

CHAIRMAN'S INTERIM REPORT JANUARY 2019

Bar Mutual's Financial Position

I am pleased to report that Bar Mutual continues to be in very sound financial health. At its most recent meeting last month, the Board received a report from the Reserves Committee (chaired by Michael Brindle QC) to the effect that, following a half-year review conducted by the Managers' actuaries, Bar Mutual's capital resources at the end of the current financial year are projected to be £41.1m, comfortably above its projected minimum regulatory capital requirement of £20.2m but also materially below £43.4m, the projected upper target under the company's capital resources risk appetite statement.

Members will recall that, in my report six months ago, I informed them that the surplus capital accumulated in recent years had been eliminated by a combination of underwriting decisions taken by the Board for the 2017 policy year renewal (in particular, the increase of the premium deferral to 27.5%), negative investment returns during the year to 31 March 2018 and adverse claim developments during the same period. However, in light of the underwriting decision taken in December 2017 as part of the process of eliminating surplus capital to maintain the premium deferral at 27.5% for the 2018 policy year renewal, an operating deficit of £0.611m is forecast for the current financial year.

Rates for the 2019 Renewal

Movements in Bar Mutual's financial exposure to Landlord and Tenant: Residential and Professional Negligence have caused the Board to change the rates for both areas of practice (a reduction from 1.5% to 1.2% for the former and an increase from 1.5% to 2.0% for the latter). The rates for all other areas of practice will remain as they were for the 2018 renewal.

Following on from the changes in cover for Foreign Practice, the Board has abolished the "Foreign Law" area of practice category. Instead, fee income received from work properly classified as Foreign Practice (as to which, Members should consult my July 2018 report and the Managers' "Guidance Note on International Practice", both of which can be found at <https://www.barmutual.co.uk/downloads/>) is to be rated in accordance with Bar Mutual's normal rating schedule, but subject to a 25% surcharge on the practice category rate primarily to reflect the higher costs of dealing with notifications in jurisdictions outside England and Wales.

As regards the premium deferral, the Board has decided that, given that the capital surplus that had built up during the period to 31 March 2017 has now been eliminated and having regard to the imprudence of placing too much reliance on the prospect of obtaining substantial investment returns in the current volatile investment climate, it is appropriate to reduce the premium deferral to 20% for the 2019 renewal.

Information about the Premium Deferral

It is now 20 years ago that Bar Mutual first adopted the practice of deferring the immediate collection of part of each Member's annual premium. The premium deferral is intended to benefit Members by reducing the upfront cost of purchasing cover. Its size for any individual policy year is determined by Bar Mutual's financial position at the time of each annual rating review.

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The deferral is not a discount, at least initially. It only becomes a discount in the event that the Board agrees to waive Bar Mutual's entitlement to request payment of the deferred portion of a policy year's premium, which it normally does five years after the end of the relevant policy year. Since the introduction of the premium deferral for the 1999 policy year, Bar Mutual has not had cause to call for payment of the deferred premium for any policy year and has now waived its rights to do so for all policy years up to and including 2012. The collective saving to Members by virtue of the waived deferred premium for the 2012 policy year is £2.583m.

Although Bar Mutual's policy in relation to the management of its capital is in part intended to minimise the risk of requiring payment of the premium deferral, the Board has this year decided to provide more information to Members in respect of their individual contingent liabilities for deferred premium. This information will take two forms:

- the debit note for each Member's annual premium will include a breakdown of his or her premium so that he or she can see how much of that premium is deferred and how much must be paid immediately; and
- each Member will be sent separately an annual statement setting out his or her contingent liabilities for the deferred premium on all policy years on which the right to demand payment has not been waived. A similar statement will also be sent to all Members who are ceasing practice as a self-employed barrister.

Adequacy of Cover

All Members will soon be receiving their renewal papers for the 2019 policy year renewal. As well as urging them to read this documentation carefully before submitting their completed renewal form to the Managers or renewing online via the portal that once again will be accessible on the Bar Mutual website, I also urge Members to give careful attention to the duty incumbent on them under rC76 of the BSB Handbook to ensure they purchase an adequate limit of cover (whether within Bar Mutual's primary layer of cover up to £2.5m plus defence costs or a higher limit with the assistance of those brokers who offer to arrange top-up insurance) in light of the claims risks arising from both their current and historic practice as self-employed barristers.

The Board does see claims notified against Members where the sums claimed by represented claimants well exceeds Members' limits of cover, even if it ultimately proves possible to resolve them without the Members in question having to contribute to a claim payment from their personal assets.

Board of Directors

I wish to take this opportunity to thank once again my fellow Directors and the Managers for their continuing dedication to the smooth running of Bar Mutual's business. Since I joined the Board in 2007, the number and complexity of the regulatory requirements affecting Bar Mutual's operations have increased substantially, with a concomitant impact on the amount of (unremunerated) time that each of the Directors must give to their duties.

One of the latest regulatory requirements is that at least one Director must have competence in accounting and/or auditing matters, which means in practical terms a Member who, as well as practising as a self-employed barrister, has also qualified as

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an accountant. I am pleased to inform Members that Simon Salzedo QC has such qualifications and has kindly agreed to join the Board. As well as ensuring the company meets this requirement, Simon's appointment as a Director will allow Bar Mutual to benefit from his undoubted expertise in financial services and professional liability matters generally.

For Members' information, the current membership of Bar Mutual's Board of Directors is as follows:

Colin Edelman QC (Chairman) (Devereux Chambers)
Michael Brindle QC (Deputy Chairman) (Fountain Court Chambers)
David Railton QC (Deputy Chairman) (Fountain Court Chambers)
Rebecca Sabben-Clare QC (Deputy Chairman) (7 King's Bench Walk)
Thomas Coghlin QC (Cloisters)
Gregory Denton-Cox (4 Stone Buildings)
Jasbir Dhillon QC (Brick Court Chambers)
Charles Dougherty QC (2 Temple Gardens)
Nina Goolamali QC (2 Temple Gardens)
Rajiv Harnal (Chief Financial Officer)
Alexandra Healy QC (Foundry Chambers)
Michael Horne QC (Serjeants' Inn Chambers)
Christopher Pocock QC (1 King's Bench Walk)
Ahmed Salim (Chief Executive Officer)
Simon Salzedo QC (Brick Court Chambers)
David Scorey QC (Essex Court Chambers)
Sharif Shivji (4 Stone Buildings)
Fiona Sinclair QC (4 Pump Court)
Joanna Smith QC (Wilberforce Chambers)

Colin Edelman QC
Chairman
January 2019