

# MARKET BULLETIN

REF: Y4246

<b>Title</b>	Lloyd's American Trust Fund ('LATF') – new arrangements for the reporting, funding and settlement of LATF liabilities (excluding long term business)
<b>Purpose</b>	To advise the Lloyd's Market of amendments to the Lloyd's American Trust Deed ('LATD') affecting how LATF liabilities are to be reported, funded and settled (excluding long term business).
<b>Type</b>	Annual
<b>From</b>	Andrew Gurney, Senior Manager, International Licences, International Market Access Contact Details: +44 (0)20 7327 6677, <a href="mailto:LITA@lloyds.com">LITA@lloyds.com</a>
<b>Date</b>	5 March 2009
<b>Deadline</b>	<b>Action by managing agents needed – see attached timetable</b>
<b>Related links</b>	

## Summary

This bulletin is addressed to all Lloyd's market stakeholders dealing with the trust funding, regulatory reporting and settlement of Lloyd's American Trust Fund ('LATF') business (excluding long term business) and sets out what action managing agents need to take, together with Lloyd's, to effect the changes set out below. **Managing agents should note that the settlement and reporting procedures that are currently in place for LATF long-term business are not changing.**

The bulletin details changes effective from the end of Q1 2009. These changes will:

1. Amend the prescribed form of deeds and all existing deeds in respect of the LATFs, Lloyd's Dollar Trust Funds ('LDTF'), Lloyd's Credit for Reinsurance Trust Funds ('CRTF') and Lloyd's Excess and Surplus Lines Trust Funds ('SLTF') so that assets currently held in the LATFs in respect of underwriting liabilities arising in relation to insurance allocated to years of account after 1992 can be transferred out of the LATFs and, to the extent necessary, transferred to the CRTFs and SLTFs;
2. Allow the regulatory reporting of LATF liabilities and assets to be simplified and incorporated into current US situs reporting arrangements;

3. Permit a repatriation of all LATF assets (via the CRTFs and SLTFs) to syndicates' LDTFs over a 5 year period;
4. Require changes to current Lloyd's LATF settlement and solvency processes, which will impact daily settlement and year-end solvency reporting.

### **Background**

The LATFs, governed by the Lloyd's American Trust Deed ('LATD'), are the trust funds of assets held for members in relation to US dollar denominated business written at any time before 1 August 1995. Although all pre-1996 years of account are now closed, many Lloyd's syndicates have assumed assets and liabilities relating to such business by virtue of a chain of reinsurance to close transactions including such business.

Prior to Lloyd's Reconstruction & Renewal ('R&R'), assets held in the LATFs exceeded \$13bn. Post R&R, following the creation of Equitas, and the introduction of the US situs trust arrangements (Lloyd's US Surplus Lines Trust Deed ('SLTD') and Lloyd's Credit for Reinsurance Trust Deed ('CRTD')) for business written on or after 1 August 1995, the LATDs were amended to restrict their scope to liabilities arising out of US dollar denominated business allocated to year of accounts after 1992 and prior to 1 August 1995. The LATFs now support net liabilities of less than \$190m (Q4 2008) in the aggregate.

Lloyd's has had recent discussions with the New York Insurance Department ('NYID') regarding the efficacy of the current LATF arrangements and proposed a more efficient trust funding arrangement. As a result of those discussions, the NYID have indicated that they have no objections to our proposed amendments to the relevant trust deeds so that liabilities which arise under contracts of insurance allocated to years of account after 1992 (but written prior to 1 August 1995) and which are currently secured by assets held in the LATFs will instead be covered by assets held in the CRTFs and SLTFs. The proposed amendments also provide that the assets which are moved into the CRTFs and SLTFs for this purpose will be subject to a phased reduction of 20% p.a. over a 5 year period. The surplus assets currently held in the LATFs will be released to the LDTFs.

