

# Guide to setting up a Syndicate Service Company in India

20 August 2019

## Disclaimer

This is for reference only and is not considered to be legal advice. Whilst all care has been taken to ensure the accuracy of the information, Lloyd's does not accept any responsibility for any errors or omissions. Lloyd's is not responsible or liable for any alleged damage arising from reliance upon the information provided.

This is a guide to assist Managing Agents with the intention of setting up a Service Company in India.

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# Contents

<b>Introduction to Lloyd's Operation in India</b>	<b>4</b>
The Platform	4
Benefits of Joining Lloyd's India	4
<b>Application Process</b>	<b>6</b>
Key Considerations for Becoming a Service Company in India	6
Service Company Application	6
<b>Key requirements for Service Companies</b>	<b>8</b>
Key requirements for Establishing a Service company of Lloyd's India	8
Solvency Margin, Funding and Investment	9
Key Management Personnel	10
Scope of Business and Underwriting Authority	11
Risk Location and Regulatory Considerations	11
Operational Costs	11
Office Fitout and Infrastructure Considerations	11
Funding of Lloyd's India Administrator Costs	12
Employee Considerations	12
Taxation	12
Books of Accounts and Audit	12
Regulatory and Compliance Reporting	13
Lloyd's India Compliance Reporting	13
Other Regulatory Compliances	14
Claims	14
Anti-Bribery & Sanctions	14
Business Continuity	14
<b>Key contacts for various services</b>	<b>15</b>

# Introduction to Lloyd's Operation in India

## The Platform

In 2015, the Indian Government opened up the reinsurance sector by allowing foreign reinsurance companies and Lloyd's to set up branches in India. The Government's aim of opening up the sector was to:

1. Maximise retention within India;
2. Develop reinsurance expertise within India;
3. Introduce best practices within the industry; and
4. Simplify the reinsurance administrative process

Following amendments to the Insurance Act 1938, the Indian Insurance Regulator, the Insurance Regulatory and Development Authority of India ('IRDAI'), issued the IRDAI Lloyd's India Regulations, 2016. These regulations allowed Lloyd's to set up a reinsurance branch in India, and a platform to allow members of Lloyd's to underwrite reinsurance business in India. The Lloyd's India platform was established in 2017 to position Lloyd's for future growth and defend our existing business in India. Managing agents at Lloyd's can either set up a service company or appoint a coverholder in India to underwrite reinsurance business on behalf of the members of the relevant syndicates at Lloyd's.

