Lloyd's of London: A Market in Crisis

A Case Study

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This case explains the causes of the crisis at Lloyd's, key responses, and how a solution was found.

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Contents

1 Introduction

From 1988 to 1992, Lloyd's declared overall losses of £8 billion, devastating some of its members and taking the market to the brink of insolvency. The near-collapse of the world's oldest insurance market contains many valuable lessons for today's students of business, management and the law.

What caused this market failure? How did Lloyd's re-invent itself? What can this story teach us about strategy, restructuring, governance, reputation, leadership and compromise?

Key Characters

Lloyd's

David Rowland – Chairman of Lloyds task force 1991, Chairman of Lloyd's 1993-7
Peter Middleton – Lloyd's Chief Executive 1993-95
Ron Sandler – Lloyd's Chief Executive 1995-8

Members

Neil Shaw – Chairman of Association of Lloyd's Members (ALM) 1992/3
Michael Deeny – leader of Gooda Walker Action Group, Chairman of ALM 1998-2009
Sir Adam Ridley - ALM Deputy Chairman, Chairman of Equitas Trustees 1996-2014
Christopher Stockwell, leading dissident

Regulators

Rt Hon Michael Heseltine PC MP, Secretary of State for Trade and Industry
Dr Jonathan Spencer, Insurance Division, DTI
Ed Muhl, Superintendent, New York Insurance Department

Advisers

Charles Roxburgh – McKinseys
Barry O'Brien - Freshfields

Equitas

Heidi Hutter, Project Director
David Newbigging – Chairman 1996-98
Michael Crall – Chief Executive 1996-2003

Berkshire Hathaway

Warren Buffet (Chairman and CEO)

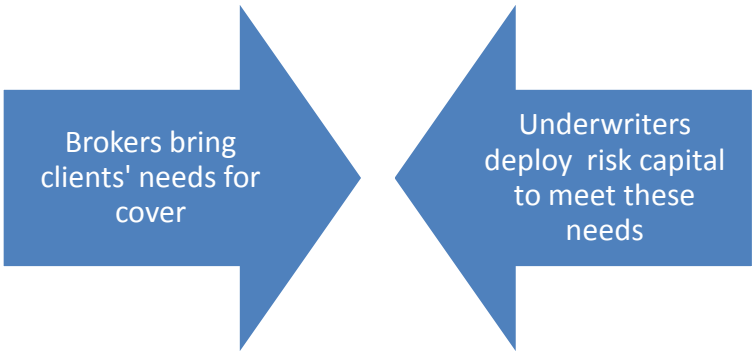
2 The London Insurance Market

Normally, a marketplace works to the mutual benefit of most of its participants. The London insurance market - with the Lloyd's trading floor at its centre - is a good example:

- Specialist brokers buy reliable insurance cover for their clients on competitive terms
- Specialist underwriters put a price on each risk. By combining risks, they aim to earn fairly consistent profits for their backers. All large risks are shared among insurers.
- Those who provide the risk capital earn a return
- Regulators check that insurers have enough money to pay their policyholders when big claims arise
- Wider benefits accrue to industrial and commercial firms through the spreading and absorption of risk
- Further benefits accrue to Britain through overseas earnings in the financial sector: London's reputation as a world financial centre is partly due to its unique place in world insurance.

Because of the inherent uncertainties in managing risk, insurers themselves routinely buy reinsurance – the insurance of insurers – in order to avoid unusual claims overwhelming an insurer in any one year. Specialist brokers handle these transactions.

The London marketplace is a centre for both insurance and reinsurance, resulting in a complex set of inter-relationships among its many parties. When it is working well, competition generates constructive tension, as well as collaboration among those who share risks. Brokers are looking for the best possible terms for their clients; underwriters are seeking to maximise their earnings; capital providers seek the best possible return.



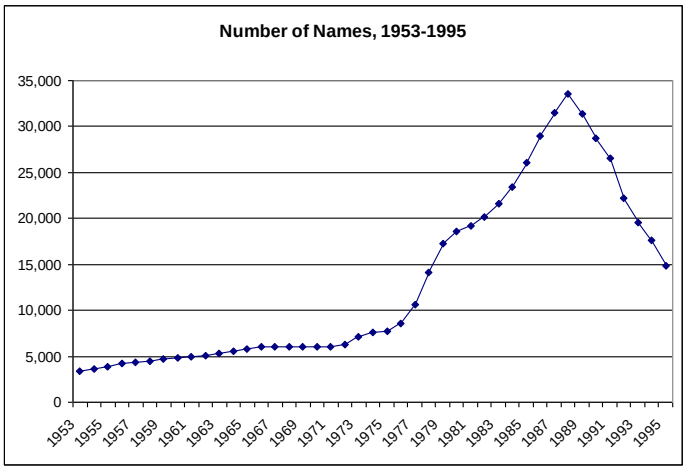
Individuals who play key roles well can earn a lot. Some brokers are especially persuasive; some underwriters exhibit consistently sound judgement. Some capital providers are shrewd. The marketplace is always in a state of flux: reputations are rising and falling.

Sometimes people and firms lose money, through misjudgement or bad luck. **But only once have circumstances combined to threaten the collapse of the whole marketplace,** jeopardising its many participants and the reputation of the City of London.

This case examines why the market's existence was under threat, after more than 300 years of successful trading. It looks at the dilemma for different participants and the search for a solution.

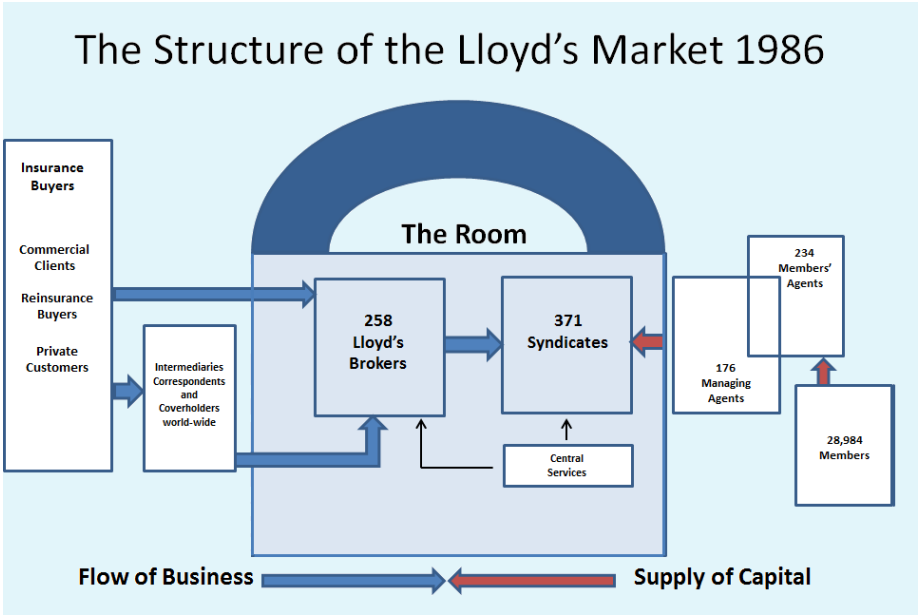
3 Background and Structure

The Lloyd's market holds a strong position as insurer and reinsurer of all kinds of risks from all over the world. Its reputation in the US was founded on a no-quibble stance over claims arising from the 1906 San Francisco earthquake. In the high tax environment of Britain in the 1970s and 1980s, membership of Lloyd's was widely seen as an obvious way to make easy money. Legally, each member (or 'Name') was a sole trader, with unlimited liability. The risks of trading this way were explained to new entrants, but did not always seem for real: the market had been profitable for decades; many agents made light of the chances of a big loss as it was outside their experience. Assets were pledged, not parted with, apparently offering a way to 'make your money work twice.' Membership expanded rapidly, extending to people who had limited wealth and whose main asset was the family home. Members were only required to place 20% of their premium limit on deposit at Lloyd's[i].



