

# MARKET BULLETIN

REF: Y4080

<b>Title</b>	Consultation: - Streamlining Individual Registration, Change of Control for Underwriting Agents and Advance Consents for fully-aligned syndicates
<b>Purpose</b>	Feedback requested from managing and members' agents and the Association of Lloyd's Members (ALM) on proposals for change
<b>From</b>	Sean McGovern, Director and General Counsel 020 7327 6142 sean.mcgovern@lloyds.com
<b>Date</b>	23 November 2007
<b>Deadline</b>	19 December 2007

A key priority for Lloyd's is to make it easier to do business at Lloyd's. Consequently, we are determined to remove unnecessary administration and duplication of effort between Lloyd's and the FSA.

In light of these priorities, Lloyd's is proposing to streamline some of its Admissions processes. In summary, the proposals cover:-

1. Individual Registration;
2. Change of Control for Underwriting Agents;
3. Advance Consents for fully-aligned syndicates; and
4. Transitional arrangements.

We have already discussed the proposed changes with the market associations and the attached proposal document reflects the feedback we received. We are now publishing the proposals for wider market consultation. Comments or queries on the proposals should be directed to Jonathan Lowe, Admissions (extn 6991, email [jonathan.lowe@lloyds.com](mailto:jonathan.lowe@lloyds.com)) by 19 December 2007.

# **STREAMLINING ADMISSIONS ACTIVITIES INDIVIDUAL REGISTRATION, CHANGE OF CONTROL AND ADVANCE CONSENTS**

## **PURPOSE**

This document sets out proposals for a streamlined approach to Lloyd's Individual Registration, Change of Control for Underwriting Agents and the Advance Consents Regime for fully-aligned syndicates prior to making the necessary changes to existing rules.

Comments on the proposals should be sent to Jonathan Lowe, Admissions by no later than 19 December 2007.

## **BACKGROUND**

A key priority for Lloyd's is to make it easier to do business at Lloyd's. In view of this, Lloyd's proposes to streamline its approach to Individual Registration, Underwriting Agent Changes of Control and Advance Consents for aligned syndicates by removing unnecessary duplication with the FSA's statutory regime.

The intention of these proposals is to achieve quicker, more efficient processes where activity is performed once by the most appropriate party to undertake the work. In reviewing these processes, we have taken as our starting point that:-

- Regulatory checks (e.g. fit and proper checks of both firms and their senior management teams) are primarily a matter for the FSA;
- Lloyd's should not duplicate FSA activity; and
- Unnecessary administration should be removed.

However, Lloyd's retains the ability to take action to preserve Lloyd's reputation, ratings, brand and the Central Fund in exceptional cases to protect policyholders.

We have discussed the proposals with the Lloyd's Market Association's Regulatory Committee ("LMA"), the Association of Lloyd's Members ("ALM") and the FSA and revised the proposals in light of feedback received. We would now welcome comments from any interested party.

A Market Bulletin will be issued after the consultation period setting out the new arrangements in respect of each proposal.

## **PROPOSALS**

The proposals are set out in four areas:-

1. Individual Registration;
2. Change of Control for Underwritings Agents;
3. Advance Consents for fully-aligned syndicates; and
4. Transitional arrangements.

Each of these areas is considered in turn below.

### **1. INDIVIDUAL REGISTRATION**

Currently, the Individual Registration Byelaw requires that individuals who carry out certain regulated functions can only do so if registered by Lloyd's. This regime was introduced prior to FSA regulation. The Financial Services and Markets Act 2000 ("FSMA 2000") and the FSA Handbook states that any individual wishing to perform a controlled function must be an "Approved Person" in accordance with the requirements of the FSA's Handbook. Rather than continue with these duplicated processes in future, for new director-level appointments, Lloyd's will require only: -

- Electronic advice via lloyds.com from the Managing Agent of the intention to make a senior-level appointment; followed by
- Electronic confirmation that the proposed appointment has been approved by the FSA.

Additionally: -

- The electronic advice will act as confirmation that the underwriting agent is satisfied that the individual is fit and proper to carry out the role.
- Lloyd's will rely on the statutory FSA's Approved Persons regime, whilst retaining a right to challenge within a window of 3 working days between notification and submission of the formal application by the firm to the FSA;
- The notification will be circulated to relevant internal stakeholders for feedback.
- Lloyd's will also retain a general right to remove a senior appointment when, in the view of Lloyd's, the individual is not, or is no longer, fit and proper or otherwise suitable;
- Lloyd's Franchise Performance will continue to approve intended changes to Active Underwriter or Run-Off Manager;
- Lloyd's will retain a contact list of Compliance Officers. However, we will only require advance notification of appointment for directors with compliance responsibility;
- A separate notification will be required for termination or changes of details;
- The information will be held in InterAction, Lloyd's Customer Relationship Management (CRM) system; and
- Lloyd's will continue to report to the NAIC in respect of Approved Persons on behalf of the Market.

