

## **Co-operation Arrangements between the Financial Services Authority and Lloyd's**

**Entered into August 2007**

### **Purpose of these arrangements**

1. Both the Financial Services Authority ("FSA") and the Society of Lloyd's ("Lloyd's") have statutory responsibilities in relation to regulating the insurance business underwritten in the Lloyd's market.
2. The FSA and Lloyd's have, therefore, agreed the following arrangements in order to maintain an effective working relationship on authorisation, supervision, and enforcement matters in respect of firms and individuals operating within the Lloyd's market, and to ensure that duplication is minimised.
3. As part of its oversight of the market the FSA will seek to utilise Lloyd's systems and controls in respect of the monitoring of managing agents and syndicates. To the extent that Lloyd's controls are regarded as effective by the FSA, then the FSA's view of risk posed by managing agents and syndicates is reduced accordingly.

### **Authorisation of firms and approval of individuals**

4. With respect to the authorisation of managing agents both the FSA and Lloyd's aim to complete the authorisation process for straightforward applicants within two to three months. In times of market pressure effort will be made to reduce this.
5. With respect to Lloyd's Brokers, Lloyd's and the FSA have no input into the other's approval processes (although Lloyd's shall provide any relevant information to the FSA). FSA approval, however, is a pre-condition of Lloyd's registration. Lloyd's completes its registration process within four weeks; the FSA aim to complete the authorisation process for straightforward applicants within two to three months.
6. Lloyd's and the FSA shall liaise in relation to the approval of individual controllers and approved persons, however, Lloyd's do not have a separate approval process for approved persons in respect of Lloyd's entities. The FSA's requirements are set out in the Supervision Manual, part of the FSA Handbook.
7. With respect to the deregistration of managing agents neither the FSA nor Lloyd's shall approve an application for deregistration/cancellation without first consulting the other. Lloyd's published service standard for completion of the deregistration process is eight weeks from the date of completed application. The FSA shall determine all applications for cancellation of a firm's Part IV (FSMA) permissions within the earlier of (a) six months of the application becoming complete<sup>1</sup> or (b) twelve months of the application first being received by the FSA.

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<sup>1</sup> If an application is received complete then this standard is 6 months from the date of receipt by the FSA.

8. The FSA does not authorise Lloyd's syndicates. Instead, the FSA utilises the Lloyd's authorisation procedures for understanding the nature and risks posed by a new syndicate authorisation.
9. The FSA does not generally authorise Lloyd's members (corporate or individual), although the FSA has powers under FSMA to require authorisation.

### **Supervision of firms**

10. The FSA and Lloyd's meet on a regular basis to discuss, inter alia:
  - material issues and risks in relation to managing agents;
  - impact of market events, including systemic issues; and
  - actions to be taken by either the FSA or Lloyd's (or both if appropriate)

The FSA provides Lloyd's with, inter alia:

- copies of Risk Mitigation Programmes and letters;
- the conclusions of thematic reviews; and
- the findings of syndicate ICAs reviewed

Lloyd's provides the FSA with, inter alia:

- assessments of risks posed by managing agents and syndicates to the Lloyd's market;
- operational risk review reports;
- FPD reviews and assessments on live and run off managing agents;
- an overview of the progress of reviews of syndicate ICAs; and
- thematic-style reviews

### **Enforcement actions against firms and individuals**

11. The FSA and Lloyd's will share information in respect of investigations or disciplinary or enforcement action in relation to:
    - (1) managing agents;
    - (2) an approved person who holds a controlled function for or on behalf of managing agents;
    - (3) an individual acting (or who has acted) for or on behalf of a managing agent;
    - (4) any other person who is subject to the enforcement jurisdiction of Lloyd's (including members, directors of corporate members, Lloyd's brokers and annual subscribers); or
    - (5) Lloyd's coverholders.
  12. Meetings will take place between the FSA and Lloyd's, at least quarterly, to discuss information exchanged and matters of mutual interest. These discussions will include cases where it is possible that investigation and enforcement action are required. In
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advance of each meeting Lloyd's will provide to the FSA a written report on what has occurred in respect of the investigations and disciplinary proceedings that are still in progress or which have ceased since the preparation of the previous report. Supplementary meetings may take place and reports be prepared as deemed necessary.

13. In cases where both Lloyd's and the FSA could use their enforcement and/or disciplinary powers, they will have regard to the following principles when discussing how to proceed:
  - (1) Lloyd's firms or individuals should not be subject to more than one investigation or set of enforcement proceedings for the same alleged wrongdoing unless
    - (a) it may be necessary or desirable to exercise powers possessed by both of the FSA and Lloyd's;
    - (b) the investigation or enforcement action relates to different aspects of the misconduct;
  - (2) in suitable cases investigation and enforcement action led by Lloyd's may be sufficient to fulfil both Lloyd's enforcement responsibilities and deal with the risks posed to the FSA's objectives; and
  - (3) cases of mutual interest will be reviewed regularly as they develop to determine whether the lead responsibility should be transferred from Lloyd's to the FSA or vice versa.
14. When Lloyd's receives an initial report, complaint, or referral about any person or entity subject to the enforcement jurisdiction of Lloyd's it may be appropriate for Lloyd's to make preliminary enquiries to establish a basis for discussions on whether Lloyd's should investigate/take enforcement action or whether the case should be referred to the FSA.
15. In deciding whether it is more appropriate for the FSA or Lloyd's to investigate or take action regard will be had to ensuring that the matter is dealt with in an efficient and fair manner and consideration may be given to the following criteria:

*Factors tending to the FSA*

- (1) the conduct in question poses significant risks to the FSA's statutory objectives and strategic priorities;
- (2) criminal offences are suspected or the conduct is egregious;
- (3) the FSA has the more appropriate investigation and enforcement powers; e.g., its power to compel the production of information or to seek injunctions in the civil courts.
- (4) the consequences of the suspected wrong doing are not limited to the Lloyd's market;

- (5) the case is similar to cases being dealt with by the FSA and should be treated in a consistent manner.

*Factors tending to Lloyd's*

- (6) the conduct in question poses significant risks to Lloyd's reputation, licences, the New Central Fund, members, or Lloyd's policyholders;
  - (7) the consequences of the suspected wrong doing are limited to the Lloyd's market;
  - (8) the case is similar to other cases previously dealt with by Lloyd's;
  - (9) the concerns relate predominantly to breaches of specific Lloyd's byelaws or requirements;
  - (10) any suspected misconduct by underwriting agents also involves persons who are regulated by Lloyd's, but not by the FSA, for instance members of Lloyd's;
  - (11) Lloyd's has the more appropriate investigation and enforcement powers; e.g. its power to make intervention orders and its restitution power for breaches of Lloyd's byelaws and requirements.
16. The cooperation arrangements entered into between the FSA and Lloyd's and dated 1<sup>st</sup> December 2001 are hereby revoked.
17. Questions about the day-to-day operation of these arrangements may be addressed either to the Lloyd's Team at the FSA or to Lloyd's using the details below:

**FSA**

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**Society of Lloyd's**

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