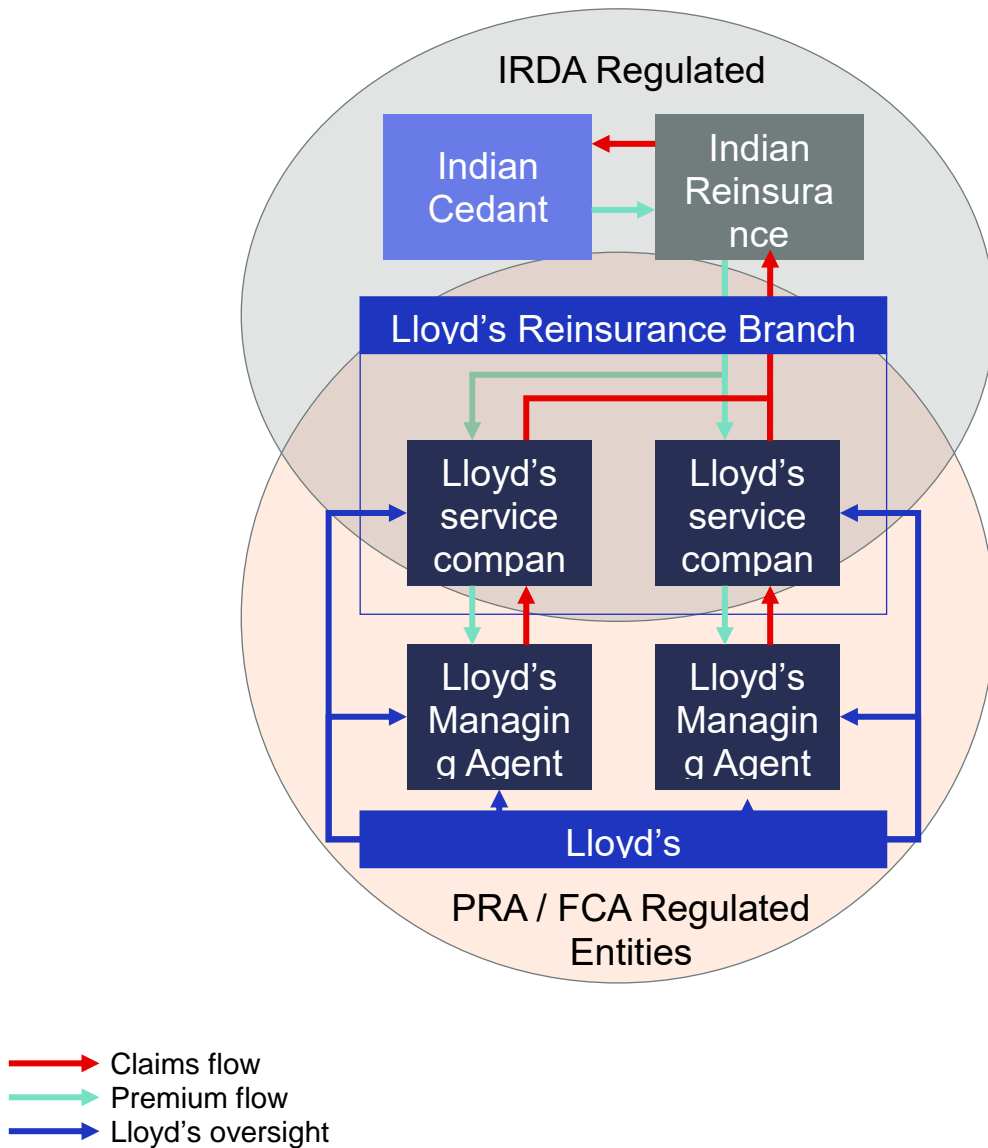
The aim of Lloyd's India is to support market participants on the platform, raise the profile of Lloyd's in India, highlight the growing opportunities in India to Lloyd's underwriters and to develop and implement an effective and efficient central service offering for those on the India platform.

## Benefits of Joining Lloyd's India

- **Proximity:** Underwriters in Lloyd's India have greater access to the local client base and Indian brokers given India's Order of Preference rules Regulation 5(2) of IRDAI (Re-insurance) Regulations, 2018 [G:\IRDAI Regulations-Guidelines-Circulars\Reinsurance\Reinsurance\\_Reg\Re-Insurance Regulations December 2018.pdf](G:\IRDAI Regulations-Guidelines-Circulars\Reinsurance\Reinsurance_Reg\Re-Insurance Regulations December 2018.pdf)  
This leads to a deeper understanding of the market and an increased ability to service business more efficiently.
- **No Broker Restriction:** Unlike Lloyd's underwriters in London, the IRDAI does not restrict local brokers dealing with Lloyd's India underwriters. Lloyd's India underwriters may also transact directly with clients (cedants) in addition to any broker, local or otherwise.
- **Broker Support:** Local brokers are very enthusiastic for more Lloyd's syndicates to join Lloyd's India, as it offers them the opportunity of obtaining Lloyd's capacity locally without the time delay and additional cost of going through London.
- **Excellent Infrastructure:** There is an existing legal and physical infrastructure to assist and provide ongoing support to market participants on the Lloyd's India platform. Lloyd's India takes responsibility for diverse areas including marketing, promoting and protecting Lloyd's brand, management of the office premises, as well as providing a single interface with the IRDAI - ensuring the platform remains compliant with local requirements.

- **Marketplace:** The co-location of Lloyd's India and its service companies within the same office premises, plus the prominence of the common Lloyd's India brand, creates a marketplace in India, whilst also giving our service companies greater profile and access to business throughout the Asia-Pacific region.

### Structure of Lloyd's India



# Application Process

## Key Considerations for Becoming a Service Company in India

It is recommended that managing agents considering setting up in India, obtain appropriate legal and tax advice on the Indian regulatory requirements. A recommended list of legal and tax experts, who understand the Lloyd's set up and the IRDAI Regulations, are set out under Section 4 of this Guide.