Members' agents[ii] arranged a portfolio of syndicate participations for each member, while *managing agents* employed *underwriters* to run the syndicates, with complete delegated authority from members - to whom they owed a duty of care. Some proved ignorant of this duty. Allocation of members to syndicates depended on relationships among these agents. Some agents were very careful to seek a balanced portfolio of participations for each member. Others were less cautious, yielding to the superficial attraction of riskier syndicates with recent high returns.

In the 1980s, middle to senior ranks of Lloyd's brokers, agents and underwriters were nearly all 'working members' themselves, with positions on syndicates. But external members, akin to outside investors, provided around 80% of the capital. The flow of business and supply of capital are shown below.



A few scandals led the UK Parliament to give Lloyd's a new constitution in 1982: a new Council had sweeping self-regulatory powers and statutory immunity from suit[iii] by its members. Elected external members were represented on this Council[iv], along with independent figures to represent the public interest. Although it disciplined miscreants and reformed the treatment of external members, the supervision of the insurance marketplace was left in the hands of the old Committee of Lloyd's, comprising practitioners only. The mind-set of this Committee was to let the market operate with minimal interference. The Chairman and his Deputies were insiders; the new Chief Executive was not. Tensions arose and within three years he was replaced.

4 Insidious Losses - Concentrated

Since 1945, the market produced overall profits in nearly every year. But in the early 1980s, there was a growing need to provide for future claims on US general liability policies, underwritten over the past 40 years. US lawyers sought compensation for victims of *asbestosis* and other diseases from companies who had exposed workers to asbestos. The US courts determined that employers - and therefore their insurers - were liable throughout the long period between first exposure and manifestation of this latent disease. These policies had contained no explicit limits about the timing or amount of claims. Total asbestos-related claims in the US were estimated at $50 billion by a Yale University study in 1992[v].

Similarly, insurance policies were held liable for *pollution clean-up* costs. Tough new US laws[vi] imposed wide-ranging retroactive liability amid strong public reaction to the adverse effects of pollution on human health. Underwriters struggled to estimate the eventual cost of both asbestos and pollution[vii] claims, and therefore the correct amount to provide for when determining the profit or loss of their syndicate. (This was done annually after a three year interval, to allow time for claims to materialise - a system that had evolved to reflect the length of sea journeys.) Lloyd's rules required syndicate accounts to be audited. As more claims were made, many underwriters began to make bigger provisions for their eventual cost, reducing the profitability of their syndicates.

The rising cost of US asbestos and pollution claims was a problem for many London and American insurers, as well as for Lloyd's syndicates. Concerned about this trend, some underwriters transferred the risk of further deterioration on their past underwriting by buying a 'run-off' policy: another syndicate undertook to meet remaining claims above a certain level, in return for a premium. Two syndicates became notorious for issuing a large number of these policies, thereby concentrating many of the losses on themselves[viii]. In both cases, legal actions ensued, through self-organised 'action groups' of members of these syndicates who faced a common problem. They alleged that the underwriting had been negligent. The first case, *Outhwaite*, went to trial[ix] for three months but was settled out of court in 1992 by a large payment to members. In the second case, the agency, *Merrett*, and its auditor were found negligent by the Court in 1995.

Many other syndicates were also driven to leave their accounts 'open' by the uncertainty of the eventual cost of US liability claims. That meant they could not determine a profit or loss, and that members of the syndicate were trapped, unable to resign.[x]

5 Catastrophe Losses - Concentrated

A second distinct problem emerged in the late 1980s, also involving a concentration of losses and negligent underwriting. Many syndicates had bought reinsurance protection against catastrophe losses in excess of a defined amount. Those who issued such policies had bought further protection for themselves in excess of higher amounts, egged on by brokers who specialised in this form of 'churning,' on which brokers earned big commissions. This pattern had been repeated over and over again in an environment in which recycling of existing business seemed easier than acquiring genuinely new insurance business. This "London market excess of loss" (LMX) appeared highly profitable due to a recent absence of major catastrophes. Later, it was recognised that this now-infamous 'LMX spiral' was fuelled by the excessive growth in membership and capacity, seen at the time as a badge of success, without a commensurate growth of new insurance business.

A series of catastrophic events began in 1988 with an explosion on the Piper Alpha North sea oil platform. This was followed by several other unusual man-made and natural events, triggering reinsurance claims. Successive claims led eventually to a heavy concentration of loss among a handful of syndicates, notably those run by two agencies – *Gooda Walker* and *Feltrim*. Legal action ensued by the members affected, who formed determined action groups, overcoming many legal obstacles. In 1994 and 1995 respectively, the English courts found the underwriters negligent, making massive awards of compensation to their members.[xi] Around 40 other legal actions had either started or seemed likely.

Each of the four agents mentioned above had limited resources and ceased to trade. The main object of the suits had been to seek compensation from the errors and omissions insurers[xii] of these agencies and of the members' agents who had placed members on the heavily loss-making syndicates. This brought several complications: most of the errors and omissions insurance had been bought in the Lloyd's market. Therefore the claims for compensation fell upon members of other Lloyd's syndicates. Sometimes members were, in part, suing themselves.

A further complication involved the status of awards made by the courts. Were members obliged, as Lloyd's argued, to use them to pay any outstanding claims?[xiii] This issue arose when a settlement was agreed over the first big compensation case, *Outhwaite*, in 1992. The members concerned were outraged by Lloyd's stance, went to court, and secured a judgment that the funds they had won were for them to use as they wished. Lloyd's did not appeal this ruling, partly for fear of the criticism that it would arouse among the membership and the press. By now, doves prevailed over hawks, as Lloyd's felt ashamed by the impact of losses. But the failure to capture these funds gradually added to a growing weakness in Lloyd's solvency, which was anxiously watched by external regulators. A growing number of members did not pay all their losses: some unable; some unwilling. Lloyd's

central fund ensured these obligations were met. Some hardship support was given to members who proved they needed it.

6 Public Opinion

Very adverse publicity surrounding the plight of members who had lost large amounts evoked huge interest, but only limited sympathy, in the press. There were many high profile members, including actors, authors, businessman, lawyers, judges, 64 Members of Parliament and hundreds of members of the House of Lords. At one stage, the possibility of improved tax treatment was mooted. This immediately produced a strong reaction in press and Parliament.[xiv] Against the background of recession, there was no appetite for extending extra tax privileges to Lloyd's members, widely portrayed as already advantaged. It was even clearer that there could be no question of a government bailout.

