



**Campbell Johnston Clark**

# Lloyd's Open Form Salvage Agreement

Reborn or Redressed?

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# Introduction

- “Salvage”

A Service, rendered voluntarily and not as a duty, that helps in saving from peril a vessel or any property that has been involved in a marine adventure

- “Lloyd's Standard Form of Salvage Agreement”

A standard form contract for a proposed marine salvage operation published by Lloyd's of London.





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# LOF Principles



- “No Cure – No Pay”

The main principle of remuneration under LOF is “no cure, no pay”. The salvor assumes the economic risk of the salvage operation. If the salvor fails, no compensation from the property interests is payable; for a successful salvage the salvor is entitled to a salvage award from the salvaged property interests.

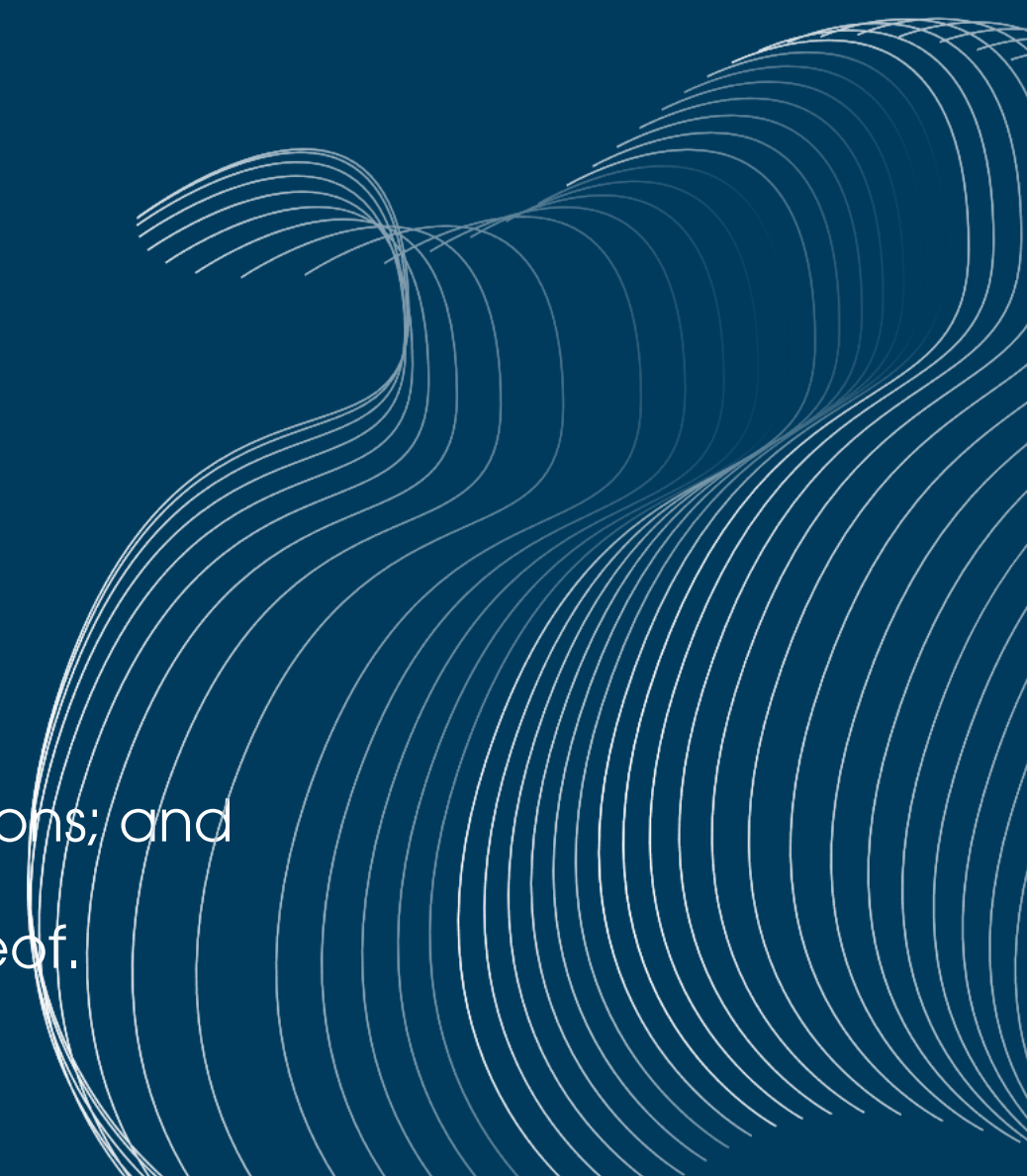
- Salvage Award

Assessment of the salvage award is usually subject to negotiation. Should amicable negotiations fail, the award is decided through arbitration in London before an arbitrator instructed by the Council of Lloyd’s.

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# LOF Principles

Factors taken into account when assessing an award:

- (a) the salved value of the vessel and other property such as the cargo, containers, bunkers and freight at risk;
  - (b) the skill and effort of the salvors in preventing or minimising damage to the environment;
  - (c) the measure of success obtained by the salvor;
  - (d) the nature and degree of danger;
  - (e) the skill and effort of the salvors in salvaging the vessel, other property and life;
  - (f) the time used and expenses and losses incurred by the salvors;
  - (g) the risk of liability and other risks taken by the salvors or their equipment;
  - (h) the promptness of the services rendered;
  - (i) the availability and use of vessels or other equipment intended for salvage operations; and
  - (j) the state or readiness and efficiency of the salvor's equipment and the value thereof.
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# SCOPIC



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# SCOPIC

A tariff based agreement.

Applies worldwide, no requirement to decide if there is a threat to the environment or if the threat is within, or outside, “coastal waters and areas adjacent thereto”.

Not dependent on there being any pollution, whether substantial or minor.

Provides for a fixed bonus of 25% applied to SCOPIC expenses.

Once invoked owners must provide salvors with a guarantee for US\$3 million within 2 working days.