A managing agent looking to establish a service company in India must approach the Lloyd's Market Development Team (Relationship Manager) to discuss their proposal and submit a pro-forma business plan to Lloyd's, with a copy to the Lloyd's India Country Manager. Following the discussion and review of the business plan, Lloyd's will guide the managing agent in preparing the application to the IRDAI. The plan should address the following:

- India strategy for a three to five-year timeframe;
- Lines of business;
- Premium estimates;
- Estimated loss ratios;
- Distribution channels; and
- Any research carried out to identify the opportunity in India.

Following discussions with the managing agent and general agreement by Lloyd's over the proposed business plan, the managing agent is required to complete a service company application through Atlas (an online web-based market system for the process of managing service company/coverholder) and simultaneously complete the IRDAI application. You can find a copy of this under Annexure 2 Page 49 of the IRDAI (Lloyd's India) Regulations, 2016. The application is then reviewed by the Lloyd's Policyholder and Third-Party Oversight (PTPO) department and by the Lloyd's India team respectively, and feedback is provided as appropriate.

[G:\Development\\_Groups\Discussion\\_on\\_Regional\\_Strategy\India\IRDAI\\_Regulations-Guidelines-Circulars\Reinsurance\IRDA Lloyds India Reg 2016.pdf](G:\Development_Groups\Discussion_on_Regional_Strategy\India\IRDAI_Regulations-Guidelines-Circulars\Reinsurance\IRDA Lloyds India Reg 2016.pdf)

## Service Company Application

The managing agent must meet with Lloyd's PTPO to discuss the proposed Lloyd's India service company application. Service companies operating in India must comply with Lloyd's requirements outlined within the Service Company Code of Practice - [G:\India\\_Manuals\Lloyd's\\_India\\_-\\_Guides\Attachments\Appendix 3 - Service Company Code of Practice.pdf](G:\India_Manuals\Lloyd's_India_-_Guides\Attachments\Appendix_3_-_Service_Company_Code_of_Practice.pdf) and also with the Lloyd's Minimum Standards - [G:\India\\_Manuals\Lloyd's\\_India\\_-\\_Guides\Attachments\Appendix 4 - Lloyd's Minimum Standards](G:\India_Manuals\Lloyd's_India_-_Guides\Attachments\Appendix_4_-_Lloyd's_Minimum_Standards). Every application requires a service company undertaking to be signed and uploaded onto Atlas.

Following completion of this process, the PTPO team will issue an 'in principle' approval for setting up the service company in India. A copy of this approval letter must be attached to the IRDAI application. Once the service company has been approved by Lloyd's, the service company will be able to enter into a Service Company Underwriting Agreement. This is a binding authority which authorises a service company to enter into a contract(s) of (re)insurance only to be underwritten by members of a syndicate managed by the service company.

Any further changes to the service company record, once the entity has been approved, will need to be submitted to Lloyd's through Atlas (e.g. if the service company is looking to write an additional line of business then the managing agent will need to submit a class of business extension and accompanying checklist).

The service companies and the syndicates that they are acting on behalf of are required to be registered with the IRDAI to operate under the single Lloyd's licence to underwrite reinsurance business in India. Registered service companies are allowed to write both Indian and non-Indian reinsurance business, subject to compliance with the relevant local and or overseas regulatory requirements.

Whilst the extent of the underwriting authority may vary from one managing agent to another, the IRDAI expects every service company to have the necessary authority in respect of underwriting, claims, compliance and investments. Managing agents are therefore required to ensure that a sufficient level of authority is granted to the service companies, to ensure compliance with IRDAI requirements.

It should be noted that the application process can take up to six months from establishing a business plan to the commencement of underwriting.

# Key Requirements for Service Companies

## Key Requirements for Establishing a Service Company of Lloyd's India

**Capital requirement** - The service company needs to be established as a private company or public limited company with a minimum capital of INR 500,000 (Approx. US\$ 7,500). Further, the syndicate through the service company needs to maintain an assigned capital of INR 50 million (Approx. US\$ 750,000).

**Incorporation** - A service company is required to be incorporated locally with the Registrar of Companies in India and appoint a local Board for the service company that comprises a minimum of two directors, at least one of whom MUST be resident in India.

**Bank Account** - Each service company will need to establish at least two bank accounts in India – one for its operational purposes (meeting service company day to day expenses) and another in respect of the underwriting account (to hold premiums and reserves).

**Memorandum of Association (MoA)/Articles of Association (AoA)** - The main objects of a MoA/AoA shall be to provide all necessary information on technical matters, underwriting, the binding of risks, settling of claims, administration, accounting, investment, regulatory and other assistance to the syndicate(s) whom they represent.

