
STATUTORY INSTRUMENTS

2004 No. 3219

**The Insurance Accounts Directive (Lloyd's Syndicate
and Aggregate Accounts) Regulations 2004**

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2004 and come into force on 31st December 2004.

Interpretation

2.—(1) In these Regulations—

“the 1985 Act” means the Companies Act 1985(1);

“the Authority” means the Financial Services Authority;

“the Council of Lloyd's” means the Council constituted by section 3 of the Lloyd's Act 1982;

“financial year” means the period of 12 months beginning on 1st January;

“Lloyd's byelaws” means the byelaws made under the Lloyd's Acts 1871 to 1982;

“managing agent” means a person who is permitted by the Council of Lloyd's, in the conduct of his business as an underwriting agent, to perform, for a member of Lloyd's, one or more of the following functions—

(a) underwriting contracts of insurance at Lloyd's;

(b) reinsuring such contracts in whole or in part;

(c) paying claims on such contracts;

“syndicate” means one or more persons, to whom a syndicate number has been assigned by or under the authority of the Council of Lloyd's, carrying out or effecting contracts of insurance written at Lloyd's.

(2) In these Regulations any reference to the accounts required by or prepared under regulation 3 is a reference to the annual accounts, annual report and auditors' report required by or prepared under paragraph (2) of that regulation.

(3) In these Regulations an underwriting year of account is closed—

(a) at the time when a contract of reinsurance to close that year of account, which complies with the requirements in the Lloyd's byelaws, takes effect; or

(b) in the case of a syndicate which consists of a single corporate member, at the time when an amount representing the provision for all known and unknown liabilities attributable

to the closing year of account, is included in the underwriting account for the following underwriting year.

(4) Other expressions used in these Regulations have the meanings ascribed to them by the 1985 Act.

PART 2

Syndicate accounts

Preparation of syndicate annual accounts

3.—(1) Managing agents must prepare or cause to be prepared the accounts and reports required by paragraph (2), in respect of—

- (a) each syndicate that they manage on 31st December; and
- (b) any syndicate that they were the last managing agent to manage during the preceding year and which has no managing agent on 31st December.

(2) Managing agents must, for the financial year preceding 31st December, in respect of each syndicate—

- (a) prepare the annual accounts and annual report; and
- (b) cause to be prepared such an auditors' report,

as would be required under the provisions listed in paragraph (4) below if the syndicate were an insurance company formed and registered under the 1985 Act.

(3) The accounts required by this regulation must—

- (a) be prepared within a period of 3 months beginning immediately after the end of the syndicate's financial year;
- (b) state that they are prepared under this regulation; and
- (c) comply with such of the requirements of the provisions in paragraph (4) as relate to the contents of the required accounts or reports, subject to the modifications in the Schedule to these Regulations.

(4) The provisions referred to in paragraphs (2) and (3) the provisions are the following provisions of the 1985 Act—

- (a) sections 226(1) and (2)(a), 226A, 231 to 234, 234A, 235 to 237, 240, 242B, 255(2);
- (b) paragraphs 11 and 12 of Schedule 5;
- (c) paragraph 6 of Schedule 7;
- (d) Schedule 9A other than—
 - (i) paragraphs 10(2), 61, 64, 65, 72(2), 73;
 - (ii) in paragraph 2(2) the words from “but the following” to the end of that paragraph; and
 - (iii) Part 2 of that Schedule.

(5) For the purposes of the provisions listed in paragraph (4) as applied to accounts prepared under this regulation, these Regulations shall be regarded as part of the requirements of the 1985 Act.

(2) sections 226, 235, 236 and 240 were amended by and section 226A was inserted by the Companies Act 1985 (International Accounting Standards and Other Accounting Amendments) Regulations 2004 (S.I.2004/2947)

(6) Part 2 of the Companies Act 1989(3) (eligibility for appointment as auditors) applies to auditors appointed for the purposes of this regulation subject to any necessary modifications to take account of the fact that the syndicate is unincorporated.