# How much?

APL Panama

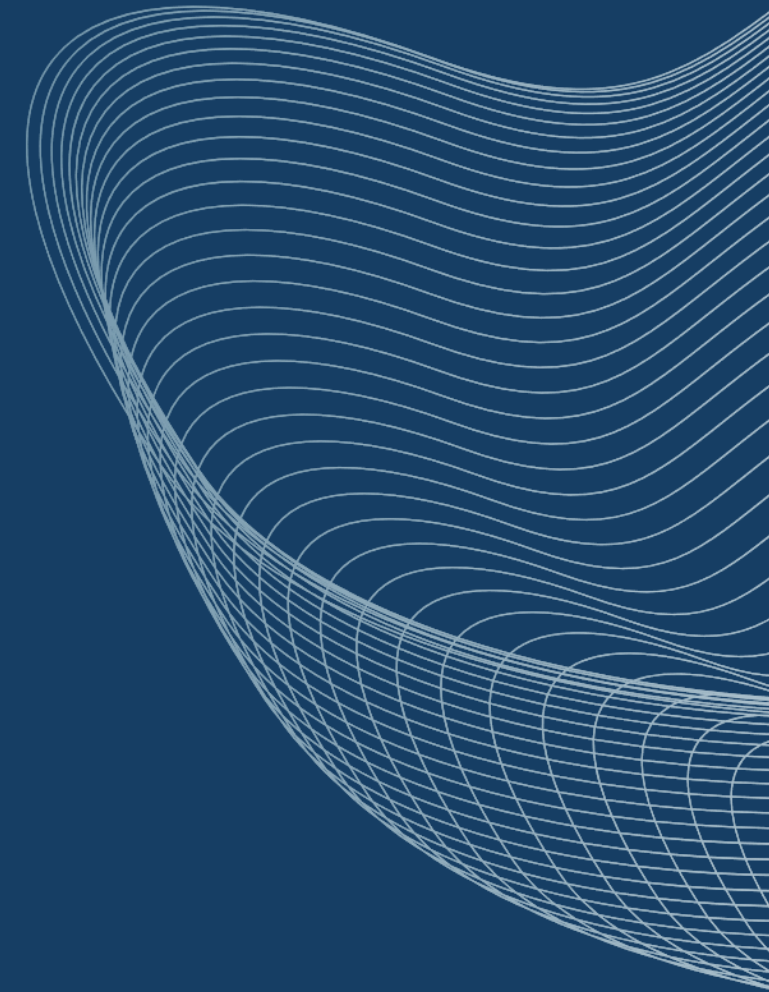




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# Today's Challenges

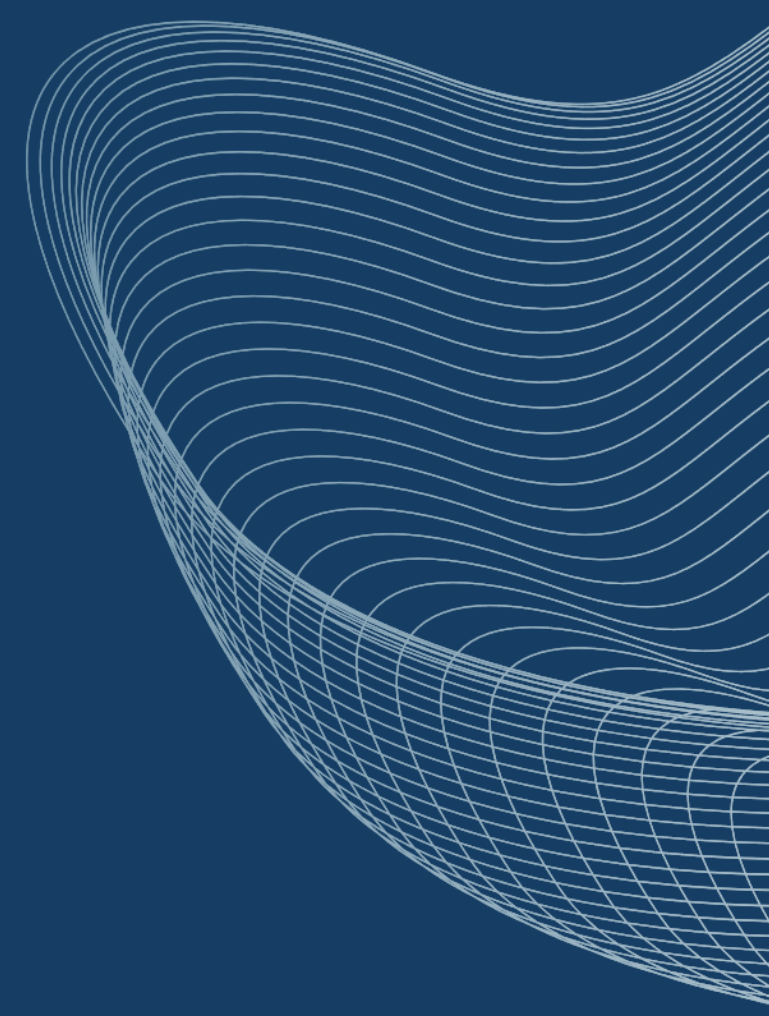
- LOF is often received sceptically by the insurance market
  - Unpredictability of Awards
  - Cost exposure
  - Used for the “wrong” job
  - Lack of visibility





