



# Lloyd's security trust fund instrument No. 2 of 2017

## *Insurance Act 1973*

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I, Heidi Richards, delegate of APRA, under subsection 70(1) of the *Insurance Act 1973* (the Act), MAKE these rules, in the form set out in the Schedule to this instrument, titled “Lloyd’s Security Trust Fund Rules”, that are applicable to the operation of designated security trust funds.

This instrument takes effect on the date of registration on the Federal Register of Legislation.

Dated: 12 April 2017

[Signed]

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Heidi Richards  
General Manager  
Policy & Advice Division

### **Interpretation**

In these rules:

*APRA* means the Australian Prudential Regulation Authority.

*designated security trust fund* has the meaning given in section 69 of the Act.

## **Schedule**

*Lloyd's Security Trust Fund Rules* comprises the 13 pages commencing on the following page.



# Lloyd's Security Trust Fund Rules

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### **Name of rules**

1. These rules are the Lloyd's Security Trust Fund Rules.

### **Commencement**

2. These rules commence on the date of registration on the Federal Register of Legislation.

### **Authority**

3. These rules are made under subsection 70(1) of the *Insurance Act 1973* (the Act).

### **Application**

4. These rules apply to all trustees in respect of their operation of designated security trust funds.

### **Interpretation**

5. In these rules:<sup>1</sup>

“Australian Auditing Standards” means is a reference to the Australian Auditing Standards issued by the Auditing and Assurance Standards Board (AUASB) as in force from time to time;

‘bank’ means an authorised deposit-taking institution within the meaning of subsection 5(1) of the *Banking Act 1959* (the Banking Act), but does not include a building society, credit union, provider of purchased payment facilities or an authorised non-operating NOHC within the meaning of subsection 5(1) of the Banking Act;

“*Lloyds Security Trust Fund Arrangements*” means a legislative instrument, as in force from time to time, made under subsection 68(1) of the Act; and

‘trustee’ means any trustee of a designated security trust fund.

### **Compliance with the Act and trust deed**

6. A trustee must comply with:
  - (a) provisions of the Act applicable to trustees; and
  - (b) the trust deed of the security trust fund of which they are the trustee and approved by APRA under the *Lloyd's Security Trust Fund Arrangements*.

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<sup>1</sup> Note, in accordance with paragraph 13(1)(b) of the *Legislation Act 2003*, expressions used in these rules have the same meaning as in the Act. In particular, ‘covered’, ‘designated security trust fund’, ‘insurance liability’, ‘Lloyd’s’ and ‘qualified corporation’ have the same meaning as in the Act.

## **Assets**

7. A trustee must hold the assets of the designated security trust fund of which they are the trustee and apply them in accordance with paragraphs 8 to 11.
8. An asset of a designated security trust fund must be an asset in Australia unless it is transferred outside Australia under the terms of the trust deed.
9. A trustee must not hold an excluded asset.
10. For paragraph 9, an asset is excluded if:
  - (a) it is an asset that would not be included as an asset for Part III of the Act if:
    - (i) it were an asset of Lloyd's underwriters, Equitas Limited or Equitas Reinsurance Limited; and
    - (ii) the holder of the asset were taken to be a body corporate authorised to carry on insurance business;
  - (b) the asset is re-invested through an interposed body corporate, trust or partnership with Lloyd's, Equitas Limited or Equitas Reinsurance Limited; or
  - (c) the asset is not acquired or maintained at arm's length from the other party to the relevant transaction.
11. A letter of credit is an asset only if:
  - (a) it is given by a bank;
  - (b) it is irrevocable; and
  - (c) it provides for immediate payment at the written direction of the trustee.

## **Valuation of assets**

12. For these rules, the value of an asset of a designated security trust fund is:
  - (a) the market value of the asset; or
  - (b) in the case of a letter of credit, its face value.

## **Liabilities**

13. A trustee must not:
  - (a) borrow for the purposes of the trust;
  - (b) charge the assets of the trust; or

- (c) incur, or allow to be incurred, a liability that is not for the purposes of the trust.

### **Suspense account**

- 14. A trustee must hold in a suspense account assets:
  - (a) transferred to it for the purposes of a designated security trust fund; but
  - (b) for which the trustee is not given sufficient information to complete its records.
- 15. A trustee must not apply funds from a suspense account unless:
  - (a) APRA has given written approval; or
  - (b) the trustee has obtained the information mentioned in subparagraph 14(b) and transfers the funds to the relevant designated security trust fund.

