



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XIX

#### LLOYD'S

##### *General*

#### **314 Authority's general duty**

- (1) The Authority must keep itself informed about—
  - (a) the way in which the Council supervises and regulates the market at Lloyd's; and
  - (b) the way in which regulated activities are being carried on in that market.
- (2) The Authority must keep under review the desirability of exercising—
  - (a) any of its powers under this Part;
  - (b) any powers which it has in relation to the Society as a result of section 315.

##### *The Society*

#### **315 The Society: authorisation and permission**

- (1) The Society is an authorised person.
- (2) The Society has permission to carry on a regulated activity of any of the following kinds—
  - (a) arranging deals in contracts of insurance written at Lloyd's ("the basic market activity");
  - (b) arranging deals in participation in Lloyd's syndicates ("the secondary market activity"); and
  - (c) an activity carried on in connection with, or for the purposes of, the basic or secondary market activity.

- (3) For the purposes of Part IV, the Society's permission is to be treated as if it had been given on an application for permission under that Part.
- (4) The power conferred on the Authority by section 45 may be exercised in anticipation of the coming into force of the Society's permission (or at any other time).
- (5) The Society is not subject to any requirement of this Act concerning the registered office of a body corporate.

*Power to apply Act to Lloyd's underwriting*

**316 Direction by Authority**

- (1) The general prohibition or (if the general prohibition is not applied under this section) a core provision applies to the carrying on of an insurance market activity by—
  - (a) a member of the Society, or
  - (b) the members of the Society taken together,
 only if the Authority so directs.
- (2) A direction given under subsection (1) which applies a core provision is referred to in this Part as “an insurance market direction”.
- (3) In subsection (1)—
  - “core provision” means a provision of this Act mentioned in section 317;
  - and
  - “insurance market activity” means a regulated activity relating to contracts of insurance written at Lloyd's.
- (4) In deciding whether to give a direction under subsection (1), the Authority must have particular regard to—
  - (a) the interests of policyholders and potential policyholders;
  - (b) any failure by the Society to satisfy an obligation to which it is subject as a result of a provision of the law of another EEA State which—
    - (i) gives effect to any of the insurance directives; and
    - (ii) is applicable to an activity carried on in that State by a person to whom this section applies;
  - (c) the need to ensure the effective exercise of the functions which the Authority has in relation to the Society as a result of section 315.
- (5) A direction under subsection (1) must be in writing.
- (6) A direction under subsection (1) applying the general prohibition may apply it in relation to different classes of person.
- (7) An insurance market direction—
  - (a) must specify each core provision, class of person and kind of activity to which it applies;
  - (b) may apply different provisions in relation to different classes of person and different kinds of activity.
- (8) A direction under subsection (1) has effect from the date specified in it, which may not be earlier than the date on which it is made.

- (9) A direction under subsection (1) must be published in the way appearing to the Authority to be best calculated to bring it to the attention of the public.
- (10) The Authority may charge a reasonable fee for providing a person with a copy of the direction.
- (11) The Authority must, without delay, give the Treasury a copy of any direction which it gives under this section.

### **317 The core provisions**

- (1) The core provisions are Parts V, X, XI, XII, XIV, XV, XVI, XXII and XXIV, sections 384 to 386 and Part XXVI.
- (2) References in an applied core provision to an authorised person are (where necessary) to be read as references to a person in the class to which the insurance market direction applies.
- (3) An insurance market direction may provide that a core provision is to have effect, in relation to persons to whom the provision is applied by the direction, with modifications.

### **318 Exercise of powers through Council**

- (1) The Authority may give a direction under this subsection to the Council or to the Society (acting through the Council) or to both.
- (2) A direction under subsection (1) is one given to the body concerned—
  - (a) in relation to the exercise of its powers generally with a view to achieving, or in support of, a specified objective; or
  - (b) in relation to the exercise of a specified power which it has, whether in a specified manner or with a view to achieving, or in support of, a specified objective.
- (3) “Specified” means specified in the direction.
- (4) A direction under subsection (1) may be given—
  - (a) instead of giving a direction under section 316(1); or
  - (b) if the Authority considers it necessary or expedient to do so, at the same time as, or following, the giving of such a direction.
- (5) A direction may also be given under subsection (1) in respect of underwriting agents as if they were among the persons mentioned in section 316(1).
- (6) A direction under this section—
  - (a) does not, at any time, prevent the exercise by the Authority of any of its powers;
  - (b) must be in writing.
- (7) A direction under subsection (1) must be published in the way appearing to the Authority to be best calculated to bring it to the attention of the public.
- (8) The Authority may charge a reasonable fee for providing a person with a copy of the direction.

- (9) The Authority must, without delay, give the Treasury a copy of any direction which it gives under this section.

