

FROM: Julian James
LOCATION: 86 / G12
EXTENSION: 5998
DATE: 07 August 2002
REFERENCE: Y2851
SUBJECT: UNITED STATES PRIVACY REGULATIONS
SUBJECT AREA(S): Update: US direct business covering individuals
ATTACHMENT: LSW1135a
ACTION POINTS: **MANAGING AGENTS DOING BUSINESS IN
THE US TO ENSURE THAT THEY COMPLY
WITH US CONSUMER PRIVACY LAWS**
DEADLINE: **Immediate effect**

Purpose of bulletin: to provide an updated version of US privacy notice LSW1135 – LSW1135a.

This Bulletin is primarily of interest: to brokers and underwriters quoting or providing insurance to individuals in the US. The types of insurance contract included are defined on page 2 of this bulletin.

US privacy notices: US state laws require insurers to issue notices to their US personal lines customers stating whether or not they share personal data with nonaffiliated third parties, other than for recognised purposes. A key obligation is that insurers issue these notices at the time a customer relationship is established.

LSW1135a (attached) is intended for use when all the managing agents of all the subscribing underwriters have privacy policies that are in accordance with its provisions. It should be:

- referred to in the slip as one of the conditions;
- incorporated in a broker's covernote issued to the insured;
- included in policies;
- included in certificates issued by a coverholder under a binding authority;
- re-issued annually with renewals (alternative arrangements must be made for annual re-issue on multi-year policies);

- provided to the master policyholder, in the case of master policies.

For further details please consult market bulletin Y2250, dated 29 May 2001.

Contracts to which the requirements apply: the requirement to provide privacy notices to customers applies to brokers and insurers quoting or providing insurance to individuals in the US for personal, family, health, or household risks. This includes circumstances where coverage is provided through associations and group schemes (even if such risks are produced on a "commercial lines" basis). It does not apply to reinsurance.

Use of LSW1135a: LSW1135a replaces LSW1135 with immediate effect. Its use is not obligatory and underwriters may use an alternative wording – for example if their privacy policy is not in accordance with the notice’s provisions. Underwriters should appreciate that the requirement to provide privacy notices rests with the insurer and must be complied with in all cases to which the state legislation applies.

Reasons for amendments to LSW1135: The NAIC has two model legislative documents that, if adopted by states, impose requirements on insurers that comply with privacy provisions in the Gramm-Leach-Bliley Act:

- The “NAIC Privacy of Consumer Financial and Health Information Regulation” (“Model Regulation”) - adopted by the NAIC in September 2000;
- The “NAIC Insurance Information and Privacy Protection Model Act” (“Model Act”) – adopted by the NAIC in 1982.

At 1st August 2002 13 states had privacy requirements in line with those of the Model Act and 36 states had privacy requirements in line with the Model Regulation¹. One state – Alaska – is still in the process of putting appropriate legislation in place. The NAIC regards the Model Act as more protective of consumer privacy than the Model Regulation.

LSW1135a incorporates amendments that mean it may be used in all states, whether their legislation follows the Model Regulation or the Model Act.

The short form privacy notice LSW1136 referred to in market bulletin Y2250 cannot be used in states whose legislation is based on the Model Act. LSW1136 is intended for use with surplus lines business, when all co-insures and brokers involved in the placement do not share personal data, other than for recognised purposes.

The Model Regulation was summarised in an attachment to market bulletin Y2250. Its compliance provisions are similar to those of the Model Act. Significant differences are that:

- The Model Act contains provisions affording customers, upon following appropriate procedures established by an insurer, the right to access any of their personal information collected or maintained by the insurer. The customer further has the right to request that any such information be amended, corrected, or deleted as appropriate.
- Many states implementing the Model Act require prior authorisation from the consumer before any personal financial or health information is used or disclosed except for recognised exceptions. These include disclosures necessary:
 - to effect a business, professional, or insurance function on behalf of the insurer;

¹ The 13 states in line with the Model Act are Arizona, California, Georgia, Maine, Massachusetts, Minnesota, Montana, Nevada, New Jersey, North Carolina, Ohio, Oregon, and Rhode Island.

- to detect fraud;
- to verify insurance coverage or treatment to regulatory or law enforcement bodies; or
- for marketing a product or services, provided that no health information is used or disclosed, the individual has been afforded an opportunity to avoid the use or disclosure, and any person receiving the information agrees to use it only for the limited marketing purposes.

Underwriters using or disclosing information for purposes not covered by the exceptions may not use LSW1135 or LSW1135a and are advised to seek US legal advice on their compliance obligations.

LSW1135a is available on the Market Wordings Database, replacing LSW1135. The Market Wordings Database may be contacted on telephone number 01634 392345 or via email: info@marketwordingsdatabase.com

This bulletin has been sent to active underwriters and to the compliance officers of managing agents and brokers. Any queries relating to this bulletin should be addressed to: Worldwide Market Services, Tel 020 7327 6677 or email: market.services@lloyds.com

LSW1135a**LLOYD'S PRIVACY POLICY STATEMENT****UNDERWRITERS AT LLOYD'S, LONDON**

We, the Certain Underwriters at Lloyd's, London that have underwritten this insurance want you to understand how we protect the confidentiality of non-public personal information we collect about you.

INFORMATION WE COLLECT

We collect non-public personal information about you from the following sources:

- a) Information we receive from you on applications or other forms;
- b) Information about your transactions with our affiliates, others or us; and
- c) Information we receive from a consumer-reporting agency.

INFORMATION WE DISCLOSE

We do not disclose any non-public personal information about you to anyone except as is necessary in order to provide our products or services to you or otherwise as we are required or permitted by law (e.g., a subpoena, fraud investigation, regulatory reporting, etc.).

CONFIDENTIALITY AND SECURITY

We restrict access to non-public personal information about you to our employees, our affiliates' employees or others who need to know that information to service your account. We maintain physical, electronic, and procedural safeguards to protect your non-public personal information.

RIGHT TO ACCESS OR CORRECT YOUR PERSONAL INFORMATION

You have a right to request access to or correction of your personal information in our possession.

CONTACTING US

If you have any questions about this privacy statement or would like to learn more about how we protect your privacy, please contact the agent/broker who handled this insurance. A more detailed statement of our information privacy practices is available upon request