

## SCHEDULE 1

Regulation 5(3) and (5)

### SYNDICATE ACCOUNTS

#### PART 1

#### GENERAL PROVISIONS

##### **Syndicate's annual accounts**

- 1.—(1) A syndicate's annual accounts must be prepared in accordance with this paragraph.
- (2) Annual accounts must comprise—
  - (a) a balance sheet as at the last day of the financial year; and
  - (b) a profit and loss account.
- (3) The accounts must—
  - (a) in the case of the balance sheet, give a true and fair view of the state of affairs of the syndicate as at the end of the financial year; and
  - (b) in the case of the profit and loss account, give a true and fair view of the profit or loss of the syndicate for the financial year.
- (4) Subject to sub-paragraph (5) the accounts must comply with the provisions of Schedule 3 to the 2008 Regulations, other than the provisions (or parts of provisions) set out in sub-paragraph (7) as to—
  - (a) the form and content of the balance sheet and profit and loss account; and
  - (b) additional information to be provided by way of notes to the accounts.
- (5) The information required by paragraph 90 of Schedule 3 to the 2008 Regulations must be given by the managing agent in relation to any transactions entered into by the managing agent on behalf of the syndicate and must in addition—
  - (a) identify any related party who is an insurance or reinsurance intermediary within the meaning of Article 2 of Directive [2002/92/EC](#) of the European Parliament and of the Council on insurance mediation; and
  - (b) include particulars of the amount of any material transactions concluded otherwise than under normal market conditions with any related party within paragraph (a).
- (6) Where the managing agent has related parties within the meaning of sub-paragraph (5)(a), but there have been no transactions with them which require disclosure under paragraph 90 of Schedule 3 to the 2008 Regulations, the accounts must contain a statement to that effect, and identify any such related parties.
- (7) The provisions in Schedule 3 to the 2008 Regulations referred to in sub-paragraph (4) are—
  - (a) paragraphs 11(2), 68, 71, 72, 82(2), 83; and
  - (b) in paragraph 2(2) the words from “save that none of the following” to the end of that sub-paragraph.
- (8) The syndicate's annual accounts must also include a description of funds which members are required to hold at Lloyd's.
- (9) The description of funds referred to in sub-paragraph (8) need not include particulars of funds held by members of the syndicate.

### **Compliance with Regulations**

- 2.—(1) Where compliance with—
- (a) Schedule 3 to the 2008 Regulations; and
  - (b) these Regulations,

would not be sufficient to give a true and fair view, the additional information necessary to achieve this must be given in the accounts or in a note to them.

(2) If in special circumstances compliance with any of the provisions referred to in sub-paragraph (1) is inconsistent with the requirement to give a true and fair view, the managing agent must depart from that provision to the extent necessary to give a true and fair view.

(3) Particulars of any such departure, the reasons for it and its effect must be given in a note to the accounts.

### **Information about related undertakings**

3. The syndicate's annual accounts must comply with the requirements of regulation 7 of the 2008 Regulations (including the application of Schedule 4 to those Regulations) as to information about related undertakings of the managing agent to be given in notes to the syndicate's accounts.

### **Information about employee numbers and staff**

4.—(1) Subject to sub-paragraph (2), the syndicate's annual accounts must comply with the requirements of section 411 (information about employee numbers and costs) of the 2006 Act in relation to the syndicate as if references in it to a company were treated as references to the managing agent.

(2) Information about employee numbers and costs need only be given under sub-paragraph (1) in relation to employees of the managing agent who have spent any part of their time during the year in question working on behalf of that syndicate.

### **Information about emoluments of managing agents and other benefits of managing and others**

5.—(1) The information specified in sub-paragraph (2) must be given in notes to the syndicate's annual accounts.

- (2) The information is—
- (a) the aggregate amount charged to a syndicate by its managing agent, in respect of emoluments paid to the managing agent's directors, the active underwriter and (where applicable) the run-off manager of the syndicate, in the financial year to which the accounts relate; and
  - (b) the specific amounts charged to a syndicate by its managing agent in respect of emoluments paid to the syndicate's active underwriter and (where applicable) its run-off manager in that financial year.
- (3) In this paragraph, "emoluments"—
- (a) includes salaries, fees and bonuses, sums paid by way of expenses allowance (so far as they are chargeable to United Kingdom income tax) and, subject to paragraph (b), the estimated money value of any other benefits received by the person concerned otherwise than in cash; but
  - (b) does not include any of the following, namely—

- (i) the value of any share options granted or the amount of any gains made on the exercise of any such options;
  - (ii) any contributions paid, or treated as paid, in respect of the person concerned under any pension scheme or any benefits to which that person is entitled under any such scheme; or
  - (iii) any money or other assets paid, received or receivable under any long term incentive scheme.
- (4) In this paragraph—
- “active underwriter” means, in relation to a syndicate, the individual at or deemed by the Council to be at, the underwriting box with principal authority to accept risks on behalf of the members of the syndicate;
- “run-off manager” means, in relation to a run-off syndicate, the person who has principal authority to negotiate or place contracts of reinsurance or negotiate and settle the payment of claims on contracts of insurance or reinsurance on behalf of the members of the syndicate;
- “run-off syndicate” means a syndicate which no longer accepts new or renewal insurance business (other than the variation or extension of risks previously underwritten, or reinsurance to close of an earlier year of account of that syndicate).

