Chapter 1 Requirements made under the Underwriting Byelaw

Permission to act as an underwriting agent – Part A of the Underwriting Byelaw

Criteria for deciding whether an applicant is suitable to be granted permission to act as an underwriting agent – paragraph 8(b) of the Underwriting Byelaw

1. In deciding whether an applicant is suitable to be granted permission to act as an *underwriting agent* the *Council* shall assess each application on its own merits and in a manner consistent with the legal requirements that apply to the Lloyd's new entrant process. In doing so, it shall have regard to the following criteria –

   (a) whether the *applicant* is capable of operating in accordance with the Principles of Doing Business at Lloyd's in line with maturity level appropriate for their business;

   (b) whether the applicant is a competent, proficient and capable organisation. In considering this the Council may have regard to the following matters –

      (i) the nature of the *applicant's* business;
      (ii) the fitness and propriety of the *applicant's* directors, officers and key personnel;
      (iii) the collective suitability of the *applicant's* board of directors and of each of its committees;
      (iv) the ability of the *applicant* to comply with Lloyd's cultural *requirements* and targets including those relating to diversity;
      (v) the ability of the *applicant* to comply with Lloyd's *requirements* for sustainability;
      (vi) the *applicant's* capability and readiness to engage in and make changes required by Lloyd's market transformation initiatives;

   (c) whether the *applicant's* proposed business adds value to the Lloyd's market having regard to –

      (i) the protection of the Central Fund;
      (ii) the protection of confidence in the Lloyd's market;
      (iii) broadening or retaining the expertise or innovation offered in the Lloyd's market;
      (iv) increasing *members'* access to new or emerging lines of business;
      (v) broadening *members'* access to business;
      (vi) broadening *members'* access to new policyholders;
      (vii) broadening *members'* access to new and emerging markets particularly through the use of Lloyd's overseas underwriting arrangements; and
      (viii) broadening *members'* access to capital and capital providers.

(d) whether the *applicant* has a robust business plan that is capable of being achieved;

(e) whether the *applicant* has adequate capital and financial resources; and

(f) whether any person who controls the *applicant* or who is connected or associated with the *applicant* is of appropriate reputation and standing

Criteria for deciding whether an applicant is suitable to be granted permission to manage a syndicate – paragraph 8(c) of the Underwriting Byelaw

2. In deciding whether a *managing agent* is suitable to manage a *syndicate* the *Council* shall have regard to whether the *managing agent* has the resources and capabilities required to manage the *syndicate* together with any other *syndicates* under the management of the *managing agent*, such that the *managing agent* will continue to remain suitable to act as a *managing agent* (having regard to the criteria as set out in paragraph 1).

The *Council* will assess each application on its own merits and in a manner consistent with the legal requirements that apply to the Lloyd's new entrant process.

Principles of relationship and service standards – Part B of the Underwriting Byelaw

3. [Deleted]

Service standards – paragraph 12 of the Underwriting Byelaw

3A. The *Council* has prescribed the following standards and arrangements for the conduct and administration of insurance business at Lloyd's provided always that failure to comply with these standards and arrangements shall not invalidate or call into question any contract or agreement entered into by or on behalf of a *managing agent* or *syndicate* nor shall failure to comply with these standards and arrangements create any right of action or claim in any third party against a *managing agent* or *syndicate*, the authority to enforce compliance being exclusively vested in the *Council* –

(a) a *managing agent* shall not permit the syndicate stamp of a *syndicate* managed by it to be affixed to any contract or contracts of insurance unless –

(i) the contract is in the format and has been completed in accordance with the guidance issued by the London Market Group (or any successor body fulfilling the same role) from time to time ;

(ii) the contract is marked as "Exempt" from the format prescribed in paragraph (i) by reason of client requirement; or

(iii) the contract relates to *motor business*, *personal lines business* or *term life insurance business* and the contract will not be processed by LPSO Limited;

(b) a *managing agent* shall not permit the syndicate stamp of a *syndicate* managed by it to be affixed to any *binding authority* unless the *binding authority* has been completed in accordance with the relevant guidelines from time to time issued by the London Market Group (or any successor body fulfilling the same role);

(c) a *managing agent* shall not permit the *syndicate* stamp of a *syndicate* managed by it to be affixed to any *line slip* unless the *line slip* has been completed in accordance with the relevant guidelines from time to time issued by the London Market Group (or any successor body fulfilling the same role).

