

**LLOYD'S SOURCEBOOK (SOLVENCY I DIRECTIVE)
INSTRUMENT 2003**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (the "Act"):
- (1) section 138 (General rule-making power);
 - (2) section 150(2) (Actions for damages);
 - (3) section 156 (General supplementary powers); and
 - (4) section 157 (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) of the Act (Rule-making instruments).

Commencement

- C. This instrument comes into force on 1 January 2004 (to apply to the Society of Lloyd's for and from the first day of its financial year beginning on 1 January 2004).

Amendments to the Lloyd's sourcebook

- D. The Lloyd's sourcebook is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Lloyd's Sourcebook (Solvency I Directive) Instrument 2003.

By order of the Board
18 September 2003

Annex

Amendments to the Lloyd's sourcebook

In this Annex, underlining indicates new text and striking through indicates deleted text. Where an entire new section of text is inserted, the place that it goes is indicated and it is not underlined.

Transitional Provisions

After transitional provision 6, insert the following new transitional provisions:

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
7	<i>LLD 11.4.8R</i>	R	The <i>Society</i> must take each <i>member's</i> share of the <i>general insurance business</i> premiums to be his share calculated for <i>general insurance business</i> premiums receivable.	1.1.2004 to 31.12.2005	1.1.2004
8	<i>LLD 11.5.1R</i>	R	In calculating the <i>Society margin</i> , the <i>Society</i> must calculate the first method (premium basis) as set out in <i>IPRU(INS) Appendix 2.1</i> using only <i>gross premiums receivable</i> and not <i>gross premiums earned</i> .	1.1.2004 to 31.12.2005	1.1.2004
9	<i>LLD 15.2.1R</i>	R	The <i>Society</i> may prepare the <i>Lloyd's Return</i> in respect of the <i>financial year</i> ending on 31 December 2003: (1) without taking account of the changes to <i>LLD</i> effected by the Lloyd's Sourcebook (Solvency I Directive) Instrument 2003 or the changes to <i>IPRU(INS)</i> effected by the Interim Prudential Sourcebook for Insurers (Solvency I Directive) Instrument 2003, provided that	1.1.2004 to 31.12.2005	1.1.2004

			<p>(2) the <i>Society</i> sends to the <i>FSA</i>, within six months of the end of that <i>financial year</i>, Form 9 completed in respect of that year and completed in accordance with <i>LLD</i> and <i>IPRU(INS)</i> as amended by those Instruments.</p> <p>The Form 9 sent to the <i>FSA</i> under (2) need not be audited.</p>		
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11.1.7 G The rules in this chapter implement the Solvency 1 Directives (2002/12/EC and 2002/13/EC) in respect of Lloyd's.

11.2 SOLVENCY REQUIREMENT

11.2.-2 R If *IPRU(INS)* 2.4(6) operates to increase the *Society margin*, the *Society* may attribute all or part of that increase to a *member* by increasing that *member's required amount*, as provided for in *LLD* 11.2.6R.

11.2.-1 R If the *Society* relies on *LLD* 11.2.-2R to attribute any part of the increase in the *Society margin* to a *member*, it must establish and use a reasonable and transparent methodology for making that attribution.

11.2.1 R The *Society* must maintain available net central assets which are adequate to cover the aggregate of:

- (1) for each *member*, the amount by which his *general insurance business assets* are less than the *required amount* calculated under *LLD* 11.2.6R;
- (2) for each *member*, the amount by which his *long-term insurance business assets* are less than the *required amount* calculated under *LLD* 11.2.7R;
- (3) ~~the excess (if any) of the amount calculated under *LLD* 11.5.1R (the *Society margin*) over the sum for all *members* of the *members' margins* for *general insurance business*; and~~
- (3) the amount by which the *Society margin*, less any increase resulting from the operation of *IPRU(INS)* 2.4(6), exceeds the sum for all *members* of the *members' margins* for *general insurance business*;
- (4) the excess (if any) of ~~the sterling equivalent of 800,000~~ 3,000,000 Euros over the sum for all *members* of the *members' margins* for *long-term insurance business*; and
- (5) the amount of any increase in the *Society margin* resulting from the operation of *IPRU(INS)* 2.4(6) that is not attributed to a *member* or *members* under *LLD* 11.2.-2R.