# LOF Statistics

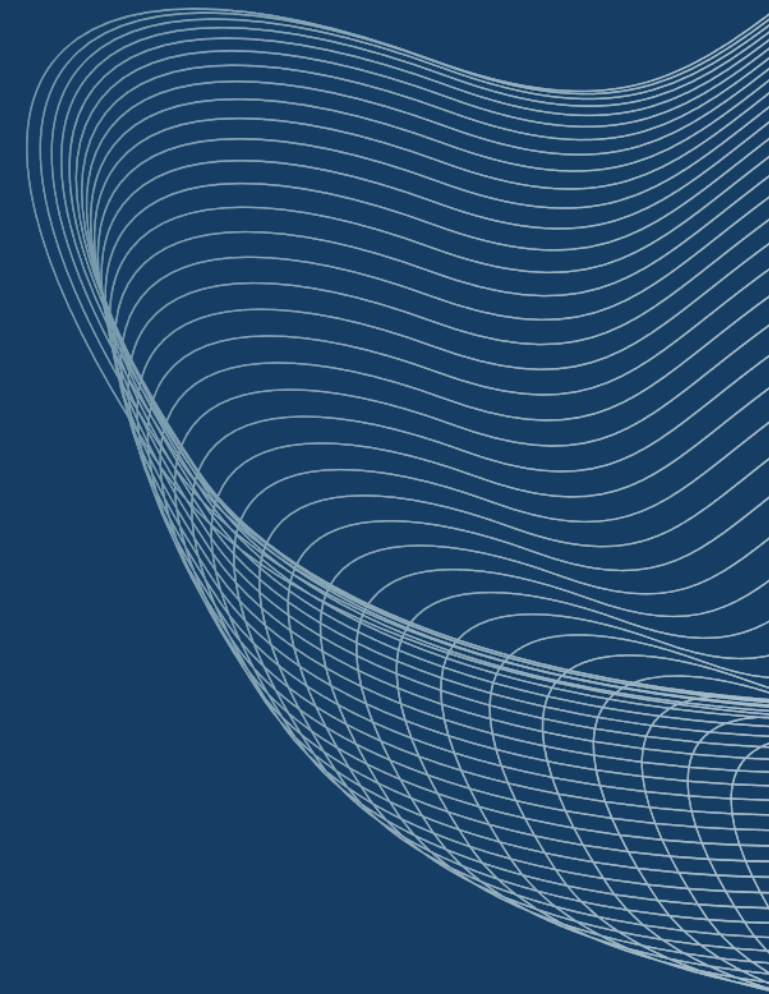
Year	New Cases	SCOPIC Invoked	Settlements	Salvage Awards Published (Original)	Salvage Awards Published (Appeal)	Total Salvage Award (and %paid through Lloyd's - \$1,000)
2010	111#	21	38	16	3	\$9,462 (97%)
2011	106#	11	49	9	3	\$29,440 (63%)
2012	122#	1	37	12	3	\$10,559(54%)
2013	61	14	50	12	3	\$33,665(39%)
2014	37	7	50	10	0	\$36,318(26%)
2015	50	12	21	13	4	\$29,533(96%)
2016	48	11	44	8	1	\$17,085(67%)
2017	63	13	33	7	0	\$8.038(83%)
2018	53	8	36	9	2	\$3,461(99%)
2019	41	11	22	7	2	\$2,289(0%)
2020	44	9	31	8	1	\$10,587(5%)
2021	37	7	22	6	2	\$4,280(30%)
2022	34	11	23	7	2	\$16,712(75%)
# 2010 - includes 50 yacht cases	2011 - includes 36 yacht cases	2012 - includes 51 yacht cases	* Article 14 Awards/SCOPIC Awards			



# LOF Values

(amounts shown in \$1,000,000)