> 'With few exceptions, the affairs of Lloyd's members are run by an overpaid, incompetent, and generally complacent bunch of managers, more suited to the Dark Ages than the late 20th century'
>
> *The Independent*, June 1991

At first, the anguish and accusations of members did not spill over to harm the reputation among clients and brokers. Initially, the Lloyd's leadership was unsympathetic to those members who resorted to litigation, and especially so towards those who did not pay promptly the amounts called for. 'Honouring debts' was a central virtue in the market culture. After members won their first big case, albeit in an out-of-court settlement, Lloyd's stance became more conciliatory, setting up formal independent reviews of the circumstances whenever the syndicate's loss ratio exceeded 100%. Such reviews were intended to help members in deciding whether and how to litigate. Lloyd's also considered whether some kind of central offer of compensation could be made, but, in the light of further losses, and a levy to shore up the central fund[xv], decided it was not feasible to devise a compensation scheme that would be affordable and acceptable.

Amid growing concern about the impact of losses on members and the rising number of 'open years,' there was widespread doubt about the suitability of Lloyd's structure – individuals trading with unlimited liability - for conducting modern insurance business. A Lloyd's task force had been assembled[xvi] to make recommendations for the future form of trading, looking several years ahead.

This group was chaired by David Rowland, a senior Lloyd's broker who had recently served on the Lloyd's Council. It included several outsiders, practitioners and the chairman of the Association of Lloyd's Members (ALM), who had pressed for it. It was advised by McKinseys and provided a crash course to all concerned in the full implications for members of the traditional structure.[xvii] The group recommended the introduction of corporate membership, along with various other measures designed to improve the position of existing members.

Controversially, the task force also proposed a change to Lloyd's governance, designed to make regulation more independent of current practitioners, but involving them more closely in the market's collective and now hazardous commercial future. At first, Lloyd's leaders rejected these governance reforms, but a howl of protest from many quarters forced a quick U-turn.

By now it was evident that a few market players had made big mistakes, with huge consequences for their members. Taking on the US liabilities of other syndicates had proved a spectacular error; entering the LMX spiral without carefully monitoring their exposure to the effects of a catastrophe was another. Instead of spreading risk, the market had concentrated it. The press was terrible; some members were claiming to be the victims of fraud.

7 New Leadership, New Governance, New Plan

Massive further losses, the rush to litigation, the failure to devise a central compensation scheme, and a bad press were sapping confidence. It was widely felt that new leadership was needed. David Rowland was asked to take over as the first paid executive Chairman. He had experience of managing a large company and unusual talents as a persuasive communicator and inspiring leader. A new chief executive was appointed: Peter Middleton, a complete outsider with a successful business record and a distinctive style. He rode a motorcycle and his past included roles as a monk and a spy. He was a good listener and brought a fresh, imaginative approach to constraints.

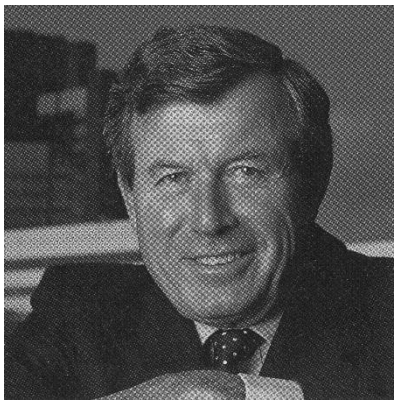
David Rowland, Chairman and Peter Middleton, Chief Executive

Changes were also made to the governance of the Lloyd's market. A new Lloyd's Market Board was created with a much stronger representation than hitherto from the Lloyd's marketplace, on the basis of appointments, rather than election. The Board was far more business-like than the unwieldy Council. It included both senior executives and experienced non-executive directors. Simultaneously, a new Lloyd's Regulatory Board was introduced, containing a minority of practitioners, and chaired by a tough minded outsider. This was designed to answer calls for more independent regulation than the discredited regime of insiders that had failed to curb the market practices that led to large losses.

A new leader of the Association of Lloyd's Members, Neil Shaw, also a successful businessman, proposed that Lloyd's and his association should begin a dialogue to understand the causes of the losses and to propose a central solution. The atmosphere was improved by a six month moratorium on collecting debts from members[xviii]. Several joint working groups were formed. The ideas they discussed contributed towards Lloyd's first business plan, produced in 1993. This plan provided for:

- **a new reinsurance vehicle** to manage all the old liabilities for asbestos and pollution, in one place, reaping economies of scale and increased bargaining power with claimants
- the introduction of **corporate membership** in order to maintain a supply of capital, on a basis that would be less risky than traditional membership with unlimited liability
- the exploration of a **centrally organised settlement** for the litigation disputes between loss-making members and their agents

The plan was well received in most quarters. Together with a more business-like Market Board, the plan helped give those working at Lloyd's a greater sense of optimism and collective endeavour. This was reinforced by many optimistic and determined speeches by Rowland and Middleton.



Neil Shaw, ALM Chairman

Michael Deeny, Action Group leader

Middleton began to rebuild trust among angry members, spending much of his time talking to Action Group leaders and members badly affected by losses.

> After meeting Middleton, Jessie Munn wrote to say: "Above all he listened. He comes to Lloyd's with clean hands, and the impression he gave was one of empathy and great integrity. Names left the meeting feeling fortified in hope and in spirit, not because they expect him to wave a magic wand but in the belief that he will act honourably and fairly."

In order to set up the new vehicle – later called Equitas - that would manage Lloyd's past liabilities, a reinsurance premium would need to be paid by each syndicate. Heidi Hutter, a young American actuary was hired to head up the project to assess Lloyd's old liabilities. It was a tough assignment: syndicates' records were poor and uncertainty prevailed throughout the industry about the eventual cost of both asbestos and pollution claims, and the possibility of further liability claims emerging.

After a full debate, corporate membership was approved by existing members, despite fears that they might become second-class citizens. A series of investment trusts were created quickly and

raised around £800 million of new capital for 1994. The City's response was positive, and the gulf between the rest of the financial community and the Lloyd's market began to narrow. This brought in its wake many positive changes, including better disclosure and greater rights for members of all kinds to approve decisions of the Council. A cultural change was underway whereby market professionals grew increasingly accountable to those who provided capital. Pressure grew for places on syndicates to be freely traded, rather than allocated through relationships among agents. An annual auction was introduced once 'tenure' was conferred on members.

The exercise to find a basis for a central settlement made progress, eventually securing an offer from errors and omissions underwriters which was augmented a little by central Lloyd's resources. However the offer of settlement was judged inadequate by Michael Deeny, leader of the Gooda Walker Action Group, and other litigating members: it fell short of what they hoped to win in court; and it offered no limit on the future liability of members if further losses were uncovered. Meanwhile, some members mounted legal action to avoid paying their debts, including a claim that Lloyd's arrangements were in breach of European law. It would take a long time to defeat this spurious argument. Meanwhile debts rose, while some members took steps to distance their assets.

The optimism of the Business Plan began to fade in 1994. The first offer had failed; the Equitas project was proving hard and its scope was insufficient to deal with the mounting number of 'open years'; the early success of corporate membership seemed unlikely to be repeated, as new investors held back to see whether Lloyd's could resolve its problems.

8 Looming Insolvency

Later in 1994, members of the Gooda Walker syndicate, led by a determined Michael Deeny, won a spectacular victory in court. This brought fresh urgency to the issue of whether their compensatory winnings did or did not have to be used to meet claims. Already the liabilities of many members exceeded their available assets, meaning that their individual annual solvency tests could only be passed by "earmarking" large amounts against the central fund. Meanwhile, the fund was being depleted by the need to make good portions of loss that some members were either unable or unwilling to pay.