3B. Lloyd's has established a Volume Claims Service and, under that service, a managing agent may enter into arrangements with a service provider recognised and accredited by

the *Council* as being suitable to determine claims within the scope of the service within the contractually required service standards.

In that context, in deciding whether a service provider is suitable at all times to be recognised as an accredited service provider the *Council* shall have regard to the following matters –

(a) whether the service provider is a competent, proficient and capable organisation to provide a volume claims service. In considering this the *Council* shall have regard to the following matters –

(i) the service provider's ISAE 3402 report (or other suitable report) prepared by a reputable professional services firm or such other report as may be determined by the *Council*;

(ii) the quality of the service provider's human resources including –

- the competence, knowledge, experience and reputation of the service provider's directors;
- the competence, knowledge, experience and reputation of the service provider's staff and, in particular, of the service provider's claims adjusting staff and their knowledge and experience of –

  - providing a volume claims service;
  - the relevant classes of business; and
  - London market processes and systems;

(iii) the adequacy of the service provider's human resources including –

- the number of staff that the service provider will assign or dedicate to the provision of the volume claims service;
- how those staff will be organised and grouped including by geographical location;
- the service providers plans for managing workflow and the day to day and periodic peaks and troughs of demand; and
- the service provider's plans and strategy for recruiting, retaining, developing, training and replacing staff;

(iv) the quality and adequacy of the service provider's other resources including –

- the quality, adequacy and compatibility of the service provider's systems and information and technology systems and, in particular, of its systems for –

    - the tracking and management of claims whilst they are being determined and the recording of the reasons for decisions;
    - the setting, adjustment and recording of case reserves; and
    - fraud and counter-fraud management , the handling of suspicious loss notifications and the reduction of 'claims leakage';
    - the capturing and reporting of management information and data, in particular, for managing information relating to contractual service standards;

- the quality and adequacy of the service providers accounting and invoicing arrangements; and
- its reliance on outsourced service providers or sub-contractors and the quality and adequacy of the governance supporting such arrangements;

(v) the service provider's approach and any track record in providing a volume claims service and in particular to –

- meeting the required service standards and complying the terms of the standard form of volume claims service contract;
- claims and service management and to continuous improvement;
- fraud and counter-fraud management , the handling of suspicious loss notifications and the reduction of 'claims leakage';
- to setting reserves in accordance with clear and concise processes, procedures and philosophy using clear and auditable documentation with appropriate management oversight and audit;
- appointing and managing third party experts including determining whether a third party expert is required, defining the third party's instructions and objectives;
- identifying breaches of international sanctions by policyholders, claimants or beneficiaries of claims payments; and
- maintaining appropriate claims files.

(vi) the quality and adequacy of the service providers' compliance arrangements and, in particular, its arrangements for –

- business continuity and disaster recovery arrangements;

- arrangements for the identification, disclosure and management of conflicts of interest;
- data protection compliance;
- complaints reporting having to regard Lloyd's requirements;
- Lloyd's claims management principles and minimum standards;
- sanctions monitoring; and
- other legal and regulatory compliance including compliance with the Bribery Act;

(b) the service provider's solvency and the adequacy of its financial resources and professional indemnity insurance;

(c) the service provider's standing and reputation and the standing and reputation of its controllers;

(d) the suitability of the location of the service provider's premises from which services will be provided; and

(e) the quality of the service provider's –

- relationship management arrangements;
- outsources service providers and sub-contractors;
- risk management and insurance arrangements;
- claims quality assurance framework; and
- compliance with appropriate principles of good corporate governance.

3C. The Council has prescribed the Principles for Doing Business at Lloyd's, which set out the fundamental responsibilities expected of all managing agents.

