

CLIENT ALERT

Names no longer need Nytol to sleep easy!

Jun.29.2009

Introduction

Equitas, based in London, was established in September 1996 to reinsure and run-off the 1992 and prior years' non-life liabilities of Names, or Underwriters, at Lloyd's of London. Equitas was formed as part of the Lloyd's Reconstruction and Renewal Plan in 1996 to sweep up all of Lloyds 1992 and prior year non - life Lloyd's liabilities (including managing all the liabilities that have arisen from asbestos, pollution and health hazard claims from the early 1980s) of open and closed year Names.

Last week, the UK High Court approved the transfer of all Equitas' remaining liabilities. We summarise below the main proposals of the transfer and the reasons why the ex Chief Executive of Equitas is of the view that the deal will finally allow Lloyds' Names to "sleep easily at night" and "we have just bought them the world's best mattress".

Main Proposals

Equitas entered into an agreement with National Indemnity Company (NICO), a member of the Berkshire Hathaway group of companies which provided that NICO would reinsure all Equitas' liabilities and take on staff, the operations and the run- off of Equitas (the "Transfer"). The agreement also stated that if the Transfer occurred before the end of November 2009, NICO would offer an additional \$1.3 billion of reinsurance cover for a further premium of \$40 million. Lloyds was expected to contribute \$18 million at the same time.

The main proposals of the Transfer can be summarised as follows:

- The obligation of the Names will be transferred to Speyford Limited ("Speyford"). This is a new company and will need to be authorised by the UK Financial Services Authority before the Transfer may proceed. The company will be renamed Equitas Insurance on completion of the Transfer.
- The Transfer will provide legal finality for the Names. Speyford will insure the transferring business in the place of the Names, and therefore claimants of asbestos pollution and health hazard claims from the 1980s will no longer be able to claim from Names or Names' estates.
- To increase security for policyholders, Equitas will purchase additional reinsurance from NICO for a premium of \$40 million.

Court Hearing 24 June 2009

Equitas reported that the "The High Court made an Order on 25 June 2009 approving the statutory transfer of the 1992 and prior non - life business of members and former members of Lloyd's to Equitas Insurance Limited. Mr. Justice Blackburne was firmly of the view that it was appropriate to sanction the transfer scheme. The Transfer covers all the business reinsured by Equitas Reinsurance Limited at the time of the Reconstruction and Renewal Plan in 1996, and includes PCW syndicates' business reinsured by Lioncover Insurance company Limited and the Warrilow syndicates' business reinsured by Centrewrite Limited."

The transfer is said to be effective by June 30 2009.

Effect of the Transfer:

- All obligations of the Names in respect of continuing liability for the business transferred will cease.
- All rights, benefits and powers conferred on the Names will be transferred to Speyford. This will include the benefit of the Equitas and NICO reinsurances.
- All references to the Names and their agents will be read and construed as being references to Speyford and its directors, officers and employees or agents.
- This closes the chapter in the UK for Names and relieves them from their past liabilities.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.