



**Proposed Transfer of
Lloyd's 1992 and Prior Business
from Lloyd's Names**

To

**Equitas Insurance Ltd (formerly
known as Speyford Ltd)**

*Supplemental Report of the Independent
Expert*

15 June 2009

Prepared by:

A handwritten signature in black ink that reads "Allan Kaufman".



Allan Kaufman
Navigant Consulting (Europe) Ltd.
Centurion House
24 Monument Street
London EC3R 8AJ
United Kingdom
allan.kaufman@navigantconsulting.com

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1 INTRODUCTION

- 1.1.1 I have been appointed by Equitas Limited (EL) to act as the Independent Expert (IE) for the Transfer described in my Report “Proposed Transfer of Lloyd’s 1992 and Prior Business from Lloyd’s Names To Speyford Ltd, Report of the Independent Expert” dated 8 April 2009 (the “8 April 2009 Report”).
- 1.1.2 My role is to produce the Reports (the 8 April 2009 Report, this Supplemental Report and any subsequent Supplemental Reports) as required by Section 109 of the FSMA.
- 1.1.3 This Supplemental Report should be read in conjunction with the 8 April 2009 Report. Section 1 of the 8 April 2009 Report includes sub-sections that set out: Purpose; History; Appointment; Qualifications; Scope; Duties; Business Relationship with Parties; and Limitations, Distribution & Use.
- 1.1.4 Capitalised terms have the meaning given to them in the attached Glossary, which includes the terms defined in the 8 April 2009 Report.
- 1.1.5 This Report is based on information available to me on 12 June 2009.
- 1.1.6 The Transfer is to Equitas Insurance Limited (formerly known as Speyford Limited). In this Report, I will refer to the Transferee as Speyford Limited. Speyford changed its name on 10 June 2009.

2 LAY OUT AND OPINION

2.1 LAY OUT OF SUPPLEMENTAL REPORT

2.1.1 In the 8 April 2009 Report in paragraph 1.5.5, I stated that Appendix XIV listed certain supporting documentation that was not complete, at that time.

2.1.2 In paragraph 1.5.6 of the 8 April 2009 Report I stated that I expected to provide a Supplemental Report, prior to the Court hearing, in which I would address the effect of the Transfer, if any, on the Financial Services Compensation Scheme (FSCS). I also said that I would report on the result of my review of the material identified in Appendix XIV of the 8 April 2009 Report.

2.1.3 Accordingly, this Supplemental Report addresses the following items:

1. Section 3 - 'Alignment of Capital within the Equitas Group in the event of the Transfer'. This section discusses capitalisation of the Equitas companies in the event of the Transfer and undertakings given to provide capital support among the companies as mentioned in paragraphs 24.1.2(1) and (2) in the 8 April 2009 Report;
2. Section 4 - 'Trust Funds and Credit for Reinsurance'. This section provides an update on trust funds and Credit for Reinsurance as mentioned in paragraphs 24.1.2(3) and (4) in the 8 April 2009 Report;
3. Section 5 - 'Lloyd's Obligations - Warrilow, PCW and Assisted Names and Policyholders'.
 - a. This section sets out details of Lloyd's undertakings and bonds related to PCW, Warrilow and Assisted Names as mentioned in paragraph 24.1.2(5) in the 8 April 2009 Report;
 - b. It also refers to the extent of other Lloyd's existing obligations that might change in the event of the Transfer as noted in paragraphs 3.3.28 and 24.1.2(6) in the 8 April 2009 Report; and
 - c. It includes a discussion of the relationship of the Lloyd's Central Funds to the 1992 and Prior Business.
4. Section 6 - 'Direct UK Policies and the FSCS'. This section discusses the effect, if any, of the Transfer on the FSCS as mentioned in paragraph 1.5.6 in the 8 April 2009 Report.

2.1.4 This Supplemental Report also discusses the following:

1. Section 7 - 'NICO Financial Strength';
2. Section 8 - 'Report of Recent Experience'. Equitas claims development, movements in foreign exchange rates, movements in interest rates, and VAT;
3. Section 9 - 'Issues Arising Relating to Proceedings in Respect of the Transfer'. My assessment of comments about the Transfer received in relation to the Court proceedings in respect of this Transfer and at various presentations to Policyholders; and

4. Section 10 – ‘Update to the 8 April 2009 Report Following Receipt of Additional Information’. Modifications to certain statements in the 8 April 2009 Report.

2.1.5 My conclusions are presented in section 2.2 – ‘Confirmation of Opinion’, below.

2.2 CONFIRMATION OF OPINION

- 2.2.1 In the 8 April 2009 Report and in this Supplemental Report I considered the Transfer and its likely effect on Policyholders of 1992 and Prior Business written at Lloyd's which is reinsured by ERL.
- 2.2.2 I have analysed the likely effect of replacing the current structure, including the current security offered by the NICO Retrocession Agreement and the unlimited liability of Names, with the limited liability of Speyford plus an additional \$1.3bn of coverage under the NICO Retrocession Agreement.
- 2.2.3 I have analysed the effects of the other aspects of the Transfer (listed in Table 2-3 of the 8 April 2009 Report).
- 2.2.4 I have examined the position of all Policyholders combined, and I have considered the position of each relevant Policyholder group separately.
- 2.2.5 I have also examined the likely effect on the following other parties identified in Table 2-4 of the 8 April 2009 Report as follows:
1. Names as parties with respect to their interests other than as Policyholders;
 2. External Outwards Reinsurers;
 3. Other insurers with respect to the way Mesothelioma Claims in England can be made against insurers of employers liability Policies;
 4. FSCS and companies subject to FSCS levies; and
 5. Lloyd's.

- 2.2.6 Based on the analysis described in the 8 April 2009 Report and this Supplemental Report I conclude that:
1. Overall Policyholders gain from the Transfer (paragraph 2.4.22 of the 8 April 2009 Report).
 2. There are no groups of Policyholders, or other parties, that are materially disadvantaged in the event of the Transfer (paragraph 2.7.7 of the 8 April 2009 Report).

Assumptions

- 2.2.7 My opinion assumes the following will have occurred:
1. Speyford authorisation and capitalisation of the Equitas companies are completed as described in paragraph 3.1.7 of this Supplemental Report. Equitas advises me that this is expected to occur prior to the Court hearing.
 2. Lloyd's bonds and undertakings are executed in substantially the form of the agreed drafts that I have reviewed and described in section 5. Equitas and Lloyd's advise me that they expect this to occur prior to the Court hearing.

3. The US trust fund documentation listed in paragraph 4.4.4 of this Supplemental Report is effective in a form substantially the same as the draft documentation that I have reviewed.

2.2.8 Equitas, having taken advice, have asked me to prepare this Supplemental Report assuming that the Transfer would not be subject to VAT. Analysis of VAT aspects of the Transfer, if any, is outside the scope of the work which I have performed.

Reliances

2.2.9 This Supplemental Report, including this Confirmation of Opinion, relies on data, information and advice from Clifford Chance, Locke Lord Bissell & Liddell, Equitas and/or Lloyd's as specified in each section of this Supplemental Report.

3 ALIGNMENT OF CAPITAL WITHIN THE EQUITAS GROUP IN THE EVENT OF THE TRANSFER

- 3.1.1 This section addresses the Speyford authorisation, capitalisation among Equitas Group entities and undertakings by EHL to provide capital to EL and/or Speyford if required to do so by the FSA.
- 3.1.2 Equitas advises me that the capital in the Equitas Group in the event of the Transfer is to be approximately as shown in Table 3-1 below.

**Table 3-1
Capitalisation of Equitas Group Companies in the Event of the Transfer**

Company	Capital at the Date the Transfer is Effective
Speyford	£16.5m
EL	£44.0m
EHL	£21.7m
Total	£82.2m

Source: Equitas.

- 3.1.3 EHL will undertake to support EL and Speyford, to the extent of its resources, if EL or Speyford request additional capital support to meet their minimum capital resource requirement under FSA rules.
- 3.1.4 The EHL undertaking will provide that EL will have priority in receiving the available funds in the event that both Speyford and EL require additional capital.
- 3.1.5 FSA authorisation of Speyford will allow it to act as an insurance and reinsurance company for the 1992 and Prior Business and not to undertake other business unless so further authorised¹.

3.1.6 The terms described in paragraphs 3.1.2 to 3.1.5 are consistent with the modelling supporting my opinion in the 8 April 2009 Report and my opinion in this Supplemental Report.

- 3.1.7 I have been asked by Equitas to assume that the documents required to implement paragraphs 3.1.2 to 3.1.5 will be executed before the Court hearing and exhibited with suitable witness statements.

Reliances

- 3.1.8 The information and documentation supporting this section have been provided to me by Equitas which informs me that the same information has been provided to the FSA. I consider it reasonable to use that information in my analysis.

¹ Source: Correspondence between EL and FSA.

4 TRUST FUNDS AND CREDIT FOR REINSURANCE

- 4.1.1 This section provides an update on Overseas Trust Funds (as discussed in section 4.10 of the 8 April 2009 Report) and Credit for Reinsurance (as discussed in section 4.6 of the 8 April 2009 Report).
- 4.1.2 The section covers the following aspects of the Transfer:
1. Creation of one or more additional US situs trust funds;
 2. Update and confirmation of advice regarding continuity of Policyholder protection from US and other Overseas Trust Funds; and
 3. Update and confirmation of advice regarding continuity of Credit for Reinsurance in the USA and other jurisdictions where it is relevant.
- 4.1.3 In my analysis of the Transfer, I consider the fact that Overseas Trust Funds for Policyholder protection and related Credit for Reinsurance are subject to statutes and regulations in each jurisdiction and are subject to changes regardless of the Transfer.
- 4.1.4 In sections 4.2 and 4.3 below I discuss the current situation with respect to US and other Overseas Trust Funds respectively, with regard to both Policyholder access and Credit for Reinsurance. In section 4.4 I summarise my conclusions with respect to Overseas Trust Funds.

4.2 US TRUST FUNDS

4.2.1 Lloyd's and Equitas advise me that based on discussion with the New York Insurance Department (NYID), it is intended that one or more additional US situs Trust Funds will be created as discussed below.

Equitas Insurance Limited American Trust Fund

4.2.2 Speyford will create a new US situs Trust Fund called the Equitas Insurance Limited American Trust Fund (EILATF).

4.2.3 The LATFs will continue to operate in relation to a USD Policyholder until such USD Policyholder recognises, or is bound by a judgment of a court of competent jurisdiction within the USA which recognises, the Transfer or the order of the High Court sanctioning the Transfer.

