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SUBJECT AREA(S):
DEADLINE: **Immediate**

Market bulletin Y2263 issued on 20 March 2000 informed the market of new procedures for reporting, collecting and paying stamp duty on Irish insurance policies.

In view of feedback received from the market, and after consultation with the NMA, International department is making some changes to this system. The instructions in Market Bulletin Y2263 are therefore withdrawn, and replaced by the attached instructions.

The main amendments introduced are that it is no longer necessary to report:

- **Numbers of renewals.** Managing agents need only report numbers of new insurance contracts.
- **Open market policies signed through LPSO.** Managing agents need only include an insurance contract in the numbers reported when it falls into one of the following categories:
 - It is arranged under a binding authority held by an Irish coverholder.
 - It is an open market policy that has not been, and will not be, signed through Lloyd's central accounting.

Additionally, it is emphasised that information need only be provided **for contracts which the syndicate concerned has led.** It is not necessary to include contracts on which a syndicate was part of the following market in the numbers reported.

If a syndicate is writing Irish business under a binding authority held by a non Irish coverholder the Managing Agent should contact either Alex Faris (ext. 6854) or James

Walmsley (ext. 5131) in the International Department for further information about the reporting requirements.

This bulletin has been sent to active underwriters and the compliance officers of managing agents and Lloyd's brokers.

If you have any questions about this bulletin then please contact either James Walmsley on 020 7327 5131 or myself on 020 7327 5338.

David J Pettitt
International department

IRISH STAMP DUTY ON NON-LIFE INSURANCE POLICIES – INSTRUCTIONS FOR REPORTING AND PAYMENT

1 Introduction

- 1.1 These procedures are necessary to ensure that Lloyd's complies with the Irish legal requirement to pay a stamp duty of IEP ("Irish pound") 1 per new insurance contract. The background to this requirement is set out in sections 10 to 13 below.
- 1.2 In summary, each managing agent is required to complete a quarterly return giving for every syndicate it manages the number of new insurance contracts arranged in the previous quarter that were:
 - Arranged under a binding authority held by a coverholder in Ireland;
 - Open market policies not signed through LPSO – for example policies written by a motor syndicate that processes business outside central accounting.
 - Irish contracts under a binding authority held by a non-Irish coverholder – (but Managing Agents should contact International Department to confirm what needs to be included)
- 1.3 Lloyd's will base its quarterly stamp duty payments on these figures, and will also include all Irish open market policies recorded by LPSO.
- 1.4 Lloyd's will collect from each syndicate annually the amount paid as stamp duty for the new contracts they have reported. Stamp duty on open market policies will be charged to Lloyd's Irish levy.
- 1.5 These instructions apply to non-life insurance contracts only. Separate instructions for the reporting and payment of stamp duty on life insurance contracts will be issued to life syndicates shortly.

2 Managing Agents' Irish Stamp Duty Return ("ISDR")

- 2.1 Lloyd's does not have central records of individual contracts made under binding authorities. It relies on syndicates to provide the numbers of such contracts, so that the correct amount of Irish stamp duty is paid.
- 2.2 Managing agents are therefore required to complete the ISDR every quarter. This is an electronic form, which can be found on the L-NET at <http://info.loyds>

3 ISDR deadlines

- 3.1 Managing agents must complete the form by the 14th day of the month following the end of each quarter. The quarters end on 31 March, 30 June, 30 September and 31 December. At the time this market bulletin is issued the next two returns are therefore due by 14 July 2000 and 13 October 2000.

4 Getting access to the ISDR

- 4.1 The form is at the above L-NET address. To access it please do the following:

- Select “1 Infobase”.
- Select “Market Reporting”.
- The system requires you to enter a User ID and password. Each Managing Agent has a unique User ID number, and will have selected its own password. Questions about gaining access should be raised with Sheila Cox of MSU on Lloyd’s extn 5021.
- Select “Business Reporting Tasks”
- Select “Irish Stamp Duty”.

5 Completing the ISDR

5.1 Managing agents must provide a single number for each syndicate. This is the number of new Irish insurance contracts that meet the following criteria:

- They are “new” contracts. This means that they are insurance contracts commencing anew with Lloyd’s underwriters, and are not renewals of previously existing contracts.
- They meet the legal criteria set out in section 10 below.
- They were placed under a binding authority held by a coverholder in the Republic of Ireland, or are open market policies not processed through central accounting (e.g. policies written by motor syndicates), or are Irish contracts under a binding authority held by a non Irish coverholder (see paragraph 5.2).
- They commenced in the previous quarter.
- The binding authority was led (or written 100%) by the syndicate.

5.2 *Irish contracts under binding authorities held by non-Irish coverholders:* Managing agents should contact Alex Faris (ext. 6854) or James Walmsley (ext. 5131) in the International Department to clarify which contracts placed under binding authorities held by coverholders *outside* Ireland need to be reported.

5.3 *Approach to reporting:* As noted in section 13 below, Lloyd’s is legally required to have a reliable and effective method of accounting for duty, and managing agents should put systems in place to ensure that the returns they make are correct.

5.4 *Definition of “new”:* If a managing agent has difficulty identifying which contracts are new to Lloyd’s, it may report the number of contracts new to the syndicate instead. It is not expected that a change in a binding authorities’ leading syndicate will require payment of stamp duty on all the contracts thereunder, unless the contracts are withdrawn and replaced with new wordings.

5.5 *Participation in contracts led outside Lloyd’s:* It is the leading insurer’s responsibility to pay stamp duty. Lloyd’s has no responsibility for the payment of stamp duty on contracts led outside Lloyd’s.