**Filings** - The service company shall be responsible for all statutory and regulatory filings and compliance on behalf of the syndicate it represents. Any regulatory filings with the IRDAI must be made through Lloyd's India.

**The Chief Executive Officer (CEO)** - The CEO of a service company will be subject to fit and proper criteria and will be appointed with prior approval of the IRDAI. The proposed CEO candidate is also required to undergo an interview with the PTPO team and Lloyd's India Country Manager, prior to their application being submitted to the IRDAI for approval. The CEO application is accompanied by a covering letter from Lloyd's India, setting out its rationale and support for the proposed appointment. The CEO must be employed by the service company directly.

**Key Management Persons (KMP)** – Every service company in India is required to appoint a CEO, Chief Underwriting Officer (CUO) and a Chief Finance Officer (CFO). The CEO and CUO are expected to be resident in India, whilst the CFO can be resident outside India, until the syndicate reaches a gross premium limit of INR 100 crores (Approx. US\$ 12 million). Please note that this criterion may be amended by the IRDAI from time to time. See page 10 for further information.

**Other key requirements** – The Authority as per the Corporate Governance Guidelines 2016 & Lloyd's requires, that the service company appoints a Compliance Officer who will monitor the compliance of the service company and liaise with the Lloyd's India Compliance Officer to ensure compliance of the service company with both Lloyd's as well as IRDAI requirements. This person does not have to be resident in India.

Similarly, the CFO of the service company will be required to liaise closely with the Lloyd's India CFO to ensure that the IRDAI returns are being prepared accurately, and that the syndicate investments in India are being managed in accordance with the IRDAI Investment Regulations. Given that the reserves for the India operation are set centrally by Lloyd's, the CFO is also required to work closely with the Lloyd's Actuary and the India CFO, to ensure that the syndicate and Lloyd's India comply with the IRDAI Solvency requirements.

Please note that the service company is expected to meet any other requirement that may be specified by the IRDAI from time to time.



## Solvency Margin, Funding and Investments

### Solvency Margin

The solvency margin for Lloyd's India will be calculated in accordance with the IRDAI (Assets, Liabilities and Solvency Margin of General Insurance Business) Regulations 2016 - [G:\IRDAI\\_Regulations-Guidelines-Circulars\ALSM119\\_ALSM\\_General\\_Insurance\\_business\\_Reg\\_2016.pdf](G:\IRDAI_Regulations-Guidelines-Circulars\ALSM119_ALSM_General_Insurance_business_Reg_2016.pdf). Pursuant to these regulations, the control level of solvency is 150%.

Lloyd's India has provided Rs. 100 crore centrally (as required by the IRDAI), and the benefit of this centrally-provided capital will be allocated to service companies when determining the solvency ratio at syndicate level.

The syndicate assigned capital of INR 5 crore will be used in the calculation of the syndicate's solvency position. Additional capital may need to be introduced into India if the solvency position of the syndicate were to fall below the IRDAI prescribed minimum of 150%.

The solvency ratio for each syndicate will consider the assets that they provide (Rs 5 crore minimum capital, their reserves and additional capital if required) as well as an allocation of the centrally provided capital against their liabilities and their required solvency margin.

Whilst Lloyd's India (at a level of all syndicates combined) will aim to always maintain a solvency ratio of at least 150%, individual syndicate solvency is likely to be variable over time. However, Lloyd's India will require any syndicate that falls below this level at any quarter-end to provide additional assets immediately (as part of the quarterly funding process), in order to meet the IRDAI solvency requirement

### Quarterly Funding Process

At each quarterly review, the solvency position is calculated based on the liabilities as at quarter-end, and the assets that are already in place in the deposit (which would have been adjusted following the previous quarter's review). This is filed with the IRDAI via solvency reporting by Lloyd's.

In addition, the funding adjustment for the purposes of the next quarter's solvency calculation is calculated by projecting the expected experience and growth over the following quarter. Service companies are then informed of their required funding adjustment and must provide sufficient assets within 45-60 days of the quarter-end.

The funding adjustment is calculated so that:

- Service companies individually meet the 150% solvency ratio retrospectively; and
- The assets after adjustment are expected to be sufficient to achieve a Lloyd's India (in aggregate) solvency ratio of at least 150% at the time of the next quarter's review (this is considered as "forward funding").