Underwriting – Part D of the Underwriting Byelaw

Underwriting guidelines – paragraph 24 of the Underwriting Byelaw

4. The *underwriting guidelines* made and issued by the *Council* relating to run-off are set out in Market Bulletin Y4829 (Amended Run-Off Guidelines) issued on 8 October 2014.

Risk management requirements – Part E of the Underwriting Byelaw

Codes of practice – paragraph 31 of the Underwriting Byelaw

5. The *Council* has made and issued the following *codes of practice* –

(a) Code of Practice - Delegated Underwriting
(b) Service Companies Code of Practice
(c) Code for Underwriting Agent's Syndicate Expenses
(d) Code for Underwriting Members' Agents: Responsibilities to Members
(e) Code for Underwriting Agents: UK Personal Lines Claims & Complaints Handling

Consent to changes – paragraph 32 of the Underwriting Byelaw

6. No *underwriting agent* shall permit any of the following events to occur without the prior written consent of the *Council* –

(a) In the case of a *managing agent*, the appointment or removal of a *person* as a *managing agent's trustee* or the appointment by any *managing agent's trustee* (in his capacity as such) of any *person* as attorney.

Advance Consents – paragraph 33 of the Underwriting Byelaw

6A Subject to the conditions and requirements prescribed, the *Council* has waived the requirement to obtain the consent of the *Council* in relation to *requirements of the Council* as set out in Market Bulletin Y3116 (Advance Consents Regime) as modified by Market Bulletin Y4126 (Streamlining Approval of Appointments to Senior Positions Individual Registration Advance Consents for fully aligned syndicates and Change of Control for Underwriting Agents).

Notification of changes - paragraph 34 of the Underwriting Byelaw

7. An *underwriting agent*, and in the case of paragraph 7(e), also an *approved run-off company*, shall without delay notify the *Council* in writing if any of the following events occur –

(a) an event that must be notified to the *Financial Conduct Authority* via Lloyd's in accordance with the Supervision Arrangements for Underwriting Agents between the *Financial Conduct Authority* and the *Society*. Namely –

(i) the appointment of an auditor and information about the auditor in accordance with the *Financial Conduct Authority's* Handbook (SUP 3.3.2

R(2) and (5)) and the *Prudential Regulation Authority's* Handbook (Auditors 2.1);

(ii) the notification of matters raised by an auditor in accordance with the *Financial Conduct Authority's* Handbook (SUP 3.7.2 G) and the *Prudential Regulation Authority's* Handbook (Auditors 6.1);

(iii) the termination of an auditor's term of office in accordance with the *Financial Conduct Authority's* Handbook (SUP 3.8.11 R and SUP 3.8.12 R) or if an auditor resigns before the term of office expires in accordance with the *Prudential Regulation Authority's* Handbook (Auditors 7.5(3));

(iv) the general notification requirements in accordance with the *Financial Conduct Authority's* Handbook (SUP 15.3) and the *Prudential Regulation Authority's* Handbook (Notifications 2.1) including –

i. matters having serious regulatory impact (*FCA*, SUP 15.3.1 R and *PRA* Fundamental Rule 7);

ii. communication with the *FCA* in accordance with Principle 11 (SUP 15.3.7 G);

iii. breaches of rules and other requirements in or under the Financial Services and Markets Act 2000 (*FCA*, SUP 15.3.11 R and *PRA*, Notifications 2.3);

iv. civil, criminal or disciplinary proceedings against a firm (*FCA*, SUP 15.3.15 R and *PRA*, Notifications 2.6(1));

v. fraud, errors or other irregularities (*FCA*, SUP 15.3.17 R *PRA*, Notifications 2.6(4));

vi. insolvency, bankruptcy and winding up (*FCA*, SUP 15.3.21 R *PRA*, Notifications 2.9(7));

(v) the Core information requirements in accordance with the *Financial Conduct Authority's* Handbook (*FCA*, SUP 15.5 and *PRA*, Notifications 5);

(vi) where an *underwriting agent* becomes aware that inaccurate, false or misleading information has previously been provided, in accordance with the *Financial Conduct Authority's* Handbook (SUP 15.6 and *PRA*, Notifications 6);