4.2.4 In the circumstances described in paragraph 4.2.3 where the LATF does not continue to operate, the EILATF will provide security to a USD Policyholder².

4.2.5 Assets will remain in the EATF, subject to existing rules. The LATF or EILATF (but not both in respect of the same claim) will be allowed to draw from the EATF subject to the terms of the relevant Trust Deeds³.

4.2.6 Thus the EILATF and LATF will operate so that a claim in respect of USD denominated business will be protected by either the LATF or the EILATF, but not both.

Arrangements for US Reinsurance Policyholders

4.2.7 Equitas informs me that it is Speyford's intention to maintain a surplus asset⁴ in the amount of \$20m in a US situs trust fund which will be available as security exclusively for the claims of US reinsurance Policyholders (US Cedents) in the event that the Transfer becomes effective in the USA.

Status of Discussions with US Regulators

4.2.8 Lloyd's has had discussions with the NYID, the domiciliary regulator of the current Lloyd's US situs trust funds.

4.2.9 Lloyd's informs me that NYID has stated that subsequent to the Transfer, but prior to any recognition of the Transfer by a US court of competent jurisdiction, US Cedents should continue to be allowed to take accounting credit for their reinsurance recoverables to the extent that Names remain liable on their Policies.

² For example, the LATF currently covers USD Policies even if the contracts are subject to non-US, e.g., English Law. The EILATF would protect those Policies in the event of the Transfer. EILATF would also protect USD Policies under US law in the event that the Transfer was recognised as a matter of relevant US law.

³ The EATF does not cover PCW business.

⁴ The asset will be a portion of the limit in the NICO Retrocession Agreement.

Legal Advice - Policyholder Protection from Trust Funds

- 4.2.10 I am advised by legal counsel that they continue to hold the opinion that in the event of the Transfer, but prior to any formal recognition of the Transfer by a US court of competent jurisdiction, USD Policyholders should continue to be able to benefit from the protection afforded by the Lloyd's and Equitas US situs trust funds to the extent that Names remain liable on their Policies as a matter of relevant US law. To this end USD Policyholders will remain able to access the EATF, LATFs and JATFs to the extent to which they currently can. This has not changed from the position set out in paragraph 4.10.1 in the 8 April 2009 Report.

Legal Advice - Credit for Reinsurance

- 4.2.11 I am advised by legal counsel that they continue to hold the opinion that subsequent to the Transfer, but prior to any formal recognition of the Transfer by a US court of competent jurisdiction, US Cedents should continue to be allowed to take accounting credit for their reinsurance recoverables to the extent that Names remain liable on their Policies as a matter of relevant US law. This has not changed from the position set out in paragraph 4.6.5 in the 8 April 2009 Report.

4.3 TRUST FUNDS IN AUSTRALIA, CANADA AND SOUTH AFRICA

- 4.3.1 Equitas has discussed the plans for the Transfer with regulators responsible for the Australian and Canadian trust funds.
- 4.3.2 Equitas informs me that neither of those regulators has indicated that there will be any change in Policyholder treatment, including Credit for Reinsurance, as a result of the Transfer.

Legal Advice - Policyholder Protection from Trust Funds

- 4.3.3 Legal counsel advises that they continue to hold the opinion that with respect to Policyholders who would be entitled to access to Overseas Trust Funds in Australia and Canada, the position subsequent to the Transfer but prior to any formal recognition of the Transfer by a court of competent jurisdiction in those jurisdictions will be similar to that in the USA. The position at 8 April 2009 was set out in paragraph 4.10.2 in the 8 April 2009 Report.

Legal Advice - Credit for Reinsurance

- 4.3.4 Legal counsel advises that subsequent to the Transfer but prior to any formal recognition of the Transfer by a court of competent jurisdiction in those jurisdictions, it is expected that Policyholders who are Cedents in Australia and Canada will be able to continue to take accounting credit for their reinsurance recoverables in the event of the Transfer.

South Africa

- 4.3.5 Equitas does not have a trust fund in South Africa nor any relationship with the South African regulator. Lloyd's maintains a trust fund in respect of Policyholders in South Africa covering other business in addition to the 1992 and Prior Business which constitutes only £1m. Lloyd's have confirmed their intention that, with respect to this trust fund in the event of the Transfer being sanctioned in England, nothing will change in respect of Policyholders in South Africa as a result of the Transfer.

4.4 CONCLUSIONS

4.4.1 There are no changes to the conclusions in the 8 April 2009 Report:

4.4.2 Therefore, with respect to access to trust funds, Policyholders with claims against Overseas Trust Funds should not be disadvantaged in the event of the Transfer (paragraph 4.10.3 of the 8 April 2009 Report).

4.4.3 Therefore, Policyholders who are Cedents should not be disadvantaged in relation to Credit for Reinsurance for regulatory reporting purposes in the event of the Transfer (paragraph 4.6.7 of the 8 April 2009 Report).

Final Documentation

4.4.4 Documentation for the creation of the EILATF and required changes in the Lloyd's American Trust Deed and Equitas American Trust Deed is in draft form and not complete and not executed at the date of this Supplemental Report.

4.4.5 I have reviewed the draft documentation at 12 June 2009.

4.4.6 I am advised by legal counsel that their advice in paragraph 4.2.10 is based in part on this draft documentation⁵.

4.4.7 The final documentation will require agreement of the Equitas Group including Speyford, Lloyd's, NICO, the trustees and the NYID. The FSA will have the opportunity to object to the final documentation.

4.4.8 Equitas has asked me to assume that the documentation, in substantially the same form as the draft documentation, will become effective.

⁵ The arrangements for US Reinsurance Policyholders described in paragraph 4.2.7 are not required by my analysis and I have made no assumption regarding their implementation.

4.5 RELIANCES

- 4.5.1 Reliances in this section are as follows:
- 4.5.2 I have relied on Lloyd's and Equitas for information regarding the plans for EILATF and discussion with US regulators generally (paragraphs 4.2.1-4.2.9). I have relied on Lloyd's with respect to the position in South Africa (paragraph 4.3.5).
- 4.5.3 I have relied on Clifford Chance, working with Locke Lord Bissell & Liddell, and Lloyd's and its counsel Dewey LeBoeuf for advice with respect to US trust funds and on the likely effect of the Transfer on Policyholders generally and for Credit for Reinsurance in particular (paragraphs 4.2.10-4.2.11, 4.4.6).
- 4.5.4 I have relied on Equitas for information on discussions with regulators responsible for Overseas Trust Funds in Australia and Canada (paragraphs 4.3.1-4.3.2).
- 4.5.5 I have relied on Clifford Chance working with Stikeman Elliot in Canada and Allens Arthur Robinson in Australia for advice regarding the legal position with respect to Overseas Trust Funds and Credit for Reinsurance in Australia and Canada (paragraphs 4.3.3-4.3.4).
- 4.5.6 I was assisted by Sidley Austin in interpreting these issues.

5 LLOYD'S OBLIGATIONS – WARRILOW, PCW AND ASSISTED NAMES AND POLICYHOLDERS

5.1 OVERVIEW

- 5.1.1 This section discusses the manner in which Warrilow, PCW and Assisted Names, and their respective Policyholders, would be affected in the event of the Transfer.
- 5.1.2 Section 5.2 discusses the situation with respect to Warrilow Names and Policyholders of Warrilow Names.
- 5.1.3 Section 5.3 discusses the situation with respect to PCW Names and Policyholders of PCW Names.
- 5.1.4 Section 5.4 discusses the situation with respect to Assisted Names and their Policyholders.
- 5.1.5 Section 5.5 considers the extent of any other Lloyd's obligations.
- 5.1.6 Section 5.6 discusses Lloyd's Central Funds.
- 5.1.7 Section 5.7 expresses my conclusion.

Liabilities Related to These Obligations

- 5.1.8 Of the total Equitas unpaid claims estimates, approximately 8% relates to PCW Syndicates and less than 1% relates to Warrilow Syndicates.
- 5.1.9 There is no estimate of the liabilities associated with Assisted Names, as none is needed for normal business purposes, but I note that the number of remaining Assisted Names is less than 2.5% of the number of Open Year Names.

5.2 WARRILOW NAMES AND POLICYHOLDERS OF WARRILOW NAMES

5.2.1 This section discusses the current structure and the structure in the event of the Transfer with respect to Policyholders of Warrilow Syndicates.

Current Structure

5.2.2 Currently, Centrewrite, a Lloyd's subsidiary, reinsures certain Syndicates referred to as Warrilow Syndicates.

5.2.3 Centrewrite is reinsured by ERL under the Centrewrite Reinsurance Contract.

5.2.4 Lloyd's provides a bond to Centrewrite in respect of the adequacy of Centrewrite reserves to cover Centrewrite liabilities, including those related to Warrilow Syndicates.

5.2.5 This bond does not benefit Policyholders directly. It benefits Policyholders only to the extent that there are claims which are covered by the Centrewrite reinsurance (and which are not paid by ERL).

5.2.6 Nonetheless, the effect of this arrangement is that valid claims against Warrilow Names are protected by Lloyd's as well as being covered by both Centrewrite and Equitas reinsurance arrangements.

Structure in the Event of the Transfer

5.2.7 The arrangements that would apply in the event of the Transfer are discussed below.

5.2.8 The Lloyd's bond to Centrewrite is unchanged.

5.2.9 The Centrewrite reinsurance of Warrilow Syndicates becomes reinsurance of Speyford under the terms of the Business Transfer Scheme.

5.2.10 Speyford will assign its rights against Centrewrite to EPTL to be held subject to the Warrilow EPTL Trust, in favour of Policyholders of Warrilow Names.

5.2.11 The Warrilow EPTL Trust operates to the benefit of relevant Policyholders of Warrilow Names.

5.2.12 The assets of the Warrilow EPTL Trust are only available to Policyholders of Warrilow Names specifically. Thus assets are not co-mingled with Speyford or other EPTL assets which would be shared by all Speyford Policyholders.

5.2.13 I am advised by legal counsel that from a legal perspective the arrangements preserve the existing protection provided by Lloyd's to Policyholders of Warrilow Syndicates and Warrilow Names and the payment priorities in the event of an Equitas Insolvency in respect of the relevant Policies.