#### **Information about directors’ benefits: advances and credit**

6.—(1) The information specified in sub-paragraph (2) must be given in notes to the syndicate’s annual accounts.

- (2) The information is—
- (a) details of any advance or credit granted by the managing agent to its directors, or, where the managing agent is a partnership, to its partners, and charged to the syndicate by the managing agent, namely—
    - (i) the amount of the advance or credit;
    - (ii) an indication of the interest rate;
    - (iii) its main conditions; and
    - (iv) any amounts repaid;
  - (b) the totals of the amounts stated under paragraph (a)(i) and (iv).
- (3) References in this paragraph to the directors or partners of the managing agent are to the persons who were a director or a partner at any time in the financial year to which the accounts relate.
- (4) The requirements of this section apply in relation to every advance or credit subsisting at any time in the financial year to which the accounts relate—
- (a) whenever it was entered into;
  - (b) whether or not the person concerned was a director or partner of the managing agent in question at the time it was entered into.

#### **Off-balance sheet arrangements**

- 7.—(1) If in any financial year—
- (a) a syndicate is or has been party to an arrangement that is not reflected in its balance sheet; and
  - (b) at the balance sheet date the risks or benefits arising from that arrangement are material,
- the information required by this paragraph must be given in notes to the syndicate’s annual accounts.

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- (2) The information required is—
  - (a) the nature and business purpose of the arrangement; and
  - (b) the financial impact of the arrangement on the syndicate.
- (3) The information need only be given to the extent necessary for enabling the financial position of the syndicate to be assessed.

## PART 2

### MANAGING AGENT'S REPORT

#### **Managing agent's report: general requirements**

- 8.—(1) The managing agent's report for a financial year must state—
  - (a) the names of the persons who at any time during the financial year were directors or partners of the managing agent; and
  - (b) the principal activities of the syndicate in the course of the year and any significant change to those activities in the year.
- (2) The managing agent's report must contain—
  - (a) particulars of any important events affecting the syndicate which have occurred since the end of the financial year;
  - (b) an indication of likely future developments in the business of the syndicate; and
  - (c) an indication of the activities (if any) of the syndicate in the field of research and development.

#### **Managing agent's report: business review**

- 9.—(1) The managing agent's report must contain a business review.
- (2) The business review must contain—
  - (a) a fair review of the business of the syndicate; and
  - (b) a description of the principal risks and uncertainties facing the syndicate.
- (3) The review required is a balanced and comprehensive analysis of—
  - (a) the development and performance of the syndicate's business during the financial year; and
  - (b) the position of the syndicate's business at the end of that year,consistent with the size and complexity of the business.
- (4) The review must include to the extent necessary for an understanding of the development, performance or position of the insurance business of the syndicate—
  - (a) analysis using financial key performance indicators; and
  - (b) where appropriate, analysis using other key performance indicators, including information relating to environmental matters and employee matters.
- (5) In sub-paragraph (4), "key performance indicators" means factors by reference to which the development, performance or position of the insurance business of the syndicate can be measured effectively.
- (6) The review must, where appropriate, include references to and additional explanations of amounts included in the syndicate accounts.

(7) Nothing in this paragraph requires the disclosure of information about impending developments or matters in the course of negotiation if the disclosure would, in the opinion of the managing agent, be seriously prejudicial to the interests of the syndicate.

### **Financial instruments**

**10.**—(1) In relation to the use of financial instruments by a syndicate, the managing agent’s report must contain an indication of—

(a) the financial risk management objectives and policies of the syndicate, including the policy for hedging each major type of forecasted transaction for which hedge accounting is used; and

(b) the exposure of the syndicate to price risk, credit risk, liquidity risk and cash flow risk, unless such information is not material for the assessment of the assets, liabilities, financial position and profit or loss of the syndicate.

(2) In sub-paragraph (1) the expressions “hedge accounting”, “price risk”, “credit risk”, “liquidity risk” and “cash flow risk” have the same meaning as they have in Council Directive [78/660/EEC](#) on the annual accounts of certain types of companies, and in Council Directive [83/349/EEC](#) on consolidated accounts<sup>(1)</sup>.

