

Finality at long last for Lloyd's Names - The Equitas Part VII Transfer

July 2009

The High Court recently approved a landmark statutory transfer under Part VII of the Financial Services and Markets Act 2000 ("FSMA"), the largest and most significant of its kind to date, that will bring finality to members of Lloyd's with 1992 and prior liabilities.

On 30 March 2007, Equitas Limited ("Equitas") and others agreed a run-off reinsurance contract with National Indemnity Company ("National Indemnity"), a member of the Berkshire Hathaway Group of companies, under which National Indemnity provided US\$5.7 billion of reinsurance coverage to Equitas in excess of Equitas' adjusted reserves as at 31 March 2006. At the same time, Equitas Management Services Limited was transferred into the Berkshire Hathaway Group and renamed Resolute Management Services Limited, with responsibility for the run-off of the liabilities reinsured by Equitas as agent for the Names.

The second phase of the transaction involved:

- the transfer of all 1992 and prior year non-life business underwritten at Lloyd's

by open and closed year Names to Equitas Insurance Limited, a newly formed FSA authorised insurance company within the Equitas Group, using the insurance business transfer provisions of Part VII of FSMA; and

- the purchase by Equitas of a further US\$1.3 billion of reinsurance coverage from National Indemnity to cover the liabilities to be transferred to Equitas Insurance Limited.

On 25 June 2009, Mr Justice Blackburne, sitting in the Companies Court of the Chancery Division, made an order approving the statutory transfer. As evinced by the judgment released on 7 July 2009¹, the judge had no doubt that it was appropriate to sanction the scheme.

The Part VII transfer, the largest such transfer

of insurance business to date, covers all business reinsured by Equitas Reinsurance Limited at the time of Lloyd's Reconstruction and Renewal in 1996, and includes the business of the PCW syndicates reinsured by Lioncover Insurance Company Limited and the business of the Warrilow syndicates reinsured by Centrewrite Limited.

With effect from 30 June 2009, Equitas Insurance Limited will insure the transferred business in place of Names and will be wholly responsible for all their obligations for that business. Consequently, policyholders now benefit from a total of US\$7 billion reinsurance cover from National Indemnity and closed year Lloyd's Names will achieve finality under English Law (and the laws of the EEA states) in respect of their 1992 and prior year non-life Lloyd's liabilities. ■

¹ See <http://www.bailii.org/ew/cases/EWHC/Ch/2009/1595.html>