

**FROM:** Monique Alder, Manager, Admissions Department  
**LOCATION:** 86/G5  
**EXTENSION:** 6754  
**DATE:** 15 January 2003  
**REFERENCE:** Y2972  
**SUBJECT:** IMPLEMENTATION OF THE FOURTH EC MOTOR INSURANCE DIRECTIVE  
**SUBJECT AREA(S):** Motor insurance within the EEA  
**ATTACHMENTS:** Two  
**ACTION BY:** **Managing Agents with syndicates underwriting compulsory motor liability business in the UK or other EEA member states**  
**DEADLINE:** **21 January 2003**

### **Background**

This bulletin reminds managing agents of the provisions of the Fourth EC Motor Insurance Directive (“the directive”). It will be recalled from Market Bulletin Y2897 that:

- the directive applies to insurers carrying on compulsory motor liability insurance within the EEA (European Economic Area) and must be implemented by 20 January 2003;
- the purpose of the directive is to permit a person who suffers loss or injury in a motor accident in an EEA member state other than his state of residence to deal with a representative of the foreign insurer in his own language and member state;
- the directive requires motor insurers to appoint claims representatives in all EEA member states other than the state of authorisation and to notify these appointments to designated information centres in all member states; and
- insurers underwriting compulsory motor liability insurance for vehicles registered in the EEA outside the insurer’s home state must report details of each insured vehicle to the National Information Centre in the country of the vehicles’ registration (for example, syndicates underwriting French business must report to the French information centre).

The FSA has published amendments to its Handbook in a Policy Statement “Implementation of the Fourth Motor Insurance Directive – Feedback on CP147 and made text”, issued in December 2002. Compliance with these revised rules will be a Threshold Condition from 19 January 2002 for insurers underwriting compulsory motor vehicle liability insurance. Failure

to comply with a Threshold Condition may jeopardise an insurer's FSA authorisation. Further details of the UK's implementation of the directive are given at Appendix 1.

In some EEA Member States, a National Information Centre has not yet been established and in others the reporting requirements have not yet been incorporated into national legislation. Lloyd's overseas representative offices are monitoring the situation and Lloyd's Worldwide Markets will provide further information when this is to hand.

### **Action by managing agents**

1. Members of the LMUA have appointed their own claims representatives and notified Lloyd's and the MIIC. Lloyd's will notify these appointments to all other National Information Centres.
2. In order to ensure compliance by the whole market, Lloyd's centrally will appoint claims representatives in all EEA member states by 19 January 2003 and notify the National Information Centre in each state. Recharge of the costs associated with this will be made to syndicates on a user-pays basis.
3. Where syndicates that are not members of the LMUA have already appointed claims representatives, they should notify Lloyd's using the form attached at Appendix 2 by 21 January 2003. Lloyd's will notify these appointments to the MIIC and other National Information Centres.
4. Future appointments or changes by syndicates of claims representatives should be notified to Lloyd's within five working days of the change or appointment. Lloyd's will then forward this notification to the National Information Centres of all member states.
5. No notification need be made in respect of syndicates that do not write direct motor liability business in any EEA member state.
6. Syndicates transacting motor business in EEA members states should ensure that they have the systems and processes in place to discharge their international reporting requirements to the various National Information Centres. Syndicates should contact Lloyd's Worldwide Markets for details of the National Information Centres and the detailed policy information that must be provided to them.
7. The market is reminded that Lloyd's Worldwide Markets must be given prior notice by any syndicate wishing to begin writing motor insurance outside the UK.

**Notifications required by this bulletin should be made using the template attached at Appendix 2 to Zoë Kilminster at Lloyd's Worldwide Markets (e-mail [zoe.kilminster@lloyds.com](mailto:zoe.kilminster@lloyds.com)), Lloyd's extension 5772.**

## **Further Information**

- A further bulletin confirming the appointment made by Lloyd's centrally in accordance with point 2 above will be issued in early course.
- Queries on the overseas reporting obligations and the implementation of the directive in other EEA Member States should be directed in the first instance to Zoë Kilminster, or to Andrew Smith (e-mail [andrew.d.smith@lloyds.com](mailto:andrew.d.smith@lloyds.com)), Lloyd's extension 5349.
- Queries relating to the application and implementation of the directive in the UK should be directed in the first instance to Chris Wilson (e-mail [chris.wilson@lloyds.com](mailto:chris.wilson@lloyds.com)), Lloyd's extension 6198.