(7) The Schedule to these Regulations has effect for the purpose of modifying the provisions of the 1985 Act listed in paragraph (4), in their application to syndicates.

Preparation of syndicate underwriting year accounts

4.—(1) Managing agents must, in respect of each syndicate for which Regulation 3(1) requires them to ensure the preparation of accounts and reports, prepare or cause to be prepared underwriting year accounts in accordance with paragraph (2), unless—

- (a) no underwriting year of that syndicate has been closed in the preceding financial year or is being closed at the end of that financial year; or
- (b) the members of the syndicate for each underwriting year included in the underwriting year accounts, agree unanimously, in writing, that no underwriting year accounts shall be prepared in respect of that syndicate.

(2) The underwriting year accounts must be an account which—

- (a) is prepared on an underwriting year basis; and
- (b) gives a true and fair view of the result of that underwriting year at closure.

(3) The accounts required by this regulation must—

- (a) be prepared within a period of 3 months beginning immediately after the end of the syndicate's financial year; and
- (b) state that they are prepared under this regulation.

(4) Managing agents must cause to be prepared an auditors' report on the underwriting year accounts required by this regulation stating whether a true and fair view is given of the result of the underwriting year at closure.

(5) Part 2 of the Companies Act 1989 (eligibility for appointment as auditors) applies to auditors appointed for the purposes of this regulation subject to any necessary modifications to take account of the fact that the syndicate is unincorporated.

Accounts to be sent to syndicate members, the Council and the Authority

5.—(1) The managing agent responsible for the preparation of the accounts of a syndicate must send a copy of the accounts prepared under regulations 3 and 4 to every member of Lloyd's who participates in that syndicate and to the Council of Lloyd's, within 3 months from the end of the financial year.

(2) The managing agent responsible for the preparation of the accounts of a syndicate must send a copy of the accounts prepared under regulations 3 and 4 to the Authority within 6 months from the end of the financial year.

(3) References in this regulation to sending, include references to using electronic communications for sending copies of those documents to such address as may for the time being be notified to the managing agent by that person for that purpose.

Publication of syndicate accounts

6. Where a managing agent has sent accounts to the Council of Lloyd's under regulation 5, the Council must—

- (a) make available, on reasonable notice, those accounts for inspection by any person without charge and during business hours at the Council’s head office for a period of three years from the date of signature of each document;
- (b) supply to any person upon request a copy of those accounts (or such part of those accounts as may be requested) at a price not exceeding the administrative cost of making the copy, for a period of three years from the date of signature of each document.

Penalties for non-compliance

7.—(1) If the managing agent of a Lloyd’s syndicate fails to comply with paragraph (1) of regulation 3, within the period referred to in paragraph (3) of that regulation, the managing agent and every person who was a director or partner of it immediately before the end of that period, is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) If the managing agent of a Lloyd’s syndicate fails to comply with paragraph (1) of regulation 4, within the period referred to in paragraph (3) of that regulation, the managing agent and every person who was a director or partner of it immediately before the end of that period, is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) If accounts which are supplied under regulation 5, do not comply with the requirements of regulations 3 and 4, the managing agent of the Lloyd’s syndicate and every person who was a director or partner of it at the time when the accounts were first made available for inspection or supplied, is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) If a managing agent fails to comply with regulation 5(1), it and every person who was a director or partner of it at the time when the failure took place is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) If a managing agent fails to comply with regulation 5(2), it and every person who was a director or partner of it at the time when the failure took place is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) It is a defence for a person charged with an offence under this regulation to show that he took all reasonable steps for securing that the requirements in question would be complied with.

(7) Section 731 of the 1985 Act applies to any offence under this regulation.

PART 3

Aggregate accounts

Preparation of aggregate accounts by Council of Lloyd's

8.—(1) The members of the Council of Lloyd’s must prepare aggregate accounts in respect of each financial year by cumulating all the syndicate annual accounts prepared in accordance with regulation 3 for that year.

