

**The Prudential Regulatory Authority**

**and**

**The Society of Lloyd's**

**Co-operation Agreement**

**December 2013**



## ***SECTION A - Supervision of Lloyd's Managing Agents***

### **Purpose**

- 1 The Society of Lloyd's (the Society) and the Prudential Regulation Authority (PRA) have statutory responsibilities, including under Lloyd's Acts 1871 - 1982 (Lloyd's Acts) and the Financial Services and Markets Act 2000 (FSMA) respectively, in relation to the supervision of managing agents operating in the market at Lloyd's.
- 2 This document sets out how the PRA and the Society envisage working together to ensure the effective supervision of managing agents, including, but not limited to, how they will coordinate in those areas where managing agents are potentially within the scope of both the PRA and the Society's powers.
- 3 The arrangements detailed in this document are independent from the PRA's responsibility to keep itself informed about the way in which the Council supervises and regulates the market at Lloyd's and the way in which any PRA-regulated activities are being carried on in that market, and are without prejudice to the PRA's discretion to apply insurance market directives to individual members of the Society or all the members taken as a whole. Nor will they fetter the discretion of the PRA to regulate and supervise the Society as an authorised person.

### **Role and responsibilities of the PRA**

- 4 The PRA is responsible for the prudential supervision of managing agents operating within the Lloyd's market. Whilst supervising the managing agents the PRA will have regard to its insurance objective of contributing to the securing of an appropriate degree of protection for those who are or may become Lloyd's policyholders.
- 5 In supervising the managing agents, the PRA will also have regard to its general objective of promoting the safety and soundness of the Society and the members of the Society (members) taken together. The PRA is required to advance this objective primarily by seeking to minimise any adverse effects that the failure of the Society and the members taken together could be expected to have on the UK financial system and by seeking to ensure that the Society and the members taken together carry out their business in a way that avoids adverse effects on the stability of the UK financial system.

- 6 The PRA has a responsibility to keep itself informed about the way in which the Council supervises and regulates the market at Lloyd's and the way in which PRA-regulated activities are being carried on in the market. If the PRA considers it necessary or expedient for the purpose of advancing either its insurance or general objective it may give directions that core provisions of FSMA or the general prohibition may be applied to a member of the Society or the members of the Society taken together.

#### **Role and responsibilities of the Society**

- 7 The Society has responsibilities for regulating and directing the business of insurance at Lloyd's under Lloyd's Acts. The Society has the power to make byelaws in the areas set out in schedule 2 to Lloyd's Act 1982; this includes the power to make byelaws regulating the operation of managing agents in relation to the Central Fund, membership, underwriting, insolvency and enforcement.

#### **Information sharing and confidentiality**

- 8 Timely and focused exchange of relevant information is an important feature in delivering effective co-ordination and co-operation between the PRA and the Society in the necessary areas.
- 9 In addition to requirements imposed on the Society under the PRA's rules, the Society and the PRA will share such information, as may serve their respective interests and obligations, with a particular view to:
  - a) improving the quality and effectiveness of supervision of the managing agents; and
  - b) limiting, where appropriate, the extent to which information requests or other requirements falling on the managing agents are duplicated.
- 10 The PRA and the Society shall meet on a regular basis to discuss issues of mutual interest with regards to the supervision and oversight of managing agents. For the avoidance of doubt, such meetings shall, where appropriate, involve exchange between the PRA and the Society of views and confidential information relating to managing agents.
- 11 In accordance with the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001, any confidential information provided by the PRA to the Society is provided either for the purpose of discharging a public function of the PRA or to

further the Society's regulatory functions only. Such information remains confidential, subject to section 348 of FSMA and will be used, recorded, manipulated, stored, communicated and otherwise dealt with as such by the Society.