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- 11.2.3 G *LLD 11.2.1R is the central financial requirement placed on the Society. The Society will need to perform an assessment of the financial position of each member, to the extent necessary to confirm continuing compliance with LLD 11.2.1R. It will need to have sufficient funds centrally to cover the total of:*
- (1) any shortfall in the assets of *members* when, individually, their assets are less than the sum of their liabilities and a *member's margin*, calculated according to formulae set out in *LLD 11.3.1R* and *LLD 11.3.4R*; ~~and~~
 - (2) any adjustment required of the *Society* when the total of *members' margins* is less than the result would have been had the *Society* been treated as a single *insurer* and applied the relevant solvency test to itself; and
 - (3) any amount of the increase in the *Society margin* resulting from the operation of *IPRU(INS) 2.4(6)* that the *Society* does not or cannot attribute to a *member* or *members*, by increasing the *required amounts* of those *members* under *LLD 11.2.-2R*.

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- 11.2.6 R For each *member*, the *required amount* for *general insurance business* is the aggregate of:
- (3) his *general insurance business liabilities*; ~~and~~
 - (4) the *member's margin* for *general insurance business*, calculated under *LLD 11.3.1R*; and
 - (3) any amount attributed to that *member* under *LLD 11.2.-2R*.
- 11.2.11 R The *Society* must inform the *FSA* promptly if its *net central assets* are, or are likely to be, inadequate to cover the aggregate of:
- (5) for each *member*, the amount by which his *general insurance business assets* are less than the *lower required amount* calculated under *LLD 11.2.13R*;
 - (6) for each *member*, the amount by which his *long term insurance business assets* are less than the *lower required amount* calculated under *LLD 11.2.14R*;
 - (3) ~~the excess (if any) of the amount determined under *LLD 11.5.2R* (the *Society guarantee fund*) over one-third of the sum for all *members* of the *member's margins* for *general insurance business*; and~~
 - (3) the amount by which the *Society guarantee fund*, less any increase resulting from the operation of *IPRU(INS) 2.4(6)*, exceeds one-third of the sum for all *members* of the *members' margins* for *general insurance business*;

- (4) the excess (if any) of 3,000,000 Euros over one-third of the sum for all *members of the member's margins for long term insurance business; and*
- (5) one-third of the amount of any increase in the Society margin resulting from the operation of IPRU(INS) 2.4(6) that is not attributed to a member under LLD 11.2.-2R.

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- 11.2.13 R For each *member*, the *lower required amount for general insurance business* is the aggregate of:
- (7) *his general insurance business liabilities; and*
 - (8) *one-third of the member's margin for general insurance business, calculated under LLD 11.3.1R; and*
 - (3) one-third of any amount attributed to that member under LLD 11.2.-2R.
- 11.2.14 R For each *member*, the *lower required amount for long term insurance business* is the aggregate of:
- (1) *his long term insurance business liabilities; and*
 - (2) *one-third of the member's margin for long term insurance business, calculated under LLD 11.3.4R.*
- 11.2.15 R (1) Subject to (2) and (3), the base amount, in Euro, specified in LLD 11.2.1R(4) and LLD 11.2.11R(4) will increase each year, starting on the first review date of 20 September 2003 (and annually after that), by the percentage change in the European index of consumer prices (comprising all EU member states as published by Eurostat) from 20 March 2002 to the relevant review date, rounded up to a multiple of 100,000 Euro.
- (2) In any year, if the percentage change since the last increase is less than 5%, then there will be no increase.
 - (3) The increase will take effect 30 days after the EU Commission has informed the European Parliament and Council of its review and the relevant percentage change.
- 11.2.16 R Where the nature or quality of reinsurance relied on to reduce the member's margin for general insurance business for any member or members changes significantly during the financial year, the Society must notify the FSA forthwith of the change.
- 11.2.17 R To the extent that an asset is valued at market value, and there has been a significant decrease in the market value since the end of the prior financial year, the Society must notify the FSA forthwith of the change.