5.3 PCW NAMES AND POLICYHOLDERS OF PCW NAMES

5.3.1 This section discusses the current structure and the structure in the event of the Transfer with respect to PCW Names and Policyholders of PCW Syndicates.

Current Structure

5.3.2 Lioncover, a Lloyd's subsidiary, reinsures certain Syndicates referred to as PCW Syndicates (PCW Reinsurance contracts 1987, novated to Lioncover as reinsurer in 1999).

5.3.3 Lloyd's has advised that Lioncover's only business is the reinsurance of those PCW Syndicates.

5.3.4 Lioncover is reinsured by ERL through the Lioncover Reinsurance Contract.

5.3.5 Lloyd's provides a bond to Lioncover in respect of the adequacy of Lioncover reserves to cover Lioncover's liabilities, which consist solely of those related to PCW Syndicate business.

5.3.6 This Lioncover bond does not benefit PCW Policyholders directly. It benefits PCW Policyholders only to the extent that there are claims which are covered by the Lioncover reinsurance (and which are not paid by ERL).

5.3.7 Nonetheless, the effect of this arrangement is that valid claims against PCW Names are indirectly protected by Lloyd's as well as being covered through both the Lioncover and Equitas reinsurance arrangements.

5.3.8 In addition, Lloyd's issued undertakings to certain PCW Names (called Assenting Names in the PCW settlement agreements) to protect those Names against further calls for funds in respect of PCW Business.

Structure in the Event of the Transfer

5.3.9 The arrangements that would apply in the event of the Transfer are discussed below.

5.3.10 Pursuant to the Business Transfer Scheme, in the event of the Transfer, Lioncover will no longer have any obligations (the intention of Lloyd's is to dissolve Lioncover) and Speyford will be directly reinsured by ERL in respect of the PCW business.

5.3.11 Speyford will assign its rights against ERL in respect of the PCW business to be held subject to the PCW EPTL Trust, in favour of PCW Policyholders.

5.3.12 The Lioncover bond from Lloyd's will be replaced by an undertaking from Lloyd's to EPTL for EPTL to hold subject to the Lloyd's EPTL Trust (Lioncover Substitute Undertaking). The Lioncover Substitute Undertaking will be in favour of EPTL to hold for the benefit of the Policyholders of PCW Names.

5.3.13 The assets of PCW EPTL Trust and Lloyd's EPTL Trust are available only to Policyholders of PCW Names specifically. Thus assets are not co-mingled with Speyford or other EPTL assets which would be shared by all Speyford Policyholders.

5.3.14 The undertakings by Lloyd's to Assenting PCW Names are unchanged.

- 5.3.15 I am advised by legal counsel that from a legal perspective the arrangements preserve the existing protection provided by Lloyd's to Policyholders of PCW Syndicates and PCW Names and the payment priorities in the event of an Equitas Insolvency, in respect of the relevant policies.

5.4 ASSISTED NAMES AND POLICYHOLDERS OF ASSISTED NAMES

- 5.4.1 In the 8 April 2009 Report I noted paragraphs 4.9.1-4.9.2 quoted below:
- 5.4.2 “Over the years, Lloyd’s entered into a number of agreements with Names that include varying degrees of protection for Names against Policyholder claims in the event of an Equitas Insolvency. These are characterised as follows⁶:
1. Approximately 1,300 Names who signed Hardship Agreements of whom approximately 550 have now terminated those agreements;
 2. Some 40 agreements under the terms of the American International Mediation Services (AIMS) Agreements; and
 3. A number, believed by Lloyd’s to be less than 40, of informal agreements with Names prior to R&R.”
- 5.4.3 This section discusses the current structure and the structure in the event of the Transfer with respect to Assisted Names and Policyholders of Assisted Names.

Current Structure

- 5.4.4 Lloyd's has issued a number of undertakings to certain Names including Names with various Hardship Agreements or otherwise.
- 5.4.5 These undertakings commit Lloyd's to protecting the Assisted Names from further calls for funds.
- 5.4.6 Some of the undertakings can terminate if the Assisted Name's financial position changes or at the option of the Assisted Name, but most of the undertakings are otherwise unlimited in amount and duration. Some expire 20 years after the later of the death of the Name or his/her spouse.
- 5.4.7 As noted in paragraph 5.4.2 above, a number of the undertakings have been terminated.
- 5.4.8 The remaining undertakings are called Assisted Names Undertakings.

Structure in the Event of the Transfer

- 5.4.9 Lloyd’s will provide an undertaking (Hardship Deed) to Policyholders with claims on Transferring Policies where Assisted Names were members of the Syndicate Year of Account which underwrote the Policy .
- 5.4.10 Under the Hardship Deed, upon an Equitas Insolvency or in the case of a PCW Policyholder having an unsatisfied judgement, Lloyd’s will pay Policyholders an amount equal to the portion of unsatisfied claims outstanding under those Transferring Policies attributable to the share originally underwritten by Assisted Names.

⁶ Source: Lloyd’s

- 5.4.11 The protection of this undertaking is available to Policyholders of Assisted Names only. The benefits are not co-mingled with Speyford or EPTL assets which would be shared by all Speyford Policyholders.

Identifying Assisted Names in the Event of the Transfer

- 5.4.12 In the current structure, in the event of an Equitas Insolvency, Assisted Names would be identified as such, as claims will be brought against Names generally.
- 5.4.13 In the event of the Transfer claims would not generally be brought against Names. Therefore, a process, like that described below in paragraphs 5.4.14-5.4.15 is, as a practical matter, necessary to make the protection available to Policyholders.
- 5.4.14 In the event of the Transfer, to assist Policyholders of Assisted Names in obtaining the benefits of the Hardship Deed, Lloyd's will, in the event of an Equitas Insolvency, publish notices informing Policyholders generally of the existence and scope of the Lloyd's Hardship Deed.
- 5.4.15 Lloyd's will also undertake (after an Equitas Insolvency or in the case of a PCW Policyholder having an unsatisfied judgement) to provide to Policyholders who certify that they have an unsatisfied claim under a Transferring Policy information on whether any Assisted Names, continuing to benefit from an Assisted Names Undertaking participated on the Syndicates and Years of Account to which the claim relates.

Analysis

- 5.4.16 I am advised by legal counsel that from a legal perspective the arrangements referred to above in paragraph 5.4.9-5.4.10 preserve the existing protections provided by Lloyd's to Assisted Names and Policyholders of Assisted Names.
- 5.4.17 From a practical perspective, while the process by which a Policyholder of Assisted Names would identify the Assisted Names in the event of the Transfer is different from the process of identifying Assisted Names in the current structure, I do not believe that Assisted Names and their Policyholders are thereby materially disadvantaged as a result of the Transfer.

5.5 OTHER OBLIGATIONS

- 5.5.1 Other than the undertakings referred to in sections 5.2-5.4 above, related to PCW, Warrilow and Assisted Names, Lloyd's advises me that it does not believe it has any other undertakings which would have the effect of putting Lloyd's in the position of having claims made against Lloyd's in respect of all or any part of the Transferring Policies.

5.6 LLOYD'S CENTRAL FUNDS – RELATIONS TO 1992 AND PRIOR BUSINESS

- 5.6.1 There is no general obligation on Lloyd's to use its resources in the event that any Lloyd's Policies are not fully covered by individual underwriters.
- 5.6.2 Nevertheless, at the Council of Lloyd's discretion Central Funds are potentially available in the event that claims under Lloyd's Policies were not fully covered by the individual underwriters.
- 5.6.3 There are two Central Funds, referred to as the Old Central Fund and the New Central Fund.
- 5.6.4 The New Central Fund was established in September 1996 as a successor to the Old Central Fund. The New Central Fund is intended for obligations arising other than in relation to business reinsured by Equitas (but note sections 5.6.8 and 5.6.9).
- 5.6.5 The Central Fund, generally called the Old Central Fund, continues in parallel with the New Central Fund.
- 5.6.6 In the current structure the following criteria apply to the operations of the Old Central Fund and the New Central Fund.
- 5.6.7 Payments related to the 1992 and Prior Business can be made from the Old Central Fund at the discretion of the Council of Lloyd's.
- 5.6.8 Payments related to the 1992 and Prior Business can be made from the New Central Fund at the discretion of the Council of Lloyd's if the payments relate to liabilities of Lloyd's existing on 3 September 1996. Such liabilities would include existing obligations related to Warrilow, PCW and (most) Assisted Names.
- 5.6.9 Other payments related to the 1992 and Prior Business can only be made from the New Central Fund with sanction of a resolution passed at a general meeting of the members of Lloyd's.
- 5.6.10 The over-riding criterion for use of Old Central Fund assets is that any applications of assets in the Old Central Fund must be considered to be "...expedient for the advancement and protection of the interests of the members of the Society in connection with business carried on by them as members [of the Society]"⁷.
- 5.6.11 Lloyd's advises me that in practice the same criterion applies to the New Central Fund.
- 5.6.12 The criteria referred to above in paragraph 5.6.7 – 5.6.11 applies both in the current structure and in the event of the Transfer.
- 5.6.13 Moreover, the funds are finite in amount.

⁷ [Old] Central Fund Byelaw paragraph 7.

- 5.6.14 The total Central Fund assets are £2.1bn as at 31 December 2008 (Lloyd's Accounts 2008).
- 5.6.15 Old Central Fund assets include illiquid assets such as the value of amounts owed to Lloyd's by Assisted Names (for Equitas premiums paid by Lloyd's on their behalf) secured by charges on property (not exceeding the value of the property).
- 5.6.16 About £50m of the Old Central Fund is invested in unencumbered liquid assets, some of which has been used, and will likely be used in the future, at the Council's discretion, to pay income support and any sums due under Hardship Agreements (in relation to post 1992 business).
- 5.6.17 There are no assurances that there will be any particular amount in the Old Central Fund at any particular time.
- 5.6.18 Furthermore, in the event of an Equitas Insolvency, Lloyd's is likely to have other claims on its resources. For example, Lloyd's might find it necessary to make payments related to PCW, Warrilow, Assisted Names and further payments to preserve trading privileges to operate in the US or elsewhere.

5.6.19 These financial limitations remain the same in the current structure and in the event of the Transfer, although the probability of an Equitas Insolvency is reduced in the event of the Transfer.

5.6.20 Therefore, my conclusion regarding the effect of the Transfer on Policyholders or other parties is not affected by an assessment of the amount, if any, that might be provided by Lloyd's.