### **319 Consultation**

- (1) Before giving a direction under section 316 or 318, the Authority must publish a draft of the proposed direction.
- (2) The draft must be accompanied by—
- (a) a cost benefit analysis; and
  - (b) notice that representations about the proposed direction may be made to the Authority within a specified time.
- (3) Before giving the proposed direction, the Authority must have regard to any representations made to it in accordance with subsection (2)(b).
- (4) If the Authority gives the proposed direction it must publish an account, in general terms, of—
- (a) the representations made to it in accordance with subsection (2)(b); and
  - (b) its response to them.
- (5) If the direction differs from the draft published under subsection (1) in a way which is, in the opinion of the Authority, significant—
- (a) the Authority must (in addition to complying with subsection (4)) publish details of the difference; and
  - (b) those details must be accompanied by a cost benefit analysis.
- (6) Subsections (1) to (5) do not apply if the Authority considers that the delay involved in complying with them would be prejudicial to the interests of consumers.
- (7) Neither subsection (2)(a) nor subsection (5)(b) applies if the Authority considers—
- (a) that, making the appropriate comparison, there will be no increase in costs; or
  - (b) that, making that comparison, there will be an increase in costs but the increase will be of minimal significance.
- (8) The Authority may charge a reasonable fee for providing a person with a copy of a draft published under subsection (1).
- (9) When the Authority is required to publish a document under this section it must do so in the way appearing to it to be best calculated to bring it to the attention of the public.
- (10) “Cost benefit analysis” means an estimate of the costs together with an analysis of the benefits that will arise—
- (a) if the proposed direction is given; or
  - (b) if subsection (5)(b) applies, from the direction that has been given.
- (11) “The appropriate comparison” means—
- (a) in relation to subsection (2)(a), a comparison between the overall position if the direction is given and the overall position if it is not given;
  - (b) in relation to subsection (5)(b), a comparison between the overall position after the giving of the direction and the overall position before it was given.

### *Former underwriting members*

#### **320 Former underwriting members**

- (1) A former underwriting member may carry out each contract of insurance that he has underwritten at Lloyd's whether or not he is an authorised person.
- (2) If he is an authorised person, any Part IV permission that he has does not extend to his activities in carrying out any of those contracts.
- (3) The Authority may impose on a former underwriting member such requirements as appear to it to be appropriate for the purpose of protecting policyholders against the risk that he may not be able to meet his liabilities.
- (4) A person on whom a requirement is imposed may refer the matter to the Tribunal.

#### **321 Requirements imposed under section 320**

- (1) A requirement imposed under section 320 takes effect—
  - (a) immediately, if the notice given under subsection (2) states that that is the case;
  - (b) in any other case, on such date as may be specified in that notice.
- (2) If the Authority proposes to impose a requirement on a former underwriting member ("A") under section 320, or imposes such a requirement on him which takes effect immediately, it must give him written notice.
- (3) The notice must—
  - (a) give details of the requirement;
  - (b) state the Authority's reasons for imposing it;
  - (c) inform A that he may make representations to the Authority within such period as may be specified in the notice (whether or not he has referred the matter to the Tribunal);
  - (d) inform him of the date on which the requirement took effect or will take effect; and
  - (e) inform him of his right to refer the matter to the Tribunal.
- (4) The Authority may extend the period allowed under the notice for making representations.
- (5) If, having considered any representations made by A, the Authority decides—
  - (a) to impose the proposed requirement, or
  - (b) if it has been imposed, not to revoke it,it must give him written notice.
- (6) If the Authority decides—
  - (a) not to impose a proposed requirement, or
  - (b) to revoke a requirement that has been imposed,it must give A written notice.
- (7) If the Authority decides to grant an application by A for the variation or revocation of a requirement, it must give him written notice of its decision.

- (8) If the Authority proposes to refuse an application by A for the variation or revocation of a requirement it must give him a warning notice.
- (9) If the Authority, having considered any representations made in response to the warning notice, decides to refuse the application, it must give A a decision notice.
- (10) A notice given under—
  - (a) subsection (5), or
  - (b) subsection (9) in the case of a decision to refuse the application,
 must inform A of his right to refer the matter to the Tribunal.
- (11) If the Authority decides to refuse an application for a variation or revocation of the requirement, the applicant may refer the matter to the Tribunal.
- (12) If a notice informs a person of his right to refer a matter to the Tribunal, it must give an indication of the procedure on such a reference.

### **322 Rules applicable to former underwriting members**

- (1) The Authority may make rules imposing such requirements on persons to whom the rules apply as appear to it to be appropriate for protecting policyholders against the risk that those persons may not be able to meet their liabilities.
- (2) The rules may apply to—
  - (a) former underwriting members generally; or
  - (b) to a class of former underwriting member specified in them.
- (3) Section 319 applies to the making of proposed rules under this section as it applies to the giving of a proposed direction under section 316.
- (4) Part X (except sections 152 to 154) does not apply to rules made under this section.

#### *Transfers of business done at Lloyd's*

### **323 Transfer schemes**

The Treasury may by order provide for the application of any provision of Part VII (with or without modification) in relation to schemes for the transfer of the whole or any part of the business carried on by one or more members of the Society or former underwriting members.

#### *Supplemental*

### **324 Interpretation of this Part**

- (1) In this Part—
  - “arranging deals”, in relation to the investments to which this Part applies, has the same meaning as in paragraph 3 of Schedule 2;
  - “former underwriting member” means a person ceasing to be an underwriting member of the Society on, or at any time after, 24 December 1996; and

“participation in Lloyd’s syndicates”, in relation to the secondary market activity, means the investment described in sub-paragraph (1) of paragraph 21 of Schedule 2.

- (2) A term used in this Part which is defined in Lloyd’s Act 1982 has the same meaning as in that Act.