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SUBJECT: ITALIAN CO-INSURANCE CLAIMS
SUBJECT AREA(S): Italian non-marine insurance business - Co-insurance claims paid by Italian leading companies on Lloyd's underwriters' behalf.
ACTION POINTS: Lloyd's underwriters and brokers to note new arrangements
DEADLINE: **New LPSO procedure for contracts incepting on or after 1st August 2001**

1 Purpose

To advise underwriters of the procedures they should follow when participating in Italian non-marine co-insurance contracts led by local insurers.

2 Background

This bulletin is concerned only with non-marine co-insurance written on a direct basis (i.e. not reinsurance).

Lloyd's Underwriters have for many years been involved in Italian coinsurance business led by local insurers.

When local leading insurers pay claims on behalf of the following market they have difficulty in collecting the claims amounts due from Lloyd's underwriters. The result is a substantial backlog of unsettled coinsurance claims, in some cases going back to 1991. This has not only led to threats of legal action by some leading insurers but has also damaged the reputation of Lloyd's for paying all valid claims.

Lloyd's Italian office has taken steps to deal with the current backlog but we also need to make the whole process more efficient and to reduce the legal and reputational risks to Lloyd's business in Italy.

3 Current claims procedures

The Italian insurers leading co-insurance risks treat Lloyd's Italian office ("LIO") in Milan as if it were the branch of an insurance company, without recognising that different Lloyd's syndicates are involved in each co-insured risk through different Lloyd's brokers. This reflects Lloyd's legal position in Italy (and in other countries). Consequently they send co-insurance bordereaux to LIO.

To enable Lloyd's brokers to collect co-insurance claims from syndicates for subsequent reimbursement to the leading insurers, LIO has to reformat and augment the data in the co-insurance bordereaux it receives. It allocates items to appropriate Lloyd's brokers and augments each item with information from the office's policy records, for example the London cover note or binding authority number and the inception/expiry dates of contracts.

4 Recommended claims procedures

The Italian market practice is for co-insurers to abide by the Italian Insurers' Association's ("ANIA's") coinsurance procedures. The procedures require a following co-insurer to follow the leader's settlement when the follower's share is Lire 50m (c. £16,000) or less, in accordance with the leader's claims bordereau. When Lloyd's underwriters participate in Italian co-insurances the leading and other co-insurers are likely to expect underwriters to follow these procedures, leading to problems when underwriters refuse to do so.

a) New business

In future a Lloyd's syndicate participating in an Italian co-insurance as a follower must, prior to committing itself to the contract, determine whether or not it proposes to follow the ANIA coinsurance procedures. This is ultimately a decision for the underwriter concerned. There are advantages for Lloyd's collective reputation and central administrative savings if underwriters choose to abide by the ANIA's procedures, but we recognise that underwriters may have their own reasons for not doing so.

b) Existing business

We also recommend that syndicates follow ANIA procedures in relation to claims under co-insurance contracts that have already been written. Again, however, this is a decision for the underwriter to make.

4.1 ANIA procedures

These instructions refer to "Lloyd's share of the claim", which is the collective amount payable by all the Lloyd's syndicates on the co-insurance contract and to "total claim" which is the amount payable in full by all the insurers – Lloyd's and non-Lloyd's – on the contract. ANIA procedures are as follows:

a) Lloyd's share of the claim is Lire 50,000,000 (25,823 euros; c. £16,000) or less

The Lloyd's underwriter should:

- Follow the leading company's settlement.
- Reimburse the leading insurer within 90 days for the payments it makes on behalf of co-insurers.
- Pay a proportional share of claims handling expenses incurred by the leading company.
- Restrict requests for documentation as follows:
 - *Total claim is Lire 20,000,000 (10,329 euros; c. £6,500) or less:* the underwriter has the right to see the insured's written acceptance of the settlement amount.
 - *Total claim exceeds Lire 20,000,000 (10,329 euros; c. £6,500), but Lloyd's share is Lire 50,000,000 (25,823 euros; c. £16,000) or less:* the underwriter has the right to obtain copies of the adjuster's report or any other document from the claims file.

b) Lloyd's share of the claim exceeds Lire 50,000,000 (25,823 euros; c. £16,000)

The broker (either the Lloyd's broker or the local broker) must obtain the leading insurer's acknowledgement that all decisions regarding the settlement and payment of such shares must be referred to Lloyd's underwriters. Lloyd's underwriters can then make their own decisions and pay their own shares separately.

4.2 Dispensing with ANIA procedures

A syndicate that does not propose to follow ANIA procedures should inform the leading Italian insurer (either directly or via the Lloyd's broker concerned) in writing of this fact. We recommend that it spells out the basis on which it proposes to agree and to settle claims and that it subsequently abides by those procedures.

Even if a syndicate does not intend to follow ANIA procedures it should take steps to avoid unnecessary delays in the settlement of co-insurance claims.

4.3 LPSO procedures

These procedures apply to non-marine direct insurance contracts whereby Lloyd's underwriters participate in the co-insurance of Italian risks and an insurer located in Italy leads the contract.

a) Open market signings

A slip presented to LPSO for signing should contain on panel 2 under "INF" a statement as to whether or not the underwriter(s) will follow ANIA procedures. Suggested alternatives are:

- "ANIA procedures for settlement of claims will be followed"

or

- "ANIA procedures for settlement of claims will not be followed. Agreed that x [either the Lloyd's broker, the coverholder or the underwriter] will confirm this in writing to the leading Italian underwriter."

In the case of risks incepting on or after 1st August 2001, LPSO will reject slips which fit the above criteria and which do not contain a reference to ANIA procedures along the lines set out above.

b) Binding authorities

A binding authority agreement giving an Italian coverholder the power to enter into co-insurances on behalf of underwriters should contain a clause stating whether or not underwriters will follow ANIA procedures. The wordings should follow those given above.

The slip presented to LPSO should comply with the requirement set out under a) above. Again, LPSO will reject relevant binding authority slips that do not meet these requirements when the binding authority incepts on or after 1st August 2001.

4.4 General issues

In order to help comply with the reserving requirements of syndicates the LIO will produce separate quarterly lists of all claims notifications received by leading insurers with the indication of the claims' reserves. Such lists will be sent to the relevant Lloyd's brokers in addition to the paid claims bordereaux.

Underwriters may wish to ensure that a Lloyd's broker seeking to place an Italian co-insurance has an appropriate record of handling the claims arising. In particular they may want to check whether the broker has failed to collect outstanding claims from underwriters or is holding co-insurance claims monies on behalf of underwriters.

It is fair to point out that some Italian co-insurers also manage co-insurance claims poorly and that delays in settlements reaching policyholders are not necessarily due to Lloyd's underwriters or brokers.

5 Further Information

If you have any questions regarding the contents of this bulletin, please contact Enrico Bertagna, the Lloyd's General Representative in Italy (Email to enrico.bertagna@lloyds.it or telephone: 0039 02 551 93121) or myself or Sandra Sherlock in the International Department (Lloyd's extension 6801 or Email: james.s.walmsley@lloyds.com or sandra.sherlock@lloyds.com).

6 Distribution

This bulletin is being sent to all Managing Agents, Active Underwriters and Brokers.

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