### **Records**

- 16. A trustee must keep or cause to be kept, for 7 years after the completion of the transactions to which they relate, records that allow:
  - (a) the accounts and statements mentioned in Attachments A and B to be prepared and audited properly and conveniently; and
  - (b) the trust to be performed, including under judicial trusteeship and winding up under the Act.
- 17. A trustee must give to APRA the accounts and statements mentioned in Attachment A in the form, for the periods and within the time mentioned in Attachment A.
- 18. A trustee must ensure the accounts and statements mentioned in Attachment B are audited by an auditor who is approved by APRA.
- 19. The trustee must give to APRA an audit certificate in a form approved by APRA and within the time mentioned in Attachment B.

### **Notices**

- 20. A trustee must give to APRA written notice of the following matters:
  - (a) intention to resign;
  - (b) receipt of a notice of removal as trustee;
  - (c) failure to fund the designated security trust fund to the level required by the *Lloyd's Security Trust Fund Arrangements*; and
  - (d) default of more than 30 days in payment to the trustee for its services.

### **Giving information**

21. A trustee must provide a copy of the terms of a designated security trust fund if asked by:
  - (a) a party to a contract of insurance that is covered by the designated security trust fund; or
  - (b) a person who intends to become a party to a contract of insurance that is covered by the designated security trust fund.
22. A trustee may charge a reasonable amount for copying material that has previously been given to the person mentioned in paragraph 21.
23. A trustee must give to Lloyd's enough information to allow Lloyd's to give to APRA information, accounts, statements and actuarial reports required under the Act.

### **Review of APRA's decisions**

24. Part VI of the Act applies to a decision of APRA under these rules.

### **Determinations made under previous instrument**

25. Any exercise of APRA's discretion under the *Lloyd's Security Trust Fund Rules No 1* made on 9 June 2000 continues to have effect as though exercised pursuant to a corresponding power (if any) exercisable by APRA under this instrument.



## **Attachment A – Accounts and statements**

### **Part 1 - Commentary**

1. The accounts and statements required for paragraph 17 are:
  - (a) Form T1—Annual Statement of Assets and Liabilities of the Trustee (to be lodged by each trustee to a designated security trust fund within 4 months of the trustee’s balance date); and
  - (b) Form T2Q—Quarterly Schedule of DSTF assets (to be lodged within 45 days of the end of each three months period ending 31 March, 30 June, 30 September and 31 December);as set out in Part 2 of this Attachment.
2. Dollar amounts are to be rounded to the nearest multiple of \$1,000. For example, \$10,500 is to be rounded down to \$10,000 and \$10,501 is to be rounded up to \$11,000.
3. The statements are to be signed by a director of the trustee.
4. The trustee may provide as an alternative to Form T1, a copy of a balance sheet duly lodged for the purposes of the applicable provisions of the *Corporations Act 2001*.

**Part 2 – Forms**

FORM T1

<b>Insurance Act 1973 Form T1</b>	<b>LLOYD'S SECURITY TRUST FUND RULES ANNUAL STATEMENT OF ASSETS AND LIABILITIES OF THE TRUSTEE</b>
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Name of trustee: ACN:

Name(s) of designated security trust fund(s) to which a party:

Balance date: (Signed and dated).....(Director)

Item	Total \$'000
<b>CURRENT ASSETS</b>	
Cash	
Receivables	
Investments	
Other	
Total current assets	
<b>NON-CURRENT ASSETS</b>	
Receivables	
Investments	
Other	
Total non-current assets	
<b><u>TOTAL ASSETS</u></b>	
<b>CURRENT LIABILITIES</b>	
Creditors and borrowings	
Provisions	
Total Current Liabilities	
<b>NON-CURRENT LIABILITIES</b>	
Creditors and borrowings	
Provisions	
Total non-current liabilities	
<b><u>TOTAL LIABILITIES</u></b>	
<b><u>NET ASSETS</u></b>	
<b>SHAREHOLDERS' EQUITY</b>	
Share capital	
Retained profits (losses) at end of financial year	
Other	
<b><u>TOTAL SHAREHOLDERS' EQUITY</u></b>	

FORM T2Q

<b>Insurance Act 1973 Form T2Q</b>	<b>LLOYD'S SECURITY TRUST FUND RULES QUARTERLY SCHEDULE OF DSTF ASSETS</b>
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Name of designated security trust fund:

Report for quarter ended:

(Signed and dated).....(Director)

