

FROM: Rolf Tolle, Director of Franchise Performance
LOCATION: 86/G5
EXTENSION: 6743
DATE: 10 June 2004
REFERENCE: Y3330
SUBJECT: CHANGES IN CAPACITY AND PRE- EMPTIONS
AND DE-EMPTIONS FOR THE 2005 YEAR OF
ACCOUNT
SUBJECT AREA(S): Procedure and criteria for making pre-emption and de-
emption applications for the 2005 year of account
ATTACHMENTS: None
ACTION POINTS: **Agents to note timetable**
DEADLINE: **See text**

1. Introduction

- 1.1 All changes in syndicate capacity for the 2005 year of account will be reviewed and, where appropriate, agreed through the syndicate business plan approval process.
- 1.2 As previously outlined in Market Bulletin Y3070 issued on 5 June 2003, the old requirements for specific regulatory approval by Lloyd's for –
- increases in syndicate capacity in excess of 25%;
 - any increase in syndicate capacity where a managing agent has been informed of a regulatory concern or where the agent manages a syndicate in run-off; and
 - reductions in syndicate capacity in excess of 15%,
- will be waived, together with the £5,000 fee for such applications.
- 1.3 The delay in issuing this bulletin has arisen as a result of resolving issues around the business timetable and, in particular, the timetable for the 2004 auctions.

2. Change in syndicate capacity for ‘aligned syndicates’

2.1 Where the managing agent can confirm to the Franchise Performance Directorate (“FPD”) that –

- all of the members of a syndicate approve a proposed change in syndicate capacity and the proportions in which the change will be allocated; and,
- the capacity will not be traded in the auctions,

no formal application to change the syndicate capacity need be made but details of any proposed change in syndicate capacity must be set out in the Syndicate Business Forecast which managing agents must submit no later than midday on 18 June 2004. For further information, please refer to Market Bulletin Y3282 issued on 2 April 2004.

2.2 FPD will consider a proposed change in syndicate capacity as an integral part of agreeing the Syndicate Business Plan. The Syndicate Business Plan will be reviewed during the business plan approval process that starts on 24 September 2004 and concludes on 1 November 2004. Proposed changes after that period should be referred to the managing agent’s usual contact within FPD.

3. Change in syndicate capacity for ‘non-aligned syndicates’

3.1 Where all of the members of a syndicate are not aligned so that the managing agent is unable to confirm the matters set out in paragraph 2.1, the following requirements will apply.

3.2 Any proposed change to a syndicate’s capacity must be set out in the Syndicate Business Forecast which must be submitted no later than midday on 18 June 2004. For further information please refer to Market Bulletin Y3282.

Increases greater than 7.5%

3.3 Where a proposed increase in syndicate capacity is greater than 7.5% (excluding any existing qualifying quota share arrangement) the managing agent must give notice of the proposed increase to the members’ agents and any direct members of the syndicate. This must be done in accordance with paragraphs 6(1) to (7) of the Syndicate Pre-Emption Byelaw.

3.4 Members’ agents and direct corporate members must then have at least 21 days in which to approve or disapprove the increase. This is an increase to the 14 days that was previously allowed. Members’ agents must inform managing agents of the outcome by 13 August. Managing agents must then confirm to FPD whether they have obtained the ‘requisite level of approval’ by no later than 20 August. If such approval has been obtained the managing agent may then make a pre-emption offer (see paragraphs 3.6 and 3.7 below).

All changes

3.5 FPD will consider, and where appropriate approve, a proposed change in syndicate capacity as an integral part of agreeing the Syndicate Business Plan. In respect of increases greater than 7.5%, the ‘requisite level of approval’ of the members must first be obtained. The Syndicate Business Plan will be reviewed during the Business

Plan Approval Process that starts on 24 September 2004 and concludes on 1 November 2004. Where possible, FPD will endeavour to give managing agents an indication of whether a proposed change in syndicate capacity is likely to be approved (or whether any other change in capacity is likely to be expected) prior to the commencement of the auctions.

Making and acceptance of pre-emption offers

- 3.6 A pre-emption offer made under the Syndicate Pre-Emption Byelaw must be made conditional on an increase in syndicate capacity being approved by FPD as part of the syndicate's business plan and provide that if a lower increase is approved the increase in syndicate capacity being offered shall be reduced accordingly. The offer must also invite members (including any member who purchases relevant syndicate capacity in the three auctions to be held during September 2004) to specify whether they would wish to take up all or part of their pre-emptive entitlement if a lower increase in syndicate capacity is approved by FPD. All offers must be made by no later than 31 August 2004.
- 3.7 Any acceptance of the offer must be made by no later than 15 October 2004. However, a member may not accept a pre-emption offer in respect of its capacity sold or to be sold in the three auctions to be held in September 2004. Any such acceptances will be invalid. As pre-emption offers are conditional on an increase in syndicate capacity being approved by FPD, no acceptance of an offer shall take effect until such approval is given. If an increase in syndicate capacity is approved the managing agent shall allocate the capacity to the members of the syndicate in accordance with the offer and with members' acceptances. If no increase is approved the pre-emption offer shall lapse.

4. MSU Returns

- 4.1 The following forms must be used when making returns to the Members' Services Unit ("MSU") so that they are fully informed of proposed changes and to enable syndicates' stamps to be prepared for the 2005 year of account –
- i. Pre-emption intentions ("PI");
 - ii. Pre-emption confirmations ("PC");
 - iii. De-emption intentions ("DI"); and
 - iv. De-emption confirmations ("DC").
- 4.2 These forms can be obtained by contacting either Lynda Edwards (extn 2058) or David Aris (extn 2486).
- 4.3 The MSU must receive completed PI and DI forms no later than midday 18 June and completed PC and DC forms no later than midday 3 November 2004.

This bulletin is being sent to all Underwriting Agents, Corporate Advisers and Direct Corporate Members and for information to the LMA and the ALM.