

MARKET BULLETIN

REF: Y3996

Title	Agency Agreement Terminations
Purpose	Procedures for making applications to increase fees and/or profit commission, merge syndicates or undertake a minority buy-out for the 2008 year of account.
Type	Scheduled
From	Nigel Williamson, Manager, Agents & Brokers, Admissions Department Contact details: 020 7327 6415 / nigel.williamson@lloyds.com
Date	3 April 2007
Deadlines	<ul style="list-style-type: none"> • 30 April 2007 for initial applications by managing agents of non-aligned syndicates and members' agents for increases in fees and PC, initial applications by any managing agent to effect a syndicate merger and applications by any managing agent to effect a minority buy-out. • 21 June 2007 for full applications by managing agents of non-aligned syndicates for fee increases and from any managing agent to effect a syndicate merger • 18 October 2007 for full applications by managing agents of aligned syndicates for increases in fees and PC
Related links	Business timetable

Agency Agreement Terminations

This bulletin sets out the procedures to be followed by underwriting agents when making an application under the Agency Agreements Byelaw to:

- increase fees and/or profit commission (see Appendix 1); or
- effect a syndicate merger (see Appendix 2); or
- effect a minority buy-out (see Appendix 3).

Subject to the provisions set out below, these applications require managing agents to apply to Agents & Brokers, Admissions Department by 30 April 2007 for conditional consent to terminate the agency agreements. Copies of the applications should be provided at the same time to members or members' agents as applicable.

Non-aligned syndicates – fee and PC increases

Managing agents of non-aligned syndicates are required to make an initial application to Lloyd's by 30 April notifying of their intention to make a full application for consent to terminate the managing agent's agreement as a result of a proposed fee increase. Managing agents should submit full applications in relation to fee increases in accordance with the requirements set out in Appendix 1 no later than 21 June 2007.

Aligned syndicates – fee and PC increases

Managing agents of aligned syndicates should submit full applications in relation to fee and profit commission increases in accordance with the requirements set out in Appendix 1 no later than 18 October 2007 to coincide with the latest date to submit final business plans. There is no requirement to submit an initial application by 30 April.

Although the latest date for submitting the application for aligned syndicates is 18 October, managing agents of aligned syndicates should note that they may submit the application earlier if they wish.

All syndicates – mergers

Any managing agent intending to merge syndicates is required to make an initial application to Lloyd's by 30 April notifying of their intention to make a full application for consent to terminate the managing agent's agreement. Managing agents should submit full applications in relation to syndicate mergers in accordance with the requirements set out in Appendix 2 no later than 21 June 2007.

For the purpose of this bulletin, aligned syndicates are those syndicates where the corporate members participating on the syndicate for the 2007 year of account and the managing agent of the syndicate are owned by the same company or are part of the same corporate group. Non-aligned syndicates are those syndicates for whom the source of supporting capital is mixed with certain members participating on those syndicates that have no ownership links with the managing agent and may wish to trade in the capacity auctions.

Members' agents

Members' agents applying to increase fees and or profit commission are also required to apply to Agents & Brokers, Admissions Department by 30 April 2007 for conditional consent to terminate the agency agreements and to provide a copy of the application in accordance with the requirements set out in Appendix 1 to members at the same time.

Core information

In addition to the requirements set out in the appendices to this Bulletin, applications for consent to terminate the agency agreements must include the following core information -

- rationale for the proposed transaction giving rise to the agency agreement termination;
- details of discussions held with members and members' agents, if applicable.

Agents should note that Lloyd's no longer requires the following additional core information to be supplied in support of these applications -

- details of the syndicate(s) concerned and the members' syndicate premium limits;
- details of the underwriting members to whom the notice is proposed to be given; and
- the name of members' agent(s) through whom notice is to be given.

