



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XIX

#### LLOYD'S

##### *Power to apply Act to Lloyd's underwriting*

#### **316 Direction by Authority.**

- (1) The general prohibition or (if the general prohibition is not applied under this section) a core provision applies to the carrying on of an insurance market activity by—
  - (a) a member of the Society, or
  - (b) the members of the Society taken together,only if the Authority so directs.
- (2) A direction given under subsection (1) which applies a core provision is referred to in this Part as “an insurance market direction”.
- (3) In subsection (1)—

“core provision” means a provision of this Act mentioned in section 317;

and

“insurance market activity” means a regulated activity relating to contracts of insurance written at Lloyd's.
- (4) In deciding whether to give a direction under subsection (1), the Authority must have particular regard to—
  - (a) the interests of policyholders and potential policyholders;
  - (b) any failure by the Society to satisfy an obligation to which it is subject as a result of a provision of the law of another EEA State which—
    - (i) gives effect to any of the insurance directives; and
    - (ii) is applicable to an activity carried on in that State by a person to whom this section applies;

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- (c) the need to ensure the effective exercise of the functions which the Authority has in relation to the Society as a result of section 315.
- (5) A direction under subsection (1) must be in writing.
- (6) A direction under subsection (1) applying the general prohibition may apply it in relation to different classes of person.
- (7) An insurance market direction—
  - (a) must specify each core provision, class of person and kind of activity to which it applies;
  - (b) may apply different provisions in relation to different classes of person and different kinds of activity.
- (8) A direction under subsection (1) has effect from the date specified in it, which may not be earlier than the date on which it is made.
- (9) A direction under subsection (1) must be published in the way appearing to the Authority to be best calculated to bring it to the attention of the public.
- (10) The Authority may charge a reasonable fee for providing a person with a copy of the direction.
- (11) The Authority must, without delay, give the Treasury a copy of any direction which it gives under this section.

#### **Commencement Information**

- II** S. 316 wholly in force at 1.12.2001; s. 316 not in force at Royal Assent see s. 431(2); s. 316(1) in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), [art. 2](#), [Sch.](#); s. 316 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

### **317 The core provisions.**

- (1) The core provisions are Parts V, X, XI, XII, XIV, XV, XVI, XXII and XXIV, sections 384 to 386 and Part XXVI.
- (2) References in an applied core provision to an authorised person are (where necessary) to be read as references to a person in the class to which the insurance market direction applies.
- (3) An insurance market direction may provide that a core provision is to have effect, in relation to persons to whom the provision is applied by the direction, with modifications.

### **318 Exercise of powers through Council.**

- (1) The Authority may give a direction under this subsection to the Council or to the Society (acting through the Council) or to both.
- (2) A direction under subsection (1) is one given to the body concerned—
  - (a) in relation to the exercise of its powers generally with a view to achieving, or in support of, a specified objective; or

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- (b) in relation to the exercise of a specified power which it has, whether in a specified manner or with a view to achieving, or in support of, a specified objective.
- (3) “Specified” means specified in the direction.
- (4) A direction under subsection (1) may be given—
  - (a) instead of giving a direction under section 316(1); or
  - (b) if the Authority considers it necessary or expedient to do so, at the same time as, or following, the giving of such a direction.
- (5) A direction may also be given under subsection (1) in respect of underwriting agents as if they were among the persons mentioned in section 316(1).
- (6) A direction under this section—
  - (a) does not, at any time, prevent the exercise by the Authority of any of its powers;
  - (b) must be in writing.
- (7) A direction under subsection (1) must be published in the way appearing to the Authority to be best calculated to bring it to the attention of the public.
- (8) The Authority may charge a reasonable fee for providing a person with a copy of the direction.
- (9) The Authority must, without delay, give the Treasury a copy of any direction which it gives under this section.

#### **Commencement Information**

- I2** S. 318 wholly in force at 1.12.2001; s. 318 not in force at Royal Assent see s. 431(2); s. 318(1) in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, Sch.; s. 318 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, art. 2(1)

### **319 Consultation.**

- (1) Before giving a direction under section 316 or 318, the Authority must publish a draft of the proposed direction.
- (2) The draft must be accompanied by—
  - (a) a cost benefit analysis; and
  - (b) notice that representations about the proposed direction may be made to the Authority within a specified time.
- (3) Before giving the proposed direction, the Authority must have regard to any representations made to it in accordance with subsection (2)(b).
- (4) If the Authority gives the proposed direction it must publish an account, in general terms, of—
  - (a) the representations made to it in accordance with subsection (2)(b); and
  - (b) its response to them.
- (5) If the direction differs from the draft published under subsection (1) in a way which is, in the opinion of the Authority, significant—

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- (a) the Authority must (in addition to complying with subsection (4)) publish details of the difference; and
  - (b) those details must be accompanied by a cost benefit analysis.
- (6) Subsections (1) to (5) do not apply if the Authority considers that the delay involved in complying with them would be prejudicial to the interests of consumers.
- (7) Neither subsection (2)(a) nor subsection (5)(b) applies if the Authority considers—
  - (a) that, making the appropriate comparison, there will be no increase in costs; or
  - (b) that, making that comparison, there will be an increase in costs but the increase will be of minimal significance.
- (8) The Authority may charge a reasonable fee for providing a person with a copy of a draft published under subsection (1).
- (9) When the Authority is required to publish a document under this section it must do so in the way appearing to it to be best calculated to bring it to the attention of the public.
- (10) “Cost benefit analysis” means an estimate of the costs together with an analysis of the benefits that will arise—
  - (a) if the proposed direction is given; or
  - (b) if subsection (5)(b) applies, from the direction that has been given.
- (11) “The appropriate comparison” means—
  - (a) in relation to subsection (2)(a), a comparison between the overall position if the direction is given and the overall position if it is not given;
  - (b) in relation to subsection (5)(b), a comparison between the overall position after the giving of the direction and the overall position before it was given.

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