### **Statement as to disclosure of information to auditors**

**11.**—(1) The managing agent’s report must contain a statement to the effect that, in the case of each of the persons who are directors, or, where the managing agent is a partnership, of each of the persons who are partners, of the managing agent at the time the report is approved—

(a) so far as the director or partner is aware, there is no relevant audit information of which the syndicate’s auditor is unaware; and

(b) the director or partner has taken all the steps that he or she ought to have taken as a director or partner to become aware of any relevant audit information and to establish that the syndicate’s auditor is aware of that information.

(2) In sub-paragraph (1) “relevant audit information” means information needed by the syndicate’s auditor in connection with preparing the auditor’s report.

(3) For the purposes of sub-paragraph (1), a director or partner of the managing agent is regarded as having taken all the steps that he or she ought to have taken as a director or partner in order to do the things mentioned in sub-paragraph (1)(b) if the director or partner has—

(a) made such enquiries of fellow directors or partners and of the syndicate’s auditors for that purpose; and

(b) taken such other steps (if any) for that purpose,

as were required by his or her duty as a director or partner of the managing agent of the syndicate to exercise due care, skill and diligence.

(4) Where the managing agent’s report containing the statement required by this paragraph is approved but the statement is false, every director or partner of the managing agent who—

(a) knew that the statement was false, or was reckless as to whether it was false; and

(b) failed to take reasonable steps to prevent the report from being approved,

commits an offence.

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(1) O.J.L222 of 14.8.1978, page 11, and O.J. L193 of 18.7.1983, page 1, as amended in particular by Directives [2001/65/EEC](#) and [2003/51/EEC](#) of the European Parliament and of the Council (O.J. L238 of 27.12.2001, page 28, and O.J. L178 of 17.7.2003, page 16).

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- (5) A person guilty of an offence under sub-paragraph (4) is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both;
  - (b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum, or both.

#### **Approval and signing of managing agent’s report**

**12.**—(1) The managing agent’s report must be approved and signed by the syndicate’s managing agent and, where the managing agent is a body corporate or a partnership, the report must be approved by the board of directors or by the partners and signed by a director or partner of the managing agent, authorised to sign on its behalf.

(2) Every copy of the managing agent’s report which is circulated, published, or issued shall state the name of the person who signed the balance sheet on behalf of the syndicate’s managing agent.

(3) Every copy of the managing agent’s report which is delivered to the Authority must be signed on behalf of the managing agent by a director or partner of the managing agent, authorised to sign on its behalf.

## **PART 3**

### **AUDITORS**

#### **Appointment of syndicate auditors**

**13.**—(1) Subject to sub-paragraph (3), the members of Lloyd’s who participate in a syndicate must appoint its auditor for each financial year, unless the auditor is deemed to be re-appointed in accordance with paragraph 14(2).

(2) For each financial year for which the auditor is to be appointed, the appointment must be made before the end of the period of 28 days beginning with—

- (a) the end of the time allowed under regulation 8(1) for sending out the accounts and reports required by regulation 5 for the previous financial year; or
- (b) if earlier, the day on which copies of the accounts and reports prepared under regulation 5 for the previous financial year are sent out under regulation 8(1).

This is the “period for appointing auditors” for the purposes of this Part of this Schedule.

(3) The managing agent of the syndicate may appoint an auditor for the syndicate—

- (a) at any time before the syndicate’s first period for appointing auditors; or
- (b) to fill a casual vacancy in the office of auditor.

(4) Where no appointment has been made under paragraph (1) by the end of the period for appointing auditors, and the auditor in office is not deemed to be re-appointed under paragraph 14(2)

- (a) the managing agent must within one week from the end of that period give notice in writing to the Authority of that fact; and
- (b) the Authority must appoint an auditor of the syndicate to fill the vacancy as soon as possible.

(5) If the managing agent fail to give the notice required by this paragraph, an offence is committed by—

- (a) the managing agent; and

(b) every director or partner of the managing agent who was in default.

(6) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

#### **Term of office of auditors of syndicate**

**14.**—(1) An auditor of a syndicate holds office in accordance with the terms of his or her appointment, subject to the requirements that—

- (a) the auditor does not take office until any previous auditor ceases to hold office; and
- (b) the auditor ceases to hold office at the end of the next period for appointing auditors unless re-appointed.

(2) Where no auditor has been appointed by the end of the next period for appointing auditors, any auditor in office immediately before that time is deemed to be re-appointed at that time, unless—

- (a) Lloyd’s byelaws require actual re-appointment;
- (b) the deemed re-appointment is prevented by the members of the syndicate under paragraph 15; or
- (c) the members of the syndicate have resolved that the auditor should not be re-appointed.

