



ASIC

Australian Securities & Investments Commission

[CO 02/318]

The Society of Lloyd's

Issued 7/3/2002

Class Order [CO 02/318] gives conditional relief from Chapters 5C, 2L and 6D, sharehawking and some PDS content requirements for the Society of Lloyd's and some agents of underwriting members of Lloyd's.

This class order comes into effect on 11 March 2002 upon commencement of Schedule 1 to the Financial Services Reform Act 2001: see paragraph 4(2A)(c) of the Acts Interpretation Act 1901.

Australian Securities and Investments Commission

Corporations Act 2001 — Paragraphs 283GA(1)(a), 601QA(1)(a), 741(1)(a), 911A(2)(l), 992B(1)(a), 1020F(1)(a) and 1020F(1)(c) —
Exemption and Declaration

Offers and issues to existing members

Under paragraphs 283GA(1)(a), 601QA(1)(a), 741(1)(a), 992B(1)(a) and 1020F(1)(a) of the *Corporations Act 2001* (“the Act”) the Australian Securities and Investments Commission (“ASIC”) hereby exempts the class of persons referred to in Schedule A from:

- (a) section 601ED of the Act;
- (b) Parts 2L.1, 2L.2, 2L.3, 2L.4, 2L.5 and 2L.6 of the Act;
- (c) Parts 6D.2 and 6D.3 of the Act;
- (d) sections 992A and 992AA of the Act; and
- (e) Part 7.9 of the Act (other than section 1017F and Division 6 of Part 7.9),

in relation to:

- (f) the offer or issue of, or making a recommendation to acquire, or making offers to arrange the issue of any financial product referred to in Schedule B to persons (“existing members”) who were underwriting members of Lloyd’s as at 27 March 2000 and who have continued to be such up to and including the date of the offer, issue or recommendation;
- (g) the operation of any managed investment scheme referred to in Schedule B insofar as it relates to the existing members; and
- (h) the offer or issue of any debentures to existing members in the course of the operation of the scheme,

for as long as and on condition that the class of persons referred to in Schedule A complies with section 1017D of the Act as if an interest in a financial product referred to in Schedule B were a managed investment product (provided that compliance with this condition by any member or members of that class shall be taken as compliance by all members).

Offers and issues to other persons

Under paragraphs 283GA(1)(a), 601QA(1)(a), 741(1)(a), 992B(1)(a) and 1020F(1)(a) of the Act, ASIC hereby exempts each person in the class of persons referred to in Schedule A in the cases referred to in Schedule C from:

- (a) section 601ED of the Act;
- (b) Parts 2L.1, 2L.2, 2L.3, 2L.4, 2L.5 and 2L.6 of the Act;
- (c) Parts 6D.2 and 6D.3 of the Act;
- (d) sections 992A and 992AA of the Act; and
- (e) sections 1017E and 1017G of the Act,

for so long as and on condition that the person complies with the applicable provisions of Division 2 of Part 7.9 of the Act as modified or varied by this instrument.

And under paragraph 1020F(1)(c) of the Act, ASIC hereby declares that Division 2 of Part 7.9 of the Act applies to the persons mentioned in Schedule A in the cases referred to in Schedule C as if:

- 1 subsection 1013C(2) were omitted and replaced with the following:

- “(2) The information required by sections 1013D and 1013E need only be included in the Product Disclosure Statement to the extent to which the information is actually known to:
- (a) any person who acts as a:
 - (i) Managing Agent;
 - (ii) director of the Managing Agent; or
 - (iii) partner in the Managing Agent,
 who has made available the interest in the managed investment scheme; or
 - (b) any person who acts as the:
 - (i) solicitor;
 - (ii) accountant;
 - (iii) auditor; or
 - (iv) actuary,
 for the undertaking that comprises the managed investment scheme; or
 - (c) any person who promotes participation in the managed investment scheme.”; and

2 subsection 1013K were omitted.

Licensing exemption

Under paragraph 911A(2)(l) of the Act, ASIC hereby exempts a person referred to in Schedule A from the requirement to hold an Australian financial services licence for the provision of financial services by the person in relation to the financial products referred to in Schedule B or debentures referred to in subparagraph (h) above or in paragraph 4 of Schedule C which are offered for issue on the following bases:

- (a) to existing members; or
- (b) where a Product Disclosure Statement for the products is given at the time of the offer.

Under paragraph 911A(2)(l) of the Act, ASIC hereby exempts a person (other than a person referred to in Schedule A) from the requirement to

hold an Australian financial services licence for the provision of financial services by the person in relation to the financial products referred to in Schedule B or debentures referred to in subparagraph (h) above or in paragraph 4 of Schedule C which appear to be offered for issue only on the following bases:

- (a) to existing members; or
- (b) where a Product Disclosure Statement for the products is given at the time of the offer,

except where the person is aware, or ought reasonably to be aware, that those interests are not offered on that basis.