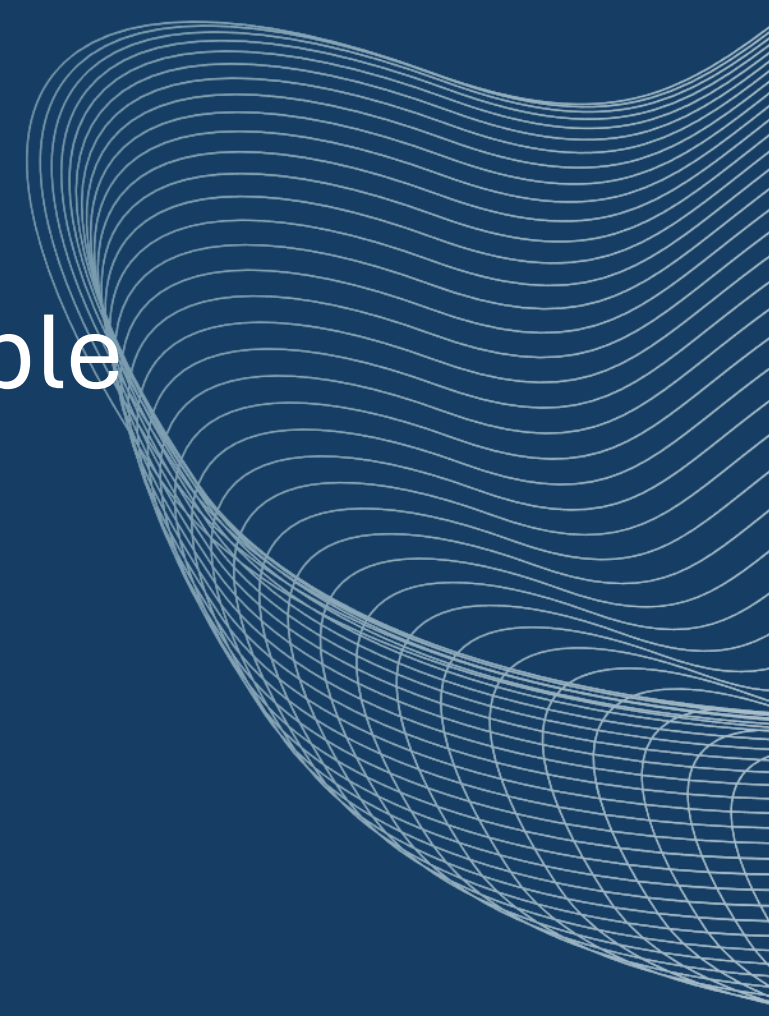
Year	Ship	Cargo	Other	Total	%Awards to Values
2010	\$26.9	\$37.7	\$1.3	\$65.9	14.4
2011	\$25.0	\$43.8	\$0.5	\$69.3	42.5**
2012	\$53.5	\$62.1	\$1.0	\$116.6	9
2013	\$21.8	\$41.9	\$1.6	\$65.3	53.9**
2014	\$27.8	\$67.0	\$1.0	\$95.8	37.9**
2015	\$19.3	\$83.2	\$2.5	\$105.0	28.1**
2016	\$6.7	\$72.0	\$0.7	\$79.4	21.5 **
2017	\$94.2	\$63.2	\$12.3	\$169.7	4.7
2018	\$25.9	\$2.5	\$0.7	\$29.1	11.9
2019	\$32.9	\$18.7	\$0.0	\$51.6	4.4
2020	\$86.7	\$312.0	\$15.9	\$414.6	2.6
2021	\$10.7	\$26.3	\$0.8	\$37.8	11.3
2022	\$119.1	\$311.5	\$13.8	\$444.4	3.8





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# The “Fixes”

- New Fast Track Procedure where security demand is less than US\$10 million
  - Some caveats but not many
  - Settlements notified to Lloyds and Awards publicly available
  - Environmental impact to be notified
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# Why?