#### **Prevention by members of deemed re-appointment of auditor**

**15.**—(1) An auditor of a syndicate is not deemed to be re-appointed under paragraph 14(2) if the managing agent has received notices under this paragraph from members of the syndicate representing at least the requisite percentage of the total voting rights of all members of the syndicate who would be entitled to vote on a resolution that the auditor should not be re-appointed.

(2) The “requisite percentage” is 5%, or such lower percentage as is specified for this purpose in Lloyd’s byelaws.

(3) A notice under this paragraph—

- (a) may be in hard copy or electronic form;
- (b) must be authenticated by the person or persons giving it; and
- (c) must be received by the managing agent before the end of the financial year immediately preceding the time when the deemed re-appointment would have effect.

#### **Removal of auditor on improper grounds**

**16.**—(1) Where an auditor of a syndicate is removed from office an application may be made to the High Court under this paragraph.

(2) The persons who may make such an application are—

- (a) any member of the syndicate who was a member at the time the auditor was removed;
- (b) the Society of Lloyd’s; or
- (c) the Authority.

(3) If the Court is satisfied that the removal was—

- (a) on grounds of divergence of opinion on accounting treatments or audit procedures; or
- (b) on any other improper grounds,

it may make such order as it thinks fit for giving relief in respect of the removal.

(4) The Court may, in particular—

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- (a) declare that any decision to remove an auditor, or to appoint a new auditor in place of the auditor, is void;
- (b) require the members of the syndicate to re-appoint the auditor; and
- (c) give directions as to the conduct of the syndicate's affairs in the future.

**Duty of auditor to notify appropriate audit authority**

17.—(1) Where the auditor of the syndicate ceases to hold office before the end of his or her term of office, the auditor must notify in writing the appropriate audit authority.

(2) The notice must—

- (a) inform the appropriate audit authority that the auditor has ceased to hold office; and
- (b) be accompanied by a statement of the reasons for the auditor's ceasing to hold office.

(3) The auditor must give notice under this paragraph—

- (a) if the auditor resigns, at the same time as the auditor first informs the managing agent of the syndicate of his or her resignation (whether by notice or otherwise); and
- (b) in any other case, not later than the end of the period of fourteen days beginning with the date on which the auditor ceases to hold office.

(4) A person ceasing to hold office as auditor who fails to comply with this paragraph commits an offence.

(5) If that person is a firm an offence is committed by—

- (a) the firm; and
- (b) every officer of the firm who is in default.

(6) A person guilty of an offence under this paragraph is liable—

- (a) on conviction on indictment, to a fine;
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

(7) In proceedings for an offence under this paragraph it is a defence for the person charged to show that he or she took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

**Duty of managing agent to notify appropriate audit authority**

18.—(1) Where the auditor of the syndicate ceases to hold office before the end of his or her term of office, the managing agent of the syndicate must notify in writing the appropriate audit authority.

(2) The notice must—

- (a) inform the appropriate audit authority that the auditor has ceased to hold office; and
- (b) be accompanied by a statement of the reasons for the auditor's ceasing to hold office.

(3) The managing agent must give notice under this paragraph—

- (a) if the auditor resigns, not later than the end of the period of fourteen days beginning with the date on which the auditor first informs the managing agent of his or her resignation (whether by notice or otherwise); and
- (b) in any other case, not later than the end of the period of fourteen days beginning with the date on which the auditor ceases to hold office.

(4) If the managing agent fails to comply with this paragraph, an offence is committed by—

- (a) the managing agent; and
- (b) every director or partner of the managing agent who was in default.



- (5) A person guilty of an offence under this paragraph is liable—
- (a) on conviction on indictment, to a fine;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.

(6) In proceedings for an offence under this paragraph it is a defence for the person charged to show that he or she took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

## SCHEDULE 2

Regulations 5(4) and (5) and 18(6)

### AUDITOR'S REMUNERATION

#### **Disclosure required in notes to accounts**

1.—(1) The following information must be disclosed in—

- (a) the notes to a syndicate's annual accounts; and
- (b) the notes to the aggregate accounts.

(2) In this Schedule "the auditor" refers to the syndicate's auditor in the case of a syndicate's annual accounts, and to the auditor of the aggregate accounts in the case of the aggregate accounts.

2.—(1) There must be disclosed in a note to a syndicate's annual accounts and to the aggregate accounts—

- (a) the amount of any remuneration receivable by the auditor for the auditing of the syndicate's annual accounts, or the aggregate accounts, as the case may be; and
- (b) the amount of any remuneration receivable in respect of the financial year by—
  - (i) the auditor; or
  - (ii) any person who was, at any time during that financial year, an associate of the auditor, for the supply of other services to the syndicate or to the managing agent of the syndicate (in the case of the syndicate's annual accounts), or to the Society or the Council of Lloyd's (in the case of the aggregate accounts).

