

Regulatory Bulletin

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LLOYD'S OF LONDON

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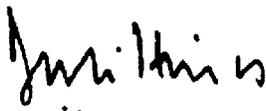
FROM: Director, Regulatory Division
LOCATION: 58/SW1
EXTENSION: 5355
DATE: 29 January 1996
SUBJECT: REGULATORY BULLETINS
ACTION POINTS: For Information Only
DEADLINE: Not Applicable

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In future, bulletins issued to the Market from the Regulatory Division will be separately identifiable as such. Each regulatory bulletin will indicate whether it relates to, for example, a new or amended byelaw or code of practice.

The intention is that this will assist the market in keeping track of bulletins issued by the Regulatory Division.

The first regulatory bulletin is attached, This builds on Chapter 4 of the recently published Regulatory Plan, by setting out the Regulatory Board's future intentions regarding enforcement of regulatory and disciplinary authority.



David Gittings
Director, Regulatory Division

Regulatory Bulletin

LLOYD'S
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One Lime Street, London EC3M 7HA

FROM: David Gittings, Director Regulatory Division

LOCATION: 58/SW1

EXTENSION: 5355

DATE: 29 January 1996

REFERENCE: 001 /96

SUBJECT: ENFORCEMENT OF REGULATORY AND DISCIPLINARY
AUTHORITY

ACTION POINTS: FOR INFORMATION ONLY

DEADLINE: **None**

Since Lloyd's Act 1982 there have been many developments in the area of City and Financial regulation. It has become apparent that there are a number of areas where changes to Lloyd's rules would make regulation more effective and reflect the rules already in force in other City regulatory bodies. These areas concern principally the processes of approval to do business at Lloyd's, the categories for whom such approval is required and the related use of core principles, codes of conduct and "fitness and properness" procedures, summary procedures for minor compliance failures, and disciplinary processes generally including the responsibility of employers for the acts of their employees.

The Lloyd's Regulatory Board ("LRB") has agreed, in principle, proposed changes and has asked that work be taken forward to enable it to consider rule changes, with a view to having them formally approved by Council as soon as practicable. The proposed changes are discussed in more detail below.

Authorisation

A more extensive system of registration is planned in order to allow the existing character and suitability considerations to be applied more broadly to key employees below board level and to enable the test of fitness and propriety to be applied directly to individuals.

In addition to the existing registration of businesses, specified individuals will be required to be authorised. This approach will be wide enough to include key managers, and will allow a move away from considering individuals only as part of a business seeking authorisation. It will require both the individual and the business to demonstrate that they are fit and proper at all times.

It is proposed to maintain jurisdiction in appropriate cases after authorisation has come to an end, thereby permitting disciplinary jurisdiction over those authorised, notwithstanding their resignation.

Ensuring high standards of conduct in the market

The LRB is of the view that a straightforward and universal statement of the behaviour Lloyd's expects should be introduced. This is to be achieved by a statement of core principles. The statement of core principles applicable to agents will be issued in the next few days as Regulatory Bulletin No. 2.

Core Principles

A failure to act in accordance with the core principles will become a disciplinary offence. Failures to observe the core principles will be taken account of in considering authorisation.

Disciplinary Proposals

The scope of conduct which should attract disciplinary action will be redefined to include failures to meet standards, as well as breaches of specific rules or misconduct.

Vicarious Liability

The introduction of a vicarious liability rule is intended to make businesses answerable for the conduct of their employees in connection with-the-business.

Settlement of Disciplinary Proceedings

It is considered desirable to introduce a mechanism for a settlement process at an early stage of disciplinary proceedings, aimed at maximum agreement of all issues in the proceedings (including offences and penalties), along with a simplification of the procedural steps for disciplinary proceedings where possible. This is aimed at achieving a saving of time as well as cost.

The Standard of Proof

It will be clarified that the standard of proof in Lloyd's disciplinary proceedings is the civil standard. This is in accordance with the general law applicable to other regulatory and disciplinary bodies.

Penalties

Generally a move to a degree of certainty is intended. Wherever possible it is planned that someone charged with an offence should be able to know what penalty or range of penalties may be imposed if found guilty.

Summary Proceedings and Fixed Penalty Offences

The present procedures for summary offences are to be improved and simplified. In order that a defendant may know what penalty he may face, a system of "fixed penalties" is to be implemented. It is envisaged that subsequent or aggravated offences will attract higher penalties and there will be power to bring full disciplinary proceedings where appropriate.

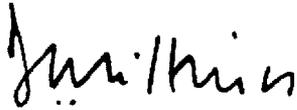
The Council Stage of Disciplinary Proceedings

It is intended to limit the circumstances in which the Council stage of disciplinary proceedings will be available.

Costs

Provision for the Disciplinary Committees' costs to be recovered from unsuccessful defendants. in addition to the present provision for recovering for prosecution costs. is also to be introduced.

Any queries concerning the disciplinary issues discussed in this Bulletin should be directed to Jonathan Foster in Legal Services Department (ext. 6674) ; any other queries should be directed to me.

A handwritten signature in black ink, appearing to read "D. Gittings". The signature is written in a cursive style with a large initial 'D'.

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David Gittings
Director, Regulatory Division