



**BANK OF ENGLAND  
PRUDENTIAL REGULATION  
AUTHORITY**



**Tokio Marine Kiln Insurance Limited (FRN 202574)**

**Tokio Marine Kiln Syndicates Limited (FRN 204909)**

**APPLICATION FOR IMPOSITION OF NEW REQUIREMENTS PURSUANT TO SECTION 55L(5) AND  
SECTION 55M(5) OF THE FINANCIAL SERVICES AND MARKETS ACT 2000**

**To: The Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA)**

**Date: 14 December 2020**

Tokio Marine Kiln Insurance Limited and Tokio Marine Kiln Syndicates Limited, as the authorised persons, hereby apply for the new requirements set out in the Schedule below to be imposed on us to take effect upon the dates set out in the Schedule.

**Signed** ..... (Director)

**Signed** ..... (Director)

**Date** .....

**Date** .....

For and on behalf of **Tokio Marine Kiln Insurance Limited**

For and on behalf of **Tokio Marine Kiln Syndicates Limited**



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### SCHEDULE

**Tokio Marine Kiln Insurance Limited (FRN 202574)**

**Tokio Marine Kiln Syndicates Limited (FRN 204909)**

**IMPOSITION OF NEW REQUIREMENTS PURSUANT TO SECTION 55L(5) AND SECTION 55M(5) OF THE  
FINANCIAL SERVICES AND MARKETS ACT 2000**

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### WRITTEN NOTICE

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To: Tokio Marine Kiln Insurance Limited and  
Tokio Marine Kiln Syndicates Limited (together 'TMK' or 'the Firm')

Of: 20 Fenchurch Street, London, EC3M 3BY

Firm Reference Numbers: 202574 and 204909

Date: 21 December 2020

**TAKE NOTICE: The Prudential Regulation Authority of 20 Moorgate, London EC2R 6DA (the 'PRA') and the Financial Conduct Authority of 12 Endeavour Square, London E20 1JN (the 'FCA') have decided to take the following action.**

### **ACTION**

1. On 20 December 2019, the Firm made a disclosure to the PRA and the FCA (together 'the regulators' or 'regulator') on the outcome of its investigation into whistleblowing allegations

including potential shortcomings in the operation of its whistleblowing systems and controls. The regulators acknowledge that the Firm is working to improve its whistleblowing systems and controls and recognise the strong commitment made by the Firm to do so. The regulators consider that the Firm should take action to demonstrate the effectiveness of those steps and improvements as described below. Following discussions between the regulators and the Firm, the Firm has made applications dated 14 December 2020 to the FCA and to the PRA for the imposition of new requirements. The FCA has decided, pursuant to section 55L(5)(a) of the Act, and the PRA has decided, pursuant to section 55M(5)(a) of the Act to grant the application made to each of them and to impose the Requirement below on the Firm.

## **REQUIREMENT**

- 1.1. By 5:00 pm on 31 March 2021, the Firm must provide a written report detailing:
  - a) What steps it has taken to enhance awareness of whistleblowing processes and to ensure any barriers to their utilisation are addressed effectively;
  - b) Its methodology for assessing the effectiveness of these steps;
  - c) Copies of the Firm's current Whistleblowing Policy relating to making and handling whistleblowing disclosures, including (but not limited to) procedures relating to recognising a whistleblow, maintaining confidentiality (if so requested), engagement with anonymous whistleblowers, record-keeping and measures to avoid actual or perceived whistleblower detriment.
- 1.2. The Firm must provide an attestation, separately to both the PRA and the FCA, in the form of a certificate set out in Annex A, by 31 March 2021 that it has fully complied with the requirements of paragraph 1.1 and that the material provided pursuant to that paragraph is accurate and complete.
- 1.3. The Firm shall ensure that the certificate referred to in paragraph 1.2 is signed by its Chief Executive Officer.
- 1.4. The Firm must also provide written confirmation for each of the calendar years 2020, 2021 and 2022 detailing and disclosing:
  - 1.4.1. the number of whistleblowing reports received during the relevant year;
  - 1.4.2. the number of whistleblowing cases opened and/or investigated during the relevant year;
  - 1.4.3. the number of any such cases or investigations involving allegations against a Senior Manager and/or Director of the Firm, in which case TMK must also provide the regulators with:
    - a) the nature of the allegations made, the steps taken by TMK to investigate the allegations, including the management oversight and reporting structure of that investigation, any conclusions reached and any resulting outcome; and
    - b) if the PRA and/or the FCA so requests, copies of records evidencing the above matters;

