing agents will submit the dollar DD forms (US\$.DDs and US\$.DDd) with their syndicate results data.
2. MRSD will ensure all US\$.DD forms reconcile to the relevant SR17s and investigate any discrepancies/anomalies.
3. MSU will ensure that the total US\$ net result advised in DD files agrees to the relevant US\$.DD forms.
4. MSU will aggregate DD files to establish each member's profits available for transfer.
5. Any distributable LATF dollars still held in the LATF PRF as at the solvency test date will be aggregated with members' balances determined in paragraph B.4 above to produce a gross profit available for transfer.
6. Any unutilised PTF/triple release LATF dollars in relation to 1993, 1994 and 1995 run-off syndicates will be utilised to pay:
  - (i) any outstanding R&R debts denominated in US dollars; and
  - (ii) any called losses in US dollars.
7. Any uncleared debts/losses of a member from B6 will be covered by the gross profit from paragraph B.5 to leave a net profit available for transfer.
8. A listing of members and their net profits available for transfer from paragraph B.7 will then be produced.



**C. Potential restriction on releases**

1. MRSD to calculate total LATF surplus for 1993 and post years of account as disclosed in the year end NYID filing.
2. Where the surplus in C1 is less than the aggregate amount to be transferred (B8) a restriction may be applied to ensure that any potential LATF deficit does not occur.
3. In the first instance, non-admissible assets will be identified on a syndicate basis and apportioned across the Names on the relevant syndicate to reduce the amounts transferable to those Names.
4. If the restriction in C3 is insufficient to avoid the potential deficit, the difference will be applied across all members, pro rata to their amount to be transferred as amended by C3.