Lloyd's India intends to maintain a fund which should always give a solvency ratio of above 150%, by providing additional capital to act as a buffer between quarterly review calculations. The Rs 100 crore provided centrally by Lloyd's will be used as the buffer, at least initially. In the future, if increased business volumes deem it necessary, service companies will be required to provide additional capital to top-up the central capital buffer provided by Lloyd's. To ensure that the buffer is not used to fund increases in the capital requirement between quarters due to growth, Lloyd's will request that syndicates with plans of growth for the next quarter provide additional capital in proportion to planned growth in signed premium.

**Interquarter Funding**

If a large loss event were to occur between quarters and was expected to impact the ability for Lloyd's India to meet the 150% solvency ratio requirement at the next quarter (e.g. if claims incurred were larger than the size of the buffer) then, if time permits, Lloyd's would consider requesting that service companies provide additional assets as part of an additional funding exercise (outside of the normal quarterly process) in order to increase the assets held against these liabilities quicker, and to further ensure that the solvency ratio of 150% is maintained.

**Double Funding Issue**

The current arrangement agreed with the IRDAI is that Lloyd's India and its service companies can take benefit of the assets held in the Lloyd's India capital account/s for solvency purposes. However, the managing agents/syndicates may not get the credit for the capital held in India on the global revenues including India. This could amount to double funding.

**Investments**

If there are any outstanding questions concerning investments within India, please contact the Treasury & Investment Management team in particular; Shefali Sehvani, CFO – Lloyd's India.

**Key Management Persons**

As stated in section 3.2, every service company/coverholder is required to appoint the following key persons:

Chief Executive Officer (CEO)

Chief Underwriting Officer (CUO)

Chief Financial Officer (CFO)

The details of the key personnel of a service company, along-with their bio-data i.e. personal information, shall be submitted as part of the registration process. Any appointment / reappointment / change in the individual holding the position of Key Management Person should be advised to the IRDAI within 30 days from the date of the new person taking over the position of 'Key Management Person'.

In the event of any position of Key Management Person falling vacant, the service company must, within a period of 30 days of the position falling vacant, notify the IRDAI with the details of the person who will fulfil that position.

In the event of a vacancy in the office of any Key Management Person, the service company must initiate action to fill such vacant position as a priority. At no point in time should the position of any Key Management Person remain vacant for a continuous period of more than 180 days.

The service company must also obtain prior approval of the IRDAI on the managerial remuneration payable to the CEO.

The CEO and CUO are required to be residents in India and be employed directly by the relevant service company. The CFO can be a non-resident subject to approval of the IRDAI.

Please find attached the draft formats of KMP-1 KMP-2 and forms A, B, & C.

<G:\Development Groups\Discussion on Regional Strategy\India\KMP's\Templates\Form KMP 1.doc>

<G:\Development Groups\Discussion on Regional Strategy\India\KMP's\Templates\Form KMP 2.docx>

<G:\Development Groups\Discussion on Regional Strategy\India\KMP's\Templates\KMP Form A.docx>

<G:\Development Groups\Discussion on Regional Strategy\India\KMP's\Templates\KMP Form B.docx>

<G:\Development Groups\Discussion on Regional Strategy\India\KMP's\Templates\KMP Form C.docx>

## Scope of Business and Underwriting Authority

Service companies are permitted to write both Indian and non-Indian reinsurance business, subject to compliance with the relevant regulatory requirements in the respective territory.

Whilst the extent of the underwriting authority may vary from one managing agent to another, the IRDAI expects every service company to have the necessary authority in respect of underwriting, claims, compliance and investments. Managing agents are therefore required to ensure that a sufficient level of authority is granted to the service companies to ensure compliance with IRDAI requirements.

Details of the service company requirements are set out in the attached IRDAI (Lloyd's India) Regulations, 2016.

<G:\Development Groups\Discussion on Regional Strategy\India\IRDAI Regulations-Guidelines-Circulars\Reinsurance\IRDA Lloyds India Reg 2016.pdf>

## Risk Location and Regulatory considerations

Lloyd's service companies must adhere to Lloyd's trading rights in all territories where the risks they underwrite are located and must do so in accordance with local legal and regulatory requirements. Information about Lloyd's global trading rights and related regulatory requirements are available on [Crystal](#)

For further information on Lloyd's global trading rights or Crystal, Lloyd's service companies should contact LITA.

