

FROM: Senior Manager, US, Worldwide Markets
LOCATION: G12
EXTENSION: 5131
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SUBJECT: USE OF AMENDED ISO POLICY FORMS
ATTACHMENTS: None
ACTION POINTS: **Underwriters and brokers to note**
DEADLINE: **Immediate**

Purpose of bulletin

To remind underwriters and brokers of requirements concerning the use of modified ISO insurance wordings.

Background

Lloyd's has an agreement with the ISO ("Insurance Services Offices, Inc.") for the provision of products and services on a market-wide basis, including policy forms. Details of this agreement were set out in Market Bulletin Y2279 issued on 10 April 2000 (a copy is available from Worldwide Markets if required).

We are aware that in some cases business is underwritten using modified ISO forms. In all such cases the underwriter must comply with the terms of the Lloyd's/ISO agreement. The relevant requirements are set out below.

Use of amended ISO forms

1. Filing requirements

The Lloyd's/ISO agreement states that:

"The Licensee is solely responsible for ensuring that, to the extent it modifies any Product, the modified product is approved by applicable insurance regulators for the Licensee's use."

Underwriters using ISO wordings must therefore ensure that they comply with local requirements. In summary, the position in the US is as follows:

Illinois, Kentucky and US Virgin Islands

Unamended ISO wordings – do not have to be filed with the appropriate Department of Insurance prior to use, provided that they have been filed by ISO in the territory concerned. Underwriters must therefore determine whether an ISO form they wish to use has been filed in the relevant state or territory by ISO.

In the US Virgin Islands, an underwriter should notify the USVI Attorney in Fact of an intention to use a filed ISO wording, so that he can advise the local regulator (the Division of Banking and Insurance) of underwriters' intention to use a specific form.

Amended ISO wordings – do have to be filed with the Department of Insurance prior to use.

Lloyd's Attorneys in Fact in Illinois, Kentucky and the US Virgin Islands, not the underwriter, make the filings and should be contacted for guidance on the procedure.

Surplus lines business

Two states require surplus lines wordings to be filed: New Jersey and Pennsylvania. In these states the surplus lines broker is responsible for the filing process, not the insurer. Underwriters and brokers carrying on surplus lines business from these states should ensure that the surplus lines brokers concerned are aware of, and comply with, the processes for filing wordings.

Reinsurance

There are no requirements for filing reinsurance wordings in the US.

2. Copyright notice requirements

If an ISO product is used in full, it must include the copyright notice shown on the product.

If an ISO product is used in part (as it will be when modified), the following must appear at the bottom of each page containing ISO material:

"Includes copyrighted material of Insurance Services Office, Inc with its permission".

3. Use of ISO wordings by Lloyd's brokers

Lloyd's Agreement with the ISO does not permit managing agents to use Lloyd's brokers to copy or reproduce ISO products unless the Lloyd's broker is itself licensed by ISO.

However managing agents are permitted to distribute copies and extracts of ISO wordings to insurance intermediaries producing business to their syndicates, for use with coverage to be provided by those syndicates.

A Lloyd's broker should not therefore draft a wording based on an ISO product unless (1) the Lloyd's broker is itself licensed by ISO or (2) the Lloyd's broker is doing so on the instructions of a Lloyd's syndicate which has provided it with the ISO product.

4. Use of ISO wordings by US brokers on behalf of Lloyd's underwriters

In some cases the use of ISO wordings is initiated by a surplus lines broker in the US. Such use does not remove underwriters' responsibilities for complying with the licence agreement. Underwriters should therefore take care that all their usage of ISO wordings however brought about is consistent with the licence agreement – see the obligations set out in section 3 above, which apply to surplus lines brokers as they do to Lloyd's brokers.

5. Use of ISO wordings in co-insurances

There are restrictions in the Lloyd's/ISO Agreement on who can use ISO products. Provision of products to third parties is limited to those licensed by ISO to use the product, so products cannot be used by insurers who are not themselves licensed by the ISO. Co-insurances using ISO wordings - modified or unamended - can therefore only be arranged with insurers who have their own ISO licenses.

Additional Information

If you have any questions relating to this market bulletin, please contact in Worldwide Markets:

James Walmsley, Tel: 020 7327 5131 e-mail: james.s.walmsley@lloyds.com

Or

Worldwide Market Services at box 190b or on Lloyd's extension 6677
e-mail: market.services@lloyds.com Fax: 020 7327 5255

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

James Walmsley
Senior Manager, US
Worldwide Markets