- 1.4.4. the number of instances during the relevant year that a person has alleged that they were the subject of detriment or other retaliatory action as a result of raising concerns as a whistleblower. For each instance so identified, TMK must also provide the regulators with:
  - a) a written overview setting out the steps taken by it to investigate those allegations, the conclusions reached in that investigation and any resulting outcome; and
  - b) if the PRA and/or the FCA so requests, copies of records evidencing the above matters;
- 1.4.5. a description of all training relating to whistleblowing delivered during the preceding year:
  - a) to Staff, including an indication of whether that training was mandatory;
  - b) to the Firm's Senior Managers and Directors, including but not limited to training on recognising and responding to a whistleblow, maintaining confidentiality (if so requested), engagement with anonymous whistleblowers, record-keeping and measures to avoid actual or perceived whistleblower detriment;
  - c) any specific training provided to the Whistleblowers' Champion;
- 1.4.6. how completion of training by Staff and Senior Managers and Directors is monitored and ensured;
- 1.4.7. a description of all additional non-training initiatives undertaken by the Firm to raise Staff awareness of whistleblowing processes;
- 1.4.8. the results of any Staff surveys or third party assurance as to the effectiveness of the training and non-training initiatives relating to whistleblowing during the relevant year, together with an explanation of the methodology and criteria used to assess effectiveness;
- 1.4.9. a copy of all reports submitted or presented to the Board during the preceding year on the effectiveness of the firm's whistleblowing systems and controls for Staff (in accordance with paragraph 4.2 of PRA Supervisory Statement 39/15 and corresponding FCA requirement in SYSC 18.3.1R(2)(f));
- 1.4.10. if not already included in the report(s) referred to in paragraph 1.4.9 above, an explanation of the methodology and criteria for effectiveness used to generate such reports; and
- 1.4.11. the Firm's whistleblowing plan for the following year, containing the Firm's proposals for: (i) attaining and maintaining compliance with the Whistleblowing Rules; (ii) enhancing awareness of the Firm's whistleblowing processes and ensuring barriers to their utilisation are addressed effectively; and (iii) avoiding actual or perceived whistleblower detriment.

- 1.5. The Firm must provide the PRA and the FCA with a copy of the material set out above in paragraph 1.4 by 5:00 pm on 31 March of the calendar year following the year to which that material relates.
- 1.6. The Firm must also attest to each of the PRA and the FCA by 5:00 pm on 31 March of each of 2021, 2022 and 2023, that:
  - 1.6.1. it has complied fully with the requirements of paragraph 1.4 and the material provided thereunder in relation to the preceding calendar year is accurate and complete;
  - 1.6.2. its systems and controls in the preceding calendar year complied with the Whistleblowing Rules, and in the event TMK cannot attest such compliance, specifying all of the deficiencies that have been identified and explaining the steps TMK will take to resolve them.
- 1.7. The attestation required under paragraph 1.6 above shall be provided in the form of a certificate set out in Annex B. The Firm shall ensure that the certificate is signed by its Chief Executive Officer.
- 1.8. The PRA or the FCA, as the case may be, may give written consent to the Firm amending the form of the attestations in Annexes A and B or may extend the deadline for provision of the attestations and material set out in this Requirement.
- 1.9. To the extent that the requirements in paragraphs 1.1 to 1.7 relate to:
  - 1.9.1. the PRA Rulebook, supervisory statements published by the PRA or the provision of material to the PRA, they are imposed by the PRA under section 55M(5)(a) of the Act;
  - 1.9.2. the FCA Handbook, the provision of material to the FCA, or are otherwise desirable to advance the FCA's operational objectives, they are imposed by the FCA under section 55L(5)(a) of the Act.

#### **EFFECTIVE DATE**

2. These requirements take effect on 21 December 2020 and will remain in place until after the submission of the third annual report and attestation. The regulators will review this Requirement after 12 months.

#### **DEFINITIONS**

3. The definitions below are used in this notice.

'the Act' means the Financial Services and Markets Act 2000.

'Board' means the board or boards of directors of the Firm.

'Director' means any executive or non-executive director.

'FCA' means the Financial Conduct Authority.

'FCA Handbook' means the FCA Handbook of rules and guidance.