<b>ASSETS</b>	Inside Australia		
	Related trusts & bodies corporate (1)	Other (2)	Total (3)
	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>
A) CASH			
B) DEBT SECURITIES			
Bills of exchange			
Promissory notes (commercial paper) issued by:			
- Commonwealth government bodies			
- Other government bodies			
- Non-bank financial intermediaries			
- Other			
Negotiable certificates of deposit (NCDs)			
Bonds, inscribed stock, debentures, medium-term notes and transferable certificates of deposit (TCDs) issued by:			
- Commonwealth government bodies			
- State and local government owned trading companies			
- Banks			
- Non-bank financial intermediaries			
- Other			
Foreign debt securities inside Australia			
<b>Sub-total</b>			
C) SHARES			
LISTED			
Private trading companies			
Banks			
Non-bank financial intermediaries			
Other			
<b>Sub-total</b>			

UNLISTED			
Private trading companies			
Banks			
Life insurance companies			
Other			
Foreign shares inside Australia			
<b>Sub-total</b>			
D) OPTIONS			
Listed			
Unlisted			
<b>Sub-total</b>			
E) UNITS IN TRUSTS - LISTED			
Property			
Trading public unit trusts			
Other listed public units trusts			
Foreign units inside Australia			
<b>Sub-total</b>			
UNITS IN TRUSTS - UNLISTED			
Cash management			
Property			
Trading public unit trusts			
Other			
Foreign units inside Australia			
<b>Sub-total</b>			
F) DEPOSITS			
Banks			
Non-bank financial intermediaries			
Fund managers			
Other			
<b>Sub-total</b>			
G) OTHER FINANCIAL INSTRUMENTS			
H) OTHER INVESTMENTS			
I) ALL OTHER ASSETS			
<b>TOTAL</b>			

## **Attachment B - Trustee audit requirements**

### **Part 1 - Commentary**

1. The statement required for paragraph 18 is Form T2 - Annual Schedule of DSTF assets (to be lodged within 4 months of the end of each calendar year) as set out in Part 2 of this Attachment.
2. Dollar amounts are to be rounded to the nearest multiple of \$1,000. For example, \$10,500 is to be rounded down to \$10,000 and \$10,501 is to be rounded up to \$11,000.
3. The statement is to be signed by a director of the trustee.
4. An audit certificate in the form approved under paragraph 19 must be lodged within 4 months of the annual balance date.

**Part 2 – Forms**

**FORM T2 (AUDITED)**

<b>Insurance Act 1973 - Form T2 (Audited)</b>	<b>LLOYD'S SECURITY TRUST FUND RULES ANNUAL SCHEDULE OF DSTF ASSETS</b>
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Name of designated security trust fund:

Report for year ended:

(Signed and dated).....(Director)

<b>ASSETS</b>	Inside Australia		
	Related trusts & bodies corporate (1)	Other  (2)	Total  (3)
	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>
A) CASH			
B) DEBT SECURITIES			
Bills of exchange			
Promissory notes (commercial paper) issued by:			
- Commonwealth government bodies			
- Other government bodies			
- Non-bank financial intermediaries			
- Other			
Negotiable certificates of deposit (NCDs)			
Bonds, inscribed stock, debentures, medium-term notes and transferable certificates of deposit (TCDs) issued by:			
- Commonwealth government bodies			
- State and local government owned trading companies			
- Banks			
- Non-bank financial intermediaries			
- Other			
Foreign debt securities inside Australia			
<b>Sub-total</b>			
C) SHARES			
LISTED			
Private trading companies			
Banks			
Non-bank financial intermediaries			
Other			
<b>Sub-total</b>			

UNLISTED			
Private trading companies			
Banks			
Life insurance companies			
Other			
Foreign shares inside Australia			
<b>Sub-total</b>			
D) OPTIONS			
Listed			
Unlisted			
<b>Sub-total</b>			
E) UNITS IN TRUSTS - LISTED			
Property			
Trading public unit trusts			
Other listed public units trusts			
Foreign units inside Australia			
<b>Sub-total</b>			
UNITS IN TRUSTS - UNLISTED			
Cash management			
Property			
Trading public unit trusts			
Other			
Foreign units inside Australia			
<b>Sub-total</b>			
F) DEPOSITS			
Banks			
Non-bank financial intermediaries			
Fund managers			
Other			
<b>Sub-total</b>			
G) OTHER FINANCIAL INSTRUMENTS			
H) OTHER INVESTMENTS			
I) ALL OTHER ASSETS			
<b>TOTAL</b>			