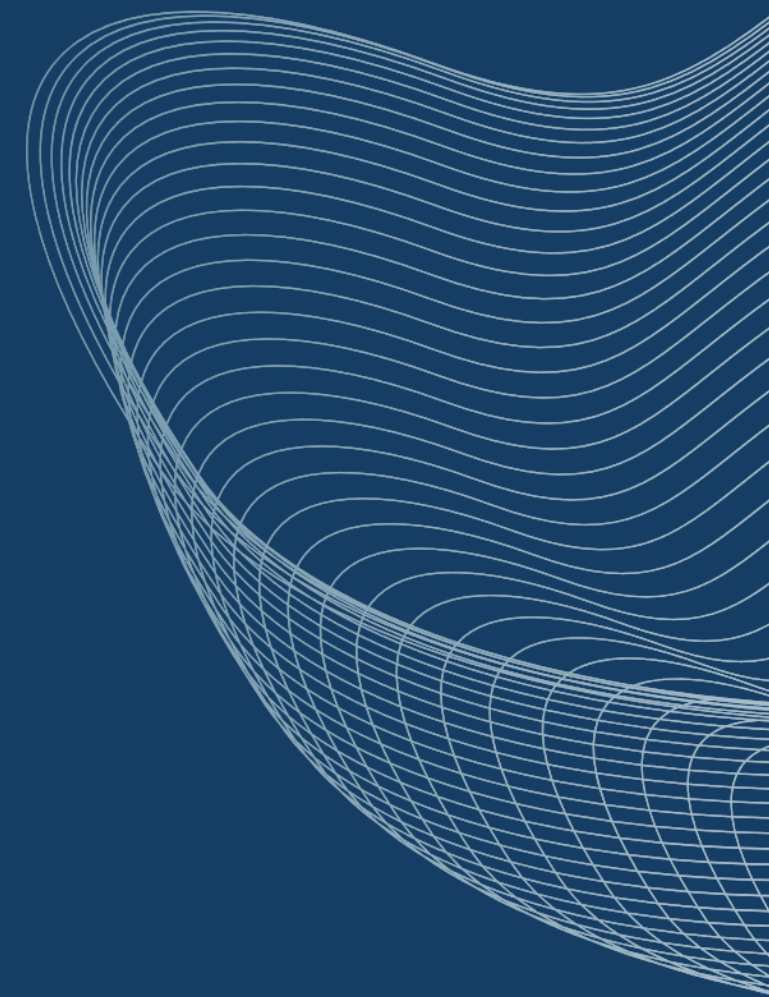




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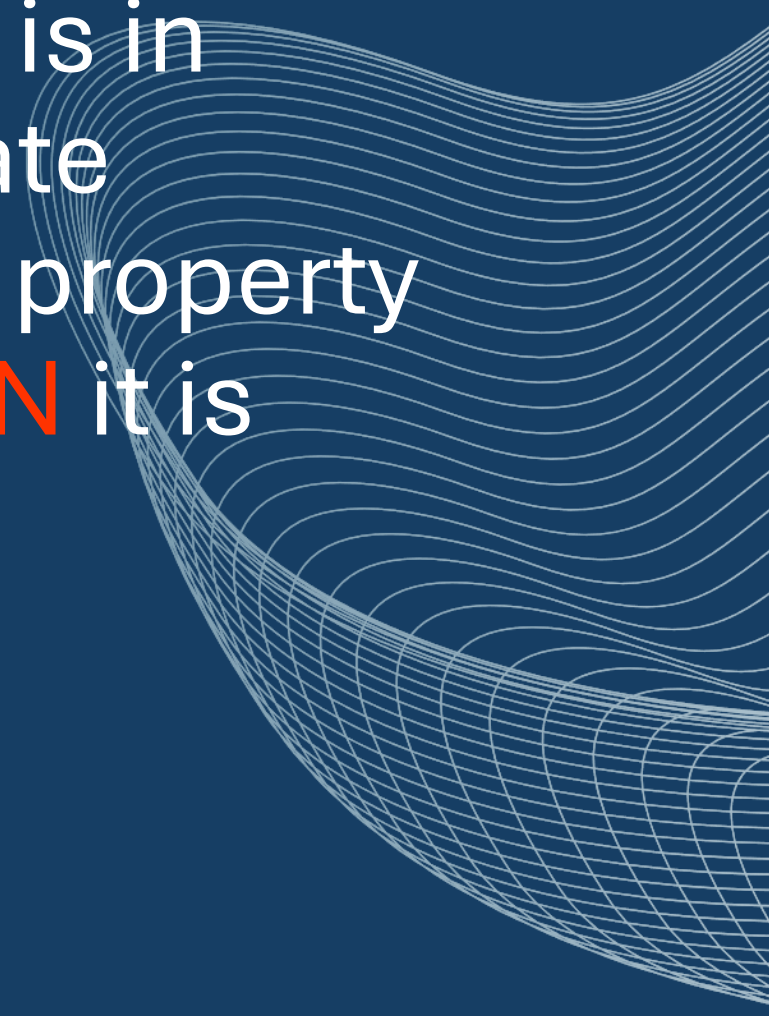
# Why do we need to pay attention?