- 12 The PRA and the Society will each protect the confidentiality and sensitivity of all unpublished and/or confidential information received from the other. Where one party has received confidential information from the other, it will obtain consent before (i) passing the information to a third party; or (ii) using the information in an enforcement proceeding or other court case, unless such disclosures are permitted by legislation.
- 13 Any information provided to the PRA cannot be deemed or assumed to have been provided to the Financial Conduct Authority. It will be the Society's responsibility, in accordance with its regulatory obligations, to ensure that all relevant bodies have been provided with information they require.

#### **Authorisations relevant to managing agents**

- 14 The PRA and the Society may share information, and will co-operate with each other, where this would assist in making decisions in relation to:
    - a) the controllers of, or entities that may have close links with, managing agents;
    - b) applications for the authorisation of managing agents;
    - c) applications for the de-authorisation or de-registration of managing agents;
    - d) applications from approved persons for PRA Significant Influence Functions for managing agents;
    - e) imposing or removing or varying the permission(s) of managing agents and/or placing restrictions or conditions on their activities; and
    - f) the establishment, or transfer, or novation of agency responsibility, in respect of new syndicates, special purpose syndicates, or similar.
  - 15 The PRA and the Society shall each inform the other of their intention to cancel the permission of a managing agent prior to any such cancellation.
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### **Legal intervention and disciplinary proceedings**

- 16 The PRA and the Society will share information in respect of investigations or disciplinary or enforcement proceedings in relation to:
- a) Managing agents;
  - b) Approved persons holding PRA Significant Influence Functions for or on behalf of managing agents;
  - c) Individuals who act or have acted on behalf of managing agents;
  - d) Any other person subject to the jurisdiction of Lloyd's; and
  - e) Lloyd's coverholders.
- 17 The PRA and the Society will meet regularly to discuss proposed and on-going legal intervention, enforcement, and disciplinary proceedings in relation to those persons or entities listed above. The Society will provide the PRA with a written report on the status of all its investigations and disciplinary proceedings, including cases which have closed since the previous report, in advance of such meetings.
- 18 The PRA and the Society will inform each other of circumstances and information (including complaints) that may lead to intervention or disciplinary proceedings relating to the Lloyd's market. In certain cases the PRA may decide not to provide such information to the Society, for instance where there is a material risk that informing the Society might significantly undermine the exercise of its functions.
- 19 In deciding whether to exercise its intervention, enforcement, or disciplinary powers, the PRA may have regard to a variety of factors, including the extent to which:
- a) The conduct in question poses material risks to the PRA's statutory objectives;
  - b) Criminal offences are suspected or the conduct is egregious;
  - c) The PRA has the more appropriate investigation and enforcement powers (i.e. its powers to compel the production of information or to seek injunctions in the civil court);
  - d) The consequences of the suspected misconduct are not limited to the Lloyd's market;
  - e) The suspected perpetrators include persons not subject to the Society's jurisdiction;
  - f) Whether or not the Society is exercising, or proposing to exercise, its powers in relation to the same matter; and

g) The proposed penalty should not be limited to the Lloyd's market.

20 In deciding whether to exercise its disciplinary powers, the Society may have regard to a variety of factors, including the extent to which:

- a) The conduct in question poses material risks to the Society's reputation, licences, members or other entities operating in the Lloyd's market who do not fall within the PRA's regulatory remit;
- b) The consequences of the suspected misconduct are limited to the Lloyd's market;
- c) The case is similar to other cases previously dealt with by the Society;
- d) The concerns relate predominantly to breaches of specific byelaws or requirements of the Society;
- e) Whether or not the PRA is exercising, or proposing to exercise, its powers in relation to the same matter; and
- f) Any suspected misconduct by managing agents also involves persons who are regulated by the Society but not by the PRA, for example, members of Lloyd's.

21 While the PRA and the Society will generally take account of whether the other proposes to exercise its powers, co-operation between the PRA and the Society regarding intervention, enforcement or disciplinary action shall not limit the ability of either party to exercise their powers concurrently with those of the other party. Each party acknowledges that it ought not to prejudice investigations or disciplinary proceedings that may be undertaken by the other.