SCHEDULE A

Any of the following people:

- 1 The Society of Lloyd's incorporated by the Lloyd's Act 1871 (UK) ("Lloyd's");
- 2 a person who with the permission of Lloyd's acts as a Managing Agent on behalf of underwriting members of Lloyd's in accordance with the Byelaws and Regulations made by the Council and the Committee of Lloyd's; and
- 3 a person who with the permission of Lloyd's acts as a Members' Agent on behalf of underwriting members of Lloyd's in accordance with the Byelaws and Regulations made by the Council and the Committee of Lloyd's excluding, from the time when a certificate is given by Lloyd's in the form of Schedule D until the time when the next such certificate is given, a person named in the first-mentioned certificate.

SCHEDULE B

Interests in managed investment schemes to which the new product disclosure provisions (as defined in section 1438 of the Act) apply and which are conferred or constituted by:

- 1 agreements made in accordance with the Agency Agreements Byelaw of Lloyd's as amended from time to time;
- 2 participation in any underwriting syndicate pursuant to any such agreement;
- 3 membership of Lloyd's;
- 4 any Premiums Trust;

- 5 any trust of Deposits with Lloyd's;
- 6 any Special Reserve Fund; or
- 7 any other trust of Funds at Lloyd's.

SCHEDULE C

- 1 The issue of any of the interests in a managed investment scheme referred to in Schedule B;
- 2 the offer for issue or sale of any of those interests;
- 3 the making of a recommendation to acquire an interest in a managed investment scheme referred to in Schedule B; and
- 4 the offer of debentures in the course of operating those schemes,

where the offer, issue or recommendation is made to persons who are not existing members; and the operation of schemes insofar as it relates to persons who are not existing members.

SCHEDULE D

"The Chairman

Australian Securities and Investments Commission

[Date]

I [insert full name, position at Lloyd's] am authorised by the Society of Lloyd's ("Lloyd's") to give this certificate on behalf of Lloyd's. This certificate is provided in accordance with an undertaking given by Lloyd's dated 10 March 2000, and provided to the Australian Securities and Investments Commission (ASIC) on or about 21 March 2000 in consideration of which ASIC executed an instrument which, among other things, exempted Lloyd's and certain other persons from Chapter 5C and various provisions of Chapters 2L and 6D of the Corporations Law [ASIC Class Order 00/241]. I certify that I have made diligent enquiries and believe the following statements are true:

- (a) Lloyd's has promptly provided any information held by Lloyd's or which Lloyd's could have obtained by reasonable enquiry that was requested of Lloyd's in the preceding calendar year in writing by a staff member of ASIC in respect of any matter (other than the extent of participation by particular Names in particular syndicates or the profits or losses of particular Names) which the request stated may be relevant to the interests (together with other persons or otherwise) of any of the following persons ("Australian Names"):

- (i) an Australian resident Name in the capacity of the Name as the holder of a right or interest to which the exemption relates; and
 - (ii) an Australian resident who has received a form of application to be a member of Lloyd's.
- (b) Lloyd's has promptly advised ASIC in writing of particulars of every contravention of:
- (i) any of Lloyd's Acts, Byelaws and Regulations, any other requirement imposed by Lloyd's or any other generally accepted code of practice relating to conduct at Lloyd's; or
 - (ii) any contract or other arrangement entered into in accordance with any Act, Byelaw, Regulation, requirement or code referred to in subparagraph (i);

which it appears would be likely to have a substantial effect on the interests of Australian Names (together with other persons or otherwise) and which responsible officers of Lloyd's formed the suspicion (unless immediate enquiries demonstrate that the suspicion was unwarranted) had occurred during the previous calendar year.

- (c) Lloyd's has promptly advised ASIC of any change to any Act, Byelaw, Regulation, requirement or code referred to in subparagraph (b)(i) during the previous calendar year which may have a substantial effect on the interests of an Australian Name (together with other persons or otherwise), any standard documentation issued, promulgated or approved by Lloyd's which Names or candidates for membership of Lloyd's may sign and any material issued, promulgated or approved by Lloyd's to be sent generally to Names or such candidates.
- (d) In the previous calendar year no Members' Agent (except a Members' Agent specified below) in the course of or in consequence of an unsolicited call, whether the call was made in person or by telephone, within Australia, issued an invitation to subscribe for membership of Lloyd's.

[specify Members' Agents (if any) in relation to whom Lloyd's will not certify this]

- (e) In the previous calendar year no syndicate list was signed by a Members' Agent (except a Members' Agent specified below) on behalf of an Australian Name unless a copy of the syndicate list had been sent to and received by the Australian Name before it was

signed and every syndicate list sent by a Members' Agent to an Australian Name during the previous calendar year contained a prominent statement to the effect that a Name will not have the benefit of protections normally applicable in relation to an offer of financial products in that Name's country of residence or citizenship and that the Name may not be able to bring action in the courts of that country in connection with the affairs of the Name at Lloyd's.

[specify Members' Agents (if any) in relation to whom Lloyd's will not certify this]

Yours faithfully,

[signature]

[name]

for Lloyd's".

Commencement

This instrument takes effect on the commencement of Schedule 1 to the *Financial Services Reform Act 2001*.

Dated the 7th day of March 2002

Signed by Brendan Byrne
as a delegate of the Australian Securities and Investments Commission