The continuing solvency of the Lloyd's market required that every member's deficiency was covered by such earmarking. Annual solvency declarations to government were required as a condition of Lloyd's right to continue insurance trading in Britain. If members were free to use the proceeds of litigation for other purposes than paying losses, more of them would be unable to pass the annual solvency test, casting doubt on Lloyd's ability to continue trading. Within the leadership team, hawks

wanted to amend the rules[xix] to state clearly that litigation proceeds must be used to pay or provide for claims; doves feared an angry reaction would make it harder to reach a settlement with action group leaders. When Lloyd's decided it had to act, all hell broke loose:

> One action group leader wrote: "We will fight you in the Law Courts…we will fight you in Parliament and we will use whatever weapons come to hand, regardless of the damage they may do to Lloyd's.. We accept your declaration of war and tell you we will take no prisoners"

As the financial outlook deteriorated, DTI officials were kept closely informed about Lloyd's problems and plans to resolve them. The same problems of US liabilities and the LMX spiral had already engulfed several insurance companies trading in the London marketplace. DTI's insurance division was expanded to cope and senior ministers, notably Michael Heseltine, Trade Secretary, were briefed to expect trouble. Despite pressure from adversely affected Lloyd's members, including MPs, a clear policy line had been established by Heseltine: policyholders had to be protected; no government money could be used for a bailout. The idea of creating a new vehicle, *Equitas*, to take on the past liabilities was welcomed in principle. In order to authorise it, DTI would require the independent judgement of actuaries that its resources were adequate. Several senior executives at Lloyd's were ex-DTI officials: this and Rowland's policy to avoid surprises helped ensure trust in the working relationship with DTI regulators. Their active collaboration became an essential part of the eventual plan.

Lloyd's trading status in the US depended upon the continuing authorisation of the New York Insurance Department, the key state[xx] because the US dollar trust funds were held with Citibank in New York. In 1995, NYID had tightened its own rules and examined Lloyd's position more closely than before. It wanted to be sure that the dollars held in the US were sufficient to pay all future claims arising on US policies. However it was precisely these policies that were in need of large extra provisions to meet future claims. Some of this had been declared as losses, but, as debts rose, it had not all been collected. Furthermore, syndicates had been encouraged by Lloyd's to soften the full impact of losses by not calling for payment of those funds not yet required to pay claims. This practice added to the deficiency in US dollars. Furthermore, NYID's new approach did not allow syndicates to take credit for reinsurance receivables. Under the combined weight of these rules, strictly applied, NYID saw a massive dollar deficit of S18 billion. They threatened to withdraw Lloyd's

continued right to trade in the US. New to the role of NYID superintendent, Ed Muhl[xxi] summoned Rowland, who promptly flew to New York by Concorde.

9 Full-scale crisis

The anxieties of regulators brought matters to a head in early 1995. Plans were already in place for Equitas to reinsure all Lloyd's liabilities up to 1985, when policies ceased to be written in the open-ended way which allowed claims with no limit as to time or amount. But this plan would not be sufficient to solve the problem as seen by regulators, nor would it release the many members who wished to resign from Lloyd's altogether.

Earlier attempts to find a comprehensive settlement of the many legal actions underway by members had foundered. However, sequential court decisions about compensation would result in large awards to those whose cases came up first. They would soon 'scoop the pool' - ie empty the limited amount of money available through the errors and omissions insurance of the agents, leaving no resource to compensate further claimants. The courts confirmed this "first past the post" principle, acknowledging its potential unfairness.

Some felt it would be fairer to orchestrate a comprehensive settlement. While Lloyd's had limited central resources, it did have the power to require all members and agents to contribute to the cost of compensation. Widespread sharing of losses was termed 'mutualisation.' To those with big losses, it seemed obviously fair. To those who would be net contributors, it was a dirty word – flying in the face of the legal principle that each member was a sole trader responsible for his or her own losses.

Lloyd's Faces New Warning of Collapse

Lloyd's of London was plunged into a fresh crisis yesterday as analysts said it was running out of money and needed an emergency loan from the Bank of England

Telegraph, April 1995

Main Goals of Stakeholders

Stakeholder	Main Goal
Members with large losses	An end to uncertainty at affordable cost
Members without large losses	Continued profits
Lloyd's agents	Continued profits
New corporate members	Future profits without old liabilities
Errors and Omissions Underwriters	Settlement acceptable to reinsurers
Lloyd's brokers	Continued profits
Lloyd's leadership	Survival of Lloyd's
External regulators	Continued payments to policyholders

If their main goal could be met, most parties were willing to negotiate about the cost and fairness of the solution

The leader of the most successful Action Group, Michael Deeny, was himself convinced that a package settlement could be better for everyone than a free-for-all, if the terms were right. He wrested the leadership of the Action Groups from a more extreme dissident, Christopher Stockwell. Peter Middleton, the Lloyd's Chief Executive, encouraged Deeny's wider leadership role, seeing him as a constructive counter-party with whom negotiations could take place.

In early 1995, Lloyd's was faced with the twin problems of satisfying the British and US regulators and the members' desire for a central settlement. Many of these members also wished to be able to resign their membership, with no fear that further claims would be made upon them. By now, some new corporate members had joined. But other potential investors saw joining Lloyd's as involving them in the risk of being obliged to contribute to further hidden losses. They held back.

The challenge was to find a way in which these different goals could be reconciled. They were interconnected, but it took much hard thought to see how the dots could be joined up.

10 The Reconstruction Plan

At debates where each stakeholder was present, or strongly represented, it emerged that these multiple goals could be solved by a single plan that combined a central settlement with a separation between Lloyd's past and its future. A McKinseys consultant, Charles Roxburgh, a new recruit and former management consultant, Ron Sandler, and a corporate lawyer from Freshfields, Barry O'Brien, played large parts in devising this plan.[xxii] Middleton argued the members' viewpoint, persuading reluctant insiders that large amounts of members' debts would have to be written off. He had seen this done elsewhere. One thoughtful member had earlier proposed a split between old and new Lloyd's, while an agent made the imaginative leap that pooling and discounting all syndicates reserves could create the headroom that would allow a much bigger write-off of debt. This became known as a plan for Reconstruction and Renewal (R&R.) It would involve:

- Compulsorily placing the liabilities of members of all syndicates up to 1992 into the new reinsurance vehicle
- Raising funds from all members, Lloyd's, agents and other parties
- Presenting each Lloyd's member with the cost of reinsuring all his or her liabilities up to 1992, modified by a personal settlement offer. Acceptors would be required to drop all current and future litigation. This offer would take into account
    - the compensation likely to be due to them through litigation, and
    - a significant amount of debt write-off, for those who had lost large amounts
- Dropping most of the restrictions surrounding corporate membership, and protecting new joiners with a 'firebreak' from the past

This plan would require acceptance by regulators, market players, Action Group leaders – to whom members had delegated authority to conduct litigation – and the great majority of members, including their willingness to drop all litigation rights, now and in the future. Against a background of widespread mistrust by litigants, this would involve a massive persuasion exercise. However, the failure of the earlier offer helped ensure the package was better-designed and much more attractive than before.