(2) The aggregate accounts must consist of—

- (a) an aggregate balance sheet as at the last day of the year; and
- (b) an aggregate profit and loss account.

Those accounts are referred to in these Regulations as the “aggregate accounts”.

(3) The aggregate accounts must—

- (a) be prepared within the period of 6 months beginning immediately after the end of the financial year; and

(b) state that they are prepared under these Regulations.

(4) The aggregate accounts must comply with the provisions of Schedule 9A to the 1985 Act as to the form and content of the aggregate balance sheet and aggregate profit and loss account, and additional information to be provided by way of notes to the accounts, apart from the provisions set out in paragraph (5).

(5) The provisions are the following—

- (a) paragraphs 10(2), 61, 64, 65, 68, 70, 72(2), 73;
- (b) in paragraph 2(2) the words from “but the following” to the end; and
- (c) Part 2 of that Schedule.

Approval and signing of aggregate accounts

9.—(1) The aggregate accounts must be approved by the Council of Lloyd’s and signed on behalf of the Council by a member of the Council.

(2) The signature must be on the aggregate balance sheet.

(3) Every copy of the aggregate balance sheet which is circulated, published or issued must state the name of the person who signed it on behalf of the Council.

(4) The copy of the aggregate balance sheet which is delivered to the Authority must be signed on behalf of the Council by a member of the Council.

Preparation of annual report by the Council of Lloyd's

10.—(1) The members of the Council of Lloyd’s must prepare an annual report on the insurance business carried on by the members of Lloyd’s containing—

- (a) a fair review of the insurance business carried on by the members of Lloyd’s during the financial year, and of the position of the Lloyd’s market at the end of it, consisting of a balanced and comprehensive analysis of the development and performance of the business of the members of Lloyd’s; and
- (b) a description of the principal risks and uncertainties facing the Lloyd’s market.

(2) The business review in the Council of Lloyd's' annual report must include, to the extent necessary for an understanding of the development, performance or position of the insurance business of the members of Lloyd's—

- (a) analysis using financial key performance indicators; and
- (b) where appropriate, analysis using other key performance indicators.

(3) The review must, where appropriate, include references to and additional explanations of amounts included in the aggregate accounts.

(4) In this regulation “key performance indicators” means factors by reference to which the development, performance or position of the insurance business of the members of Lloyd’s can be measured most effectively.

Approval and signing of annual report

11.—(1) The annual report prepared under regulation 10 above must be approved by the Council of Lloyd’s and signed on behalf of the Council by a member of the Council.

(2) Every copy of the annual report which is circulated, published or issued, must state the name of the person who signed it on behalf of the Council.

(3) The copy of the annual report which is delivered to the Authority must be signed on behalf of the Council by a member of the Council.

Auditors' report

12.—(1) The members of the Council of Lloyd's must obtain an auditors' report on the aggregate accounts.

(2) The auditors' report shall include—

- (a) an introduction identifying the aggregate accounts that are the subject of the report and the financial reporting framework that has been applied in their preparation;
- (b) a description of the scope of the review carried out by the auditors and identifying the standards in accordance with which the review was conducted;
- (c) a clear statement as to whether, in their opinion, the aggregate accounts have been properly prepared in accordance with the requirements of these Regulations and whether those accounts are correctly aggregated.

(3) The auditors' report—

- (a) must be either unqualified or qualified; and
- (b) must include a reference to any matters to which the auditors wish to draw attention by way of emphasis without qualifying the report.

(4) The auditors' report must state whether, in their opinion, the annual report of the Council of Lloyd's—

- (a) is consistent with the aggregate accounts for the same financial year; and
- (b) has been prepared in accordance with these Regulations.

Signature of auditors' report

13.—(1) The auditors' report must state the names of the auditors and be signed and dated by them.

