

MARKET BULLETIN

REF: Y4796

Title Denmark, Poland and Sweden: Establishment authorisation for term life business

Purpose To inform the market that Lloyd's has obtained 'freedom of establishment authorisation for term life business in Denmark, Poland and Sweden

Type Event

From Kim Swan, Senior Manager,
International Regulatory Affairs

Date 13 May 2014

Deadline With immediate effect.

Related links

Summary

Lloyd's underwriters have received authorisation to write term life insurance business in Denmark, Poland and Sweden on an establishment basis.

Background

Lloyd's underwriters have had authorisation to write non-life business on an establishment basis in Denmark since 1998, in Poland since 2008 and in Sweden since 1996.

The new authorisation to write term life business on an establishment basis permits this class of business to be underwritten in Denmark, Poland or Sweden by a branch of an insurance undertaking whose head office is located in another EU member state. For the purposes of Lloyd's, this permits Lloyd's underwriters to appoint coverholders or service companies in Denmark, Poland or Sweden to write term life risks located in those countries.

The authorisation of Lloyd's underwriters to write risks located in Denmark, Poland or Sweden on a freedom of services basis remains in place and is unchanged. This may be done by coverholders or service companies located in another EEA member state under a binding authority agreement (provided they obtain the appropriate passporting authorisation to carry out insurance mediation in the relevant country) or on an open market basis from London.

General good provisions

The insurance regulators in Denmark, Poland and Sweden require insurers carrying on business in their territory on an establishment basis to comply with the 'general good' provisions. These provisions have been incorporated into Crystal, but for further information regarding the concept of the 'general good' please refer to Appendix 1.

Anti-money laundering

Lloyd's managing agents and coverholders writing term life insurance need to be aware that this class of business triggers Anti-Money Laundering ('AML') requirements governed by respective legislation in Denmark, Poland and Sweden. The focus of these requirements is largely around customer due diligence and both managing agents and coverholders should ensure that they have appropriate processes in place to comply with local AML rules, where applicable. Detailed guidance regarding the local AML requirements is available on Crystal under Life insurance in the Class specific regulations section.

Taxation

A 45% premium tax is applicable to certain forms of occupational group life insurance (tjänste grupp liv försäkring, or "TGL") in Sweden. It is likely that the tax will apply to some of the business written by Lloyd's. A Market Bulletin will be issued in the near future providing details on the application and administration of the tax; in the meantime if a syndicate writes this business the underwriter should contact Lloyd's tax department. At the date of publishing no taxes apply to Lloyd's underwriters in relation Danish or Polish life business. Underwriters are advised to check Crystal for current details on tax rates.

Further information

If you require information regarding the regulatory requirements for underwriting or placing risks located in Denmark, Poland or Sweden, please contact:

Lloyd's International Trading Advice
 Lloyd's Desk, Ground Floor, Underwriting Room
 Telephone: + 44 (0) 20 7327 6677
 Email: LITA@Lloyds.com
www.lloyds.com/crystal

If you require information regarding business opportunities in these territories, please contact:

Denmark and Sweden	Poland
Erik Börjesson Lloyd's Nordic Regional Manager Tel: +46 (0) 8 5452 5541 E-mail: erik.borjesson@lloyds.com	Witold Janusz Lloyd's Country Manager for Poland Tel: + 48 (0)22 370 16 18 Email: witold.janusz@lloyds.com

Appendix 1

General good provisions

Whilst the financial supervision of an insurance undertaking in the EU is carried out by its home state regulator, there are certain aspects of insurance supervision that remain exclusively subject to supervision by the host state regulator. Article 33 of EU Directive 2002/83/EC (Consolidated Life Directive) states:

“The Member State of the commitment shall not prevent a policy holder from concluding a contract with an assurance undertaking authorised under the conditions of Article 4 as long as that does not conflict with legal provisions protecting the general good in the Member State of the commitment.”

Therefore, the insurance regulator of a Member State in which a risk is situated requires an insurer to comply with its ‘general good’ provisions. Such provisions may include those concerning marketing and selling and contract law in respect of mass (i.e. principally personal lines) risks.

The EU Life Directive does not define the concept of “general good”. However a European Commission Interpretative Communication issued in 2000 provided some clarification on this point. The Interpretative Communication stated:

“For such a measure to be justified as being in the general good, it:

- must not have been harmonised at Community level;
- must be non-discriminatory;
- must be justified by imperative requirements in the general interest;
- must be objectively necessary;
- must not duplicate rules of the country of origin;
- must be proportionate to the objective pursued.”

The Interpretative Communication can be found in the following link.

[http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000Y0216\(01\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000Y0216(01):EN:HTML)

Premium taxes and other fiscal charges are also subject to the rules of the country where the risk is located.

A copy of the general good provisions for Denmark, Poland and Sweden can be found on Crystal under Reference/Insurance law and regulation.

The provisions have been incorporated into the sections for Denmark, Poland and Sweden on Crystal.