Regulators in Britain and the US could see that a reconstruction along these lines would be a better solution for the policyholders they were obliged to protect than the alternative of a disorderly collapse of the Lloyd's market. Nevertheless, they had to surmount the risk of subsequent criticism if the reinsurance vehicle were to fail. (In the US, NYID faced strictures from other state insurance regulators for having been "asleep at the wheel" in the build-up to the crisis.) Regulators therefore required assurance by independent actuaries that adequate provision was being made to meet all likely future claims. This meant that the new vehicle could only be authorised with suitably large

reserves and a cushion of capital. The main source of funds would be existing reserves, augmented by further contributions from Lloyd's members. Fortunately, 1993-95 had been very profitable years and could be subjected to a levy.

Lloyd's also undertook to sell its own central assets, including its premises and its subsidiaries, which included the world's oldest newspaper (*Lloyd's List*.) Lloyd's would also contribute nearly all of its Central Fund, designed to protect policyholders in the event that some members were unable to pay policyholders in full. Lloyd's would also seek a contribution from all agents and brokers, who had a big stake in the market's survival, and from auditors, some of whom had already been judged negligent in one of the court actions. Lloyd's was also prepared to borrow some funds, although there was an obvious limit to the willingness of banks to provide them.

Lloyd's also proposed to place an extra levy on all members' premium receipts during the three years of 1993, 1994 and 1995. The accounts for these years had not yet closed and were still susceptible to a central fund levy. However, as a result of a concession made to corporate members in 1993, it would be necessary for the members in each of these three years to vote in favour of this levy. For many of them, these three years had been profitable. For some they had not. If supported by large majorities, the levy would be made on *all* members. The worst losses would, after all, be mutualised.

In order to reinsure all their liabilities up to 1992, many members would need to pay an additional premium. But the amount would be discounted[xxiii] to reflect the time value of money; many of these claims would not be paid for many years. If the amount required were not excessive, it seemed at least possible that they would accept the personal offer made to them, thereby enabling the reconstruction plan to proceed.

When this plan was launched, it met widespread support. The way had already been paved with the US regulators. Lloyd's had agreed to a new basis for future US trading, on a fully funded basis – ie with assets held in dollars in New York to cover *all US gross liabilities* from July 1995 onwards. British regulators were also willing to countenance authorising Equitas, the new reinsurance vehicle, on the much larger scale now proposed – i.e. taking on all the liabilities of all Lloyd's syndicates and members up until 1992. This would require around £15 billion of assets.

11 Opposition

Several constituencies were unhappy with aspects of these proposals. One such group were the managers of syndicates that were already well reserved in respect of past years. It was likely that some were over-reserved, with assets that would help them meet unforeseen contingencies. Strictly

speaking, these reserves were the property of the members of the syndicates. In practice they were under the control of syndicate managers and widely seen as a source of strength to them. (Managers often thought of their syndicate as an ongoing business even though their principal assets, held in the premium trust funds, belonged to their members.) Being stripped of accumulated reserves up to 1992 was like going back to square one in a board game. Many professionals in the market at first reacted adversely to this proposal, seeing it as destructive of their hard-won position. Those with a consistent record of profitability argued that it was the loss-making agents, not them, that should be penalised. But the losers had no resources. Still less did some profitable agents consider it reasonable that they should make a contribution from their own resources towards a fund to help write off the debt of some members who refused to pay.

It was foreseen that some members would seek to challenge the validity of the Council's actions in imposing key aspects of this plan. Some members were vociferously opposed to efforts to maintain the business of agents at Lloyd's. Some preferred the concept of an orderly run-off of Lloyd's affairs, imagining that it might prove possible to pay outstanding claims only slowly, over a long period of time, without any need to crystallise future claims now. Others were attracted by a disorderly collapse of the market in which they hoped to escape at least some of their liabilities, believing that policyholders would be unlikely to pursue every member of Lloyd's to the fullest possible extent. These alternatives were articulated persuasively[xxiv] by dissident leader, Christopher Stockwell.

Meanwhile, anticipating a legal challenge, Freshfields were careful to ensure that the Council of Lloyd's was scrupulous in the exercise of its powers – behaving reasonably at every stage and carefully documenting the procedures, the arguments adopted, and the conclusions reached. This paid dividends when a group of members sought judicial review for the Council's actions in seeking to implement the reconstruction plan.

A persuasion strategy was required. Profitable agents had to be convinced that nothing less than the market's survival – and therefore their own survival – was at stake. They would have to part with their hard-won reserves and contribute towards a settlement from their own profits too. As members, they would also need to vote for the central fund levy on all three profitable years and pay this levy. Harsh words were spoken behind closed doors as realists persuaded sceptics that their business faced collapse, as an integral part of a market on the brink of insolvency.

Equally importantly, litigating members would need to be persuaded that they should accept the centrally organised offer and drop all their litigation efforts and any hope of reviving them. They would also need to believe that the premiums required of each of them to reinsure all their liabilities had been accurately and fairly calculated. Given their level of mistrust of Lloyd's and agents, this was asking a lot. (Stockwell – already declared bankrupt himself - advised indebted members that liquidation of the market would better serve their interests.) All other members had to be persuaded

that debt write-offs were being done on a fair and consistent basis, and that the resulting offer was acceptable.

12 Involvement

In order to maximise the chances of gaining the active support of ALM and successful action group leaders, Lloyd's asked them to form a committee to advise the Council on how to distribute the £2 billion of debt write-off. Chaired by an individual with enormous patience and intellectual capacity, Sir Adam Ridley, this group examined many different possible sets of consistent rules, including a simple proportionate approach, which would relieve each member's losses by the same percentage. It was readily apparent that this would not generate sufficient help to alleviate the position of those with very large losses. Various alternatives were considered which would direct most assistance towards those most in need and least likely to pay anyway. The committee wrestled with concepts of fairness and pragmatism. Strong pressure was exerted for a "cap" to be applied to losses above a certain level. In winning the hearts and minds of litigants, it was thought persuasive to say 'no-one has to pay more than 'x' above the funds they already hold at Lloyd's.'

When the 'cap' approach was first debated at Council level, some were appalled by the 'immorality' of writing off very large debts. Eventually, all accepted that pragmatism dictated the active support of action group leaders in order to sell the deal. Help was also to be directed towards the 'hardest hit,' a sentiment that was widely supported, but proved hard to administer.

Beyond this exercise to write off debt, further compensation was offered to members of action groups that were well advanced in making their claims in court: some had already won a legal victory; other groups appeared likely to do so. This element of the settlement was the subject of negotiations between Lloyd's and action group leaders, who were equipped with spreadsheet analyses of the impact of debt write-offs on the members of their groups. This enabled them to see the full picture of benefits to their members from accepting the central offer.

Predictably, the committee argued in an interim report that still more debt write-off was needed beyond the original intention of £2 billion. After a nine months of intense deliberation and negotiation, it was increased by £300 million. The formula for its distribution was adjusted to accommodate various pressures. Eventually a mixture was found which commanded the active support of members' leaders, including the ALM and the major action groups. This included reassurance about the future rights of members able to continue underwriting, against a background of fear that corporates would displace traditional members. (Twenty years later their entrenched rights and 'tenure' on profitable syndicates were still able to command a price in annual auctions.)

An exercise was also mounted to secure independent validation of the analysis that Lloyd's members could not escape their liabilities simply by putting the Lloyd's market into run-off or liquidation. A steering committee comprising the ALM Chairman and two action group leaders was formed, advised by lawyers Slaughters & May. By majority, the group was satisfied that the analysis of their advisers was correct; a third member dissented. They also lobbied for some improvements to the offer, some of which were conceded[xxv].