### Lloyd's International Trading Advice

T: +44 (0)20 7327 6677

E: [LITA@lloyds.com](mailto:LITA@lloyds.com)

## Operational Costs

Office rent – it is a regulatory requirement to be co-located in Lloyd's India premises. Existing office space is located at the Executive Centre, Unit 1, Level 6, 4 North Avenue, Maker Maxity, BKC, Bandra East, Mumbai 400051

The premises can accommodate up to three service companies, and each service company will be allocated the same configuration (enclosed cabin for CEO plus 4 desks for the team). The service companies also have access to two meeting rooms (within the Lloyd's India space), which are available on a pre-booked basis (both have video-conference call facilities). Whilst the cost of the meeting rooms is included in the existing rent, any calls, including video conference calls will be charged on a user pays basis.

In the event that space is not immediately available within the current Lloyd's India leased area; Lloyd's India will discuss alternative options with interested managing agents and also seek approval from the IRDAI accordingly.

## Office fit out and Infrastructure Considerations

Each service company is responsible for organising and funding their own IT infrastructure as there is currently no shared IT platform or common system in place. Lloyd's India can assist with providing contacts at The Executive Centre, to allow for discussions on obtaining the necessary server rack space, and for procuring any IT equipment from local vendors.

## Funding of Lloyd's India administrator costs

The costs of operating the Lloyd's India office are covered in full by the Lloyd's international operating charge; there is no separate charge made to the service companies for the service of running Lloyd's India.

## Local Employee Considerations

Each service company must have a resident employed CEO and CUO. All staff with underwriting or claims authority must meet the local regulatory requirements. Any appointment of support staff shall be at the discretion of the service company.

## Taxation

Every managing agent is required to obtain its own taxation advice in relation to its India operations. Managing agents can contact any of the tax specialists listed at Appendix A as these entities are also familiar with the Lloyd's structure and set up in India.

Lloyd's India is not involved in dealing with any tax related issues for the service companies or the syndicates.

Adherence to tax requirements, e.g. Goods and Services Tax (GST) and corporation tax, are the sole responsibility of the service company. Furthermore, the service company should ensure their entities are registered and subsequent tax submissions are made in accordance with the requirements.

The following are the taxes applicable to service companies and syndicates:

### Direct taxes – Income tax

- The India corporation tax rate is currently 40%. (42.43% including surcharge and education cess)
- The presence of Lloyd's India service companies creates a permanent establishment in India for the underwriting members of the participating syndicates, and therefore they become subject to Indian corporation/income tax. The basis for the tax computations will be the audited IRDAI returns for the syndicate and audited accounts drawn up as per the Companies Act, 2013 for the service company.

### Indirect taxes – GST

- GST is applicable on all services provided in India; this includes reinsurance. The rate is 18%, though some supplies are exempt.
- The service companies are responsible for applying the correct GST rates for the insurance business underwritten on behalf of the syndicate and filing their returns. In addition, the service companies are also liable to GST on the amounts invoiced to the syndicate under the services agreement.

## Books of Accounts and Audit

### Books of accounts

The books of accounts of the syndicate are required to be prepared in accordance with the IRDAI (Preparation of Financial Statements and Auditors Report) Regulation 2000 and its master circulars.

[G:\IRDAI Regulations-Guidelines-Circulars\Preparation of Financial Statements\IRDA\(PREPARATION OF FINANCIAL STATEMENTS AND AUDITOR'S REPORT OF INSURANCE COMPANIES\) REGULATIONS, 2000..doc](G:\IRDAI Regulations-Guidelines-Circulars\Preparation of Financial Statements\IRDA(PREPARATION OF FINANCIAL STATEMENTS AND AUDITOR'S REPORT OF INSURANCE COMPANIES) REGULATIONS, 2000..doc)

<G:\IRDAI Regulations-Guidelines-Circulars\Preparation of Financial Statements\IRDA-F&I-CIR-F&A-231-10-2012 - Master circular on Preparation of Financial Statements General Insurance Business - Anx 1.pdf>

<G:\IRDAI Regulations-Guidelines-Circulars\Preparation of Financial Statements\IRDA-F&I-CIR-F&A-231-10-2012 - Master circular on Preparation of Financial Statements General Insurance Business - Letter.pdf>

The books of accounts of the service company are required to be prepared in accordance with the Companies Act 2013.