(vii) the change of an accounting reference date in accordance with the *Financial Conduct Authority's* Handbook (*FCA*, SUP 16.3.17 R and *PRA*, Notifications 5.3A);

(viii) annual controllers report in accordance with the *Financial Conduct Authority's* Handbook (*FCA*, SUP 16.4 and *PRA*, Reporting 2.1, SS34/15 and Fundamental Rule 6); and

(ix) annual close links report in accordance with the *Financial Conduct Authority's* Handbook (*FCA*, SUP 16.5 and *PRA*, Close Links 2.1);

(b) [deleted by The Legislative Reform (Lloyd's) Order (Market Provisions) Byelaw (No.1 of 2009).]

(c) in the case of a *managing agent*, the death or resignation of, or the occurrence of any *notifiable event* in relation to any *managing agent's trustee*; and

(d) in the case of a *managing agent*, if at any time the *syndicate premium income* allocable to any year account of a *syndicate* managed by it exceeds or appears to have exceeded or likely to exceed the *syndicate allocated capacity* for that year of account. The notification shall include full particulars of the extent of the excess or expected excess, the reasons why the excess has arisen or is expected to arise and what remedial action the *managing agent* has taken or proposes to take.

(e) in the case of an *underwriting agent* or *approved run-off company,* there are any changes of a kind prescribed from time to time by the *Council* relating to the appointment of directors (and in the case of an *approved run-off company*, partners), *active underwriters* or *run-off managers*. The detailed requirements prescribed by the *Council* for the provision of information are set out in Market Bulletin Y4126 (Streamlining Approval of Appointments to Senior Positions (Individual Registration), Advance Consents for fully-aligned syndicates and Change of Control for Underwriting Agents) issued on 22 February 2008.

Disaster scenarios – paragraph 35 of the Underwriting Byelaw

8. Details of the disaster scenarios prescribed by the *Council* and the requirements relating to the realistic disaster reports are set out at www.lloyds.com/rds.

Syndicate premium income – paragraph 36 of the Underwriting Byelaw

9. When calculating *syndicate premium income*, *managing agents* shall –

(a) allocate insurance business underwritten through a *syndicate* to a year of account in accordance with the accounting policies adopted in respect of that *syndicate*;

(b) allocate *premium income* to the same year of account as the insurance business out of which it arises unless that year of account of the *syndicate* has been reinsured to close in which case any payments subsequently received or made by way of additional premiums or returns in respect of such business shall be allocated to the reinsuring *syndicate*;

(c) where a year of account of a *syndicate* is closed by reinsuring all liabilities outstanding in respect of insurance business allocated to it into a later year of account of –

(i) the same *syndicate*, the premium in respect of such reinsurance to close shall not itself be treated as *premium income* allocable to the later year of that *syndicate*;

(ii) another *syndicate*, the premium in respect of such reinsurance to close shall, unless the *Council* otherwise directs, be treated as *premium income* allocable to the later year of that *syndicate*;

(d) treat *premium income* as being credited to a *member* –

(i) where it arises out of insurance business processed through the central accounting system, in accordance with the central accounting system;
(ii) where it arises out of other insurance business, in accordance with the accounting policies adopted by the *managing agent* of the *syndicate* through which that business is underwritten.

(e) convert *premium income* which is credited in a currency other than sterling in accordance with the rates set by the *Council* from time to time for a year of account and shown on the Lloyd's Core Market Return system.

(f) treat premiums paid by a *member* of a *syndicate* under a reinsurance contract which satisfies the requirements for *qualifying quota share contracts* set out in Market Bulletin Y3024 (Qualifying Quota Share Reinsurance Arrangements For The 2003 Year Of Account) issued on 2 April 2003 as *qualifying reinsurance premiums*.

Reports relating to syndicate premium income – paragraph 39 of the Underwriting Byelaw

10. The requirements prescribed by the *Council* regarding *syndicate premium income* forecasts and *syndicate premium income* monitoring are set out in the Lloyd's Core Market Return system.

