

MARKET BULLETIN

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Title	Funds at Lloyd's – trust deed review
Purpose	To update members on the implementation of new trust deeds under which Funds at Lloyd's (FAL) are to be held
Type	Event
From	Simon Hardy, Solicitor, Legal & Compliance General Counsel's Division 020 7327 5264 (email: simon.hardy@lloyds.com)
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Related links	http://www.lloyds.com/Lloyds_Market/Tools_and_reference/Lloyds_trust_deeds_2/

The purpose of this Bulletin is to provide details of the implementation in 2010 of new forms of trust deeds under which members' Funds at Lloyd's ("FAL") are to be held.

Background

The forms of trust deed under which FAL are currently held are largely unchanged since they were last reviewed in connection with the introduction of corporate capital in the mid-1990's. In 2008, Lloyd's therefore decided to undertake a detailed review of the deeds, with the objectives of (i) reducing the number of different deeds in existence, (ii) addressing any administrative inefficiencies in the operation of the trust arrangements, and (iii) bringing the deeds up to date, e.g. to accommodate legislative changes since they were put in place.

Draft new forms of deeds were prepared in accordance with these objectives, following which Lloyd's sent the deeds out to the members' agents, the ALM, the LMA, the members of the Direct Corporate Participants (DCP) Forum and the FSA for consultation. The consultation process took place in two tranches, in April 2009 (in respect of the non-interavailable deeds) and in August 2009 (in respect of the interavailable deeds). Comments were received from a number of parties, and where appropriate incorporated into the final versions of the new deeds.

Copies of the new deeds, together with guidance notes on them, can be found on www.lloyds.com at the link set out above.

Implementation of the new trust deeds

The new form trust deeds have now been prescribed under the terms of the Membership Byelaw (No. 5 of 2005). The deeds are available for use with effect from 1 January 2010, and as such have been executed by new corporate members commencing at that date in respect of the provision of their FAL. At present, existing members continue to hold their FAL under the terms of the current form trust deeds. However, it is preferable that the FAL of all underwriting members is held under trust deeds with the same standard terms. Lloyd's therefore intends, during the first half of 2010, to undertake a 'transition' exercise whereby all actively underwriting members will be required to execute documentation to transfer their FAL from the current form trust deeds to the new form trust deeds. It is currently Lloyd's intention that once this has been completed, a separate transition exercise will be undertaken for those members which, at that time, have ceased underwriting but have open years of account (and therefore FAL in place).

Further details of the steps to be taken in respect of the transition exercise will be provided to members in early 2010 (for Names, SLPs, LLPs and certain corporate members this will be co-ordinated via their members' agents).

Changes to investment management arrangements

The principal change under the new form deeds (specifically, the Deposit Trust Deeds) concerns the delegation of the power of investment. The deeds provide for the power to be automatically delegated to the member, but with the proviso that the member may ask the Trustees to delegate the power to, and/or appoint as an investment adviser, any other person who is either an authorised or exempt person under FSMA 2000, or (as regards corporate members) within the same group as the member.

The effect of this change is that (unlike under the current form deeds) corporate members will have the option of appointing an investment manager on an advisory or execution only basis, rather than solely on a discretionary basis. This will give them the same flexibility in terms of managing the investment of their FAL as was previously enjoyed by individual members. (It should be noted that the investment management arrangements in respect of assets supporting FAL provided by way of Covenant & Charge are unchanged.)

To give effect to this change it will be necessary for new contractual arrangements with the relevant investment managers to be entered into. The commencement of these new arrangements will need to coincide with the implementation of the new trust deeds as described above. Lloyd's will shortly be contacting the investment managers to advise them of the steps necessary to put the revised contractual arrangements in place, and will co-ordinate the execution of the new documentation. Lloyd's will also be in contact with members in respect of this process.

This Market Bulletin is being sent to members' agents, direct corporate participants and market associations for information. For queries on the wording of the new deeds, please contact Simon Hardy (details above), or for operational queries contact Malcolm Colesworthy (DCPs only) (malcolm.colesworthy@lloyds.com tel: 01634 392497) or Karen Fox (members' agents and all non-DCP members) (karen.fox@lloyds.com tel: 01634 392568).