#### **Audit**

The accounts of the syndicate and service company are required to be statutorily audited. In this regard, the appointment of statutory auditors is required to be Board Approved and has to be communicated to the Authority within 7 days of the appointment. The audit of the accounts of the service company and syndicate do not require a joint audit.

The timelines for the various submissions of the account can be found on the Lloyd's India Compliance Checklist and Calendar.

[G:\Compliance - RACI Checklists\Compliance Checklist for Lloyd's India & its Service Companies \(FINAL\).xls](G:\Compliance - RACI Checklists\Compliance Checklist for Lloyd's India & its Service Companies (FINAL).xls)

<G:\Compliance - RACI Checklists\Compliance Calendar.xlsx>

### **Regulatory and Compliance Reporting**

Quarterly solvency reporting and annual audited reports are required to be submitted to the IRDAI on the insurance activity of the underwriting entity in India. Prior to submission to the IRDAI, the returns must be provided to Lloyd's India for review to enable Lloyd's India to carry out basic checks as well as for consolidation purposes.

A template for the quarterly reports can be found below:

<G:\Templates\Lloyd's India Non-Life Return Blank Template Final.xls>

The IRDAI also requires monthly business figures to be reported by Lloyd's India on a consolidated basis. The format is provided as below:

<G:\India Manuals\Lloyd's India - Guides\Attachments\Template - Monthly Reinsurance Return.pdf>

Please note that managing agents, service companies and their employees should advise Lloyd's India, in the first instance, on any matter they wish to discuss with the IRDAI and not contact the IRDAI directly as Lloyd's India is the designated point of contact for all official liaison.

### **Lloyd's India Compliance Report**

To ensure Lloyd's India is able to protect its single licence in India, it relies on the ongoing compliance of each and every service company to meet the Lloyd's India Compliance Report (LICR) requirements. To gain assurance that the service companies are fulfilling their compliance duties, Lloyd's India requires a Compliance Report to be completed monthly and signed off by the service company CEO. The report covers the basic compliance requirements under the Lloyd's India regulations and other applicable regulations.

The link to the template of LICR is attached:

[G:\Compliance Logs - LICR\LICR\Lloyd's\LICR 2019 \(FINAL\).doc](G:\Compliance Logs - LICR\LICR\Lloyd's\LICR 2019 (FINAL).doc)

## Other Regulatory Compliance

In addition to the IRDAI regulatory requirements, the service company also needs to adhere to filing requirements with the Registrar of Companies, Foreign Exchange Management Act (FEMA) and Shop and Establishment Act Compliances.

The links to the same are provided here for your reference:

Registrar of Companies (ROC) - <http://www.mca.gov.in/>

Foreign Exchange Management Act (FEMA) - <https://www.rbi.org.in/scripts/Fema.aspx>

Shop and Establishment Act - <https://portal.mcgm.gov.in/iri/portal/anonymous/qlonlineshops>

You may also seek the assistance of your Consultants for carrying the above stated compliances.

## Claims

The ultimate responsibility for claims lies with the service company. The service company will have responsibility for effective claims management and for ensuring claims processes and claims adjustment meet the requirements set by the IRDAI and Lloyd's and is in accordance with the service company's claims management framework and policies.

## Anti-bribery & Sanctions

As the business written by the service company on behalf of the syndicate is subject to IRDAI and UK regulations, as well as any other regulations applicable to the service company, all service company activities and business written must comply with all relevant Indian & UK regulatory requirements such as Sanctions, Anti-bribery and Anti-money laundering regulations

## Business Continuity

The service company is responsible for its own business continuity plan (BCP) and a copy of the BCP should be maintained in the office and be accessible to all staff. The BCP should contain procedures, processes and systems for restoring the orderly and expeditious operation of the service company's business in the event of any disruptions to its operations.

It should be noted that the process can take up to six months from establishing a business plan to the commencement of underwriting.

## Key contacts for various service providers

### Lawyers

#### Mr. Sakate Khaitan

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### Taxation, Advisory Accounting and Audit

#### Mr. Amit Kedia

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## **Company Secretarial Service**

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**CA Mitesh Nadkarni**

S S Puranik & Associates

Chartered Accountants

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