Monique Alder  
Manager  
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## **Provisions of the directive and secondary legislation giving effect to it in the UK**

The main provisions of the directive are as follows.

1. Each motor insurer in the EEA is required to appoint a claims representative in each EEA member state other than its home state.
2. Each member state must establish a national information centre to maintain a register of motor vehicles in that state and their insurance policy numbers.
3. Persons injured in a motor accident in an EEA member state other than their home state will have a right of direct action against the insurer of the other party.
4. Each member state must appoint a compensation centre, which will pay compensation to a resident of that state who has been injured abroad where no claims representative has been appointed by the foreign insurer or that insurer is slow to pay.

Implementation of the directive in the UK is being undertaken in a number of parts and by four different bodies.

HM Treasury has made the Financial Services and Markets Act 2000 (Variation of Threshold Conditions) Order 2002 (SI 2002/2707), which comes into force on 19 January 2003. This introduces a new threshold condition to Schedule 6 to the Financial Services and Markets Act 2000. The new condition is that insurers writing motor business in the UK must appoint a claims representative in each EEA member state (other than the UK) to handle and settle claims arising from motor accidents suffered by individuals within the EEA other than in their member state of residency.

HM Treasury has also made the Financial Services and Markets Act 2000 (Fourth Motor Insurance Directive) Regulations 2002 (SI 2002/2706), which came into force on 20 November 2002. These permit the FSA to require insurers in certain circumstances to make interest payments.

The FSA has amended its Handbook by way of the Fourth Motor Insurance Directive Instrument 2002. This now contains detailed rules on claims representatives and claims handling. The rules on claims representatives apply to Lloyd's, which must ensure that all syndicates carrying on EEA motor vehicle liability insurance business appoint claims representatives in all EEA member states other than the UK. Lloyd's is permitted to appoint representatives on behalf of syndicates or allow them to appoint their own representatives. The detailed claims handling rules apply to managing agents.

The FSA's new rules and guidance:

- provide guidance on the new threshold condition;
- set out the powers that insurers must give to claims representatives and the representatives' responsibilities;
- require insurers to make a reasoned offer of compensation or provide a reasoned reply to a claim within specified periods; and
- require insurers to pay interest on compensation in specified circumstances.

It is understood that representatives are required for any syndicates that have underwritten policies where claims may arise on or after 19 January 2003. Syndicates writing business

under binding authorities in 2001 and 2002 but not in 2003 may therefore be affected by the requirements.

On 13 January 2003, the Department for Transport laid before Parliament the Motor Vehicles (Compulsory Insurance)(Information Centre and Compensation Body) Regulations 2003. These appoint the MICC as the UK's information and compensation centre.

The MIIC must establish a means of access to the following details for every vehicle normally based in the UK: the policy number and period, the name of the policyholder, and the name and address of the insurer and the insurer's claims representatives. Insurers must supply these details to the MIIC on request. They must also maintain records of the registration details of vehicles insured under open-contract covers. The MIIC must supply the information held by it on request to injured parties.

As the UK's compensation body, the MIIC must also in certain circumstances compensate UK residents suffering loss or injury in an accident in another EEA member state.

The Lord Chancellor's Department has made the European Communities (Rights against Insurers) Regulations 2002 (SI 2002/3061), which come into force on 19 January 2003. These give a right of direct action against the liable insurer to any EEA resident with a claim against a person insured under the Road Traffic Act 1988. There is no exclusion for persons resident in the UK.

**Table of claims representatives**Managing agent:Syndicate:

<b>EEA member state</b>	<b>Name</b>	<b>Business address</b>	<b>Telephone number</b>	<b>Date of appointment</b>
Austria				
Belgium				
Denmark				
Finland				
France				
Germany				
Greece				
Iceland				
Ireland				
Italy				
Liechtenstein				
Luxembourg				
The Netherlands				
Norway				
Portugal				
Spain				
Sweden				
UK (if applicable)				