Criteria for determining whether a person is fit and proper or otherwise suitable – Paragraph 42A of the Underwriting Byelaw

10A In determining whether a *person* is fit and proper or otherwise suitable to act as a director of an *underwriting agent,* director or partner of an *approved run-off company,* as an *active underwriter* or *run-off manager*, the *Council* may take into account any consideration it thinks fit including but not limited to:

(a) the *person's* integrity;
(b) the *person's* professional competence;
(c) the *person's* compliance with any regulatory requirements or any *requirements of the Council*;
(d) the *person's* business conduct;

(e) the professional and administrative support to be provided to the *person*;
(f) whether the *person* has passed or secured exemption from any examinations required by the *Council.*

Financial resources and financial returns – Part F of the Underwriting Byelaw

Financial resources – paragraph 49 of the Underwriting Byelaw

11. The requirements prescribed by the *Council* regarding the possession by *underwriting agents* of financial resources and capital and the maintenance of solvency margins are set out in Market Bulletin Y3086 (Underwriting Agents Financial Resource Requirements (FRRs)) issued on 30 June 2003.

Financial returns – paragraphs 50 and 51 of the Underwriting Byelaw

12. The requirements prescribed by the *Council* in respect of *quarterly financial returns* and *annual financial returns* are set out in Market Bulletin Y3086 (Underwriting Agents Financial Resource Requirements (FRRs)) issued on 30 June 2003 and in Market Bulletin Y4030 (Payment of managing agent's profit commission in line with interim profits released to members) issued on 27 June 2007.

Run-off – Part L of the Underwriting Byelaw

Delegation of run-off functions – paragraph 86 of the Underwriting Byelaw

13. The following functions undertaken in the management of a *run-off syndicate* or a *run-off account* shall be called *executive functions* –

(a) responsibility for *syndicate* strategy, including –

(i) approval of forecasts and budgets;
(ii) claims reserving and commutation policy and approval;
(iii) annual solvency and *syndicate* accounts;
(iv) compliance with the *requirements of the Council*;
(v) management and control of expenses;

(b) reporting and accounting to *members*;
(c) performance of duties under *premiums trust deed* – including (but not limited to) investment management policy;
(d) management of conflicts of interest between *syndicates* and years of account; and
(e) responsibility for the performance of any delegated or sub–contracted functions.

14. The following functions undertaken in the management of a *run-off syndicate* or a *run-off account* shall be called *insurance functions* –

(a) claims adjusting;
(b) identifying reinsurance recoveries;
(c) purchasing reinsurance;
(d) evaluating reinsurance security;
(e) effecting commutations, negotiations and set–off of inwards and outwards business;
(f) preparing and maintaining reserving and actuarial data; and
(g) undertaking cash and investment management.

15. The following functions undertaken in the management of a *run-off syndicate* or a *run-off account* shall be called *administrative and processing functions* –

(a) maintaining policy risk records;
(b) administering and processing claims;
(c) aggregating claims and calculating reinsurance recoveries;
(d) credit control in collecting reinsurance recoveries; and
(e) maintaining statistical records.

Dispute resolution and appeals – Part M of the Underwriting Byelaw

Dispute resolution

16. The following arrangements and procedures are designed to resolve disputes between *underwriting agents* and the *Council* arising under the Underwriting Byelaw in a timely, constructive and cost effective manner.

1. "Minded to" decisions and reasons

1.1 Before a decision is taken by or on behalf of the *Council* which will be unfavourable to a specific *underwriting agent*, the decision taker will, unless he considers that the circumstances make it inappropriate or impractical to do so –

(a) inform the *underwriting agent* that the decision taker is minded to decide the matter in that way;
(b) provide the *underwriting agent* with the decision taker's reasons for deciding the matter in that way; and
(c) provide the *underwriting agent* with an opportunity to make representations to the decision taker prior to the decision being taken.

1.2 Where a decision is taken by or on behalf of the *Council* which is unfavourable to a specific *underwriting agent* the decision taker, will unless he considers that the circumstances make it inappropriate or impractical to do so, provide the *underwriting agent* with the decision taker's reasons for deciding the matter in that way.