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- 11.3.2 G The *member's margin* applying throughout a *financial year* depends on premiums receivable during the previous *financial year* or *claims* incurred during the three previous *financial years*, multiplied in each case by a ratio derived primarily from *claims* incurred in the previous three *financial years*.

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PREMIUMS BASIS

- 11.4.8 R Subject to *LLD 11.4.2R*, *LLD 11.4.6R* and *LLD 11.4.9R*, for each *member* the premiums basis referred to in *LLD 11.3.1R* is his share of the *general insurance business* premiums (or one-third of his share for *actuarial health insurance*) in the previous *financial year* multiplied by 16% of the factor determined under *LLD 11.4.11R*. For each *member*, his share of the *general insurance business* premiums is either his share calculated for *general insurance business* premiums earned, or that calculated for *general insurance business* premiums receivable, whichever is the higher.

- ~~11.4.9 G If the *Society* cannot determine premiums gross of commission without disproportionate expense, it may calculate the premiums net of commission and then gross up by the ratio of gross to net premiums for the *members* taken together.~~

- 11.4.9 R For the purpose of calculating each *member's* share of *general insurance business* premiums under *LLD 11.4.8R*, premiums in respect of classes 11, 12 and 13 of *general insurance business* (see Annex 11.2 of *IPRU(INS)*) must be increased by 50% for both *general insurance business* premiums earned and *general insurance business* premiums receivable. Statistical methods may be used to allocate the premiums in respect of these classes.

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CLAIMS BASIS

- 11.4.13 R Subject to *LLD 11.4.13AR* for each *member*, the claims basis referred to in *LLD 11.3.1R* is his share, determined under *LLD 11.4.2R*, of the *general insurance business claims* incurred (or one-third of his share in the case of *actuarial health insurance*) in the three previous *financial years* divided by three and multiplied by 23% of the factor determined under *LLD 11.4.17R*.

- 11.4.13 R For the purposes of *LLD 11.4.13R claims*, provisions and recoveries in respect of classes 11, 12 and 13 of *general insurance business* (see Annex 11.2 of *IPRU(INS)*) must be increased by 50%. Statistical methods may be used to allocate the *claims*, provisions and recoveries in respect of these classes.

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FACTOR TO NET DOWN FOR REINSURANCE

11.4.19 R For the purposes of *LLD* 11.4.20R and subject to *LLD* 11.4.2R, the ratio for each *member* is the ratio for the three previous *financial years* of his share of net (of reinsurance) *claims* incurred to his share of gross *claims* incurred divided by the factor determined under *LLD* 11.4.21R.

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LLD 15 Annex 1R: Forms

Form 9 Guidance Notes

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- 7 The entry at line 41 must be the aggregate of the *members' margins* for *long-term insurance business* or, if greater, the sterling equivalent of ~~800,000~~ 3,000,000 Euros (subject to increase in accordance with LLD 11.2.15R) (using the conversion rate notified by the *FSA* from time to time for this purpose).
- 8 The entry at line 45 must be the aggregate of the excess for each member of his *long-term insurance business assets* over his *required amount* for *long-term insurance business*.
- 9 The entry at line 46 must be the aggregate of the shortfall for each member of his *long-term insurance business assets* over his *required amount* for *long-term insurance business*, plus any excess of the sterling equivalent of ~~800,000~~ 3,000,000 Euros (subject to increase in accordance with LLD 11.2.15R) (using the conversion rate notified by the *FSA* from time to time for this purpose) over the aggregate of the *members' margins* for *long-term insurance business*.