These changes will result in the Individual Registration Byelaw being revoked, with appropriate amendments being made to other relevant Lloyd's Byelaws. The byelaw changes have been drafted and are being reviewed. Should you wish to see a copy of these proposed changes, please contact Jonathan Lowe.

A summary of the current and proposed future state of the Individual Registration process is attached as annex 1. A similar summary is not included in respect of Change of Control or Advance Consents as no byelaw change is required and the process changes are less significant.

## **2. CHANGE OF CONTROL FOR UNDERWRITING AGENTS**

The approval of controlling interests in an underwriting agent is driven by Lloyd's Underwriting Byelaw and the requirements of the FSA. The overriding principle is that where a company acquires 10% or more of the equity and / or voting interests in an underwriting agent (as defined in FSMA 2000), the firm needs prior approval from the FSA and Lloyd's.

Under the current approach, firms submit their FSA application (which primarily focuses on the Fitness & Propriety of the new controller) and copy that application to Lloyd's. In addition, Lloyd's also sets out (on a case by case basis) such additional information that it considers appropriate to the application. Typically this will include a request for the rationale for the acquisition, changes to the board, future (3 year) strategy and retention of key directors and resources.

Going forward, Lloyd's proposes to use a similar approach to that set out for Individual Registration, i.e.

- Electronic notification to Lloyd's of the intention to change a controller and confirmation that any tax implications have been explored with Lloyd's Tax Department;
- Lloyd's having 3 working days to raise any issues or to exercise its right to challenge;
- The firm submitting the application to the FSA; and
- The firm notifying Lloyd's when FSA approval is granted.

It should be noted that, in the case of a new majority controller, it is likely that Lloyd's will still perform additional work, comparable to that undertaken when a new underwriting agent is set up.

No byelaw changes are required. The new process will be confirmed by way of Market Bulletin.

### **3. ADVANCE CONSENTS FOR FULLY-ALIGNED SYNDICATES**

The current Advance Consents Regime is set out in Market Bulletin Y3116 dated 14 August 2003. We are seeking to ease further the burden on managing agents of syndicates with fully-aligned capital. For fully-aligned syndicates only, there will therefore no longer be a requirement to inform Lloyd's about the following events:-

- Agency agreement terminations;
- Appointment of recognised accountants as auditors for a syndicate and its managing agent or a related group company;
- Multiple syndicates consent for underwriters where the additional syndicate is allocated on a split stamp basis, is a mirror syndicate or is in run-off;
- Appointment or retirement of premiums trust fund trustees that are directors or company secretary of the managing agency;
- Decision not to hold a syndicate annual general meeting;
- Reinsurance to close being treated as a transfer of assets following the merger of syndicates; and
- Appointment of a director of a corporate member.

In the case of syndicates which are not fully aligned, the existing Advance Consents Regime will continue to remain in force. Again, no byelaw changes are required and the new process will be confirmed by way of Market Bulletin.

### **4. TRANSITIONAL ARRANGEMENTS**

Since our proposals involve the streamlining of current activities and requirements rather than the addition of new obligations, it is expected that the proposals will cause minimum disruption and few, if any, transitional arrangements will be required. Subject to consultation, it is anticipated that the proposed changes will all come into effect during February 2008.

#### **QUESTIONS**

As part of our consultation, we would welcome comments on any of these proposals, but in particular on the following questions:-

- 1. Do you agree with our proposal to streamline Lloyd's Individual Registration processes, to rely on the FSA's statutory Approved Persons regime and minimise duplication between Lloyd's and the FSA?**
- 2. Do you agree that Lloyd's should adopt a "light touch" approach to Change of Control for underwriting agents in cases other than a change of majority controller (>50%), relying on the FSA's statutory regime and minimising duplication between Lloyd's and the FSA?**
- 3. Do you agree with our proposal to remove the requirement for fully aligned syndicates to advise Lloyd's of the circumstances listed above?**

## **NEXT STEPS**

During January 2008, Lloyd's will work with the LMA and the ALM to:-

- Take account of market feedback arising from the consultation process;
- Update the relevant byelaw provisions;
- Seek Council approval for the final proposals and revised byelaw (current target date 4 February 2008); and
- Issue a Market Bulletin to communicate the revised procedures.

## **FURTHER INFORMATION AND QUERIES**

Any questions on this paper should be directed to Jonathan Lowe, Admissions, Tel (020) 7327 6991, Email [jonathan.lowe@lloyds.com](mailto:jonathan.lowe@lloyds.com).