(2) Where the remuneration includes benefits in kind, the nature and estimated money-value of those benefits must also be disclosed in a note.

(3) Separate disclosure is required in respect of the auditing of the accounts in question and of each type of service specified in paragraph 3, but not in respect of each service falling within a type of service.

(4) Separate disclosure is required in respect of services supplied to—

- (a) the syndicate or the Society or the Council of Lloyd's; and
- (b) associated pension schemes.

(5) Where more than one person has been appointed as auditor in respect of the financial year, separate disclosure is required in respect of the remuneration of each such person and his associates.

(6) Disclosure is not required of remuneration receivable for the supply of services falling within paragraph 3(j) supplied by a distant associate of the auditor where the total remuneration receivable for all those services supplied by that associate does not exceed either—

- (a) £10,000; or

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- (b) 1% of the total audit remuneration received by the auditor in the most recent financial year of the auditor which ended no later than the end of the financial year of the syndicate or syndicates to which the syndicate accounts or aggregate accounts relate.
- (7) In this paragraph—
- “associate” and “direct associate” have the meaning given by paragraph 4;
  - “financial year of the auditor” means—
    - (a) the period of not more than 18 months in respect of which the auditor’s profit and loss account is required to be made up (whether by law or in accordance with the auditor’s constitution (if any)); or
    - (b) failing any such requirement, the period of 12 months beginning with 1st April;
  - “remuneration” includes payments in respect of expenses and benefits in kind.
  - “total audit remuneration received” means the total remuneration received for the auditing pursuant to legislation (including that of countries and territories outside the United Kingdom) of any accounts of any person.

### **Disclosure of types of service**

- 3.—(1) The types of service in respect of which disclosure is required are—
- (a) either—
    - (i) the auditing of accounts of associates of the managing agent responsible for managing the syndicate pursuant to legislation (including that of countries and territories outside the United Kingdom), in the case of the syndicate’s annual accounts; or
    - (ii) the auditing of accounts of associates of the Society of Lloyd’s pursuant to legislation (including that of countries and territories outside the United Kingdom), in the case of the aggregate accounts;
  - (b) other services supplied pursuant to such legislation;
  - (c) other services relating to taxation;
  - (d) services relating to information technology;
  - (e) internal audit services;
  - (f) valuation and actuarial services;
  - (g) services relating to litigation;
  - (h) services relating to recruitment and remuneration;
  - (i) services relating to corporate finance transactions entered into or proposed to be entered into on behalf of the managing agent or any of its associates, or the Society of Lloyd’s or any of its associates;
  - (j) all other services.
- (2) References in sub-paragraph (1) to an associate of the managing agent are to—
- (a) any subsidiary of the managing agent, other than a subsidiary in respect of which severe long-term restrictions substantially hinder the exercise of rights of the managing agent over the assets or management of that subsidiary; or
  - (b) any associated pension scheme.
- (3) An “associated pension scheme”, in relation to a managing agent, means a scheme for the provision of benefits for or in respect of directors or employees (or former directors or employees) of the managing agent or any subsidiary of the managing agent where—

- (a) the benefits consist of or include any pension, lump sum, gratuity or other like benefit given or to be given on retirement or on death or in anticipation of retirement or, in connection with past service, after retirement or death; and
- (b) either—
  - (i) a majority of the trustees are appointed by, or by a person acting on behalf of, the managing agent or a subsidiary of the managing agent; or
  - (ii) the managing agent, or a subsidiary of the managing agent, exercises a dominant influence over the appointment of the auditor (if any) of the scheme.
- (4) References in sub-paragraph (1) to an associate of the Society of Lloyd’s are to—
  - (a) any subsidiary of the Society of Lloyd’s, other than a subsidiary in respect of which severe long-term restrictions substantially hinder the exercise of rights of the society over the assets or management of that subsidiary; or
  - (b) any associated pension scheme.
- (5) An “associated pension scheme”, in relation to the Society of Lloyd’s, means a scheme for the provision of benefits for or in respect of members of the Council or employees (or former members of the Council or employees) of the Society or any subsidiary of the Society where—
  - (a) the benefits consist of or include any pension, lump sum, gratuity or other like benefit given or to be given on retirement or on death or in anticipation of retirement or, in connection with past service, after retirement or death; and
  - (b) either—
    - (i) a majority of the trustees are appointed by, or by a person acting on behalf of, the Society or a subsidiary of the Society; or
    - (ii) the Society, or a subsidiary of the Society, exercises a dominant influence over the appointment of the auditor (if any) of the scheme.
- (6) In this paragraph “subsidiary” means a subsidiary undertaking that is a body corporate.