5.7 CONCLUSIONS

5.7.1 My conclusions are unchanged from those set forth in sections 4.8 and 4.9 of the 8 April 2009 Report.

5.7.2 Therefore, Policyholders of PCW and Warrilow Names will not be disadvantaged in the event of the Transfer.

5.7.3 Therefore, Policyholders of Assisted Names will not be disadvantaged in the event of the Transfer.

Final Documentation

5.7.4 Documentation of undertakings, bonds and EPTL trusts has not been executed at the date of this Supplemental Report.

5.7.5 I have reviewed the agreed form documents, and I have based my conclusions on that documentation.

5.7.6 I am advised by legal counsel that their advice in paragraphs 5.2.13, 5.3.15 and 5.4.16 is based in part on this draft documentation.

5.7.7 Equitas has asked me to assume that the documents are executed prior to the Court hearing in substantially the form of those I have reviewed.

5.8 RELIANCES

5.8.1 Reliances in this section are as follows:

1. I have relied on Clifford Chance advice regarding the comparison of Warrilow, PCW and Assisted Names in the current structure and in the event of the Transfer (paragraphs 5.2.13, 5.3.15, 5.4.16).
2. I have relied on Clifford Chance advice regarding operation of the Warrilow, PCW and Assisted Name arrangements in the current structure and in the event of the Transfer (sections 5.2, 5.3 and 5.4).
3. I have relied on Lloyd's to identify existing undertakings (paragraph 5.5.1).
4. I have relied on Lloyd's for information regarding Central Fund obligations (section 5.6).

5.8.2 I was assisted by Sidley Austin in interpreting these issues.

6 DIRECT UK POLICIES AND THE FSCS

6.1 BACKGROUND

- 6.1.1 The purpose of this section is to assess the effect of the Transfer on Policyholders and other parties with respect to claims potentially affected by the operation of the FSCS.
- 6.1.2 I am advised by legal counsel that 1992 and Prior Business is not currently covered by the FSCS and would not be covered in the event of the Transfer to Speyford as contemplated under the Business Transfer Scheme.
- 6.1.3 I understand that the FSA does not disagree with the legal advice regarding FSCS coverage as noted in paragraph 6.1.2.
- 6.1.4 In the remainder of this section I evaluate the effect of the Transfer on claimants, Policyholders, other insurers and the FSCS based on the advice noted in paragraph 6.1.2. I base my opinion on this analysis.
- 6.1.5 Appendix II contains additional information regarding the implications for claimants, Policyholders, other insurers and the FSCS if FSCS coverage were to apply to Policies transferred to Speyford.

6.2 ANALYSIS

- 6.2.1 In the unlikely event of an Equitas Insolvency the expected shortfall for all Policyholders combined is \$2.4bn (£1.4bn) under the current structure⁸. Of that amount, £29.1m is estimated to relate to the UK direct employers liability and motor policies, which could potentially be affected by the operation of the FSCS.
- 6.2.2 In the event of the Transfer, the estimated shortfall for UK direct employers liability and motor policies, which could potentially be affected by the operation of the FSCS, is estimated to be £25.7m⁹. The expected shortfall amount for such UK direct policies is lower in the event of the Transfer because in the event of the Transfer, an Equitas Insolvency, if it occurs, is likely to occur later when more of the claims on UK direct policies would have been paid. In addition to the lower amount of the shortfall, the probability of there being any shortfall is lower in the event of the Transfer.
- 6.2.3 The types of Policyholders and other parties that might be affected can be divided into five categories as follows:
1. Other insurers, since the cost of Mesothelioma Claims is shared among policies related to employees years of exposure;
 2. The FSCS, standing in the place of insolvent insurers who otherwise would share exposure with the 1992 and Prior Business;
 3. FSCS covering 1992 and Prior Business - not applicable under current law and regulation;
 4. Solvent employers paying claims on 1972 and prior policies; and
 5. Unpaid claimants.
- 6.2.4 In section 7.8 of the 8 April 2009 Report I analysed the position of claimants (paragraph 7.8.7), Policyholders (paragraphs 7.8.15 – 7.8.17) (including solvent employers) and other insurers (paragraphs 7.8.15 – 7.8.17). I concluded that those parties are not materially disadvantaged in the event of the Transfer.
- 6.2.5 The position of the FSCS standing in the place of insolvent insurers is the same as that of an insurer, and therefore I conclude that the FSCS is not materially disadvantaged in the event of the Transfer.

⁸ \$2.4bn, £29.1m and £25.7m in paragraphs 6.2.1 and 6.2.2 use the base liability assumptions. Using the highest of the liability assumptions (high mean/high variability), the expected shortfall for all claims is \$3.3bn in the current structure and \$3.2bn in the event of the Transfer. The expected values for claims potentially covered by the FSCS is £38.1m in the current structure and £35.2m in the event of the Transfer.

⁹ Using the base liability assumptions, the probability of an Equitas Insolvency is 3.1% in the event of the Transfer compared to 4.5% in the current structure. The £25.7m assumes that the actual claims amount is close to the currently estimated values.

- 6.2.6 The conclusions in paragraphs 6.2.4 and 6.2.5 apply regardless of whether the Policyholders are covered by Open Year Names or Closed Year Names, and apply considering the range of liability assumptions used in the 8 April 2009 Report.
- 6.2.7 Appendix II provides further analysis of the effect if Speyford is covered by the FSCS.

6.3 CONCLUSION

6.3.1 Based on the analysis above, I conclude that claimants, Policyholders, other insurers and the FSCS are not materially disadvantaged in the event of the Transfer.

6.4 RELIANCES

- 6.4.1 Reliances in this section are as follows:
- 6.4.2 I have relied on Clifford Chance advice regarding FSCS coverage in the current structure and in the event of the Transfer (paragraph 6.1.2).
- 6.4.3 I have relied on Equitas for information and modelling assumptions regarding the UK direct employers liability and motor policies, which could potentially be affected by the operation of the FSCS (paragraphs 6.2.1-6.2.2).

7 NICO'S FINANCIAL STRENGTH

- 7.1.1 The change in the risk to Policyholders, and Names, in the event of the Transfer, as regards NICO Financial Strength is described below.
- 7.1.2 In the current structure, in the event of a NICO insolvency, the Policyholder risk is as follows:
1. The extent to which the NICO insolvent estate pays less than the full amount of valid Policyholder claims (up to the present NICO limit) after considering:
 - a. Amounts provided by NICO through Letters of Credit or trust funds;
 - b. The effect of Overseas Trust Funds; and
 - c. External Outwards Reinsurance.Minus
 2. The portion of 7.1.2(1) above that can be recovered from Names.
- 7.1.3 Names have the risk of the shortfall in 7.1.2(1).
- 7.1.4 In the event of the Transfer the Policyholder risk is as follows:
1. The extent to which the NICO insolvent estate pays less than the full amount of valid Policyholder claims (up to the increased NICO limit) after considering:
 - a. Amounts provided by NICO through Letters of Credit or trust funds;
 - b. The effect of Overseas Trust Funds; and
 - c. External Outwards Reinsurance.Including
 2. Any increase in the maximum amount that the NICO insolvent estate would pay because of the increase in NICO limit that applies in the event of the Transfer but only in the event that EL claims were large enough to require the use of that additional NICO coverage.
- 7.1.5 The additional amount referred to in 7.1.4(2) might be less than the amount described in 7.1.2(2).
- 7.1.6 This presents a risk to Policyholders as Policyholders and certain Names are at risk with respect to NICO's financial strength. This section provides an assessment of NICO's financial strength based on information up to 12 June 2009.
- 7.1.7 In the event of the Transfer, Names, under English law, will no longer have the risk related to NICO's financial strength.
- 7.1.8 Also, in the event of the Transfer, Names with assets in jurisdictions where the Transfer is not recognised will continue to have the risk related to NICO's financial strength.

7.1.9 The substance of the material in the rest of section 7 is largely the same as that presented in the 8 April 2009 Report.

7.2 NICO'S FINANCIAL RATING

7.2.1 NICO has an Insurer Financial Strength (IFS) rating of A++ by AM Best, Aa1 by Moody's, AAA by S&P and AAA by Fitch. These are the highest ratings given by AM Best, S&P and Fitch; and the second highest rating given by Moody's.

7.2.2 Table 7-1 below summarises current and prior financial ratings of NICO.

**Table 7-1
National Indemnity Company
Insurer Financial Ratings and Outlook**

NICO IFS Rating	Current Rating			Prior Rating	
	Date	Rating	Outlook	Rating	Outlook
AM Best	29-Apr-08*	A++	Stable	A++	Stable
S&P	24-Mar-09	AAA	Negative	AAA	Stable
Fitch	12-Mar-09	AAA	Negative	AAA	Stable
Moody's	8-Apr-09	Aa1	Stable	Aaa	Stable

*There has been no change to the AM Best rating through 12 June 2009.

7.2.3 As can be seen from the table, three out of the four ratings remain the same since the 8 April 2009 Report. Moody's has been lowered (and that was noted in the summary Report of the Business Transfer Scheme) for the reasons set out below.

7.2.4 Moody's attributes the lower rating to the following:

1. NICO has a robust capital base, but remains exposed to further equity market declines, yielding a credit profile more consistent with the Aa1 rating level. The rating outlook is Stable.
2. Falling stock prices have reduced NICO's investment portfolio value and, in turn, its capital cushion relative to ongoing insurance and investment exposures.

7.2.5 NICO, currently has the highest Moody's rating given to any reinsurer (Aa1).

7.2.6 AM Best and Fitch have changed their outlook of NICO from Stable to Negative, but still have NICO with the highest IFS rating offered by both agencies.

7.3 LLOYD'S FINANCIAL RATING

7.3.1 To put the NICO rating in context, I observe that NICO has a better rating than Lloyd's for Insurer Financial Strength as shown in Table 7-2 below:

**Table 7-2
Lloyd's
Insurer Financial Ratings and Outlook**

Lloyd's IFS Rating	Current Rating			Prior Rating	
	Date	Rating	Outlook	Rating	Outlook
AM Best	11-Jul-08	A	Stable	A	Stable
S&P	31-Jul-08	A+	Stable	A+	Stable
Fitch	4-Aug-08	A+	Stable	A+	Stable
Moody's	N/A	N/A	N/A	N/A	N/A

Note: Lloyd's IFS Rating included for comparison.