These proposed amendments allow Lloyd's to address the two major concerns raised by agents managing LATF accounts –

- a. decreasing average account sizes which are increasingly uneconomic to operate within relevant investment guidelines; and
- b. disproportionate US regulatory reporting requirements.

These proposed amendments also allows Lloyd's, centrally, to rationalise a number of operational issues concerning solvency and settlement, removing what are now duplicative and unnecessary processes.

The FSA has been informed of the proposals and has no objections to the deeds being amended.

**Practical points for managing agents****A. Timetable**

A detailed timetable for the steps to be taken by Lloyd's with Citibank and managing agents in order to effect the movement of assets from the LATF is set out at Appendix A.

**B. Deed Amendments**

Copies of the draft amendments to the trust deeds can be obtained from Claire Schrader (Lloyd's Legal and Compliance Department email: [claire.schrader@lloyds.com](mailto:claire.schrader@lloyds.com)) and after the amendments take effect, the revised deeds will be available on Lloyd's website.

The amendments to these deeds will take effect from 31 March 2009. Managing agents should note that they will not need to sign new forms of deeds in order for the amendments to take effect.

In summary, the amendments to the LATDs limit the scope of the LATFs solely to liabilities under contracts of insurance underwritten and allocated to 1992 or prior years of account, ie, the business reinsured into Equitas. The Lloyd's American Instrument (the trust deed which constitutes the LDTF), the SLTDs and CRTDs will be amended to encompass all liabilities arising under contracts of insurance allocated to 1993 and subsequent years of account. The SLTDs and CRTDs will also be amended in order that funds transferred to syndicates' SLTFs and CRTFs in respect of LATF liabilities reported at 31 December 2008 can be reduced on a phased basis over 5 years at 20% per annum.

**C. Changes to Regulatory Reporting**

Reporting of the former LATF business will be incorporated within the quarterly US situs regulatory filings. The net LATF liabilities as reported in syndicates' Schedule P filings for the 2008 year end will be added to these returns (in most cases split 50:50 between the SLTF and CRTF). This data will be pre-populated by Lloyd's centrally, is to be funded in full each quarter and will be reduced by 20% at each subsequent anniversary date of this agreement (i.e. Q1 2010, Q1 2011, etc)..

Further details will be provided in the Market Bulletin that accompanies the Q1 2009 US Regulatory Reporting return but for the avoidance of doubt managing agents are advised that apart from the net reserves no other data in respect of the former LATF business needs to be reported in the US regulatory filing.

**D. Central Accounting Settlement**

With effect from 24 March 2009, all transactions that would have previously been processed through the LATFs (except for those in respect of Equitas) will be settled through to syndicate LDTFs.

LATF transactions will continue to be assigned a Trust Fund code of 'OL' but where they would previously have been processed as a bank account type '01', from 24 March 2009, they will be included in the settlement for bank account type 'NR' (i.e. LDTF). There will be no change to the current process for life business.

The processing for all Equitas reinsured transactions remains unchanged. These are settled to separate bank accounts within Central Accounting Settlement processing.

As a result of the changes to the LATF arrangements and following discussions with Xchanging Claims Services ("XCS"), it has been agreed that the current Livestock Scheme will cease on 12 March 2009. However, XCS will continue to provide a direct settlement service, providing 3 day settlement directly to the insured, where requested.

Managing agents are also aware that for both LATF profits reported within this years DD Files, and LATF open year releases included in QMA 923 line 6 of the QMR, cash will be collected on 9 April. For any LATF losses reported on this years DD Files, or any previously called but unpaid LATF losses, any monies allocated post 21 April will be paid to the equivalent syndicate LDTF accounts.

#### **E. LATF – transfer of cash and investments**

Initially, all the assets held in the LATFs will be transferred to the LDTFs on or about 21 April 2009. Any additional funding requirements in the CRTFs and SLTFs will be carried out as part of the next situs quarterly funding exercise in May.