Variations to the wording of the Standard Agency Agreement

While not subject to the procedures laid out in this bulletin, managing agents are reminded that they need to have Lloyd's consent to any variations to the standard agency agreements to accommodate changes such as limited tenancy capacity. Managing agents should provide Agents & Brokers, Admissions Department with a copy of the proposed variations as early as possible in the process. This will help to minimise any impact on agents' project deadlines.

Questions

Any queries relating to this bulletin should be referred to Anthony Gabb (tel: 020 7327 5987, email: anthony.gabb@lloyds.com) Agents & Brokers, Admissions Department

This Bulletin replaces the Agency Agreement terminations bulletin dated 27 March 2006, reference number Y3776 and has been sent to all underwriting agents, Lloyd's market associations and appropriate lawyers and accountants.

Nigel Williamson
Manager, Agents & Brokers, Admissions Department.

Appendix 1

Fee and profit commission increases

1. Managing Agents

Managing agents should make full applications in accordance with paragraph 11B of the Agency Agreements Byelaw (No. 8 of 1988) (the "Byelaw"). In the interest of transparency the terms of reference that will be used to determine applications for the 2008 year of account are set out at Schedule 1 of this Appendix. The detailed requirements for applications are set out at Schedule 2 to this Appendix.

Managing agents should provide members' agents and direct corporate participants with a copy of their application and give them 21 days from point of despatch to make representations to Agents & Brokers, Admissions Department. Where further information is required to be submitted to Agents & Brokers, Admissions Department, this must also be provided to the members' agents and direct corporate participants, and should allow them a further 7 days from the point of despatch to consider the information and to make further representations.

It is in the best interests of managing agents, members and Lloyd's if agreement in respect of terminations of managing agent's agreements can be reached. Managing agents must therefore hold discussions with members regarding their fee proposals before submitting their application to the Agents & Brokers, Admissions Department. It is incumbent on managing agents and members to use their best endeavours to ensure that this process has been followed as part of their application.

2. Members' Agents

Members' agents should make full applications in accordance with paragraph 11A of the Byelaw. Applications should include details of the fees and/or profit commission currently charged by the members' agent and the amount by which it is proposed to increase them. Members' agents should also include in their application the items of information listed in Schedule 2 to this Appendix which are asterisked.

Members' agents should provide their members with a copy of their application and give them 21 days from point of despatch to make representations to Agents & Brokers, Admissions Department. Where further information is required to be submitted to Agents & Brokers, Admissions Department, this must also be sent to the members and should allow them a further 7 days from the point of despatch to consider the information and to make further representations.

It is also recommended that members' agents consult with their members prior to submitting any application to terminate the members' agent's agreement.

Schedule 1 – Terms of Reference

Terms of reference for the consideration of full applications made by managing agents under paragraph 11B of the Byelaw for permission to give notice to terminate standard managing agent’s agreements in respect of proposed increases in fees and/or profit commission.

1. In determining whether an application for consent to terminate the standard managing agent’s agreement in respect of a proposed increase in fee and/or profit commission should be granted, the Franchise Board must be satisfied that the increase is reasonable in that it will not materially adversely affect the rights of members who participate on the syndicate in question (or the value of those rights) or, if it does, that such effect is objectively and reasonably justified.
2. The burden of satisfying the Franchise Board of the above matters is on the managing agent.
3. Every application will be determined on its merits in a consistent manner having regard to all relevant matters including:
 - a) the rights of the members to participate on the syndicate in question;
 - b) the fees previously charged by the managing agent; and
 - c) the information submitted by the managing agent in support of the application.
4. Each application must be approved by the managing agent’s board of directors and must include supporting information in accordance with the requirements attached at schedule 2 to this appendix.

Schedule 2 – Requirements in respect of applications for permission to give notice to terminate standard managing agent’s agreement relating to fees and/or profit commission increases

All the requirements below are to be addressed by managing agents. Those marked with an asterisk are the only requirements relevant to a members’ agent increase in fee applications.