- This is a substantial revamp
- Can anticipate more use of LOF
- Insurers will buy into the LOF procedure again
  - LOF default clause



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# LOF Default Clause

- Reasonable opinion of Master and/or Owners, the vessel is in situation of danger or potential danger requiring immediate salvage services to preserve life and/or the vessel and/or property on board or to minimise damage to the environment **THEN** it is agreed LOF shall be used.
  - If not immediate, then ..... consultation
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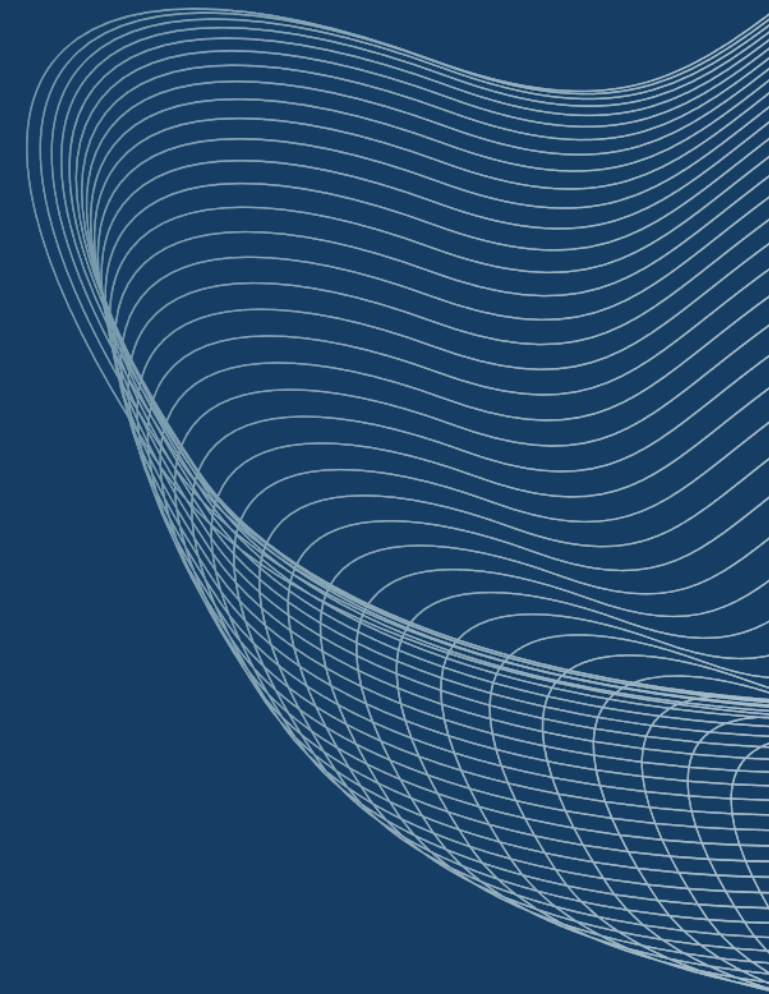
# Redress or Reborn?

BOTH



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# Questions?





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# THANK YOU!



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