‘the Firm’ means Tokio Marine Kiln Insurance Limited and Tokio Marine Kiln Syndicates Limited, headquartered at 20 Fenchurch Street, London, EC3M 3BY.

‘Notice’ means this Written Notice, including Section 1, Annex A and Annex B.

‘PRA’ means the Prudential Regulation Authority.

‘PRA Rulebook’ means the PRA Rulebook applicable to Solvency II firms.

‘regulators’ or ‘regulator’ means both the PRA and the FCA, or either of them, as the context requires.

‘Requirement’ means the requirements referred to in paragraphs 1.1 to 1.7.

‘Senior Manager’ in relation to the PRA means any individual holding a SMF position (as defined under the PRA Rules) at the Firm. In relation to the FCA, ‘Senior Manager’ means ‘SMF manager’ as defined in the FCA Handbook Glossary of definitions.

‘Staff’ in relation to the PRA means an ‘employee’ as defined in the PRA Rulebook and in relation to the FCA means an ‘employee’ as defined in the FCA Handbook Glossary of definitions.

‘SYSC’ means ‘the Senior Management Arrangements Systems and Controls Sourcebook of the FCA Handbook. A reference to SYSC 18 means chapter 18 of that Sourcebook (Whistleblowing).

‘TMK’ means Tokio Marine Kiln Insurance Limited and Tokio Marine Kiln Syndicates Limited, headquartered at 20 Fenchurch Street, London, EC3M 3BY.

‘Whistleblowers’ Champion’ in relation to the PRA means the Senior Manager with the prescribed responsibility (n) for whistleblowing at the Firm. In relation to the FCA, means whistleblowers’ champion as defined in the FCA Handbook Glossary of definitions.

‘Whistleblowing Policy’ means any policy, procedure or guidance in force within the Firm relating to whistleblowing.

‘Whistleblowing Rules’ in relation to the PRA means Chapter 2 of the Whistleblowing Part of the PRA Rulebook and in relation to the FCA it means SYSC 18 of the FCA Handbook (Whistleblowing) and other FCA rules relating to whistleblowing as applicable.

## **DECISION-MAKER**

4. The decision to give this notice was made by Anna Sweeney, Executive Director, Insurance, of the PRA on behalf of the PRA. This application has been granted in consultation with the FCA in accordance with section 55M(7) of the Act.
5. The decision to give this notice was made by Matt Brewis, Director, Insurance and Conduct Specialists, of the FCA on behalf of the FCA. This application has been granted in consultation with the PRA in accordance with section 55L(7) of the Act.

**This arrangement will be published on the Financial Services Register.**

**SECTION 1 OF THE WRITTEN NOTICE ISSUED BY THE REGULATORS TO TOKIO MARINE KILN INSURANCE LIMITED (FRN 202574) AND TOKIO MARINE KILN SYNDICATES LIMITED (FRN 204909) ON 21 DECEMBER 2020**

**PRA SUMMARY OF REASONS**

1. Tokio Marine Kiln Insurance Limited (FRN 202574) and Tokio Marine Kiln Syndicates Limited (FRN 204909) (together, 'the Firm') has applied to the PRA for a voluntary requirement. On the basis of the facts and matters described below, it appears to the PRA that the requirement is desirable to advance the PRA's general objective to promote the safety and soundness of PRA-authorised persons and its insurance objective of contributing to the securing of an appropriate degree of protection for those who are or may become policyholders. The PRA therefore accepts the firm's application for a voluntary requirement.