The application shall include the following additional information:

- *Summary details of the proposed increase in fees for all members (expressed as a monetary amount and / or as a percentage increase).
- * The impact of the proposal on members stating their current position and their position following the proposal in monetary and percentage terms.
- The reason(s) why the increase in expenditure will not be treated as a Syndicate expense.
- *Certified copy extracts of all board minutes which refer to the proposed increase in the fee or which record discussion of it.
- *A statement of the commercial or business case for the proposed fee increase including and cross referring where necessary to supporting budgets and estimates in respect of any proposed increased expenditure. The information shall be presented in such a way as to clearly show to which managed syndicates and to which years of account any proposed increase in expenditure will relate and shall include an explanation of the benefit that will accrue from the proposed increase in expenditure in respect of each managed syndicate.
- *Details of the annual fee and/or profit commission (expressed both as a percentage and as a monetary amount) charged or to be charged by the agent for all managed syndicates for the current year of account and for each of the three preceding years of account (estimated figures may be provided where actual figures are not yet available).
- Details of the expenditure incurred or to be incurred and not recharged to the syndicate by the managing agent for all managed syndicates for the current year of account and for each of the three preceding years of account, together with details of the period over which any material or exceptional items of expenditure are to be amortised (estimated figures may be provided where actual figures are not yet available).
- Details of the budget for the managing agent and for each of the syndicates managed by the managing agent for the current year of account and the estimated budgets for future years of account, up to and including the first year of account in

which it is considered by the managing agent that members of the relevant syndicate will begin to derive benefit from the proposed expenditure. This information must also include a statement of the period over which any material and/or exceptional items are to be amortised.

- Details of any changes in the syndicate allocated capacity of the relevant syndicate for the current year of account as compared to each of the three preceding years of account and any proposed changes.
- A copy of the agent's policy for the allocation of syndicate expenses which should include an explanation of the basis on which expenses arising from profit related remuneration payable to directors and consultants are allocated. This should highlight any changes made to the policy over the last three years and any proposed changes to be made to the policy.
- Particulars of any proposed acquisition or disposal by the agent - or any connected company or any connected person - of rights to participate in the relevant syndicate (whether through the auction or under any other scheme or arrangement as may be permitted from time to time by Lloyd's for that purpose).
- Particulars of any proposed transactions by the agent or any connected company or connected person for the purpose of effecting any change in participation in syndicates, including but not limited to any transaction falling within the scope of the Major Syndicate Transactions Byelaw (No 18 of 1997).
- *Any additional information that the agent considers to be relevant to the application.

Appendix 2

Merger Applications

Managing agents should make full applications in accordance with paragraph 11B of the Byelaw. Lloyd's consent to an application to terminate the managing agent's agreement as a result of a syndicate merger will be conditional upon completion of the syndicate merger. Detailed requirements for the provision of additional information in respect of applications relating to syndicate mergers is attached at schedule 1 of this Appendix.

Managing agents should provide members' agents and direct corporate participants with a copy of their application and give them 21 days from point of despatch to make representations to Agents & Brokers, Admissions Department. Where further information is required to be submitted to Agents & Brokers, Admissions Department, this must also be sent to the members' agents and direct corporate participants and agents should allow them a further 7 days from the point of despatch to consider the information and to make further representations.

Provided that Lloyd's has granted conditional permission to terminate, managing agents shall, no later than 21 June 2007, send to Agents & Brokers, Admissions Department, members' agents and direct corporate participants, the additional detailed information set out in schedule 1. Members' agents must pass the information and documents received from the managing agent to their members within 7 days of receipt and advise them that they may attend a syndicate meeting convened for the purpose of discussing and voting on the proposed merger. Votes may be cast by proxy or post.

It is in the best interests of managing agents, members and Lloyd's if agreement in respect of the termination of managing agent's agreements as a result of a merger can be reached. Managing agents should therefore hold discussions with members regarding their merger proposals before submitting their application to the Agents & Broker Accreditations Department.