6 Open market policies signed through central accounting

6.1 The number of policies signed by LPSO is captured centrally. International department will use this information to calculate the amount of stamp duty due on insurance policies.

- 6.2 Syndicates do not therefore have to report to International department the number of open market insurance policies they have led, unless those policies have not and will not be signed through central accounting.

7 Lloyd's procedures for collecting the stamp duty from syndicates

- 7.1 International department will arrange an annual collection via central accounting from syndicates. This collection will reimburse the corporation for the total amount of stamp duty paid in quarterly instalments in respect of the numbers of new contracts reported for syndicates. Collection will take place in the February or March of the succeeding year and will be described in the syndicate's weekly statement as "Irish stamp duty for [year]".
- 7.2 Collection will be in £'s sterling, at the latest available rate of exchange. The amount collected will be the equivalent of IEP 1 for every contract reported.
- 7.3 Stamp duty paid on open market policies signed through central accounting will be charged to Lloyd's office levy.

8 Recovery of amounts paid by leading syndicates

- 8.1 Lloyd's is not able to apportion the amounts collected amongst all the syndicates participating on a contract without placing a considerable additional administrative burden on syndicates. These arrangements will therefore require leading syndicates to pay 100% of the stamp duty on a contract, even though they may not have written 100% of the risk.
- 8.2 In some cases the amounts involved will be too small for this to be a problem. If a leading syndicate wishes to ensure that it is not out of pocket it should arrange for the Lloyd's broker to collect the stamp duty from the assured (or the local intermediary) and to pay it to the leading syndicate in full separately from settlement of the premium.

9 Insurance documentation

- 9.1 All Irish insurance contracts written by Lloyd's underwriters should contain the following clause:
- 9.2 "The stamp duty due on this contract has been or will be paid to the Revenue Commissioners in accordance with the provisions of Section 113 of the Finance Act 1990".

10 The obligation to pay stamp duty on Irish insurance contracts.

- 10.1 Irish law (the Stamp Act 1890) requires payment of stamp duty on every non-life insurance contract that meets the following criteria:
- The total premium (without deduction of brokerage and commissions) is IEP 15 or more;
 - The insurance contract is not reinsurance.
 - The risk is located in the Republic of Ireland.

- 10.2 A risk is deemed to be located in the Republic of Ireland in the following circumstances:
- 10.2.1 Where the insurance relates to buildings (including their contents if covered by the same policy), if the property is situated in the Republic of Ireland;
- 10.2.2 Where the insurance relates to vehicles of any kind, if such vehicles are registered in the Republic of Ireland;
- 10.2.3 In the case of policies of four months or less covering travel or holiday risks, if the policyholder took out the policy in the Republic of Ireland;
- 10.2.4 In any other case, if the policyholder has his habitual residence in the Republic of Ireland. Where the policyholder is a “legal person” (i.e. a company or other organisation), if the policyholder’s establishment to which the policy relates is located in the Republic of Ireland.

11 Insurance documents subject to stamp duty

- 11.1 All types of insurance contracts meeting these criteria are subject to stamp duty. This includes Lloyd’s policies, certificates issued under binding authorities and contracts made under any other arrangement, such as marine cargo covers, lineslips or consortium arrangements.
- 11.2 Binding authority agreements themselves are not subject to stamp duty.
- 11.3 Insurance contracts are only liable to stamp duty when they are first taken out with the specific insurer concerned. Renewals are not subject to stamp duty, provided the written contract remains substantially unchanged. A reissued policy document is subject to stamp duty.
- 11.4 Irish insurance contracts entered into by Lloyd’s underwriters are therefore only subject to stamp duty when they are new to Lloyd’s. Legally they are not subject to stamp duty when the leading or only syndicate changes, unless the written contract is reissued.

12 Legal responsibility for payment

- 12.1 Stamp duty is payable by the insurer. In the case of co-insurance policies the duty is payable by the leading insurer. Anyone who executes an unstamped policy commits an offence, and unstamped contracts cannot be used in legal proceedings or for any other purpose.

13 Lloyd’s responsibilities

Lloyd’s – like other Irish insurers – will enter into a composition agreement with the Irish Revenue Commissioners, under which Lloyd’s is required to pay stamp duty in quarterly instalments. Each payment covers the stamp duty due on all insurance contracts executed in the quarter in question. Lloyd’s is required to make the payment within 30 days of the end of the quarter in question.

The composition agreement depends on Lloyd's operating a reliable and effective method for accounting for the duty payable. Failure to make payments exposes Lloyd's to penalties and interest charges on the outstanding amounts. The Revenue Commissioners also have the right to cancel the agreement if they believe that Lloyd's procedures are unreliable or ineffective, which would mean that every Lloyd's Irish insurance contract would have to be physically stamped – an expensive and time-consuming administrative burden. The Revenue Commissioners carry out regular audits of the accounting procedures used by insurers with composition agreements.

Until 2000 Lloyd's required Irish coverholders (and Lloyd's brokers on direct assured business) individually to pay the stamp duty on Lloyd's Irish contracts. Although some coverholders made the correct payments many did not. The Revenue Commissioners have informed Lloyd's that it cannot delegate payment to intermediaries, and must have its own methods of calculating and paying stamp duty.

Lloyd's therefore requires central procedures which every quarter will identify the number of contracts on which Irish stamp duty is due in the previous quarter and will collect the appropriate sums from syndicates for payment to the Irish Revenue Commissioners. These procedures must meet the Commissioners' requirements of reliability and effectiveness, whilst at the same time being simple and straightforward enough for the market to understand and operate them.