

Termination & Changes to Agency Agreements

Guidance on the process to follow for Syndicate Mergers, Minority Buy-Outs or cessations and for Profit Commission & Fee Changes by managing and member's agents

February 2022

1 Introduction

Managing agents or members' agents that wish to make a change to their profit commission or fees are required to follow the requirements set out in the Agency Agreement Byelaw. Managing agents proposing to undertake a syndicate merger, minority buy-out or syndicate cessation must follow the requirements set out in the Major Syndicate Transactions Byelaw.

This document provides additional guidance on the process managing agents and members' agents should follow in each of these cases.

2 Changes in managing agents' fees or profit commissions

2.1.1 Unaligned syndicates

A managing agent that wishes to change its fees or profit commissions in respect of an unaligned syndicate (including unaligned SPAs) for the following year of account must make an initial application for conditional consent to give notice of termination under the relevant managing agent's agreements by sending an application to Lloyd's at the details provided below by no later than 30 April (see paragraph 11B Agency Agreements Byelaw). A copy of the application should also be sent to members' agents and direct corporate participants where applicable. A full application must then be made in accordance with the requirements set out in Annex 1 by no later than 18 June.

It is in the best interests of managing agents, members and Lloyd's if agreement in respect of changes in fees or profit commissions can be reached prior to any application to Lloyd's. Managing agents and members' agents should use their best endeavours to establish whether agreement can be reached and for that reason Lloyd's will expect parties to enter into any relevant discussions at the earliest practical opportunity. Where agreement has not been reached between the parties Lloyd's will expect the parties to set out clearly for Lloyd's the specific areas of disagreement along with a summary of the parties' positions on those areas.

Syndicates which are unaligned, but where each member of the syndicate has individually agreed in writing to the change in fees or profit commission, may follow the process for aligned syndicates below.

2.1.2 Aligned syndicates (and where there is agreement between all the parties)

For fully aligned syndicates (including aligned SPAs) or where there is agreement between the managing agent and all the members of the syndicate fee and profit commission changes may be made at any time during the year without prior application being made to Lloyd's. Managing agents must, however, continue to report all changes to fees or profit commission to Lloyd's Member Services (by email to syndicatestamps@lloyds.com) for the purposes of updating the Register of Agent Charges. It is the responsibility of managing agents to ensure that where the fees or profit commission is changed by consent that the change is properly documented and managing agents should retain evidence of consent from all the members of the syndicate.

In circumstances where agreement cannot be achieved between the managing agent and one or more of the members as to the fee or profit commission change managing agents must follow the same process as set out for unaligned syndicates above.

2.1.3 Register of Agent Charges return form

Managing agents for both aligned and unaligned syndicates are asked to send their updated Register of Agent Charges return form to Member Services by the end of September in each year. All returns should be sent via Lloyd's Secure Share. Member Services will issue annual updated guidance on the submission of the Register of Agent Charges return form ahead of the deadline for the submission of forms. Any enquiries should be directed to syndicatestamps@lloyds.com.

2.1.4 Changes in members' agents fees or profit commissions

A members' agent that wishes to effect a change to its fees or profit commission for the following year of account must make an application for conditional consent to give notice of termination under the relevant members' agent's agreements by sending an application to Lloyd's at the details provided below by no later than 30 April. Lloyd's will

then discuss with the members' agent how the application should be taken forward.

It is for members' agents to deal with changes in fees or profit commission in the most administratively convenient manner (subject always to their agency obligations and paragraph 11A of the Agency Agreements Byelaw).

3 Syndicate mergers

3.1.1 Unaligned syndicate

A managing agent that wishes to effect a syndicate merger for the following year of account (other than where all of the syndicates in question are wholly aligned) must follow the requirements set out in schedule 1 to the Major Syndicate Transactions Byelaw. Notice of intention to effect a syndicate merger must be given to Lloyd's at the details provided below by no later than 30 April. A copy of the notice should also be sent to members' agents and direct corporate participants where applicable.

3.1.2 Aligned syndicates

A managing agent that wishes to effect a syndicate merger where all of the syndicates in question are wholly aligned should contact Lloyd's at the details provided below.

4 Minority buy-outs

A managing agent which wishes to effect a minority buy-out must make an application to Lloyd's at the details provided below by no later than 30 April for conditional consent to give notice of termination under the relevant managing agent's agreements. Applications must be made in accordance with paragraph 11B of the Agency Agreements Byelaw and schedule 2, paragraph 2 of the Major Syndicate Transactions Byelaw. Managing agents are reminded that they should provide members' agents and direct corporate participants with a copy of their application and give them 21 days from the point of despatch to make representations to Lloyd's.

Where Lloyd's grants conditional consent to the giving of notice of termination, managing agents must give notice of that conditional consent to members' agents and direct corporate participants by 28 June (or such later date as Lloyd's may agree to).

Managing agents must ensure that, when making the capacity offer which precedes a minority buy-out, they comply with the Capacity Offer Rules. Managing agents proposing to effect minority buy-outs should contact Lloyd's at the earliest opportunity.

Following the capacity offer, if the conditions set out in paragraph 2 of the Major Syndicate Transactions Byelaw are met, application may be made to Lloyd's for permission to effect the minority buy-out. Requests for minority buy-outs are considered by the Lloyd's Capacity Transfer Panel. Guidance on minority buy-outs is set out in Regulatory Bulletin 041/2000 "Guidance on Minority Buy-Outs" issued on 18 April 2000 (available in the Market Bulletin section of Lloyds.com).