#### **Meaning of “associate of auditor” and “distant associate”**

- 4.—(1) This paragraph defines what is meant in paragraph 2 by an “associate” of the auditor.
- (2) The following are associates of the auditor—
- (a) any person controlled by the auditor or by any associate of the auditor (whether alone or through two or more persons acting together to secure or exercise control), but only if that control does not arise solely by virtue of the auditor or any associate of the auditor acting—
    - (i) as an insolvency practitioner in relation to any person;
    - (ii) in the capacity of a receiver, or a receiver or manager, of the property (or part of the property) of the Society of Lloyd’s, a syndicate, a managing agent or other body corporate; or
    - (iii) as a judicial factor on the estate of any person;
  - (b) any person who, or group of persons acting together which, has control of the auditor;
  - (c) any person using a trading name which is the same as or similar to a trading name used by the auditor, but only if the auditor uses that trading name with the intention of creating the impression of a connection between the auditor and that other person; or
  - (d) any person who is party to an arrangement with the auditor, with or without any other person, under which costs, profits, quality control, business strategy or significant professional resources are shared.

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(3) Where the auditor is a partnership, the following shall also be regarded as associates of the auditor—

- (a) any other partnership which has a partner in common with the auditor;
- (b) any partner in the auditor;
- (c) any body corporate which is in the same group as a body corporate which is a partner in the auditor;
- (d) any body corporate which is in the same group as a body corporate which is a partner in a partnership which has a partner in common with the auditor; or
- (e) any body corporate of which a partner in the auditor is a director.

(4) Where an auditor is a body corporate (other than one which is also a partnership as defined in sub-paragraph (6)(d)), each of the following shall also be regarded as an associate of the auditor—

- (a) any other body corporate which has a director in common with the auditor;
- (b) any director of the auditor;
- (c) any body corporate which is in the same group as a body corporate which is a director of the auditor;
- (d) any body corporate which is in the same group as a body corporate which has a director in common with the auditor;
- (e) any partnership in which a director of the auditor is a partner;
- (f) any body corporate which is in the same group as the auditor;
- (g) any partnership in which any such body corporate which is in the same group as the auditor is a partner.

(5) A distant associate of an auditor is a person who is an associate of that auditor by reason only that that person is an associate within one or more of—

- (a) paragraph 4(2)(a) where the person in question is controlled by a distant associate of the auditor but not by the auditor or by an associate who is not a distant associate;
- (b) paragraph 4(3)(a), (d) or (e);
- (c) paragraph 4(4)(a), (d) or (e).

(6) For the purposes of this paragraph—

- (a) “acting as an insolvency practitioner” shall be construed in accordance with section 388 of the Insolvency Act 1986(2) or Article 3 of the Insolvency (Northern Ireland) Order 1989(3);
- (b) “director” includes any person occupying the position of director, by whatever name called;
- (c) “partner” includes a member of a limited liability partnership;
- (d) “partnership” includes a limited liability partnership and a partnership constituted under the law of a country or a territory outside the United Kingdom;
- (e) a person able, directly or indirectly to control or materially to influence the operating and financial policy of another person shall be treated as having control of that other person; and
- (f) a body corporate is in the same group as another body corporate if one is a subsidiary of the other.

(2) 1986 c.45; section 388 has been amended by section 4(2)(a) to (c) of the Insolvency Act 2000 (c.39), by section 11(1) of the Bankruptcy (Scotland) Act 1993 (c.6) and by S.I. 1994/2421, 2002/1240 and 2002/2708.

(3) S.I. 1989/2405 (N.I. 19); Article 3 has been amended by Article 6(1)(a) to (c) of the Insolvency (Northern Ireland) Order 2002 (S.I. 2002/3152 (N.I. 6); and by S.R. 1995/225, 2002/334 and 2003/550.

(7) In this paragraph “subsidiary” means a subsidiary undertaking that is a body corporate.

#### **Duty of auditor to supply information**

5.—(1) The auditor of a syndicate must supply the managing agent of the syndicate with such information as is necessary to enable the disclosure required by paragraph 2(1)(b) to be made.

(2) The auditor of the aggregate accounts must supply the Council of Lloyd’s with such information as is necessary to enable the disclosure required by paragraph 2(1)(b) to be made.

### SCHEDULE 3

Regulations 18(6), (7) and 20

#### PROVISIONS APPLYING TO AGGREGATE ACCOUNTS

### PART 1

#### GENERAL PROVISIONS AND ANNUAL REPORT

##### **Disclosure required in notes to accounts: off-balance sheet arrangements**

1.—(1) If for any financial year—

- (a) a syndicate has noted in its annual accounts that it is or has been party to an arrangement that is not reflected in its balance sheet; and
- (b) at the balance sheet date the risks or benefits arising from that arrangement are material,

the information required by this paragraph must be given in notes to the aggregate accounts.

