

APPROVED REINSURANCE TO CLOSE INSTRUMENT 2009

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power); and
 - (b) section 156 (General supplementary powers); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 31 December 2009.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Prudential sourcebook for Insurers (INSPRU) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Approved Reinsurance to Close Instrument 2009.

By order of the Board
5 November 2009

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text.

- approved reinsurance to close*
- (a) a *reinsurance to close* effected before 1 January 2005; or
- (b) an agreement under which *members* of a *syndicate* in one *syndicate year* (“the reinsured *members*”) agree with the *members* of that *syndicate* in a later *syndicate year* or the *members* of ~~another~~ one other *syndicate* (“the reinsuring *members*”) that the reinsuring *members* will discharge, or procure the discharge of, or indemnify the reinsured *members* against, all known and unknown *insurance business* liabilities of the reinsured *members* arising out of the *insurance business* carried on by the reinsured *members* in that *syndicate year* that is:
- (i) effected after 1 January 2005; and
- (ii) not a balance transfer between two *syndicate years* where the *syndicate* has only one *member* and the *member* is the same in each of those years; ~~or~~
- (c) an agreement under which *members* of a *syndicate* in one *syndicate year* (“the reinsured *members*”) agree with a *subsidiary* of the *Society* that that *subsidiary* will discharge, or procure the discharge of, or indemnify the reinsured *members* against, all known and unknown *insurance business* liabilities of the reinsured *members* arising out of the *insurance business* carried on by the reinsured *members* in that *syndicate year* (“the reinsured liabilities”) and where:
- (i) that *subsidiary* is wholly owned by the *Society* and if from time to time the *subsidiary* has an *asset* or *cash flow deficiency* such that the *subsidiary* is unable to meet any of the liabilities which it has reinsured, the *Society* is legally obliged to pay to the *subsidiary* a sum equal to that deficiency; and
- (ii) at the effective date of the agreement, the relevant *syndicate year* has been open for at least two years after the date at which it would normally have been closed in accordance with the policies and practices in relation to the *syndicate* concerned.

Annex B

Amendments to the Prudential sourcebook for Insurers (INSPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 8.2.16 R Notwithstanding that the liability of a reinsured *member* to a *policyholder* is unaffected by an *approved reinsurance to close* as described in *INSPRU* 8.2.15G, for the purposes of *INSPRU* and *GENPRU* only:
- (1) for an *approved reinsurance to close* which is not to a *subsidiary of the Society*:
- (a) a *contract of insurance* reinsured under an *approved reinsurance to close* must be treated as if the reinsuring *member* and not the reinsured *member* had effected the original *contract of insurance*; and
- (b) any payment received by a *member* as consideration for or in connection with an *approved reinsurance to close* must be treated as a *Lloyd's member's contribution* and not as *premium* or as a *reinsurance recovery*;
- (2) ~~any payment received by a *member* as consideration for or in connection with an *approved reinsurance to close* must be treated as a *Lloyd's member's contribution* and not as *premium* or as a *reinsurance recovery*~~ for an *approved reinsurance to close* to a *subsidiary of the Society*, a *contract of insurance* reinsured under that *approved reinsurance to close* must be treated as if the reinsured *member* had not effected the original *contract of insurance* but:
- (a) for the purposes of the calculation of the *Society GICR*, *general insurance business* carried on by *members* and *former underwriting members* which has been reinsured to a *subsidiary of the Society* under an *approved reinsurance to close* must be treated as reinsured to a third party; and
- (b) for the purposes of the calculation of the *capital resources requirement* of a *subsidiary of the Society*, the *approved reinsurance to close* must be treated as a *reinsurance*.