

Chapter 1

Treating complainants fairly

1.11

The Society of Lloyd's

Complaints handling procedures

- 1.11.1R
- 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.
- 1.11.2R
- 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.
- 1.11.2AR
- 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*]
- 1.11.3R
- 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

- 1.11.4R
- 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

- 1.11.5R
- (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.