7.4 BERKSHIRE HATHAWAY'S FINANCIAL RATING

- 7.4.1 The Insurer Financial Strength of NICO, reported in section 7.2 above is the rating that is relevant to my analysis in respect of the Transfer.
- 7.4.2 However, Berkshire Hathaway's Financial Strength Ratings are frequently reported in the press as it is the ultimate holding company of NICO. I therefore summarise that information here.
- 7.4.3 Berkshire Hathaway has a Financial Strength rating of AAA by S&P, AA+ by Fitch and Aa2 by Moody's.
- 7.4.4 Table 7-3 below summarises the current and prior Financial Strength Ratings of Berkshire Hathaway.

**Table 7-3
Berkshire Hathaway's
Financial Ratings and Outlook**

Berkshire Hathaway's financial strength rating	Current Rating			Prior Rating	
	Date	Rating	Outlook	Rating	Outlook
AM Best	N/A	N/A	N/A	N/A	N/A
S&P	25-Mar-09	AAA	Negative	AAA	Stable
Fitch	12-Mar-09	AA+	Negative	AAA	Stable
Moody's	8-Apr-09	Aa2	Stable	Aaa	Stable

- 7.4.5 As stated in the 8 April 2009 Report, Fitch downgraded Berkshire Hathaway's ratings on 12 March 2009 from AAA to AA+, reflecting the following reasons:
 1. Fitch believes the AAA ratings are not appropriate at the holding company level for financial-oriented enterprises due to significant market volatility and the correlation of risks under stress recently observed throughout the global economy.
 2. Fitch's Insurer Financial Strength rating of NICO (AAA) continues to reflect NICO's strong capitalisation and competitive positions, together with relatively good underlying underwriting results.
- 7.4.6 Moody's downgraded Berkshire Hathaway's ratings on 8 April 2009 from Aaa to Aa2 reflecting the following reasons:
 1. Moody's believes the recession and investment losses at insurance operations of Berkshire Hathaway reduced its ability to support funding needs.
 2. With the cut to Berkshire's rating, Moody's no longer has an Aaa rating on any financial-services company. Whilst the ratings are not IFS ratings, only four companies still have a Moody's AAA rating: American Data Processing (ADP), ExxonMobil Corp. (XOM), Johnson & Johnson (JNJ), and Microsoft Corp. (MSFT).

7.4.7 S&P and Fitch have changed their outlook for Berkshire Hathaway from Stable to Negative.

1. S&P affirmed Berkshire Hathaway's AAA rating but downgraded its outlook from Stable to Negative reflecting uncertainty regarding the ultimate effect of the current financial market conditions on the company and its insurance units.
2. At year-end 2008, the capital adequacy of Berkshire's insurance operations was significantly lower than it was one year earlier, but it was still appropriate for the AAA rating.
3. Fitch's Negative Outlook reflects uncertainty surrounding the ultimate effect of the current financial market conditions on Berkshire. These uncertainties include potential further equity market declines and the effect they would have on Berkshire's vast equity portfolio and capitalisation.

7.4.8 The Financial Strength Ratings of Berkshire Hathaway remain high.

7.5 ANALYTICAL TESTS FROM NICO FINANCIAL REPORTS

- 7.5.1 I have updated the analytical tests I described in the 8 April 2009 Report to reflect additional data through 31 December 2008.
- 7.5.2 NICO experienced a 17% decline in assets from 31 December 2007 to 31 December 2008, from \$74.2bn to \$61.7bn¹⁰. This is likely in part due to the 39% decline in the S&P Index during the respective period (Table 13-1).
- 7.5.3 Table 13-2 and Table 13-3 in Appendix III show revised ratios from the 8 April 2009 Report. The tables illustrate the financial ratios with respect to premium to surplus, risk based capital to surplus and outwards reinsurance to surplus. These all remain favourable, consistent with the high financial ratings noted above.
- 7.5.4 The tables also indicate some unfavourable movement in the risk factors identified in the 8 April 2009 Report as follows:
1. NICO assets include a high proportion of equities, 169% of surplus at December 2007 and 178% of surplus at December 2008 compared to 62% on average for US insurers and reinsurers at December 2007¹¹ (Table 13-2 and Table 13-3);
 1. NICO's surplus decreased from \$35.6bn to \$27.6bn between December 2007 and December 2008. This was likely driven by unrealized investment losses (Table 13-1); and
 2. NICO has a high proportion of Asbestos liabilities, due to transactions that include exposures similar to those included in the NICO Retrocession Agreement (Table 13-3). The ratio of Asbestos and Pollution reserves to total reserves net of reinsurance has increased from 33% to 41%.

¹⁰ Appendix III-Table 13-1; line 6.

¹¹ 2008 Industry data not yet available.

7.6 SUMMARY

7.6.1 Despite the financial condition of the global economy over the past year, NICO's IFS ratings remain high, and are the highest of any reinsurer in the world.

7.6.2 As stated in the 8 April 2009 Report, I do not believe the change in the risk of non-payment by NICO (as described in section 7.1) in the event of the Transfer compared to the current structure represents a significant disadvantage to any group of Policyholders. This is unchanged from 8 April 2009 paragraph 8.1.27.

8 REPORT OF RECENT EXPERIENCE

- 8.1.1 Equitas has informed me that there have been no claims developments since issuing the 8 April 2009 Report that would affect the modelling that provides the basis for my opinion regarding the effect of the Transfer on Policyholders or other identified affected parties.
- 8.1.2 Foreign exchange rates have moved significantly from 8 April 2009 to 10 June 2009. This does not affect my opinion regarding the effect of the Transfer on any Policyholders or other parties.
- 8.1.3 Interest rates have changed somewhat since 8 April 2009. This does not affect my opinion regarding the effect of the Transfer on any Policyholders or other parties.
- 8.1.4 There has been a recent case regarding application of VAT to insurance business transfers. Equitas, having taken advice, requested that I prepare this Report on the basis that this Transfer would not be subject to VAT. Accordingly, an analysis of the VAT is outside the scope of the work I have performed.

Reliances

- 8.1.5 The information and documentation supporting this section have been provided to me by Equitas.

9 ISSUES ARISING RELATING TO PROCEEDINGS IN RESPECT OF THE TRANSFER

9.1.1 I am aware of a number of issues arising, from the 20 April 2009 High Court hearing and subsequent correspondence. I address issues which I consider relevant to the Report and the Transfer.

9.1.2 I reviewed the witness statements made in respect of the Transfer. I have reviewed certain other letters/memoranda which have been sent to Equitas, or its advisors, in respect of the Transfer.

9.1.3 I have also reviewed a transcript or summary of each of the “Road Show” meetings with Policyholders in three US States¹² and the UK.

9.1.4 I will address the following issues raised:

1. Nature of RITC;
2. Premium Trust Arrangements – Chain of Contractual Obligation;
3. Different groups of Names;
4. US Names;
5. Lloyd’s knowledge; and
6. My Independence.

9.1.5 I do not address the issue of the authority of EL to act in respect of the Transfer as I believe it is outside the scope of the Independent Expert work and has been addressed by Counsel on behalf of Equitas in submissions to the Court on 2 June 2009.

9.1.6 I have not attempted to evaluate each comment within each piece of correspondence.

Nature of RITC

9.1.7 I have been advised that RITC is a reinsurance arrangement and not a novation.

9.1.8 If RITC were a novation under English law, as some suggest, then with respect to English law, and other law to the extent that the Transfer is recognised, the Open Year Names rather than the Original Year Names have the legal responsibility to all 1992 and Prior Policyholders in the current structure.

9.1.9 The analysis in the 8 April 2009 Report shows that the Transfer does not materially disadvantage Policyholders or other identified affected parties even if the responsible Names were only the Open Year Names.

9.1.10 Therefore, the exact nature of RITC does not affect my analysis of the Transfer.

¹² I have reviewed a transcription of the Policyholder meetings in New York, Los Angeles and London. I have reviewed a brief note on the Chicago meeting.

Premium Trust Arrangements – Chain of Contractual Obligation

- 9.1.11 Two interrelated points were raised relating to liabilities to Policyholders in the current structure and the reinsurance assets available to meet Policyholder claims.
- 9.1.12 First, it was questioned what legal obligations ERL/EL and NICO currently have to meet Policyholder claims relating to 1992 and Prior Business. Secondly, it was suggested that, in the case of a Name's bankruptcy (under English Law), any reinsurance recoveries triggered by a Policyholder claim would have to be shared with the bankrupt Names' other creditors.
- 9.1.13 Based on legal advice received, I am satisfied that the chain of contractual obligations and indemnities entered into by ERL/EL and NICO mean that they have assumed obligations to relevant Names to meet valid Policyholder claims, even if there has been no transfer so as to create a direct contractual link between ERL or NICO and Policyholders. The effect is that ERL/EL (and therefore NICO) has contractual obligations to pay valid claims, regardless of the circumstances of the Name.
- 9.1.14 I am also advised that the effect of the Premiums Trust Fund (PTF) arrangements to which Names are parties is that reinsurance recoveries are held separately from a Name's other assets and are to be applied in priority to meet valid Policyholder claims. I am also advised that the arrangements continue to apply in a bankruptcy, so that a bankrupt Name's reinsurance recoveries would not be available to meet his non-Lloyd's liabilities, unless and until his liabilities to Policyholders had been met or otherwise provided for.
- 9.1.15 The PTF arrangements continue to apply after the death or bankruptcy of a Name. All premium and reinsurance collections flow through the PTFs and operate to segregate such assets from the other assets of a Name. In addition to the PTFs, other assignment arrangements are in place in respect of pre 1987 at Lloyd's. These are designed to achieve the same overall objective of protecting monies for Policyholders.
- 9.1.16 The effect is that EL (and therefore NICO) has contractual obligations to pay valid claims, regardless of the circumstances of the Name.
- 9.1.17 The difficulties in Policyholder recoveries from Names arise in the event that EL does not have sufficient assets (including NICO reinsurance) to fully meet those contractual obligations.

Different Groups of Names

- 9.1.18 Questions have been raised as to whether the Transfer discriminated between different groups of Names. In the 8 April 2009 Report my analysis considered Names as Policyholders and Names as parties potentially affected in the event of the Transfer.
- 9.1.19 My assessment considered whether a group of Names would be adversely affected in the event of the Transfer compared with the position of the same group of Names under the current structure.

9.1.20 I concluded that no group of Names is materially disadvantaged in the event of the Transfer.

9.1.21 My conclusion remains that no group of Names as Policyholders or Names as parties is materially disadvantaged in the event of the Transfer.