(2) Every copy of the auditors' report which is circulated, published or issued must state the names of the auditors.

(3) The copy of the auditors' report which is delivered to the Authority must state the names of the auditors and be signed and dated by them.

(4) References in this regulation to signature by the auditors are, where the office of auditor is held by a body corporate or partnership, to signature in the name of the body corporate or partnership by a person authorised to sign on its behalf.

Appointment of and duties of auditors

14.—(1) Part 2 of the Companies Act 1989 (eligibility for appointment as auditors) applies to auditors appointed by the Council of Lloyd's to report on the aggregate accounts.

(2) The auditors of the aggregate accounts must, in preparing their report, carry out such investigations as will enable them to form an opinion as to whether the aggregate accounts are properly prepared and a correct aggregation of the syndicate accounts which have been cumulated to prepare them.

(3) If those auditors are of the opinion that the aggregate accounts are not properly prepared or not a correct aggregation of the syndicate accounts which have been cumulated to prepare them, the auditors must state that fact in their report.

(4) If those auditors fail to obtain all the information and explanations which, to the best of their knowledge and belief, are necessary for the purposes of their report, they must state that fact in their report.

Aggregate accounts and annual report of Council to be delivered to the Authority and published

15.—(1) The Council of Lloyd’s must deliver to the Authority a copy of the aggregate accounts and its annual report on each financial year within a period of 6 months from the end of that year.

(2) The Council of Lloyd’s must—

- (a) make available, on reasonable notice, the latest aggregate accounts and its latest annual report for inspection by any person, without charge and during business hours, at the Council’s head office; and
- (b) supply to any person upon request a copy of those accounts or that report (or such part of them as may be requested) at a price not exceeding the administrative cost of making the copy.

PART 4

Regulation by the Financial Services Authority

Functions of the Financial Services Authority

16.—(1) The Authority has responsibility for administering the system of regulation of Lloyd’s syndicates and the Council of Lloyd’s provided for by these Regulations.

(2) Proceedings for an offence under these Regulations may be instituted only—

- (a) by the Authority or the Secretary of State; or
- (b) by or with the consent of the Director of Public Prosecutions.

(3) In exercising its power to institute proceedings for an offence under these Regulations, the Authority must comply with any conditions or restrictions imposed in writing by the Treasury.

(4) The Authority may increase any fee which it charges managing agents under the Financial Services and Markets Act 2000⁽⁴⁾ to take account of the expenses incurred in carrying out its functions under these Regulations.

PART 5

Transitional and Consequential Provisions

Transitional provisions

17.—(1) The managing agent of a syndicate need not prepare accounts in accordance with regulations 3 and 4 with respect to a financial year of the syndicate commencing on or before 31st December 2004.

(2) Where advantage is taken of paragraph (1), regulation 7 does not apply to the managing agent.

(3) The members of the Council of Lloyd’s need not—

- (a) prepare aggregate accounts in accordance with regulation 8;
- (b) prepare an annual report in accordance with regulation 10; or
- (c) obtain an auditors’ report in accordance with regulation 12

(4) 2000 c. 8.

with respect to a financial year commencing on or before 31st December 2004.

(4) Nothing in this regulation exempts a managing agent or the Council of Lloyd's from any requirement to include corresponding amounts from previous financial years in syndicate or aggregate accounts prepared in accordance with these Regulations.

Consequential provisions

18.—(1) Regulations 4, 5(2), 6(1)(b), 6(2)(b) and 6(3)(b) of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 1993⁽⁵⁾ are revoked.

(2) In regulations 6(1) and 6(3) of those regulations the following words are deleted—

“or (as the case may be) a member of the Council”.

(3) In regulation 6(2) of those regulations the following words are deleted—

“or (as the case may be) a member of the Council of Lloyd's”.

8th December 2004

Joan Ryan
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Two of the Lords Commissioner of Her
Majesty's Treasury

(5) S.I. 1993/3245.