2. Requests to review decisions taken on behalf of the Council

Step 1 – Submitting a request for a decision to be reviewed

2.1 In the event that a decision is taken on behalf of the *Council* which is unfavourable to a specific *underwriting agent*, the *underwriting agent* may, where it reasonably and objectively considers the decision to be wrong or unreasonable, request that the decision is reviewed (a "*request*").

2.2 A *request* shall be made in writing as soon as reasonably practicable following receipt of the decision. The *request* shall include an explanation as to why the *underwriting agent* considers that the decision is either wrong or unreasonable. The *request* shall be made on behalf of the board of directors of the *underwriting*

agent and shall be signed by a director of the *underwriting agent*. The *request* shall be submitted to the decision taker.

Step 2 – Review of the decision by the original decision taker

2.3 Following receipt of the *request*, and at the request of either the original decision taker or the *underwriting agent*, the original decision taker shall review the *request* and may, where he considers appropriate, amend, modify or withdraw his decision. Where neither the original decision taker nor the *underwriting agent* have requested for the original decision taker to review the *request*, the *request* shall be handled in accordance with Step 3.

Step 3 – Review of the decision by a director

2.4 Where neither the original decision taker nor the *underwriting agent* have requested that the original decision taker reviews the *request*, or where the original decision taker, after review of the *request*, does not propose to amend, modify or withdraw his decision, the *underwriting agent* may request that a director review the *request*. The *request* shall be reviewed by a director and, where the director considers appropriate, the decision may be amended, modified or withdrawn.

Step 4 – Review of the decision by a Sub-committee of the Council

2.5 If, following the review of the *request* by a director, the *underwriting agent* still reasonably and objectively considers the decision to be wrong or unreasonable, the *underwriting agent* may request that a sub-committee of the *Council* review the *request*. The *request* shall be reviewed by a sub-committee of the *Council* and, where they consider appropriate, the decision may be amended, modified or withdrawn.

Step 5 – Application for permission to appeal to the Appeal Tribunal

2.6 Where, following a review of the *request* by a sub-committee of the *Council*, the *underwriting agent* wishes to apply for permission to appeal to the *Appeal Tribunal*, the *underwriting agent* may make an application to the *independent non-executive members of the Council* to do so. The application shall be made in writing as soon as reasonably practicable. The application shall be made on behalf of the board of directors of the *underwriting agent* and shall be signed by two directors. The application shall be submitted to the Secretary to the *Council*.

2.7 The *independent non-executive members of the Council* may, where they consider appropriate, give permission to the *underwriting agent* to appeal to the *Appeal Tribunal*.

3. Request to review decisions taken by the Council itself

Step 1- submitting a request for a decision to be reviewed

3.1 In the event that a decision is taken by the *Council* which is unfavourable to a specific *underwriting agent*, the *underwriting agent* may, where it reasonably and objectively considers the decision to be wrong or unreasonable, request that the decision is reviewed (a "*request*").

3.2 A *request* shall be made in writing as soon as reasonably practicable following receipt of the decision. The *request* shall include an explanation as to why the *underwriting agent* considers that the decision is either wrong or unreasonable. The *request* shall be made on behalf of the board of directors of the *underwriting agent* and shall be signed by two directors of the *underwriting agent*. The *request* shall be submitted to Secretary to the *Council*.

Step 2 – Review of the decision by the Council

3.3 The *Council* shall review the *request* and may, where it considers appropriate, amend, modify or withdraw the decision.

Step 3 – Application for permission to appeal to the Appeal Tribunal

3.4 Where, following a review of the *request* by the *Council*, the *underwriting agent* wishes to apply for permission to appeal to the *Appeal Tribunal*, the *underwriting agent* may make an application to the *independent non-executive directors of the Council* to do so. The application shall be made in writing as soon as reasonably practicable. The application shall be made on behalf of the board of directors of the *underwriting agent* and shall be signed by two directors. The application shall be submitted to the Secretary to the *Council*.

3.5 The *independent non-executive directors of the Council* may, where they consider appropriate, give permission to the *underwriting agent* to appeal to the *Appeal Tribunal*.