US Names

9.1.22 US resident Names or Names with assets in the USA are not materially disadvantaged by the Transfer as described in paragraphs 4.13.6 to 4.13.7 of the 8 April 2009 Report which considers the overseas position.

9.1.23 Each Name may be an insurer of RITC from prior years. The same Name may be an insured of RITC by subsequent Years of Account.

9.1.24 For each Name the gain in the event of the Transfer of the inward RITC to Speyford and the loss of benefit of the outwards RITC do not necessarily offset, although they might depending on each Name's circumstances. However, the gain from the NICO additional reinsurance offsets the loss of the outwards RITC, just as it would for other Policyholders.

9.1.25 My opinion regarding the effect of the Transfer has not changed as regards US Names in that overall they are not materially disadvantaged in the event of the Transfer.

Lloyd's Knowledge

9.1.26 There have been various remarks made regarding Lloyd's operations and my knowledge of them.

9.1.27 I have considered the comments made, none of which affect my opinion.

9.1.28 I continue to believe that my knowledge of Lloyd's operations is sufficient to allow me to provide the opinions given.

My Independence

9.1.29 It is suggested that I am connected to Lloyd's and in some sense have a conflict of interest in that I am a Non-Executive Director (NED) of Pembroke Managing Agency (Pembroke).

9.1.30 Pembroke, the Syndicate it manages, and Pembroke's affiliated companies have no connection to the 1992 and Prior Business.

9.1.31 My NED role does not make me a Member of Lloyd's nor does it create any duties for me in the management or governance of Lloyd's.

9.1.32 I have been an NED of Pembroke since September 2008.

9.1.33 My director fees from Pembroke are £35,000 per annum and are not performance related.

9.1.34 I do not believe my business relationship with Pembroke affects my independence in my capacity of Independent Expert.

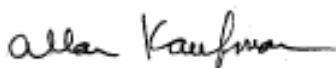
10 UPDATE TO THE 8 APRIL 2009 REPORT FOLLOWING RECEIPT OF ADDITIONAL INFORMATION

- 10.1.1 I have identified the following points that I wish to update.
- 10.1.2 Tables 3-11 and 9-1 of the 8 April 2009 Report – The trust funds amounts in South Africa is ZAR 16.6m at 31 December 2008. The ZAR 14.5m was the value at an earlier date.
- 10.1.3 Table 3-18 of the 8 April 2009 Report - The JATF (Reinsurance) value of \$112m and the JATF (surplus lines) value of \$214m were the values at 31 December 2007. The values at 31 March 2008 were \$116m and \$217m respectively.
- 10.1.4 Paragraphs 4.8.2 of the 8 April 2009 Report references Clause 10 and 11 of the Business Transfer Scheme (section 4 - PCW and Warrilow) but should have been references to Clauses 9 and 10 of the Business Transfer Scheme.
- 10.1.5 Paragraph 5.4.27 of the 8 April 2009 Report states that only 81% of [surviving] Open Year Names could be located. That should have said 79% (consistent with paragraph 5.4.62(5) of the 8 April 2009 Report which refers to 21% of [surviving] Names that could not be located.
- 10.1.6 Paragraph 5.4.34 of the 8 April 2009 Report referred to 10% non-UK Names. It should have referred to 20% Names that are not resident in the UK or EEA countries, 10% reside in the USA and 10% elsewhere outside the UK or EEA.
- 10.1.7 Table 8.1 of the 8 April 2009 Report, which is repeated in this Supplemental Report as Table 13-2 - I revised Lines 2, 3 and 4. Lines 2 and 3 were rounded more accurately to improve the comparison to December 2008. Line 4 was corrected to include Asbestos and Pollution reserves on reinsurance as well as direct policies.
- 10.1.8 Paragraph 9.1.18 of the 8 April 2009 Report – the trust fund in Canada is an operating trust fund rather than a standby trust fund.
- 10.1.9 Tables 22-3 and 22-4 of the 8 April 2009 Report - Trust Fund example in Appendix XII. The assumptions in the example overstated the likely recoveries from the NICO estate in the event of a NICO Insolvency. A revised example with more realistic assumptions shows that the conclusion in the 8 April 2009 Report paragraph 22.3.12 is unchanged.
- 10.1.10 Paragraph 22.3.2(3) of the 8 April 2009 Report said “...the excess [EATF assets]...is paid to EL”. It should have said, “the analysis assumes the excess [EATF assets]... is paid to NICO”. My conclusion was based on the correct statement, therefore this change has no effect.
- 10.1.11 Glossary, Table 23-1 of the 8 April 2009 Report - Typographical errors in definitions of Credit for Reinsurance, EATF and PSL, and correction of an error in the definition of PCW Syndicates (this correction is also being made to the definitions in the Business Transfer Scheme).

11 APPENDIX I– EXPERT DECLARATION

I, Allan M Kaufman, declare that:

- 11.1.1 I understand that my duty includes providing written reports and giving evidence to help the court, and that this duty overrides any obligation to the party who has engaged me. I confirm that I have complied with my duty.
- 11.1.2 I confirm that insofar as the facts stated in my Supplemental Report are within my own knowledge I have made clear which they are and I believe them to be true and that the opinions I have expressed represent my true and complete professional opinion.
- 11.1.3 I have endeavoured to include in my Supplemental Report those matters, which I have knowledge of, or of which I have been made aware, that might adversely affect the validity of my opinion. I have clearly stated any qualifications to my opinion.
- 11.1.4 I have indicated the sources of all information I have used.
- 11.1.5 I have not, without forming an independent view, included or excluded anything which has been suggested to me by others.
- 11.1.6 I will notify those instructing me immediately and confirm in writing if for any reason my existing Supplemental Report requires any correction or qualification.
- 11.1.7 I understand that:
- 11.1.8 My Supplemental Report, subject to any corrections before swearing as to its correctness, will form evidence to be given under oath or affirmation;
- 11.1.9 I may be cross-examined on my Supplemental Report by a cross-examiner assisted by an expert;
- 11.1.10 I confirm that I have not entered into any arrangement where the amount or payment of my fees is in any way dependent on the outcome of the case.
- 11.1.11 STATEMENT OF TRUTH
- 11.1.12 I confirm that insofar as the facts stated in my Supplemental Report are within my own knowledge I have made clear which they are and I believe them to be true, and that the opinions I have expressed represent my true and complete professional opinion.



Allan M Kaufman, FCAS, FIA (Hon)

12 APPENDIX II—COSTS IF SPEYFORD IS COVERED BY FSCS

- 12.1.1 The purpose of this Appendix is to present information supplementing section 6.
- 12.1.2 The results in section 6 assume Speyford is not covered by the FSCS.
- 12.1.3 This Appendix considers the effect if the FSCS were to cover Speyford claims.

Cost of Claims

- 12.1.4 Firstly, in the event of an Equitas Insolvency, the amounts paid by claimants, Policyholders and other insurers (with respect to costs arising from the allocation of Mesothelioma Claim costs) are lower if Speyford is covered by the FSCS than otherwise.
- 12.1.5 In the event of the Transfer, the estimated shortfall for UK direct employers liability and motor policies, which could potentially be affected by the operation of the FSCS, is estimated to be £25.7m (as described in paragraph 6.2.2).
- 12.1.6 The increase in FSCS costs if the FSCS were to cover Speyford claims would be somewhat less than £25.7m for the following reasons:
1. Some of these costs would not be covered by the FSCS – the FSCS does not protect large solvent policyholders against 1972 and prior employers liability claims. The FSCS also covers only up to 90% of claims against small or insolvent policyholders for 1972 and prior employers liability claims.
 2. Some of these costs are already covered by the FSCS - the FSCS stands in the place of insurers who are in default, and some insurers will share the cost of Speyford's Mesothelioma Claims in the event of a Speyford insolvency.
- 12.1.7 Any increase in FSCS costs would be unwelcome by the insurance companies that are subject to the levy.
- 12.1.8 However, the increase in FSCS costs in the event of an Equitas Insolvency is not large by the following measures:
1. UK Insurance Industry Revenue of £37bn;
 2. The 2002 and 2005 levies of £145m and £140m, respectively, associated with other insolvencies; and
 3. It represents no material risk to the insurance industry's solvency.

Levies on Speyford

- 12.1.9 If Speyford claims were covered by the FSCS, then Speyford might also be subject to FSCS levies.
- 12.1.10 Table 12–1 below summarises possible levies using indicative levies from the FSA Consultation Paper 2008/08 (CP08/8). The figures in this table assume that there are no future changes in the levy allocation formula or the relevant industry premium and reserve amounts to which they apply.
- 12.1.11 Column A assumes that the 2008/09 indicative levy level presented in CP08/8 applies for all future years.

12.1.12 Column B assumes that the current maximum levy rate for general insurers applies for all years. This is a very unlikely situation.

12.1.13 Column C assumes that the average levy rate observed over the 2000-2006 time period applies in all future years¹³.

Table 12-1
Indication of Possible Speyford Levies

	A	B	C
	Indicative 2008/09	Maximum	Average 2000-2006
2010 Levy	£ 49,800	£ 522,837	£ 33,207
Total Levy	£ 714,175	£ 7,497,964	£ 476,217
Present Value of Total Levy	£ 471,720	£ 4,952,480	£ 314,546

Notes: Levy rates are subject to change.

The analysis applies the levy to all UK direct liabilities. In practice, the levy might not be applied to liabilities associated with pre-1972 employers liability claims.

12.1.14 I note that the analysis in CP08/8 needed to estimate industry total gross claim liabilities at a level of detail that is not currently available. As such the actual assessment for Speyford might vary from the indicative assessment shown in Table 12-1.

12.1.15 However, the levies indicated in Columns (A) and (C) are well under £1m over the life of Speyford. Even values several times higher than that would not affect my analysis of effect of the Transfer on Policyholders or other parties.

Reliances

12.1.16 In this section I have relied on Equitas for information regarding the modelling assumptions.

¹³ This assessment level is not presented in CP08/8. Data on assessment level is from FSCS annual reports.

13 APPENDIX III – NICO FINANCIAL STATEMENT INFORMATION

Summary of Selected NICO Financial Indicators

13.1.1 The following tables summarise some of the key NICO financial information from the December 2007 and December 2008 NICO Audited Statutory Statements, and key schedules from the National Association of Insurance Commissioners (NAIC) Annual Statement.