##### **i. Cash**

The transfer of cash from the LATF accounts will be completed on or about 21 April 2009. Citibank will provide Lloyd's STFO with the cash balances in the account on the morning of 21 April and these will then be transferred back to the LDTF accounts. Agents are asked to complete the form in Appendix B giving STFO the authority to transfer this cash. The form must be returned to Donna Caddy Lloyd's STFO ([Donna.Caddy@lloyds.com](mailto:Donna.Caddy@lloyds.com)) by no later than 19 March 2009.

##### **ii. Investments**

The transfer of the investments from the LATF accounts will be completed on 21 April 2009.

The process for doing this will be the same as the current quarterly process for moving investments back to the LDTF accounts for the US Situs funding exercises. If agents have investments that they wish to transfer back they may use the appropriate electronic form from Lloyd's STFO.

This form should be returned to Donna Caddy, ([Donna.Caddy@lloyds.com](mailto:Donna.Caddy@lloyds.com)) by no later than 14 April 2009.

If a managing agent wishes to sell the investments held in the LATFs instead of transferring them over to the LDTF, the sale must be completed for value by 17 April.

**iii. Transfer out of securities - US tax reporting**

To ensure that the correct tax information is available to complete the Lloyd's Consolidated United States Tax Return care will need to be taken when transferring securities from the LATF. To minimise any United States Capital Gain Tax impact forms to transfer securities from the LATF should be completed in the normal way transferring the principal amount at original cost. However, for interest bearing securities, where any accrued income was purchased and has not subsequently been matched by a receipt of interest at the transfer date, then the accrued interest purchased will need to be reflected within the transfer in the LDTF. Examples to illustrate this are set out below –

- Where **no income** has been received since date of purchase.

Original Record		
Nominal Cost	Accrued income	
100,000	102,000	3000
LATF record		
100,000	(102,000)	-
LDTF record		
100,000	102,000	<b>3,000</b>

- Where **income has been received** since date of purchase

Nominal Cost		
100,000	Accrued income	3000
100,000	102,000	
LATF record		
100,000	(102,000)	Nil
LDTF record		
100,000	102,000	<b>Nil</b>

**iv. Settlement of LATF liabilities from LDTFs**

In order to facilitate the smooth transfer of settlements prior to 31 March, it is necessary for Lloyd's STFO to settle LATF liabilities from the LDTFs from 24 March. Managing agents are required to provide instructions to Lloyd's STFO that assets held in the syndicate LDTFs may be used for the purpose of discharging any underwriting liabilities relating to the LATFs which arise during that period. The appropriate form of wording for this instruction is set out in Appendix B and needs to be provided to Lloyd's by no later than 19 March 2009. Managing agents must note that if this instruction is not provided to Lloyd's by this deadline, transactions for the discharge of LATF liabilities will not be processed.

**v. Transfer of letters of credit collateralised within the LATF**

Lloyd's will speak to relevant agents directly as needed where LOCs have been collateralised under the LATF LOC scheme.

**F. LATF – US Dollar Solvency Test (excluding long term business)**

For the valuation of Lloyd's members' underwriting liabilities, a syndicate's general business liabilities must be calculated in compliance with FSA requirements. This includes LATF liabilities which need to be separately identified. After the changes to the LATD have taken effect, there will no longer be a requirement to separately identify amounts attributable to pre-1 August 1995 LATF liabilities.

Lloyd's annual profit distribution, in accordance with the LATD, currently requires a solvency test to be conducted at member level for LATF liabilities. A managing agent must provide an audited return as part of the QMR where it intends to make a surplus distribution from the LATF. This exercise will be carried out for the last time in April. In future there will be no requirement for managing agents to provide these audited returns other than in respect of life syndicates.