(2) The information required is—

- (a) the nature and business purpose of the arrangement; and
- (b) the financial impact of the arrangement on the syndicate.

(3) The information need only be given to the extent necessary for enabling the financial position of the Lloyd’s market to be assessed.

##### **Annual report: general requirements**

2.—(1) The annual report on a financial year required by regulation 20 must state—

- (a) the names of the persons who at any time during the financial year were members of the Council of Lloyd’s; and
- (b) the principal activities of the Lloyd’s market in the course of the year and any significant change to those activities in the year.

(2) The annual report must contain—

- (a) particulars of any important events affecting the Lloyd’s market which have occurred since the end of the financial year;
- (b) an indication of likely future developments in the business of the Lloyd’s market; and
- (c) an indication of the activities (if any) of the members of Lloyd’s in the field of research and development.

*Status: This is the original version (as it was originally made).*

### **Annual report: business review**

- 3.—(1) The annual report must contain a business review.
- (2) The business review must contain—
- (a) a fair review of the business of the Lloyd’s market; and
  - (b) a description of the principal risks and uncertainties facing the Lloyd’s market.
- (3) The review required is a balanced and comprehensive analysis of—
- (a) the development and performance of the insurance business carried on by the members of Lloyd’s during the financial year; and
  - (b) the position of the insurance business of the members of Lloyd’s at the end of that year, consistent with the size and complexity of the Lloyd’s market.
- (4) The review 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, including information relating to environmental matters and employee matters.
- (5) In sub-paragraph (4), “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 effectively.
- (6) The review must, where appropriate, include references to and additional explanations of amounts included in the aggregate accounts.
- (7) Nothing in this paragraph requires the disclosure of information about impending developments or matters in the course of negotiation if the disclosure would, in the opinion of the Council of Lloyd’s, be seriously prejudicial to the interests of the members of Lloyd’s.

### **Statement as to disclosure of information to auditors**

- 4.—(1) The annual report must contain a statement to the effect that, in the case of each of the persons who are members of the Council of Lloyd’s at the time the report is approved—
- (a) so far as the Council member is aware, there is no relevant audit information of which the auditor of the aggregate accounts is unaware; and
  - (b) the Council member has taken all the steps that he or she ought to have taken as a member of the Council to become aware of any relevant audit information and to establish that the auditor of the aggregate accounts is aware of that information.
- (2) In sub-paragraph (1) “relevant audit information” means information needed by the auditor of the aggregate accounts in connection with preparing the auditor’s report.
- (3) For the purposes of sub-paragraph (1) the Council member is regarded as having taken all the steps that he or she ought to have taken as a member of the Council in order to do the things mentioned in sub-paragraph (1)(b) if he or she has—
- (a) made such enquiries of fellow Council members and of the auditors of the aggregate accounts for that purpose; and
  - (b) taken such other steps (if any) for that purpose,
- as were required by his or her duty as a member of the Council of Lloyd’s to exercise due care, skill and diligence.
- (4) Where the annual report containing the statement required by this paragraph is approved but the statement is false, every member of the Council who—

- (a) knew that the statement was false, or was reckless as to whether it was false; and
  - (b) failed to take reasonable steps to prevent the report from being approved,
- commits an offence.
- (5) A person guilty of an offence under sub-paragraph (4) is liable—
    - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both;
    - (b) on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum, or both.

## PART 2

### AUDITORS

#### **Appointment of auditor for aggregate accounts**

5.—(1) Subject to sub-paragraph (3), the members of the Society of Lloyd’s must appoint the auditor for the aggregate accounts for each financial year, unless the auditor is deemed to be re-appointed in accordance with paragraph 6(2).

(2) For each financial year for which the auditor is to be appointed, the appointment must be made before the end of the period of 28 days beginning with the end of the time allowed under regulation 18(3)(a) for preparing the accounts required by regulation 18. This is the “period for appointing auditors” for the purposes of this Part of this Schedule.

(3) The Council of Lloyd’s may appoint an auditor for the aggregate accounts to fill a casual vacancy in the office of auditor.

(4) Where no appointment has been made under paragraph (1) by the end of the period for appointing auditors, and the auditor in office is not deemed to be re-appointed under paragraph 6(2)

- (a) the Council of Lloyd’s must within one week from the end of that period give notice in writing to the Authority of that fact; and
- (b) the Authority must appoint an auditor for the aggregate accounts to fill the vacancy as soon as possible.

(5) If the Council of Lloyd’s fail to give the notice required by this paragraph, an offence is committed by—

- (a) the Society of Lloyd’s; and
- (b) every member of the Council who was in default.