## CURRENT AND FUTURE STATE: - INDIVIDUAL REGISTRATION APPLICATIONS / APPROVAL

CURRENT	FUTURE
<b>APPLICATIONS</b>	
<p>Applicants complete an application form:</p> <ul style="list-style-type: none"> <li>• IR Form A, 16 pages, or</li> <li>• IR Form B, 12 pages, if submitted with a copy of an FSA approved persons application</li> </ul> <p>Application is reviewed by Lloyd's and signed off by the admissions team.</p> <ul style="list-style-type: none"> <li>• Allows Lloyd's to review each individual and complete relevant checks</li> <li>• Requires positive approval by Lloyd's before individual can perform their role</li> <li>• Administratively intensive for market and Lloyd's</li> <li>• Delays in approval can cause frustrations</li> <li>• Two application forms can cause confusion</li> </ul> <p>Volume – year to 31 October 2007: 126 Applications</p>	<p>Firms complete an electronic proforma document on lloyds.com to inform Lloyd's about proposed senior level appointments prior to submitting an Approved Persons application to the FSA:</p> <ul style="list-style-type: none"> <li>• Lloyd's provided with details prior to individual starting their job (under new notification provisions set out in the Underwriting Byelaw)</li> <li>• Provides Lloyd's with the opportunity to refuse applications if individual is unsuitable within 3 working days (criteria set out in the Underwriting Byelaw and Underwriting Requirements)</li> <li>• NAIC declaration form no longer required</li> <li>• Removes the need to submit IR forms to Lloyd's</li> <li>• Lloyd's retains an ongoing ability to review and remove permission from individuals to carry out a designated function or otherwise impose conditions / suspend</li> </ul>
<b>APPROVAL / REJECTION</b>	
<p>Approval status updated and recorded by Lloyd's:</p> <ul style="list-style-type: none"> <li>• Clear record of Lloyd's approval including date and audit trail of the user that updated the status</li> <li>• Do not record status of FSA approval</li> <li>• Do not record FSA controlled functions</li> </ul>	<p>Firms complete an electronic proforma on lloyds.com to confirm that FSA approval has been given:</p> <ul style="list-style-type: none"> <li>• FSA approval details are entered into Lloyd's systems from electronic advice</li> <li>• Controlled functions will be recorded</li> </ul>

**Note:-**

In practice, there is likely to be informal contact and discussion with Lloyd's prior to submission of the electronic notification

**CURRENT AND FUTURE STATE: - INDIVIDUAL REGISTRATION  
NAIC REPORTING / TERMINATION / OTHER CHANGES**

CURRENT	FUTURE
<b>NAIC REPORTING</b>	
<p>Quarterly reporting to the NAIC includes:</p> <ul style="list-style-type: none"> <li>Signed affidavit from Lloyd's stating that the information is accurate</li> <li>Report of individuals registered within the last quarter</li> <li>Report of individuals where registration has been terminated within the last quarter</li> <li>Report of all individuals registered, indicating those individuals that have signed the NAIC declaration</li> <li>Report of all individuals registered with a condition on their registration</li> <li>Single co-ordinated return for the market</li> <li>Using IR data no further information is required from the market</li> <li>Administrative overhead for Lloyd's</li> <li>Reliance on legacy IT system (Market Entity Database)</li> </ul>	<ul style="list-style-type: none"> <li>Single co-ordinated return for the market</li> <li>Using Approved Persons data no further information is required from the market</li> <li>NAIC biographical affidavit criteria will be amended to refer to the FSA's Approved Persons regime rather than Lloyd's Individual Registration</li> <li>NAIC no longer require advice of changes, only a "snapshot" each quarter</li> <li>Residual administrative overhead for Lloyd's (but efficient for market)</li> </ul>
<b>TERMINATIONS / LEAVERS</b>	
<p>Managing agent informs Lloyd's using IR Form D:</p> <ul style="list-style-type: none"> <li>Lloyd's notified often before the individual leaves and potential problems can be identified, e.g. no chairman</li> <li>Managing agent is required to disclose if the individual has left for any adverse reasons</li> <li>Managing agent may forget to send the form—information may be out of date</li> <li>Real reason may not be disclosed</li> </ul>	<p>Managing agent submits electronic advice from lloyds.com to Relationship Management, including reasons for departure:</p> <ul style="list-style-type: none"> <li>Reduced administration for managing agents</li> <li>Information received after the event (as at present)</li> </ul>
<b>CHANGES IN DETAILS</b>	
<p>Managing agent informs Lloyd's using IR Form C:</p> <ul style="list-style-type: none"> <li>Lloyd's notified of changes in details to original application</li> <li>Managing agent may forget to send the form—information may be out of date</li> </ul>	<p>Managing agent submits electronic advice from lloyds.com to Relationship Management:</p> <ul style="list-style-type: none"> <li>Reduced administration for managing agents</li> </ul>