#### **Review of document**

22 The PRA and the Society shall review the operation of the arrangements contained in this document and their effectiveness from time to time. It is envisaged that the arrangements shall be reviewed at least every three years from the date of commencement.

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## ***SECTION B - Supervision of The Society of Lloyd's***

### **Purpose, objectives, and application of supervision**

- 1 In all cases nothing in this document shall fetter or otherwise constrain the PRA in the pursuit of any of its statutory objectives or other responsibilities.
- 2 In pursuit of its objectives and responsibilities the PRA shall have regard to and otherwise be informed by the following principles in relation to its oversight of the Society of Lloyd's:
  - a. The PRA shall supervise the Lloyd's market to the same standards and in accordance with the same principles as it applies to the supervision of the insurance market outside of Lloyd's. This means that Lloyd's policyholders should benefit from the same minimum level of protection as other policyholders; and
  - b. the application of PRA policy and its practical supervision, as it relates to the Lloyd's market, should take place primarily at the level(s) in the market where risk is managed.
- 3 The PRA shall take account of the particular unique framework underpinning the Lloyd's market and may, where appropriate, to take this structure into account in the application of rules and the interpretation of rules in the supervision of the market, excepting always where such an approach would be in contravention of any of the principles set out in clause 2 above.

### **Duplication of oversight**

- 4 The PRA and Lloyd's shall, when carrying out their respective roles, be mindful of where duplication of oversight might be experienced by those who are subject to PRA and Lloyd's jurisdiction.
- 5 Both the PRA and Lloyd's may discuss from time to time the extent to which duplication of oversight may be reduced, consistent with each party's objectives or responsibilities and, where such duplication of oversight might be considered by both parties to be unduly burdensome, shall consider the extent to which the action and oversight of one party might reasonably inform or define those of the other.



## **Responsibilities of Lloyd's and the managing agents**

6. Notwithstanding all other obligations imposed on Lloyd's or on Lloyd's managing agents, whether arising out of PRA rules or elsewhere, the PRA recognises the practical distinction between the general responsibilities of Lloyd's for the time being and the responsibilities of the managing agents. Noting that responsibility for certain aspects of market-wide standards will be the responsibilities of both Lloyd's and the managing agents, the PRA would anticipate that:
- a. within the confines of market standards or other expectations Lloyd's might seek to impose on managing agents, managing agents should in the first instance have responsibility for (*inter alia*) their business strategy, risk appetite, governance, underwriting and reserving controls, control functions, and capital planning (noting always the role and responsibilities of Lloyd's in the 'chain of security').
  - b. Lloyd's should be responsible for (*inter alia*) the overall strategic direction of the market, control over how much (and what type of) risk to allow into the market as a whole, the market-wide control framework (including but not limited to performance management), and management of both the Central Fund and the 'chain of security'.
7. The PRA does not outsource or in any other manner rely on Lloyd's for the PRA's supervision of managing agents and nothing in clause 6 is intended to suggest otherwise.
8. The PRA will, however, continue to consider the actions carried out by Lloyd's to manage risk in relation to the market as a whole and in relation to individual managing agents. The extent to which these actions will inform and help to define the PRA's approach to regulation and supervision of the Lloyd's market will, in many cases, be a function of the PRA's view of the effectiveness of the way in which Lloyd's discharges its responsibilities in accordance with the PRA's expectations, given the overall level of risk to which the market is exposed.

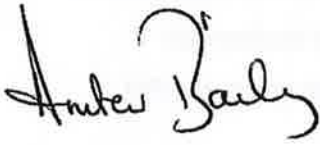
## **Review of document**

9. The PRA and the Society shall review the operation of the arrangements contained in this document and their effectiveness from time to time. It is envisaged that the arrangements shall be reviewed at least every three years from the date of commencement.
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**Executed by the Bank of England and Lloyd's of London**

**For the Bank of England:**

**For Lloyd's of London:**



**Andrew Bailey**

**Sean McGovern**

**Deputy Governor, Prudential Regulation**

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