

# MARKET BULLETIN

REF: Y4032

<b>Title</b>	Capital Advantages: Aligned member capital held in syndicate PTFs
<b>Purpose</b>	To update aligned corporate members on the progress and process for holding capital in syndicate Premiums Trust Funds (PTF).
<b>Type</b>	Event
<b>From</b>	John Parry, Head, Market Finance Contact Details: 020 7327 5129, john.parry@lloyds.com
<b>Date</b>	29 June 2007
<b>Deadline</b>	
<b>Related links</b>	

## **Executive Summary**

In order to enhance capital flexibility, aligned members (i.e. those members that only participate on one syndicate) will be able to hold the capital supporting their underwriting within their syndicate PTFs rather than centrally at Lloyd's.

This Bulletin updates the issues raised in Market Bulletin Y3946, issued 11 January 2007, which outlined the policy implementation effective 1 July 2007.

## **Taxation**

As at 11 January one of the main outstanding issues related to the taxation of investment income arising from assets held in a syndicate PTF which are not allocated to a year of account under existing practice, since it was unclear in which year this income would fall to be taxed. Following discussions with HMRC, the Finance Act 1994, Section 220 (Amendment) Regulations 2007 were laid before Parliament on 7<sup>th</sup> June and come into force on 1 July 2007.

These Regulations have the effect of bringing any investment income arising on PTF assets which is not allocated to a year of account and declared in a later year into tax in the calendar year in which the income actually arises. This is consistent with the current treatment of investment income arising on funds at Lloyd's. Investment income arising on

PTF assets which is allocated to a year of account and declared in a later year will continue to be taxed on the declarations basis.

### **US Withholding Tax**

Lloyd's is a Qualified Intermediary in respect of funds held in the syndicate PTF. Under this arrangement, US withholding tax due in respect of US source non-effectively connected investment income (i.e., US source investment income that is not considered to be "USCI" under the 2005 Closing Agreement and, therefore, that is not subject to US income tax) is reported and paid on the aggregate US federal income tax return filed by Lloyd's on behalf of members, and is not withheld when such income is paid to the syndicate. This arrangement will also apply to investment income earned in respect of funds at Lloyd's transferred into the syndicate PTF. Managing agents will need to ensure that they continue to comply with the terms of market bulletin Y3021, US tax reporting: arrangements for syndicates holding funds, issued on 31 March 2003. Specifically, the Managing agent must ensure that the custodian of the assets is able to provide a breakdown to Lloyd's Members' Services Unit of any income reported to the IRS on form 1042s, on an annual basis.

### **Additional Reporting**

There will be an additional return required from each managing agent where capital is held in the syndicate PTF, in order to collect capital level information for use in the Lloyd's capital tests, i.e. solvency, coming into line and release tests. At a minimum capital and investment return data will be required at the valuation dates for these tests i.e. 31 December, 31 March, 30 April, 30 June, 31 July and 30 September. This return will be required within 5 working days of the month end in respect of the valuation dates stated above, the data will then be derived into the QMR and AR returns.

### **Transfer of funds**

Aligned corporate members should make their own internal assessment on the immediate taxation and accounting implications of moving capital from FAL into syndicate PTFs, including the mark to market pricing requirements.

### **Restrictions**

The ability to hold capital in syndicate PTFs is only available to fully aligned members on one syndicate. If this ability were available to members supporting more than one syndicate, these members would face liquidity issues if the capital were held individually by each syndicate as opposed to being held centrally as a member's FAL which is not syndicate specific and can be used to fund any shortfall incurred by the member. In addition, such members could be subjected to increased capital requirements loss of control over their capital and investment policy if their capital is held in syndicate PTFs.

**Exclusions**

This proposal excludes LOCs and bank guarantees or arrangements under which the capital to support the member's underwriting is provided under a covenant and charge arrangement. It is not possible for these or other third party assets, to be held under the Premiums Trust Deed (PTD).

**Legal Documentation and Notification**

Member's who wish to utilise this facility will be required to complete legal documentation allowing the transfer of funds from FAL into syndicate PTFs. In order to deal with this and the potentially large short-term workload this will impose on the MSU, would all members considering this course of action please contact Mike Steer (020 7327 5709), [mike.steer@lloyds.com](mailto:mike.steer@lloyds.com) .

If you have any queries concerning the content of this bulletin please also in the first instance contact Mike Steer.