**PRA EXPECTATIONS IN RELATION TO WHISTLEBLOWING**

2. The PRA considers that well-run firms will seek to foster a culture that welcomes discussion and challenge. Employees should feel comfortable having an open dialogue in the workplace and should have appropriately confidential channels available to them should they wish to raise concerns. This is supported by Rule 2.1 in the Whistleblowing Part of the PRA Rulebook applicable to Solvency II Firms, which requires firms to establish, maintain and implement appropriate and effective arrangements for disclosure of reportable concerns.
3. In addition, as set out in paragraph 2.1 of SS39/15, *Whistleblowing in deposit-takers, PRA-designated investment firms and insurers*, July 2018 ('SS39/15'), the PRA expects firms to put in place systems and controls to support whistleblowing, including procedures to protect confidentiality if requested, to handle anonymous disclosures, to assess and escalate whistleblower concerns appropriately, to provide feedback to whistleblowers where appropriate, to maintain appropriate records, and to take all reasonable steps to ensure no one under the firm's control victimises whistleblowers.<sup>1</sup> The PRA places particular importance on the role of firms' whistleblowers' champions to ensure and oversee the integrity, independence and effectiveness of a firm's policies and procedures on whistleblowing.<sup>2</sup> A person in that role must therefore be familiar with the firm's policies, internal guidance and procedures on whistleblowing.
4. The importance which the PRA places upon whistleblowing is reflected in a speech given by Anna Sweeney on 19 June 2019, in which she emphasised the need for all regulated firms to have a culture which allows staff to speak up where they see things going wrong or the potential for things to go wrong which could affect the financial soundness of firms.<sup>3</sup> Gareth Truran echoed this

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<sup>1</sup> Available at <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/supervisory-statement/2018/ss3915update.pdf?la=en&hash=776E450E35AFEF3BFE6FF1227AF2E2EA8B60FF2B>

<sup>2</sup> [SS39/15](#) at paragraph 4.3

<sup>3</sup> Available at <https://www.bankofengland.co.uk/-/media/boe/files/speech/2019/making-impactful-change-speech-by-anna-sweeney.pdf?la=en&hash=B132134AF93CA88C1F76D77166787ACA86D53BB8>

in his 'Dear CEO' letter to Chief Executives of general insurance firms dated 5 November 2019.<sup>4</sup> In that letter, he confirmed that one of the PRA's priorities for the sector was ensuring firms develop and maintain a culture where staff feel able to speak up and raise concerns, with effective mechanisms in place to support them in doing so (including mechanisms to ensure access for control functions to non-executive board members). As discussed in that letter, the PRA's concern relates not only to reports of non-financial misconduct within the London market, but also to the possibility that firms may be promoting a culture where staff feel unable to speak up about poor practices or unidentified risks within their organisations. Whilst the statements in the letter are not specific to the Firm, they explain why the PRA considers that ineffective whistleblowing systems and controls may pose a risk to the safety and soundness of firms and, in the case of insurers, to securing an appropriate degree of protection for current or potential policyholders.

### **FCA SUMMARY OF REASONS AND EXPECTATIONS**

5. The FCA considers that the requirement is desirable to advance the FCA's strategic objective to ensure that the relevant markets function well, and its operational objectives of protecting consumers and protecting and enhancing the integrity of the UK financial system. The FCA has expectations of firms and whistleblowing champions which correspond with those of the PRA (with references to PRA rules, requirements or expectations to be read as references to corresponding FCA rules, requirements and expectations). Firms should ensure they create and maintain a psychologically safe environment which encourages creating 'a speak up, listen up' culture. As outlined in the FCA's 'Dear CEO' letter to Chief Executives of wholesale general insurance firms dated 6<sup>th</sup> January 2020, the FCA expects firms, and senior managers to embed healthy cultures by identifying and modifying key drivers of their culture. The drivers include clarity of purpose, people management, governance and systems and controls. As part of this the FCA expects firms to have strong whistleblowing processes in place, in line with SYSC 18 requirements of the FCA Handbook.

### **FACTS AND MATTERS RELIED UPON**

6. The Firm consists of Tokio Marine Kiln Syndicates Limited, which is a Society of Lloyd's managing agent, and Tokio Marine Kiln Insurance Limited. These entities are subsidiaries of Tokio Marine Kiln Group Limited ('the Group'), which manages them collectively. The regulators therefore supervise them collectively as a general insurer. This notice applies to the Firm and not to the Group.
7. In 2019, the Firm became aware of a number of serious whistleblowing allegations. The Firm commissioned a detailed independent investigation into those allegations ('the Firm's Investigation') and, committed to following through on any recommendations arising from it.
8. On 20 December 2019, the Firm notified the regulators of the outcome of the Firm's Investigation and recommendations arising from it. The Investigation found that some of the allegations related

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<sup>4</sup> Available at <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/letter/2019/letter-from-gareth-truran-pra-current-areas-of-focus-for-general-insurance-firms.pdf>



to historic matters previously identified and addressed by the Firm. Although the Investigation did not uphold all of the allegations made, the Firm acknowledged that the Investigation had identified certain cultural issues and issues concerning the effective operation of the Firm's whistleblowing systems and controls that needed to be addressed. The Firm has also stated its commitment to a culture in which staff feel safe to speak up, in confidence, and that they will feel listened to and supported in doing so. Whilst the regulators have not conducted their own investigation into the whistleblowing allegations, having regard to the Firm's Investigation, they identified that some areas of the Firm's whistleblowing systems and controls required strengthening. In particular, they considered there to be a need to improve awareness of how to recognise a possible whistleblowing disclosure, and effective handling of such disclosures (including avoiding actual or perceived whistleblower detriment).