Table 13-1
National Indemnity Company - Statutory Balance Sheet
Amount in USD Billions

		YE 2007	3QTR 2008	YE 2008
	Assets			
1	Bonds	2.3	1.8	1.8
2	Common stocks	36.8	39.5	42.6
3	Cash and equivalent	9.2	3.3	4.2
4	Other invested assets	23.5	23.0	6.5
5	All other	2.4	3.8	6.6
6	Total	<u>\$74.2</u>	<u>\$71.4</u>	<u>\$61.7</u>
	Liabilities			
7	Losses and loss adjustment expenses	10.8	11.8	11.8
8	Net retroactive reinsurance	16.9	16.0	15.8
9	Deferred tax	6.6	5.1	1.7
10	Other	4.3	4.8	4.8
11	Total	<u>\$38.6</u>	<u>\$37.7</u>	<u>\$34.1</u>
	Capital and surplus	<u>\$35.6</u>	<u>\$33.7</u>	<u>\$27.6</u>
12	Additional Financial Information			
13	S&P 500 Index	1468.36	1164.74	903.25
14	Premium (net of reinsurance)	4.2	N/A	5.7
15	External Outwards Reinsurance Asset (1)	0.9	N/A	1.0
16	Risk based capital authorised controls level	9.3	N/A	7.2
17	Asbestos and Pollution (excluding retroactive reinsurance)(1)	0.9	N/A	0.9

Note: (1) Rounded to the nearest billion in the 8 April 2009 Report. Shown as \$1bn.

Table 13-2
National Indemnity Company and Industry
Key Ratios – December 2007 Annual Statement Key Schedules

	Ratio	Dec-07		
		NICO Value	Industry Value	Significance
1	Premium as a percentage of surplus	12%	83%	Favourable
2	Surplus as a percentage of Risk Based Capital	384%	N/A	Favourable
3	Outwards reinsurance as a percentage of surplus	2%	39%	Favourable
4	Exposure to Asbestos and Pollution as a percentage of reserves net of reinsurance	33%	5%	Moderately Unfavourable
5	Equities as a percentage of surplus	169%	62%	Unfavourable

NOTE: Lines 2, 3 and 4 were 383%, 3% and 24% respectively in the 8 April 2009 Report (see paragraph 10.1.7).

Table 13-3
National Indemnity Company and Industry
Key Ratios – December 2008 Annual Statement Key Schedules

	Ratio	Dec-08		
		NICO Value	Industry Value	Significance
1	Premium as a percentage of surplus	21%	N/A*	N/A*
2	Surplus as a percentage of Risk Based Capital	383%	N/A*	N/A*
3	Outwards reinsurance as a percentage of surplus	4%	N/A*	N/A*
4	Exposure to Asbestos and Pollution as a percentage of reserves net of reinsurance	41%	N/A*	N/A*
5	Equities as a percentage of surplus	178%	N/A*	N/A*

*Industry values for 2008 not yet available.

14 APPENDIX IV – GLOSSARY OF TERMS

Table 14–1 Additional Glossary

Business Transfer Scheme	The document describing the proposed Part VII Transfer of 1992 and Prior Business to Speyford submitted to the Court on 8 April 2009.
Central Funds	Old and New Central Funds collectively.
EEA	The 27 Countries in the European Union plus Norway, Iceland and Lichtenstein.
EILATF	Equitas Insurance Limited American Trust Fund.
Equitas Insurance Limited	Obligations of the Names are being transferred to Equitas Insurance Limited (formerly known as Speyford Limited). The name was changed on 10 June 2009.
Hardship Deed	Lloyd’s undertakings to Policyholders of Assisted Names.
Lioncover Substitute Undertaking	The undertaking (described in paragraph 5.3.12), to be given by Lloyd’s to EPTL, to be held on the terms of the Lloyd’s EPTL Trust for the benefit of Policyholders of PCW Names.
New Central Fund	The New Central Fund, established and operating in accordance with Lloyd’s New Central Fund Byelaw.
NYID	New York Insurance Department.
Old Central Fund	The Central Fund, established and operating in accordance with Lloyd’s Central Fund Byelaw.
Report	The 8 April Report, this 15 June 2009 Report and any other subsequent supplemental Reports that may be required.
Supplemental Report	This document is a Supplemental Report as defined in Section 109 of FSMA in respect of the Transfer.
Transferring Policyholders	Holder of Transferring Policies.
USD Policyholders	Policyholders with limits or premiums denominated in USD and therefore potentially protected by the LATF and other US trust funds.

Table 14-2- Glossary from Appendix XIII 8 April 2009 Report

Administration	A procedure under Part II of the Insolvency Act 1982 of England, Scotland, and Wales pursuant to which an administrator (an insolvency practitioner) is appointed to manage the business operations and affairs of a company.
Accepting Names	The Open Year Names who accepted the Lloyd's 1996 Settlement Offer under R&R (the vast majority of Open Year Names).
AM Best	Worldwide insurance rating and information agency.
APRA	Australia Prudential Regulation Authority.
Asbestos	Mineral that naturally occurs in the environment that can be separated into thin, durable threads that are resistant to heat, fire and chemicals and do not conduct electricity. Insurance liability usually arises from bodily injury caused by exposure to the fibres.
Assisted Names	Names with the benefit of a Lloyd's undertaking arising from a Hardship Agreement or similar Agreement.
Assisted Names Undertakings	Lloyd's undertakings to Assisted Names.
Balance of Account	Claims that are not Asbestos, Pollution, Health Hazard or Catastrophe claims.
bn	Billion.
Catastrophe	Event that causes \$25m or more in insured property losses and affects a significant number of property and casualty Policyholders.
Centrewrite	Centrewrite Limited, a company incorporated in England and Wales, a subsidiary of Lloyd's that reinsures the Warrilow Syndicate and various other Names with respect to 1992 and Prior Business.
Cedent	A Reinsurance Policyholder.
Centrewrite Reinsurance Contract	The reinsurance contract whereby certain liabilities of Centrewrite are retroceded to ERL.
Closed Year Names	Names participating in a Closed Year Syndicate in their capacity as such.
Closed Year Policies	Policies underwritten by Syndicates for whom that particular Year of Account was subject to RITC.
Closed Year Syndicate	Any Syndicate which has been reinsured to close into another Syndicate, Centrewrite or Lioncover.
Connected Persons	Immediate family members and in respect of a company being a director of that company.
Continuing Name	Name on the 1992 and Prior Business who continued as Lloyd's Name on 1993 and any subsequent Years of Account.
Contract Exchange Rate	The rate used in the NICO Retrocession Agreement to determine the level of coverage (£1 = \$1.7372).
Coverage Model	An Actuarial Model used to estimate claims coverage generated by the Liability Model.
Compensation Act 2006	An act to specify certain factors that may be taken into account by a court determining a claim in negligence or breach of statutory duty; to make provision about damages for Mesothelioma etc.

Credit for Reinsurance ¹⁴	Insurers and reinsurers in the USA and certain other countries that are Lloyd’s Policyholders, can record the full value of their estimates reinsurance recoveries for solvency reporting purposes because of, in part, regulatory arrangements supported by Trust Funds.
EATF ¹⁵	Equitas American Trust Fund (EATF) is a US trust fund available to protect direct and reinsurance policies reinsured under the Equitas Reinsurance Contract, with premium and limits in US dollars. Sometimes called the NICO American Trust Fund or NATF since the completion of the NICO Retrocession Agreement.
EL	Equitas Limited, a company registered in England and Wales, facilitating the Transfer on behalf of the Names. EL reinsures ERL. EL acts on behalf of the Transfer.
EHL ¹⁶	Equitas Holdings Limited, a company registered in England and Wales, which acts as the holding company to ERL, EL and EPTL and Equitas Insurance Limited (formerly known as Speyford Limited).
EMSL	Equitas Management Services Limited, until 30 March 2007 a subsidiary of EHL. Sold to the Berkshire Hathaway group and renamed Resolute Management Services Limited (RMSL) in March 2007. Now acts as a run-off agent for the Names for the Equitas reinsured business.
EPD	The Expected Policyholder Deficit, average claim amount not paid (if any) as a percent of the total liability amount, assuming there is a shortfall.
EPP	Estate Protection Plan, a Policy written originally by Lloyd’s Syndicates and, from 1993, by Centrewrite which covers cash calls on a Name’s Open Years of Account in the event of a Name’s death.
EPTL	Equitas Policyholders Trustee Limited, a company registered in England and Wales, part of the Equitas Group that would act as a channel through which funds would flow in the event of an Equitas Insolvency.
Equitas	When cited as a source of information means provided by EL staff or RMSL staff acting on behalf of EL.
Equitas Group ¹⁹	Equitas Limited, Equitas Reinsurance Limited, Equitas Holdings Limited and Equitas Policyholders Trustee Limited, formed in 1996 as part of Lloyd’s Reconstruction and Renewal plan to reinsure the 1992 and Prior Business. Equitas Insurance Limited (formerly known as Speyford Limited) is now also included.

¹⁴ Minor typographical errors corrected.

¹⁵ Minor typographical errors corrected.

