

Chapter 1

Treating complainants fairly

1.11 The Society of Lloyd's

Complaints handling procedures

1.11.1 **R** The *Society* must establish and maintain appropriate and effective procedures for handling *complaints* by *policyholders* against *members* of the *Society* which comply with this chapter.

1.11.2 **R** A *member* of the *Society* must, in complying with this chapter, ensure that the arrangements which the *member* maintains are compatible with the *Lloyd's complaint procedures*, so that, taken as a whole, the requirements of this sourcebook are met.

1.11.2A **R** The *Society* must ensure that the arrangements which the *member* maintains include a requirement which corresponds to **DISP 1.2.1 R (4)** (Publishing and providing summary details, and information about the Financial Ombudsman Service).

[**Note:** article 13 of the *ADR Directive* and article 14 of the *ODR Regulation*]

1.11.3 **R** The *Society* must take reasonable steps to ensure that *complaints* by *policyholders* against *members* of the *Society* are dealt with under the *Lloyd's complaint procedures* and that *members* comply with the requirements of those procedures.

Referral to the Financial Ombudsman Service

1.11.4 **R** A *complaint* by a *policyholder* against a *member* of the *Society* may not be referred to the *Financial Ombudsman Service* until after the *Lloyd's complaint procedures* have been completed or until after the end of eight weeks from receipt of the *complaint*, whichever is the earlier.

Exemptions for members

1.11.5 **R** (1) A notification claiming exemption under **DISP 1.1.12 R** from the *complaints reporting rules* and the *rules* relating to the funding of the *Financial Ombudsman Service* must be given to the *FCA* by the *Society* on behalf of any *member* eligible for an exemption.

(2) The *Society* must notify the *FCA* if the conditions relating to such an exemption no longer apply to a *member* who is exempt.

Complaints reporting rule

- 1.11.6 **R** The report to be sent to the *FCA* under the *complaints reporting rules* must be provided by the *Society* and must cover all *complaints* by *policyholders* against *members* falling within the scope of the *complaints reporting rules*.

Obligation to publish summary of complaints data

- 1.11.6A **R** Where, in accordance with **■ DISP 1.11.6 R**, the *Society* submits a report to the *FCA* reporting 500 or more *complaints*, it must publish a summary of the *complaints* data contained in that report (the *complaints* data summary).

Format of publication

- 1.11.6B **R** The *Society* must publish the *complaints* data summary in the format set out in the *complaints* publication form in **■ DISP 1 Annex 1B R** omitting details as to the *firms* and brands/trading names covered by the summary.

Time limits for publication

- 1.11.6C **R** The deadlines for publication of the *Society's complaints* data summaries are:
- (1) 28 February for the summary of its report relating to the reporting period ending on 31 December of the previous year; and
 - (2) 31 August for the summary of its report relating to the reporting period ending on 30 June of the same year.

Confirmation of publication

- 1.11.6D **R** The *Society* must immediately confirm to the *FCA*, in an email submitted to complaintsdatasummary@fca.org.uk, that the *complaints* data summary accurately reflects the report submitted to the *FCA*, that the summary has been published and where it has been published.

Mode and content of publication

- 1.11.6E **G** The *Society* may choose how it publishes the *complaints* data summary. However, the *complaints* data summary should be readily available. For this reason, the *FCA* recommends that the *Society* publishes the summary on its website. The *Society* may publish further information with the *complaints* data summary to aid understanding.

Application to members

- 1.11.7 **G** Each *member* of the *Society* is individually subject to the *rules* in this chapter as a result of the *insurance market direction* given in **■ DISP 2.1.7 D** under section 316 of the *Act* (Direction by a regulator).
- 1.11.8 **G** However, the *Society* operates a two-tier internal complaints handling procedure, currently set out in the "Code for Underwriting agents: UK Personal Lines Claims and Complaints Handling". Under this procedure, *complaints* by *policyholders* against *members* of the *Society* are considered by the *managing agent* and then, if necessary, by the *Society's* in-house

Complaints Department. This procedure (and any procedure that may replace it) will be subject to the requirements in this chapter.

- 1.11.9 **G** *Members will individually comply with this chapter if and only if all complaints by policyholders against members are dealt with under the Lloyd's complaints procedures. Accordingly, certain of the obligations under this chapter, for example the obligation to report on complaints received and the obligation to pay fees under the rules relating to the funding of the Financial Ombudsman Service (■ FEES 5), must be complied with by the Society on behalf of members. Managing agents will not have to make a separate report to the FCA on complaints reported under the complaints reporting rules sent by the Society.*

Complaints about the activities of members' advisers

- 1.11.10 **R** *A members' adviser must establish and maintain effective arrangements for handling any complaint from a member of the Society regarding advice given to the member in connection with the acquiring or disposing of syndicate participation.*

- 1.11.11 **G** *Complaints from members of the Society regarding the activities of members' advisers, which cannot be resolved by the members' adviser, cannot be referred to the Financial Ombudsman Service.*

Complaints from members or former members

- 1.11.12 **G** *The Financial Ombudsman Service is not able to deal with the complaints listed in ■ DISP 1.11.13 R and separate rules and guidance are therefore required.*

- 1.11.13 **R** *The Society must establish and maintain appropriate and effective arrangements for handling any complaint from a member or a former member about:*
- (1) regulated activities carried on by the Society;*
 - (2) the Society's regulatory functions carried on by the Society, the Council or those to whom the Council delegates authority to carry out such functions;*
 - (3) advice given by an underwriting agent to a person to become, continue or cease to be, a member of a particular syndicate; and*
 - (4) the management by a managing agent of the underwriting capacity of a syndicate on which the complainant participates or has participated.*

- 1.11.14 **R** *The Society must maintain by byelaw one or more appropriate effective schemes for the resolution of disputes between an individual member or a former member who was an individual member and:*

(1) his *underwriting agent*; or

(2) the *Society*.

1.11.15 **R** For the purposes of **■ DISP 1.11.13 R** "*individual member*" includes a *member* which is a *limited liability partnership* or a *body corporate* whose *members* consist only of, or of the nominees for, a single natural person or a group of *connected persons*.

1.11.16 **G** The schemes to which **■ DISP 1.11.13 R** currently refers are the *Lloyd's Arbitration Scheme* and the *Lloyd's Members' Ombudsman* respectively, but the *Society* may maintain other independent dispute resolution schemes in addition to, or instead of, either of these schemes.

1.11.17 **G** The schemes referred to in **■ DISP 1.11.13 R** should be operationally independent of the *Society*.

1.11.18 **G** An *individual member* or *former member* who was an *individual member* should not have access to the schemes referred to in **■ DISP 1.11.13 R** unless the *complaints* arrangements maintained by the *Society* have failed to resolve the *complaint* to his satisfaction within eight weeks of receiving it.

1.11.19 **G** The *Society* should give the *FCA* adequate notice of all proposed changes to the *byelaws* relating to the schemes referred to in **■ DISP 1.11.13 R**.

1.11.20 **G** When considering what is required to ensure the operational independence of the schemes referred to in **■ DISP 1.11.13 R**, or proposed changes in such schemes, the *Society* should take account of similar arrangements operated by the *Financial Ombudsman Service*.

1.11.21 **R** A contravention of **■ DISP 1.11.13 R** or **■ DISP 1.11.14 R** does not give rise to a right of action by a *private person* under section 138D of the *Act* (Actions for damages) and each of those *rules* is specified under section 138D(3) of the *Act* as a provision giving rise to no such right of action.