13 US Battles

In the US, Lloyd's had long been aware that the membership of Lloyd's had some of the characteristics of an investment in a security – sales of which are tightly regulated. That led Lloyd's to ensure that the Securities Exchange Commission (SEC) regarded the activities of Lloyd's members' agents in the US as acceptable. The SEC reviewed the position in 1988 and issued a comfort letter. This fell short of a formal acceptance that Lloyd's membership was not a security, but amounted to an understanding between the two parties. In return, Lloyd's agreed to issue fresh guidance to members' agents about the ways in which they set about encouraging US citizens to become members. For one thing, they were to restrict membership to individuals who could pass their "sophisticated investor" test. This included possessing at least $1 million of assets. They also required agents to keep recruitment of new members to a modest level, without resorting to advertising, and to make annual returns.

Neither Lloyd's nor members' agents fully appreciated the extent to which the sale of securities in the US is also regulated at state level. When some US members of Lloyd's encountered significant losses, they complained to these state securities regulators that US laws had been violated, making their membership invalid. They argued that this meant they were not liable for policyholder claims. Several state regulators took up their cause. When this issue reached the courts in California the SEC provided an amicus brief to the effect that they no longer believed Lloyd's membership was exempt from US securities laws.

A battle ensued in several states between securities regulators, seeking to protect the US citizens who had become members of Lloyd's, and insurance regulators, who wanted to protect US policyholders and their beneficiaries (asbestos victims) from non-payment - the likely effect of 'rescission' by US members of Lloyd's. Lloyd's undertook an intensive lobbying campaign. Some insurance regulators worked hard to make the case for protecting policyholders. The state securities regulators formed a committee to press their case, made a prolonged visit to London, eventually cutting a deal whereby an extra layer of debt write-off would be available to US members only, to be allocated in ways determined by these regulators, rather than by Lloyd's.

In one case before a Texas court, a Judge explicitly weighed the claims of members who did not want to pay up against policyholders, upholding the latter, and saying:

> "Were members able to rescind their contracts, somewhere a crippled American will not be compensated for his injuries because an American Name refused to pay the claims against the policy he issued."
>
> Judge Lynn Hughes

14 Raising Funds

Meanwhile, Lloyd's had to raise enough money to enable the large-scale write-off of debt. The main sources of funds were:

- most of the existing central fund, leaving only £100 million to start a new fund for the future
- the proceeds of a central fund levy on each of the three profitable years 1993, 1994 and 1995. This extra levy would require a vote among all contributing members. An important tactical question was the timing and manner of this vote, as well as the communications that preceded it. In the event it was held at the latest possible stage, when the offer had been improved, and after it had been commended by action group leaders.
- proceeds from the sale of centrally owned assets, including the Lloyd's building and Lloyd's various subsidiaries including the world's oldest newspaper, Lloyd's List
- contributions sought from agents, Lloyd's brokers and auditors
- a syndicated loan from banks

The large-scale write-off of debt was supplemented by a litigation settlement fund, largely comprising an offer of settlement by errors and omissions underwriters. They in turn were much influenced by the attitude of their reinsurers – many of whom were outside the Lloyd's market - towards their claims for recovery, under the terms of their reinsurance policies. Court decisions on the liability of agents obliged reinsurers to pay something, but a compromise agreement would leave scope for intense negotiation.

A further complication was the position of personal stop loss[xxvi] claims by members, and the willingness of stop loss underwriters, and their reinsurers, to respond to claims for losses crystallised by an extra premium for reinsuring all liabilities up to 1992 into Equitas. In some cases, the amounts due under stop loss policies would make a large difference to the amount payable by an individual member.

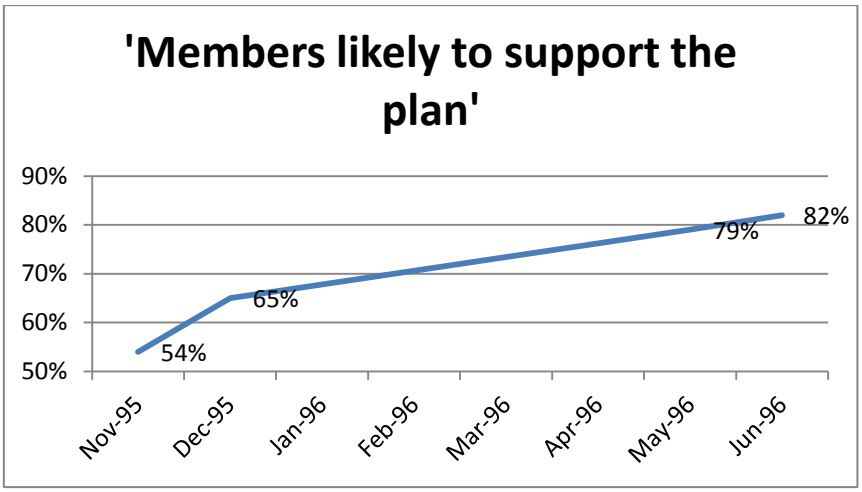
As negotiations intensified to translate the plan into reality, Peter Middleton resigned as Chief Executive, after three years, taking a much better-paid job elsewhere. His successor, Ron Sandler, proved effective and tireless in the many management and negotiating roles that fell to him.

15 Persuasion

Once principles had been agreed, it was necessary to translate these into individual personal offers to each of the 34,000 members of Lloyd's. In order to anticipate the effects of various decisions, their effect on individual members was modelled. As the formula for debt write-off took shape, an indicative offer was produced in order to give members a preliminary estimate of what the offer would mean for them individually. It could not be finalised until work was complete on the price needed for Equitas to reinsure all pre-1993 liabilities. Debate raged about the pros and cons of issuing 'indicative statements' as they were bound to be inaccurate to some extent, and could raise unnecessary alarm. But it was judged essential to translate general principles into a specific, albeit approximate, offer to each individual so that he or she could start to form an opinion and to make preparations to raise the extra funds that most would be required to pay in order to accept the settlement offer. After a delay of several months, an indicative offer was made to every member in March 1996.

In the months that followed, after several improvements to the offer, Members' leaders, including Deeny, Ridley and the ALM Chairman, all urged members to accept. So did the press, who were briefed relentlessly by the Chairman, Chief Executive and Action Group leaders. The estimates for the amount required as an additional premium for reinsurance into Equitas were also revised downwards, further improving the offer made to most members. (The reduction became possible due to extensive work designed to eliminate "double counting" within the gross estimates that had already been made. This arose because of the extensive network of reinsurance relationship among syndicates within Lloyd's, and among individuals through personal stop loss and estate protection policies and so on.) Each measure to reduce double counting had to be discussed with and agreed by independent actuaries, as well as the Government Actuaries Department (GAD.) A provisional Equitas Board also pressed for adequate provision for Equitas.

Members were bombarded with information about the offer and related matters, receiving dozens of letters and documents, amounting to over 2,000 pages.



One large and critical element in raising the funds needed for the offer was a levy on all Lloyd's members over the three profitable years of trading (1993-5). Because of assurances given to entice new corporate members, these were subject to a vote by the members affected. This vote was left until many improvements had been made and the whole deal was backed by members' own leaders. At that point, although opposed by a small faction of die-hards, the levies were overwhelmingly endorsed by majorities of 94%, 96% and 98% in the three profitable years. (The pill was sweetened by saying this could be offset against future contributions when they fell due.)

