

Insurance Act 1973

LLOYD'S SECURITY TRUST FUND RULES NO 1

I, Graeme John Thompson, Chief Executive Officer of the Australian Prudential Regulation Authority, MAKE these rules under subsection 70(1) of the *Insurance Act 1973*.

Dated 9 June 2000

[Signed]
G J Thompson
Chief Executive Officer

1. Name of rules

These rules are the *Lloyd's Security Trust Fund Rules No 1*.

2. Commencement

These rules commence on the date of commencement of Schedule 2 (other than item 27) to the *Insurance Laws Amendment Act 1998*.

3. Definitions

In these rules:

Act means the *Insurance Act 1973*.

trustee means the trustee of a designated security trust fund.

Note A number of expressions used in these rules are defined in the *Insurance Act 1973*, including:

APRA	insurance liability
covered	Lloyd's
designated security trust fund	qualified corporation.

4. Application

These rules apply to the operation of designated security trust funds.

5. Compliance with the Act and determination

A trustee must comply with the Act and the trust deed of the security trust fund approved by APRA under the *Lloyd's Security Trust Fund Determination No 1*.

6. Assets

- (1) A trustee must hold the assets of the designated security trust fund and apply them in accordance with this clause.
- (2) An asset must be an asset in Australia unless it is transferred outside Australia under the terms of the trust deed.
- (3) A trustee must not hold an excluded asset.
- (4) For subrule (3), 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; or
 - (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.
- (5) A letter of credit is an asset only if:
 - (a) it is given by a body corporate whose name appears under the heading "Australian-owned Banks", "Foreign Subsidiary Banks" or "Branches of Foreign Banks" in the list of authorised deposit-taking institutions published on APRA's website; and
 - (b) it is irrevocable; and

- (c) it provides for immediate payment at the written direction of the trustee.

7. Valuation of assets

For these rules, the value of an asset of a designated security trust fund is the market value of the asset, or, in the case of a letter of credit, its face value.

8. Liabilities

A trustee must not:

- (a) borrow for the purposes of the trust; or
- (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.

9. Suspense account

- (1) 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.
- (2) A trustee may apply funds from a suspense account only if:
 - (a) APRA has given written approval; or
 - (b) the trustee has obtained the information mentioned in paragraph (1)(a) and transfers the funds to the relevant designated security trust fund.

10. Records

- (1) 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 Schedules 1 and 2 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.
- (2) A trustee must give to APRA the accounts and statements mentioned in Schedule 1 in the form, for the periods and within the time mentioned in Schedule 1.

- (3) The accounts and statements mentioned in Schedule 2 must be audited by an auditor who is approved by APRA.
- (4) The trustee must give to APRA an audit certificate in the form and within the time mentioned in Schedule 2.

11. Notices

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 Determination No 1*;
- (d) default of more than 30 days in payment to the trustee for its services.

12. Giving information

- (1) 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.
- (2) A trustee may charge a reasonable amount for copying material that has previously been given to the person mentioned in subrule (1).
- (3) 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.

13. Review of APRA's decisions

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

SCHEDULE 1

Subrule 10(2)

ACCOUNTS AND STATEMENTS

PART 1—COMMENTARY

1. The accounts and statements required for subclause 10(2) 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.
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 Corporations Law.

SCHEDULE 1—continued

PART 2—FORMS

FORM T1

Insurance Act 1973 Form T1	LLOYD'S SECURITY TRUST FUND RULES No 1 ANNUAL STATEMENT OF ASSETS AND LIABILITIES OF THE TRUSTEE
---------------------------------------	---

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

SCHEDULE 1—continued

PART 2—FORMS

FORM T2Q

Insurance Act 1973	LLOYD'S SECURITY TRUST FUND RULES No 1
Form T2Q	QUARTERLY SCHEDULE OF DSTF ASSETS

Name of designated security trust fund:

Report for quarter ended:

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

ASSETS	Inside Australia		
	Related trusts & bodies corporate (1)	Other (2)	Total (3)
	\$'000	\$'000	\$'000
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			
<u>Sub-total</u>			
C) SHARES			
LISTED			
Private trading companies			
Banks			
Non-bank financial intermediaries			
Other			
<u>Sub-total</u>			

SCHEDULE 1—continued

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

SCHEDULE 2

Subrules 10(3) and (4)

TRUSTEE AUDIT REQUIREMENTS**PART 1—COMMENTARY**

1. The statement required for subclause 10(3) 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.

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. For subclause 10(4), an audit certificate in the form set out in Part 3 must be lodged within 4 months of the annual balance date.

SCHEDULE 2—continued

PART 2—FORMS

FORM T2 (AUDITED)

Insurance Act 1973 - LLOYD'S SECURITY TRUST FUND RULES No 1
Form T2 (Audited) ANNUAL SCHEDULE OF DSTF ASSETS

Name of designated security trust fund:

Report for year ended:

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

ASSETS	Inside Australia		
	Related trusts & bodies corporate (1)	Other (2)	Total (3)
	\$'000	\$'000	\$'000
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			
<u>Sub-total</u>			
C) SHARES			
LISTED			
Private trading companies			
Banks			
Non-bank financial intermediaries			
Other			
<u>Sub-total</u>			

SCHEDULE 2—continued

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

SCHEDULE 2—continued

PART 3—MODEL STATEMENT

*Insurance Act 1973**Lloyd's Security Trust Fund Rules No 1***INDEPENDENT AUDIT REPORT ON TRUST ASSETS*****Scope***

I have audited the attached statement of assets for the [name] designated security trust fund as at [date].

The trustee's directors are responsible for the preparation of the statement and the information it contains in accordance with the valuation requirements of the *Insurance Act 1973* (the Act). I have conducted an independent audit of the statement in order to express an opinion on it for the purposes of the *Lloyd's Security Trust Fund Rules No 1* made under sub-section 70(1) of the Act.

The statement has been audited in accordance with Australian Auditing Standards to provide reasonable assurance that it is free of material misstatement. The procedures included examination, on a test basis, of evidence supporting the amounts and valuations. The procedure has been undertaken to form an opinion whether, in all material respects, the statement of assets is presented fairly in accordance with the requirements of the Act.

Audit Opinion

In accordance with the *Insurance Act 1973* and the *Lloyd's Security Trust Fund Rules No 1*, I report that:

- in my opinion, the statement of assets appears to be in accordance with the provisions of the Act;
- in my opinion, the accounting records of the trustee appear to have been properly kept and to record and explain correctly the financial position of the trust fund assets at [year end] and the transactions for the year ended on that date;
- I have obtained all the information and explanations requested from the trustee;
- I am satisfied that the statement of assets agrees with the accounting records of the trustee and appears truly to represent the financial position of the trust fund assets at [year end] in accordance with the requirements of the Act; and

SCHEDULE 2—continued

- I am satisfied that the trust has no liabilities other than (if any) the unreimbursed expenses of the trustee.

[*Signature*]

[*Name*]

Approved Auditor under the *Insurance Act 1973*

[*Date*]