9. The regulators assess firms not just against current risks, but also against those that could plausibly arise in the future. They acknowledge that the Firm has taken steps towards improving the operation of its whistleblowing systems and controls and has undertaken significant work to refresh its whistleblowing programme. However, the regulators consider that additional measures are now required to assess the effectiveness of the work undertaken by the Firm and to demonstrate, over a period of time, that there has been ongoing improvement. In the regulators' view, the actions set out in the voluntary requirement will complement the Firm's efforts to embed enhancements to its whistleblowing processes in the Firm's culture. It will ensure that there is an agreed structure in place for the regulators to receive periodic information and assurance as to how the Firm's Whistleblowing Policies are operating in practice, whether there are indicators of cultural or other barriers affecting the speak up culture within the Firm, and how the Firm proposes to address any such barriers.
10. The regulators consider it appropriate to require reporting and attestations for a period of three years, recognising that it may take time to embed enhancements to systems and controls throughout the Firm and that 2020 may be an atypical year due to disruptions arising from the COVID-19 pandemic.

**ANNEX A - ATTESTATION**

**Certificate of Attestation**

**[Firm's letter head]**

The Prudential Regulation Authority

20 Moorgate

London

EC2R 6DA

[And separately to -]

The Financial Conduct Authority

12 Endeavour Square

London

E20 1JN

[Date]

Dear [addressee]

Pursuant to the Written Notice dated 21 December 2020 (the 'Written Notice'), I, in my capacity as the Chief Executive Officer of Tokio Marine Kiln Insurance Limited / Tokio Marine Kiln Syndicates Limited (the 'firm') am writing to make an attestation in respect of the report required under paragraph 1.1 of the Written Notice concerning steps taken to enhance awareness of the Firm's whistleblowing processes and ensure barriers to their utilisation are eliminated.

I hereby attest that the Report provided by the firm complies fully with the requirements of paragraph 1.1 of the Written Notice, and the material provided under that paragraph is accurate and complete.

I am satisfied that I have conducted all reasonable due diligence to provide the above assurances.

Yours faithfully,

[     ]

[Chief Executive Officer of [firm]]

For and on behalf of Tokio Marine Kiln Insurance Limited / Tokio Marine Kiln Syndicates Limited

## **ANNEX B - ATTESTATION**

### **Certificate of Attestation**

#### **[Firm's letter head]**

The Prudential Regulation Authority

20 Moorgate

London

EC2R 6DA

[And separately to -]

The Financial Conduct Authority

12 Endeavour Square

London

E20 1JN

[Date]

Dear [addressee]

Pursuant to the Written Notice dated 21 December 2020 (the 'Written Notice'), I, in my capacity as the Chief Executive Officer of Tokio Marine Kiln Insurance Limited / Tokio Marine Kiln Syndicates Limited (the 'firm') am writing to make an attestation in respect of the Annual [PRA]/ [FCA] Report (the 'Report') required under paragraph 1.4 of the Written Notice for the calendar year [2020; 2021; 2022].

I hereby attest that:

1. the Report provided by the firm complies fully with the requirements of paragraph 1.4 of the Written Notice, and the material contained in the Report is accurate and complete;
2. the firm's systems and controls in the calendar year [2020; 2021; 2022] have complied with [the PRA's rules] [the FCA's requirements] in relation to whistleblowing [except in respect of the following deficiency/ies: [X]. [In respect of X, the firm has undertaken/is undertaking the following remedial action: ]; and
3. in the calendar year [2020; 2021; 2022], the firm's Senior Management and Directors have completed the firm's whistleblowing training.

I am satisfied that I have conducted all reasonable due diligence to provide the above assurances.

Yours faithfully,

[     ]

[Chief Executive Officer of [firm]]

For and on behalf of Tokio Marine Kiln Insurance Limited / Tokio Marine Kiln Syndicates Limited