Lloyd's reputation for security had been strong for decades. Throughout the Lloyd's crisis, there were sporadic concerns expressed by a few insurance and reinsurance clients about the continued strength of Lloyd's security. With some members vociferously calling for the liquidation of Lloyd's, and US regulators questioning Lloyd's continuing right to trade there, some clients reduced their exposure to Lloyd's, no doubt encouraged by a few competitors. Rating agencies had not then been asked to provide an overall rating, but tried to promote 'rankings' which purported to differentiate the security of different Lloyd's syndicates. Lloyd's organised many security briefings, successfully persuading most brokers that it remained safe. Lloyd's brokers continued to advise clients to remain with Lloyd's and their advice was critical. These relationships and the strength of the Lloyd's reputation throughout so much public criticism and debate remain surprising[xxvii] and would be hard for most organisations to repeat today. Some attributed this to loyalty, others to inertia and self-interest, but brokers did risk client suits if insolvency had meant claims went unpaid.

16 Firebreak

Meanwhile, it was necessary to assure new investors that they would not be caught up in old problems. The successful reinsurance of all Lloyd's old liabilities was expected to create an effective firebreak between Lloyd's past and its future. Its effectiveness would depend crucially upon whether Equitas proved robust. If its resources were to prove insufficient, Lloyd's members could be held responsible for making good any shortfall. Although DTI did not expect to pursue individual members, it did require Equitas to keep an up-to-date record of their names and addresses. DTI also suggested a provision for "proportionate cover". Under this arrangement, if Equitas were unable to meet reinsurance claims in full, it could, *in extremis*, pay out claims on a proportionate basis, to the limit of its resources, rather than simply declare insolvency. In practice this would mean that policyholders could, in the circumstances of a modest shortfall, still receive most – e.g. 90% – of what was due to them. This arrangement would reduce the chances of policyholders pursuing individual members of Lloyd's through the courts for modest amounts still owing.

DTI, Lloyd's and its advisers were convinced that proportionate cover was a useful feature of the reconstruction of Lloyd's that helped several parties to deal with inherent uncertainty: regulators, policyholders, members and Equitas directors.

US regulators were much more sceptical, seeing this provision as a possible device for Lloyd's and its members to wriggle out of paying US policyholders in full. They did not explicitly endorse proportionate cover, but in negotiations at the very last phase of authorising Equitas, they did not require its removal. Instead, the New York regulator sought a personal assurance from the Chairman of Lloyd's that in the event of an Equitas shortfall, the Lloyd's market would pay the difference. The Chairman assured him that the market was likely to judge it in their interests, although his words necessarily stopped short of a guarantee - which was beyond his power to offer or enforce. On this basis, at the eleventh hour, NYID finally authorised the transfer of funds held in trust in New York to the new Equitas Trust Fund. Their expectations meant that the firebreak was unreliable if Equitas were to fail.

The US courts also came very close to preventing the reconstruction at the last minute. In Virginia, a federal judge ruled in August 1996 that the offer to US members could not proceed. Within a few days, this was subject to a hastily organised appeal held in the Fourth Circuit of the US Federal Court in Baltimore. The appeal court overturned the judge and allowed the offer to proceed, saying that

US members could seek justice in English courts. Lloyd's extended the deadline for US members to accept by one month.

In the event, 95% of Lloyd's members accepted their personal offer. This included a commitment to renounce all current and future litigation and, for most members, to pay an extra premium, which would cover the cost of the (compulsory) reinsurance of their past liabilities. Equitas was fully authorised by the DTI. Lloyd's transferred members' funds to Equitas and paid the amounts outstanding from members, taking upon itself the task of recovering any debts.

The reconstruction of Lloyd's finances became effective. Reflecting this, Lloyd's latest solvency test now showed a healthy surplus. The following year, Lloyd's invited the rating agencies to provide official ratings of the security behind Lloyd's policies. These have remained high ever since.

17 Debt Collection

In practice, payments by several thousand members who accepted the settlement needed to be chased up by the in-house debt collection team. Vigorous efforts were also made to collect the full premium – without any reduction by way of debt write-off – from those who did not accept the offer. It was strongly felt by the Lloyd's Council, with the support of most of the membership, that those who did not accept should be pursued for the full extent of their debts. Reinsurance by Equitas would provide a benefit to them as well as to others, and it would be unfair on those who had paid, sometimes with a struggle, if others were allowed to gain the benefits of Equitas reinsurance, without paying their share of liabilities.

Hundreds of members were made bankrupt in efforts to recover amounts owed by them. Several groups formed to fight a rear-guard action in various fora. In the US several unsuccessful attempts were made to get the law changed in order to exempt US members of Lloyd's from paying their debts. Similarly, groups of members attempted to secure support from the European Parliament, from European courts and from the European Commission. Although at various stages some members appeared to make a little progress, all these efforts failed.

In Britain some members mounted a claim that there had been fraud at Lloyd's. English courts decided that this case would be heard only once and that those subscribing to it should join in the action led by a member called Jaffray. This case was heard in 2000 and the trial lasted for several months. *Time Magazine* had a 17 page article expecting a finding of fraud, with a lurid front cover:

Lloyd's of London
1688-?
Its watchword is 'Utmost Good Faith.' So why does Lloyd's stand accused of the greatest swindle ever?

The court found against the charge of fraud, but the judge was very critical of past practices at Lloyd's that had allowed big losses to be incurred. He urged further attempts at compromise with the still-dissident members. These efforts were largely unsuccessful and several further legal actions followed. Each of these was concluded in favour of Lloyd's.

Today there remain several thousand individuals who trade at Lloyd's, now representing only about 3% of capital at risk in the market. The great majority is now provided by corporate members, some of which are subsidiaries of insurance companies operating outside Lloyd's as well as within. Unlike past members and firms, it is quite easy for them to switch their focus to underwriting elsewhere if Lloyd's were to become a less attractive trading environment.

18 Reformed Supervision

After the reconstruction, many Lloyd's syndicates were bought by outside insurance interests. Losses were incurred once again on quite a large scale, as market conditions became unfavourable. External regulation by the FSA was introduced, but it made little difference to the scope for losses. After still further huge losses from 9/11, there was a strong feeling that standards of underwriting needed to be sharply raised. A new system of governance was introduced whereby a Franchise Board appointed a franchise performance director, empowering him and his staff to examine syndicate business plans and capabilities. Underwriting standards have been significantly raised and the Lloyd's market has produced overall profits – sometimes on a very large scale – in nearly every year for the 12 years that followed.

Capital requirements were increased several times, and related to the risk profile of each business. Today the average requirement for capital stands at 86%, in stark contrast to the 20% required as a deposit of members three decades earlier. Although 2011 saw a series of unusual catastrophes, the modelling of exposure to risk proved effective: no syndicate exceeded the losses show by the "realistic disaster scenarios" that had been modelled in advance.

Today, external regulation is administered by two bodies that replaced the FSA – the Prudential Regulation Authority and the Financial Conduct Authority. The supervision that most effectively ensures high standards of underwriting at Lloyd's is provided by the Franchise Board and its

executive arm – the Performance Management Director and his team of around 130. They supervise each syndicate and managing agent closely, requiring self-certification by agency boards on various standards and procedures, including rigorous reviews of exposure to risk. They also scrutinise business plans, while seeking to clear unnecessary roadblocks and avoid inhibiting innovation or competition.