5 Syndicate Cessation

A managing agent that wishes to effect a syndicate cessation (other than where the syndicate in question is wholly aligned) must follow the requirements set out in schedule 4 to the Major Syndicate Transactions Byelaw.

Notice of intention to effect a syndicate cessation must be given to Lloyd's, at the details provided below, as soon as a managing agent has a firm intention of ceasing to accept new or renewal business on behalf of a syndicate managed by it in circumstances such as to constitute a syndicate cessation and by no later than 31 August. A copy of the notice should also be sent to members' agents and direct corporate participants where applicable.

6 Any other proposed variations to the standard agency agreements.

Underwriting agents are reminded that any proposed variation to the standard agency agreements requires Lloyd's consent. In the event that an underwriting agent proposes to make a variation they should contact Lloyd's at the details provided below at the earliest opportunity.

7 Further Information

Any questions with regard to changes to managing agent's fees or profit commissions or variations to the agency agreements should be directed to Kevin Lazarus (+44 (0)20 7327 6737/kevin.lazarus@lloyds.com).

Any questions with regard to syndicate mergers, syndicate cessations and minority buy-outs should be directed to Paul Thornton (+44 (0)20 7327 6281/paul.thornton@lloyds.com).

Any questions with regard to the Register of Agent Charges, should be directed to Claire Sheahan +44 (0)1634 39 2904 / Stuart Underwood +44 (0)1634 39 2017 / syndicatestamps@lloyds.com).

Annex 1

Changes in managing agents' fees or profit commissions for unaligned syndicates

- 1 If, following the initial application, a managing agent wishes to proceed to change its fees or profit commission in respect of an unaligned syndicate it must make a full application in accordance with paragraph 11B of the Agency Agreements Byelaw by no later than 18 June in the year preceding the year of account in which the change will be implemented. The application must include –
 - a. the rationale for the proposed transaction giving rise to the agency agreement termination and that the application has been considered and approved by the managing agent's board;
 - b. details of discussions held with members and members' agents, if applicable; and
 - c. the information requested at paragraph 4 below and any other information that the managing agent believes to be relevant.
- 2 Managing agents should provide members' agents and direct corporate participants with a copy of their application and give them at least 21 days from the point of despatch to make written representations to Lloyd's.
- 3 Applications will be determined by Lloyd's in accordance with the following terms of reference –
 - a. In determining whether an application for consent to terminate the standard managing agent's agreement in respect of a proposed increase in fee and/or profit commission should be granted, the Board must be satisfied that the increase is reasonable in that it will not materially adversely affect the rights of members who participate on the syndicate in question (or the value of those rights) or, if it does, that such effect is objectively and reasonably justified.
 - b. The burden of satisfying the Board of the above matters is on the managing agent.
 - c. Every application will be determined on its merits in a consistent manner having regard to all relevant matters including:
 - i. the rights of the members to participate on the syndicate in question;
 - ii. the fees previously charged by the managing agent; and
 - iii. the information submitted by the managing agent in support of the application.
 - d. Each application must be approved by the managing agent's board of directors and must include supporting information in accordance with the requirements contained in this annex.
- 4 The application shall include the following information –
 - a. summary details of the proposed increase in fees for all members (expressed as a monetary amount and / or as a percentage increase).
 - b. the impact of the proposal on members stating their current position and their position following the proposal in monetary and percentage terms.
 - c. the reason(s) why the increase in expenditure will not be treated as a syndicate expense.
 - d. a statement of the commercial or business case for the proposed fee increase including and cross referring where necessary to supporting budgets and estimates in respect of any proposed increased expenditure. The information shall be presented in such a way as to clearly show to which managed syndicates and to which years of account any proposed increase in expenditure will relate and shall include an explanation of the benefit that will accrue from the proposed increase in expenditure in respect of each managed syndicate.
 - e. details of the annual fee and/or profit commission (expressed both as a percentage and as a monetary amount) charged or to be charged by the agent for all managed syndicates for the current year of account and for each of the three preceding years of account (estimated figures may be provided where actual figures are not yet available).

- f. details of the expenditure incurred or to be incurred and not recharged to the syndicate by the managing agent for all managed syndicates for the current year of account and for each of the three preceding years of account, together with details of the period over which any material or exceptional items of expenditure are to be amortised (estimated figures may be provided where actual figures are not yet available).
- g. details of the budget for the managing agent and for each of the syndicates managed by the managing agent for the current year of account and the estimated budgets for future years of account, up to and including the first year of account in which it is considered by the managing agent that members of the relevant syndicate will begin to derive benefit from the proposed expenditure. This information must also include a statement of the period over which any material and/or exceptional items are to be amortised.
- h. details of any changes in the syndicate allocated capacity of the relevant syndicate for the current year of account as compared to each of the three preceding years of account and any proposed changes.
- i. a copy of the agent's policy for the allocation of syndicate expenses which should include an explanation of the basis on which expenses arising from profit related remuneration payable to directors and consultants are allocated. This should highlight any changes made to the policy over the last three years and any proposed changes to be made to the policy.
- j. particulars of any proposed acquisition or disposal by the agent or any connected company or any connected person of rights to participate in the relevant syndicate (whether through the auction or under any other scheme or arrangement as may be permitted from time to time by Lloyd's).
- k. particulars of any proposed transactions by the agent or any connected company or connected person for the purpose of effecting any change in participation in syndicates, including but not limited to any transaction falling within the scope of the Major Syndicate Transactions Byelaw.