(6) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

#### **Term of office of auditors of the aggregate accounts**

6.—(1) An auditor of the aggregate accounts holds office in accordance with the terms of his or her appointment, subject to the requirements that—

- (a) the auditor does not take office until any previous auditor ceases to hold office; and
- (b) the auditor ceases to hold office at the end of the next period for appointing auditors unless re-appointed.

*Status: This is the original version (as it was originally made).*

(2) Where no auditor has been appointed by the end of the next period for appointing auditors, any auditor in office immediately before that time is deemed to be re-appointed at that time, unless—

- (a) Lloyd’s byelaws require actual re-appointment; or
- (b) the deemed re-appointment is prevented by the members of the Society of Lloyd’s under paragraph 7; or
- (c) the members of the Society of Lloyd’s have resolved that the auditor should not be re-appointed.

**Prevention by members of deemed re-appointment of auditor**

7.—(1) An auditor of the aggregate accounts is not deemed to be re-appointed under paragraph 6(2) if the Council of Lloyd’s has received notices under this paragraph from members of the Society of Lloyd’s representing at least the requisite percentage of the total voting rights of all members of the Society who would be entitled to vote on a resolution that the auditor should not be re-appointed.

(2) The “requisite percentage” is 5%, or such lower percentage as is specified for this purpose in Lloyd’s byelaws.

- (3) A notice under this paragraph—
  - (a) may be in hard copy or electronic form;
  - (b) must be authenticated by the person or persons giving it; and
  - (c) must be received by the managing agent before the end of the financial year immediately preceding the time when the deemed re-appointment would have effect.

**Removal of auditors on improper grounds**

8.—(1) Where an auditor of the aggregate accounts is removed from office, an application may be made to the High Court under this paragraph.

- (2) The persons who may make such an application are—
  - (a) any member of the Society of Lloyd’s; or
  - (b) the Authority.
- (3) Where the Court is satisfied that the removal was—
  - (a) on grounds of divergence of opinion on accounting treatments or audit procedures; or
  - (b) on any other improper grounds,

it may make such order as it thinks fit for giving relief in respect of the removal.

- (4) The Court may, in particular—
  - (a) declare that any decision to remove an auditor, or to appoint a new auditor in place of the auditor, is void;
  - (b) require the members of the Society of Lloyd’s to re-appoint the auditor; or
  - (c) give directions as to the conduct of the Council of Lloyd’s affairs in the future.

**Duty of auditor to notify appropriate audit authority**

9.—(1) Where the auditor of the aggregate accounts ceases to hold office before the end of his or her term of office, the auditor must notify in writing the appropriate audit authority.

- (2) The notice must—
  - (a) inform the appropriate audit authority that the auditor has ceased to hold office; and
  - (b) be accompanied by a statement of the reasons for the auditor’s ceasing to hold office.



- (3) The auditor must give notice under this paragraph—
  - (a) if the auditor resigns, at the same time as the auditor informs the Council of Lloyd's of his or her resignation (whether by notice or otherwise);
  - (b) in any other case, not later than the end of the period of fourteen days beginning with the date on which the auditor ceases to hold office.
- (4) A person ceasing to hold office as auditor who fails to comply with this paragraph commits an offence.
- (5) If that person is a firm an offence is committed by—
  - (a) the firm; and
  - (b) every officer of the firm who is in default.
- (6) A person guilty of an offence under this paragraph is liable—
  - (a) on conviction on indictment, to a fine;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (7) In proceedings for an offence under this paragraph it is a defence for the person charged to show that he or she took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

#### **Duty of Council of Lloyd's to notify the appropriate audit authority**

- 10.**—(1) Where the auditor of the aggregate accounts ceases to hold office before the end of his or her term of office, the Council of Lloyd's must notify in writing the appropriate audit authority.
- (2) The notice must—
    - (a) inform the appropriate audit authority that the auditor has ceased to hold office; and
    - (b) be accompanied by a statement of the reasons for the auditor's ceasing to hold office.
  - (3) The Council of Lloyd's must give notice under this paragraph—
    - (a) if the auditor resigns, not later than the end of the period of fourteen days beginning with the date on which the auditor first informs the Council of his or her resignation (whether by notice or otherwise); and
    - (b) in any other case, not later than the end of the period of fourteen days beginning with the date on which the auditor ceases to hold office.
  - (4) If the Council of Lloyd's fails to comply with this paragraph, an offence is committed by—
    - (a) the Society of Lloyd's; and
    - (b) every member of the Council who was in default.
  - (5) A person guilty of an offence under this paragraph is liable—
    - (a) on conviction on indictment, to a fine;
    - (b) on summary conviction, to a fine not exceeding the statutory maximum.
  - (6) In proceedings for an offence under this paragraph it is a defence for the person charged to show that he or she took all reasonable steps and exercised all due diligence to avoid the commission of the offence.