EXPLANATORY MEMORANDUM TO

THE LLOYD'S SOURCEBOOK (FINANCE ACT 1993 AND FINANCE ACT 1994) (AMENDMENT) ORDER 2006

2006 No. 3273

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before Parliament by Command of Her Majesty.

2. Description

The Order modifies the Finance Acts 1993 and 1994 as they apply to individual and corporate members of Lloyd's respectively.

3. Matters of Special interest to the Joint Committee on Statutory Instruments

None

4. Legislative Background

The Order is made primarily so that Chapter 3 of Part 2 of the Finance Act 1993 and Chapter 5 of Part 4 of the Finance Act 1994 work correctly following a reordering made by the Financial Services Authority ("FSA") of its Handbook.

5. Extent

The instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Economic Secretary to the Treasury (Ed Balls MP) has made the following statement regarding Human Rights:

> "In my view the provisions of the Lloyd's Sourcebook (Amendment of the Finance Act 1993 and Finance Act 1994) Order 2006 are compatible with the convention rights."

7. Policy Background

7.1 Section 426 of the Financial Services and Markets Act 2000 ("FISMA") provides that an Order may make such incidental, consequential, transitional or supplemental provision as is considered necessary or expedient for the general purposes of FISMA or in consequence of any provision made under FISMA.

7.2 One such provision is the power in section 138 of FISMA allowing the Financial Services Authority ("FSA") to make rules applying to authorised persons. By virtue of section 316 and 317 of FISMA the powers in section 138 and other sections in Part 10 of FISMA may apply to members of Lloyd's even though they are not authorised persons.

7.3 The FSA has made the Lloyd's Sourcebook (LLD) which regulates members of Lloyd's. By its instrument FSA 2006/42, the Prudential Sourcebook for Insurers Instrument 2006, the FSA has moved substantial

parts of LLD into the new Sourcebook – Insurance Prudential Sourcebook (INSPRU).

7.4 Chapter 3 of Part 2 of FA 1993 provides a code of tax legislation applying special rules to members of Lloyd's that are not companies. Chapter 5 of Part 4 of FA 1994 provides a similar code for members of Lloyd's that are companies. In both Chapters there is a definition of "premium trust fund" which refers to provision of LLD.

7.5 This Order changes references to LLD so that they become references to the INSPRU.

7.6 It is not appropriate to amend tax law otherwise than through legislative change, so no alternative avenues of achieving the objective have been explored.

7.7 The proposals included in the Regulations have not been the subject of consultation with the insurance industry as they are purely consequential upon the FSA's reordering of its Handbook.

7.8 Guidance on the Order will be included in HM Revenue and Customs' Lloyd's Manual.

8. Impact

8.1 There are no significant business or other impacts, and a Regulatory Impact Assessment has not been published for this instrument as no impact on the private or voluntary sector is foreseen

8.2 There is no Exchequer impact.

9. Contact

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