**Further information**

For further information please contact –

*General enquiries*

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*US Regulatory Reporting*

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*Lloyd's Settlement and Trust Fund Operations*

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Donna Caddy, STFO

Tel: 01634 392693

*US Taxation*

Christine Allcott, Taxation

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**Appendix A – timetable**

<b>Key Date</b>	<b>Action</b>	<b>Responsibility</b>
19 Mar 2009	Cash transfer form giving Lloyd's STFO authority to complete transfer of cash from LATF to syndicate LDTF (transfer date 21 April 2009) to have been completed and returned to Lloyd's STFO ( <a href="mailto:donna.caddy@lloyds.com">donna.caddy@lloyds.com</a> )	Managing agent – the transfer form can be found at Appendix B to this bulletin
24 Mar 2009	From this date, all daily LATF settlement transactions that would previously have been processed through the LATF (except for those in respect of Equitas), will be settled from syndicate LDTF's	Lloyd's – the switch over will be automatic from this date.
31 Mar 2009	Effective date for deed amendments to the Lloyd's American Trust Deed, Lloyd's US Surplus Lines Trust Deed and Lloyd's Credit for Reinsurance Trust Deed	Lloyd's
09 Apr 2009	Closed year LATF profits and LATF open year releases to be collected from LATF syndicate accounts. This process is unchanged from previous years.	Lloyd's
14 Apr 2009	Securities transfer form (available from Lloyd's STFO ( <a href="mailto:donna.caddy@lloyds.com">donna.caddy@lloyds.com</a> )), giving Lloyd's STFO authority to complete transfer of securities from LATF to syndicate LDTF (please specify where this is held outside of Citibank) (transfer date 21 April 2009), to have been completed and returned to Lloyd's STFO. Please note, 14 Apr 2009 is last day for selling investments for cash.	Managing agent
14 Apr 2009	Security transfer instructions to be sent to LDTF custodian where held assets are to be transferred to custodians other than Citibank	Managing agent
21 Apr 2009	Transfer of cash from LATF accounts to syndicate LDTF accounts	Lloyd's (in accordance with transfer authorisation returned by managing agent by 19 Mar 2009)
21 Apr 2009	Transfer of investments from LATF accounts to syndicate LDTF accounts (including those held outside of Citibank)	Lloyd's (in accordance with transfer authorisation returned by managing agent by 14 Apr 2009)
14 May 2009	Quarterly adjustment date for the US Situs Trust Funds – transfer of funds from LDTF accounts to US SLTFs and US CRTFs	Managing agent

**APPENDIX B**

**FORM OF AUTHORITY FOR TRANSFERRING CASH BALANCES FROM THE LATF TO THE LDTF**

Re Syndicate Number : \_\_\_\_\_ LATF Account Number : \_\_\_\_\_

We hereby give STFO the authority to move the cash balances in both principle and income from the LATF account shown above to the LDTF account of the same syndicate.

Under Article 4.1F of the Lloyd’s American Trust Deed (“LATD”) and Clause 14(a)(ii) of each relevant Premiums Trust Deed, [insert name of managing agent] directs the American Trustee of the LATD that on or about 21 April 2009 assets held in the Lloyd’s American Trust Funds for the syndicates managed by it shall be transferred to the Lloyd’s Dollar Trust Funds held for those syndicates.

We understand that Lloyd’s STFO will look at the 1995 year of account in order to obtain the correct LDTF account number for the transfer. Any further balances which remain in the account after the interest calculation has been made should also be transferred to the same account. When all the assets have been transferred from the LATF account, please arrange for the account to be closed.

In addition, in exercise of the managing agent’s powers under clause 14 (a)(ii) of the Lloyd’s American Instrument and clause 14(a)(ii) of each relevant Premiums Trust Deed, [insert name of managing agent] directs the Managing Agent’s Dollar Trustees that the assets held in the Lloyd’s Dollar Trust Funds for syndicates managed by it may be used to discharge any liabilities of those syndicates arising in connection with Old American Business (as defined in the Lloyd’s American Trust Deed)

Contact Name: \_\_\_\_\_

Contact Telephone No: \_\_\_\_\_

\_\_\_\_\_  
Authorised Signatory

\_\_\_\_\_  
Authorised Signatory