19 Outcome

The management of Lloyd's old liabilities by Equitas proved highly successful. The first Chairman, David Newbigging, recruited the first chief executive from the US, where most of the longer term liabilities were located. He and his successor set about managing these claims firmly and efficiently. Asbestos-related claims surged upwards to an even greater extent than envisaged, but procedures were introduced for successfully challenging the many exaggerated claims. Efforts were also made to influence the climate of opinion in the US. After 10 years, Equitas finances looked sufficiently healthy that the company was reinsured by Warren Buffet's Berkshire Hathaway. Ridley had been chairman of the Equitas trustees throughout, and Deeny had been a trustee and an Equitas director. In 2009 Ridley helped to organise a statutory transfer of members' liabilities to an Equitas subsidiary in Britain. This assured former members of Lloyd's that they would be untroubled by the shadow of the past, thus placing a seal on the events described above.

Since 2003, the Lloyd's market has returned very strong results in nearly every year. In 2013 and 2014, profits exceeded £3 billion. Its security is highly rated. It has expanded and London remains at the centre of world insurance and reinsurance. Major international brokers remain nearby; one of the two biggest has relocated its worldwide HQ from Chicago to London. Lloyd's has ambitious plans to increase its worldwide presence and supply of capital.

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Topics for discussion

Comparisons with the **UK banking crisis** in 2008

The strength of Lloyd's **reputation and market relationships** allowed this crisis to play out over five years. It may reflect the interdependent network of insurers, reinsurers and brokers. They are used to absorbing risk over the years and taking a long-term view. Could a crisis last that long today?

The significance of Lloyd's **governance and regulation** and the changes made to it: sweeping powers conferred by Lloyd's Act 1982; new Market and Regulatory Boards in 1993; new Franchise Board in 2003. Were they critical to the outcome?

The **leadership** provided by David Rowland and others, hiring outside experts, restoring some trust and morale, reassuring regulators and other outside interests, making cautious and bold decisions.

The self-help exhibited by members in forming successful **action groups** and overcoming legal obstacles. Although at first resented by others, they provided a structure and leadership with which negotiations could take place. Their court victories established where responsibility lay for the huge losses.

After initial complacency, efforts by Lloyd's new leaders to **establish a dialogue** with membership and its leaders, followed by extensive efforts at negotiation and persuasion. Alternative views existed on both sides: among agents that that a much tougher line could have enforced debts at an earlier stage; among some members that liquidation of Lloyd's would serve members best.

The role of **public opinion**, through Press and Parliamentary interest in seeing 'fair play', pressing Lloyd's to search for the moral high ground, as action group leaders expressed moral outrage, and new leadership condemned past incompetence.

The role of **debate** among members and their leaders; the **massive communication exercise** by Lloyd's to influence the outcome of these debates.

The value of **expert advice** from management consultants McKinsey's, from experienced professional corporate lawyers and PR advisers in Britain and the US.

The importance of **close and open relationships with regulators** in Britain and the US. The **constructive response** of these regulators in both countries, reflecting their quality, experience and preference for an ordered solution. Could this be repeated now?

The **legal framework surrounding contractual and agency obligations**, and the willingness of courts in England and the US to strictly enforce them.

End Notes

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[i] This deposit could take the form of a bank guarantee, or a letter of credit, which was based on the family home.

[ii] The role of members' agents, managing agents, brokers and market participants and their numbers are more fully described in Chapter 1 of *On The Brink: How a Crisis Transformed Lloyd's of London* (2014) by Andrew Duguid.

[iii] This controversial immunity was thought necessary for firm regulation. It was hotly debated in Parliament.

[iv] The new statute gave Lloyd's a tripartite Council, comprising working members, external members and independent 'nominated members. The evolution of these governance arrangements is described on pages 24-7 and Appendix 3 of *On The Brink.*

[v] The development of the asbestos problems is described in detail in Paul Brodeur's book *Outrageous Misconduct: The Asbestos Industry on Trial* (1985). Its impact on Lloyd's – and many other aspects of the Crisis - is also discussed in Adam Raphael's book *Ultimate Risk: The Inside Story of the Lloyd's Catastrophe*

[vi] In 1980, Congress passed the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), widely known as 'Superfund', the name of its funding provisions.

[vii] A 1990 study by the actuarial firm Tillinghast showed a wide range of estimates for the future cost of pollution. The middle range figure was $215 billion.

[viii] The syndicates who did this expected the claims to arrive only slowly while they made a good return on the premiums they received for taking on these risks. But claims accelerated beyond their expectations. With hindsight this was a massive misjudgement.

[ix] A brief account of this trial is at page 86 of *On The Brink*

[x] Lloyd's rules only allowed resignation when a member had discharged all his liabilities, usually through reinsurance by a successor syndicate

[xi] The Gooda Walker trial is described on pages 146-7; the Feltrim trial's conclusion on page 175 of *On The Brink*

[xiixii] Both members and managing agents were required by Lloyd's to have errors and omissions insurance

[xiii] This question turned on whether these awards fell under the terms of the "premium trust deeds?" Funds held under these deeds (PTDs), – typically premium receipts – were in trust for the primary purpose of paying valid insurance claims. If the awards fell within the PTDs, members would be obliged to use them to pay or provide for outstanding claims. If they fell outside the PTDs, members would be free to use them in other ways, involving 'leakage' from the Lloyd's system - thereby threatening solvency tests required under insurance law by regulators.

[xiv] This furious parliamentary and press comment is described on pages 73-4 of *On The Brink*

[xv] The central fund was set up in 1927 as a fund of last resort to ensure clients' claims were paid in full, even if some members proved unable to meet all their obligations

[xvi] The pressures leading to the creation of the task force, its terms of reference and membership are described on page 68 of *On The Brink* and in fuller detail on the associated website www.onthebrink.uk.com

[xvii] Some realised for the first time that even after resignation, their protection rested on reinsurance by their successors. If this were to fail, their original liabilities could return to haunt them.

[xviii] A few critics would say later that this moratorium gave added momentum to a trend among some members to refuse to pay their debts, and contributed to the growth of outstanding debt

[xix] The 'rules' were expressed in Premium Trust Deeds, whose wording required the approval of the DTI
[xx] Insurance regulation in the US is a state, not a federal responsibility
[xxi] Muhl's background and standing among US regulators proved critical, as described on pages 185-7 and elsewhere in *On The Brink*
[xxii] The development of this plan is described in some detail from page 189 onwards of *On The Brink*
[xxiii] Lloyd's own rules did not permit discounting the value of future liabilities
[xxiv] The arguments he deployed are summarised on pages 342 – 344 of *On The Brink*
[xxv] The report's conclusions are summarised on pages 345 of *On The Brink*
[xxvixxvi] Around half of all members had bought personal 'stop loss' policies that were liable to pay their losses above a certain level, but with an upper limit. However most of these policies were underwritten by Lloyd's syndicates, and therefore fell to other members to pay. Another similar product was the 'estate protection plan' which paid outstanding personal losses, above a threshold, for deceased members. This too was largely insured by Lloyd's syndicates.
[xxvii] The enduring nature of Lloyd's standing among brokers and clients reflected, in part, the long-term relationships that are characteristic of the re-insurance market, described in detail by Paula Jarzabkowski in *Making a Market for Acts of God*, (2015)