¹⁶ This definition has been updated to reflect Speyford.

an Equitas Insolvency	The insolvency of any of the companies in the Equitas Group (including Speyford) having the effect that valid claims from Policyholders are not paid in full by funds from NICO, EL, ERL, EHL and Speyford.
Equitas Reinsurance Contract	The reinsurance contract entered into by ERL on 3 September 1996 (as subsequently amended) in which ERL agreed to reinsure and indemnify the Names in respect of the 1992 and Prior Business and was appointed by the Names to assume responsibility for the run-off of the 1992 and Prior Business.
Equitas Retrocession Agreement	The retrocession contract entered into by EL on 3 September 1996 (as subsequently amended) in which ERL retroceded to EL its liabilities under the Equitas Reinsurance Contract and Lioncover Reinsurance Contract and delegated to EL responsibility for the run-off of the business reinsured.
External Outwards Reinsurance	Reinsurance on 1992 and Prior Business to reinsurers other than Names, Lioncover, Centrewrite, ERL, EL or NICO.
ERL	Equitas Reinsurance Limited, a company registered in England and Wales.
EU Winding-Up Directive	Directive 2001/17/EC on reorganisation and winding up of insurance undertakings.
Fragmentation	The effect whereby claims are too small to be collected on an economical basis.
FSA	Financial Services Authority, the UK regulatory body in respect of financial institutions which regulates RMSL, EL, ERL, Lioncover and Centrewrite.
FSCS	Financial Services Compensation Scheme. The body that administers eligible claims made when an insurer is insolvent and unable to pay claims in full.
FSMA or "the Act"	Financial Services and Markets Act 2000.
Hardship Agreement	An agreement under the Lloyd's Hardship Scheme between Lloyd's and a Name who demonstrated that he was unable to meet his Lloyd's losses under which, inter alia, Lloyd's agreed to meet cash calls made on the Name in respect of syndicates in which he participated.
Health Hazard(s)	Various exposures that are hazardous to the health and well-being of individuals, giving rise to bodily injury insurance claims. Includes items such as: fumes from welding rods, tainted blood, pharmaceuticals and breast implants.
High Court	The High Court of Justice of England and Wales.
Illinois Trust Fund	The Trust Fund established by ERL in Illinois to collateralise the reinsurance provided by ERL to Names licensed in Illinois in respect of the amount of their risk retentions on Illinois 1992 and Prior Business.
Independent Expert	The individual appointed and approved by the FSA to produce the Report on the terms of a Part VII business transfer.
Insurers (Reorganisation and Winding Up) Regulations 2004	Statutory Instrument No. 353 of 2004 on reorganisation and winding up of insurance undertakings.

ISR	Inter-Syndicate Reinsurance – Reinsurance contracts between Syndicates, including but not limited to RITC contracts.
JATF	Lloyd’s Joint Asset Trust Fund, supports business transferred in this transaction and non-transferred business written by underwriting members of Lloyd’s.
Joint Liability / Jointly Liable	Each party is liable up to the full amount of the relevant obligation. One or all parties can be sued for the full amount, but judgement against or release of one of them discharges all others who can, however, be sued for contribution by the one making payment so far as his payment exceeds his share.
Joint and Several Liability	Any party is liable up to the full amount of the relevant obligation. All or any of them can be sued for the entire amount and judgement against one does not discharge the others. It is up to that party making payment to pursue contribution from the other obligated parties for the amount paid by him that exceeds his share.
Joint Survival Rate	Probability of surviving Names from a group of Names who underwrote a RITC contract.
LATF	The Lloyd’s American Trust Fund, the fund of premiums and other sums receivable in respect of 1992 and prior US dollar denominated business. There is a separate LATF for each underwriting member of Lloyd’s.
Liability Model	An actuarial model used to simulate scenarios of the size and timing of Equitas claims liability.
Lioncover	Lioncover Insurance Company Limited, a company incorporated in England and Wales, a subsidiary of Lloyd’s that reinsures liabilities of the PCW Names.
Long-DIR	Long duration direct Policyholder
Lioncover Reinsurance Contract	The reinsurance contract whereby liabilities of Lioncover are retroceded to ERL.
Lloyd's	The Society incorporated by Lloyd's Act 1871 by the Name of Lloyd's of One Lime Street, London EC3M 7HA.
LMRO	Lloyd’s Market Reorganization Order under the Insurers (Reorganisation and Winding Up) (Lloyd’s) Regulations 2005.
LOC	Letter of Credit.
MCR	Minimum Capital Requirement.
Mesothelioma Claims	Claims arising from a rare cancer that is linked to exposure to Asbestos.
Mortality	Death rate among the Names.
Mortality Model	An Actuarial model used to estimate the Survival Rate of Names.
NAIC	National Association of Insurance Commissioners.
Names	Individuals who participated as underwriting members of Lloyd’s through groupings known as Syndicates and acted as underwriters under rules specified by Lloyd’s and who were reinsured directly or indirectly into ERL under R&R.
NATF	NICO American Trust Fund. See EATF
NICO	National Indemnity Company, a company incorporated in the State of Nebraska, USA (subsidiary of Berkshire Hathaway).

NICO Retrocession Agreement	The retrocession contract (as amended) entered into by NICO, EL, EHL and RMSL in which EL retroceded to NICO its liabilities under the Equitas Retrocession Agreement and delegated to RMSL responsibility for the conduct of the run-off of such business as sub-delegate of the Names.
Navigant	Navigant Consulting (Europe) Ltd and/or Navigant Consulting Inc.
Non-Transferring Policyholders	Policyholders of Names who underwrote 1992 and Prior Business and continued as Names in 1993 and subsequent years with respect to 1993 and subsequent years of business.
Open Year Names	Names participating in Open Year Syndicates in their capacity as such.
Open Year Policy	A Policy underwritten by Syndicates for whom that particular Year of Account was not subject to RITC (other than the reinsurance to close constituted by the Equitas Reinsurance Contract).
Open Year Syndicates	Syndicates that were unable to purchase reinsurance (RITC) in the ordinary course on a certain account year and remained 'open' beyond the normal 3 year period.
Original Year Names	Names in the Syndicate and Year of Account who originally underwrote the insurance.
Overseas Trust Fund	Trust funds in USA, Australia, Canada and/or South Africa.
OSFI	The Office of the Superintendent of Financial Institutions (Canada).
PCW EPTL Trust	PCW trust formed in the event of the Transfer
PCW Names	The underwriting members of Lloyd's comprising the PCW Syndicates in their capacity as such; this expression also includes WMD Names covered by the PCW Reinsurance Contract.
PCW Reinsurance Contract	The reinsurance contract in which Lioncover agreed to reinsure and indemnify the PCW Names in relation to all liabilities under Policies underwritten at Lloyd's through the PCW Syndicates.
PCW Syndicates	Each of the Syndicate Years of Account listed in schedule 3 to the Lioncover Reinsurance Contract and Syndicates reinsured to close directly or indirectly into those Syndicates.
Policy	A contract of insurance, describing the term, coverage, premiums and deductibles.
Policyholder	See Transferring Policyholder ¹⁷ .
Pollution	Environmental contaminants often requiring environmental clean-up. These clean up costs are often covered under US insurance Policies.
PSL¹⁸	Personal Stop Loss Policies ² covering potential cash calls which might be made on Names in respect of Syndicates in which they participate.

¹⁷ See Table 14-1 Additional Glossary above.

Recovery Rate	Percent of otherwise uncollected claims paid by Names in the event of an Equitas Insolvency.
Reconstruction & Renewal (R&R)	The arrangements which led to the establishment of the Equitas Group and under which, amongst other things, ERL provided reinsurance to close with respect of the 1992 and prior years non-life obligations of the Names.
Regulated Activities Order	The FSMA (Regulated Activities) Order 2001 (Statutory Instrument Number 544/2001) relating to the regulation of financial services in the UK.
Report	This document is a Scheme Report as defined in section 109 of FSMA in respect of the Transfer.
RITC	Reinsurance to Close a particular Syndicate Year of Account. Typically, Syndicates reinsured to close after three years.
RITC Chain	The RITC from one Year of Account to another would include the reinsurance of RITC contracts from earlier years. This creates a chain of RITC contracts from Original Year Syndicates to Open Year Syndicates.
RITC Names	Those Names providing reinsurance under RITC contracts.
RMSL	Resolute Management Services Limited (formerly EMSL), a company registered in England and Wales, and is the entity that manages the run-off of the liabilities reinsured by ERL. Prior to March 2007 RMSL was EMSL.
S&P	Standard and Poor's, worldwide provider of independent credit ratings, indices, risk evaluation, investment research and data.
Scheme of Arrangement	A Scheme of Arrangement is a court-approved agreement between a company and its shareholders or creditors. The relevant provisions for affecting a Scheme of Arrangement are found in the UK Companies Act 2006, Part 26 (ss.895-901) and Part 27.
Set-Off	The ability to net off debit and credit balances where there is a mutuality of dealings between two parties and one of the parties is in default with respect to meeting the obligations to the other party.
Several Liability	Parties are only liable for their respective share of an obligation.
Speyford	Speyford Ltd., obligations of the Names are being transferred to this new entity. Name changed to Equitas Insurance Limited on 10 June 2009.
Solvency II	Solvency II is the proposed updated set of regulatory requirements for insurance firms that operate in the European Union.
Supplemental Report	An additional Report covering specific issues in relation to the proposed Transfer.
Survival Rate	Proportion of Names surviving to a specified date.

¹⁸ Minor typographical errors corrected.

Syndicate	A group of underwriting members of Lloyd's (Names), with each member having a 'Several Liability' share of Policies underwritten.
Syndicate Year	Also Year of Account, one year venture of a Syndicates operation.
Transfer	The Transfer is the insurance business transfer scheme between EL acting on behalf of Names and Speyford as defined in section 105 of Part VII of the Financial Services and Markets Act 2000 (FSMA).
Transferee	Equitas Insurance Limited (formerly known as Speyford Limited).
Transferor(s)	The Names are the Transferor(s).
Transferring Policies	All Policies written by or on behalf of any of the Names as insurer, reinsurer or retrocessionaire (including all supplement, endorsements and riders thereto and all ancillary agreements in connection therewith) comprised in the 1992 and Prior Business.
Trust Deeds	A formal document creating a trust, stating its objects, naming trustees and defining their powers and duties.
UK	The United Kingdom of Great Britain and Northern Ireland.
USD	United States Dollar.
USD Policy	Policy covered by the EATF.
Warrilow Names	The underwriting members of Lloyd's comprising Syndicate 553 as constituted for the 1985 or 1987 Years of Account in their capacity as such.
Warrilow Reinsurance Contract	The reinsurance contract entered into between Centrewrite and CJW (Underwriting Agencies) Ltd in which Centrewrite agreed to reinsure and indemnify the Warrilow Names in relation to liabilities under Policies underwritten by them.
Warrilow Syndicates	Syndicate 553 as constituted for each of the 1985 and 1987 Years of Account.
Warrilow EPTL Trust	Warrilow Trust, formed in the event of the Transfer.
Year of Account	One year venture of a Syndicate's operation. Also Syndicate Year.
ZAR	South African Rand.
\$ or USD	US dollars unless otherwise stated (e.g. AUD or CAD).
The 1930 Act	Third Party (Rights Against Insurers) Act 1930.
1992 and Prior Business	All liabilities under Policies underwritten at Lloyd's (other than life business) and originally allocated to the 1992 Year of Account or any earlier Year of Account including any such liabilities reinsured to close into the 1993 Year of Account or any later year of account, but excluding any liabilities resigned, or re-allocated pursuant to a premium transfer, into the 1993 Year of Account or any later year of account.