In particular, managing agents, members' agents and direct corporate participants should discuss the question of whether it is necessary to obtain an independent valuation as part of the merger proposal and to agree between themselves how to proceed. Where the parties are unable to agree, the managing agent should inform Lloyd's and the Executive will consider the particular circumstances of that case.

It is incumbent on managing agents and members to evidence that this process has been followed as part of the merger application.

Schedule 1 - Detailed requirements for the provision of additional information in respect of applications relating to syndicate mergers

The managing agent should supply the following additional information, together with any other information necessary to enable members to make a properly informed assessment of the proposed merger and its effect on the members concerned:

- An explanation of the basis on which, and the amounts in which, rights to participate in the successor syndicate for the following year of account are to be allocated among the members of the ceasing syndicate and the members of the successor syndicate for the current year of account.
- Particulars of plans for participation in the successor syndicate by members who are associates of the managing agent of the successor syndicate.
- Confirmation by the managing agent of the successor syndicate that it intends to effect a reinsurance to close of the ceasing syndicate by the successor syndicate.
- A copy of the syndicate annual report to be prepared in the current year for each syndicate concerned in respect of 2006 year of account.
- A copy of the proposed business plan for the successor syndicate for the 2007 year of account including details of the economies of scale anticipated by the merger with specific regard to the reinsurance programme and investment income (or a summary thereof specifying the person from whom copies of the proposed business plan can be obtained free of charge).
- The identity of the active underwriter of the merged syndicate, particulars of his or her experience demonstrating his or her competence to manage the merged syndicates and particulars of his or her contract of employment.
- Before and after organisation charts for the merged syndicates.
- The manner in which the operations of the separate syndicates will be combined following the merger, identifying changes in resources, procedures, management and its reporting and allocations of responsibilities.
- Details of how the independent and peer review process will operate in the merged syndicate.
- Details of any board changes
- Details of the IT systems used by each of the merging syndicates and how these systems will operate post merger, or how the information will be migrated onto a single IT system post the merger, including timeframes.

- Composition of the combined syndicate following the merger in terms of aligned/unaligned capacity and any intentions to make a minority buy-out.
- Particulars of the managing agent's plan in the event that the merger proposal is unsuccessful.
- A declaration from the directors of the managing agent as to the accuracy of information provided in the form prescribed in Schedule 1, paragraph 2(8) of the Major Syndicate Transactions Byelaw.
- Any additional information that the agent considers to be relevant to the application.
- Applications for multiple syndicates' permissions for underwriters.
- Confirmation that revised terms of reference have been prepared for Sub-Committees, New Underwriter etc.

Appendix 3

Minority Buyouts

Any underwriting agent that wishes to effect a minority buy-out for the 2008 year of account must apply to Agents & Brokers, Admissions Department by 30 April 2007 for conditional consent to give conditional notice of termination under the managing agents' agreements in order to effect a minority buy-out.

Managing agents should make applications in accordance with paragraph 11B of the Byelaw and Schedule 2, paragraph 2 of the Major Syndicate Transactions Byelaw (No. 18 of 1997). Permission to terminate the managing agent's agreement will be conditional upon completion of the minority buy-out. The application should include details of the proposed surrender arrangement or share swap arrangements.

Managing agents should provide members' agents and direct corporate participants with a copy of their application and give them 21 days from the point of despatch to make representations to Agents & Brokers, Admissions Department. Where further information is required to be submitted to Agents & Brokers, Admissions Department, this must also be sent to the members' agents and direct corporate participants and agents should allow them a further 7 days from the point of despatch to consider the information and to make further representations.

Requests for minority buy-outs are considered by the Capacity Transfer Panel. Guidance on minority buy-outs is set out in Regulatory Bulletin 041/2000 "Guidance on Minority Buy-outs" issued on 18 April 2000.