

UNDERWRITING (AMENDMENT NO. 2) BYELAW (NO. 2 OF 2018)

Explanatory note

The purpose of this byelaw is to amend certain provisions of the Underwriting Byelaw and certain defined terms in the Definitions Byelaw which are used in the Underwriting Byelaw. In particular, the amendments to the Underwriting Byelaw allow managing agents to provide services to Lloyd's Insurance Company S.A. and to accept (on behalf of their syndicate members) the reinsurance of Lloyd's Insurance Company S.A. directly therefrom. The amendments to both Byelaws also update various statutory and byelaw references and delete or replace spent provisions.

The Council of Lloyd's in exercise of its powers under section 6(2) of, and paragraphs (13) and (19) of Schedule 2 to, Lloyd's Act 1982 by special resolution makes the following byelaw.

Interpretation

1. In this byelaw "the principal byelaw" means the Underwriting Byelaw (No. 2 of 2003).
2. Unless the context otherwise requires, expressions defined in the principal byelaw have the same meanings in this byelaw.

Amendments of principal byelaw

3. The Contents section of the principal byelaw is amended in Part E by substituting for the heading "Financial Services Authority" "Prudential Regulation Authority and Financial Conduct Authority".
4. Paragraph 8(a) of the principal byelaw is amended by substituting for "*Financial Services Authority's Requirements*" "*Prudential Regulation Authority's requirements and Financial Conduct Authority's requirements*".
5. Paragraph 27 of the principal byelaw is amended -
 - (a) in sub-paragraph (f)(i), by substituting for "Insurance Mediation Directive (No. 2002/92/EC)" "Insurance Distribution Directive (EU) 2016/97" and by substituting for "*Financial Services Authority's Requirements*" "*Prudential Regulation Authority's requirements and Financial Conduct Authority's requirements*";
 - (b) in sub-paragraph (g), by substituting for "Lloyd's Reinsurance Company (China) Limited" "Lloyd's Insurance Company (China) Limited";
 - (c) by inserting as a new sub-paragraph (h) "in respect of reinsurance of Lloyd's Insurance Company S.A. directly from Lloyd's Insurance Company S.A.;" and
 - (d) by renumbering sub-paragraphs (h) and (i) as sub-paragraphs (i) and (j) respectively.
6. Paragraph 30 of the principal byelaw is amended –
 - (a) by substituting for the heading "Financial Services Authority" "Prudential Regulation Authority and Financial Conduct Authority"; and
 - (b) by substituting for "*Financial Services Authority's Requirements*" "*Prudential Regulation Authority's requirements and Financial Conduct Authority's requirements*".

7. Paragraph 45 of the principal byelaw is amended by substituting for “its business as such at Lloyd’s and any other business which the *Franchise Board* may permit” “(i) its business as such at Lloyd’s, (ii) in the case of a *managing agent*, acting as an outsourced service provider to Lloyd’s Insurance Company S.A. pursuant to an outsourcing agreement with Lloyd’s Insurance Company S.A., and (iii) any other business which the *Franchise Board* may permit”.
8. Paragraph 46 of the principal byelaw is amended by substituting for “Financial Services Authority” “*Prudential Regulation Authority* or *Financial Conduct Authority*”.
9. Paragraph 63(d) of the principal byelaw is amended by substituting for “*Financial Services Authority’s Requirements*” “*Prudential Regulation Authority’s requirements* and *Financial Conduct Authority’s requirements*”.
10. Paragraph 77 of the principal byelaw is amended by –
 - (a) deleting “and FSA”; and
 - (b) inserting after “applicable Lloyd’s requirements” “and any applicable *Prudential Regulation Authority’s requirements* and *Financial Conduct Authority’s requirements*”.
11. Paragraph 91 of the principal byelaw is amended by substituting for “Appeal Tribunal Byelaw (No. 32 of 1996)” “Enforcement Byelaw (No. 6 of 2005)”.
12. Paragraph 92 is deleted.

Miscellaneous matters
13. The Definitions Byelaw (No. 7 of 2005) is amended as follows -
 - (a) in clause 1 -
 - (i) in the definition of “accounting standards”, by substituting for “section 256 of the Companies Act 1985” “section 464 of the Companies Act 2006”;
 - (ii) in the definition of “admissible asset”, by substituting for “*Financial Services Authority*” “*Prudential Regulation Authority*”;
 - (iii) in the definition of “central assets”, by substituting for “*Financial Services Authority*” “*Prudential Regulation Authority*”;
 - (iv) in the definition of “counterparty”, by substituting for “*Financial Services Authority*” “*Prudential Regulation Authority*”;
 - (v) by inserting after the definition of “external member of the Society” -

“Financial Conduct Authority” means the body corporate known by that name with the functions conferred on it by or under the Financial Services and Markets Act 2000;

“Financial Conduct Authority’s requirements” means any rule, direction, requirement, principle, evidential provision, code or guidance made, given or issued by the Financial Conduct Authority;

- (vi) by deleting the definitions of “Financial Services Authority” and “Financial Services Authority’s requirements”;
- (vii) by deleting the definition of “General Insurance Standards Council”;
- (viii) by deleting the definition of “GENPRU”;
- (ix) by deleting the definition of “INSPRU”;
- (x) in the definition of “insurance business”, by substituting for “*Financial Services Authority*” “*Prudential Regulation Authority*”;
- (xi) by deleting the definition of “IPRU(INS)”;
- (xii) in the definition of “minimum capital requirement”, by substituting for “the Glossary made by the FSA” “the Part of the PRA Rulebook by that name applicable to Solvency II firms” and by deleting “by *GENPRU 2.3*”;
- (xiii) by inserting after the definition of “overseas insurance business” -

““own funds” has the meaning given in the Glossary made by the *Prudential Regulation Authority*;”
- (xiv) by inserting after the definition of “personal reserve funds” -

““PRA Rulebook” means the rules made and enforced by the *Prudential Regulation Authority*;”
- (xv) by inserting after the definition of “proxy notification address” -

““Prudential Regulation Authority” means the Bank of England, whose functions as the Prudential Regulation Authority conferred on it by or under the Financial Services and Markets Act 2000 are exercised by it acting through its Prudential Regulation Committee;

“Prudential Regulation Authority’s requirements” means any rule, direction, requirement, principle, evidential provision, code or guidance made, given or issued by the Prudential Regulation Authority;”
- (xvi) by deleting the definition of “relevant liabilities”; and
- (xvii) in the definition of “solvency shortfall”, by substituting for “the value of *admissible assets* held in respect of the *member* (after deduction of the amount by which those assets exceed the limits set out in *INSPRU 2.1* and disregarding any *central assets*) falls short of the aggregate value of the member's *relevant liabilities* and *MCR*” “the amount by

which the value of *own funds* attributable to the member falls below the reporting point for the member as determined under the Minimum Capital Requirement Part of the *PRA Rulebook*".

Commencement and application

14. This byelaw shall come into force on 6 December 2018.