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SUBJECT AREA(S): Lloyd's trading position in the countries that joined the EU on 1 May 2004.
ATTACHMENTS: Appendix - The EU insurance regime – some further details
ACTION POINTS: **Managing Agents and Brokers to note**
DEADLINE: **Immediate**

1 Background

On 1 May, 2004 ten countries joined the European Union (EU). These "accession countries" are Cyprus, the Czech Republic, Estonia, Hungary, Malta, Latvia, Lithuania, Poland, the Slovak Republic and Slovenia. Governments of the accession countries implemented EU Insurance Directives into their national laws prior to accession and consequently the EU's insurance regime is immediately effective in these member states and there is no transition period. Relevant parts of the EU's insurance regime are summarised in the Appendix to this Bulletin.

2 Lloyd's authorisations in relation to the accession countries

Lloyd's was a licensed insurer in Cyprus and Malta prior to their accession to the EU. Application of the EU's insurance regime will not therefore materially amend Lloyd's underwriters' access to these markets.

Lloyd's has given the Financial Services Authority (FSA) the requisite notices of its intention to provide cross border services to the eight other accession countries in relation to most

classes of business. In accordance with the requirements for services authorisation to be granted, the FSA has confirmed to Lloyd's that it has notified the relevant regulators of Lloyd's notices of intention. Lloyd's underwriters are therefore permitted to provide life insurance and all classes of non-life insurance except compulsory third party motor liability insurance (Class 10) to the following countries on a "freedom of services" basis:

Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia.

"Freedom of services" is defined in the Appendix to this bulletin.

Lloyd's will place procedure manuals for these countries on Lloyd's website www.lloyds.com in due course.

Provision of life insurance by a Lloyd's underwriter is subject to Lloyd's requirements. See in particular market bulletin Y2243 entitled "term life business", issued 22 March 2000.

The accession countries may require insurers carrying on business from their territory on a "freedom of services" basis to comply with "general good" provisions. Lloyd's has not been advised of "general good" provisions applying in relation to any of the accession countries. Should it receive subsequent notification, it will provide appropriate notification to the market. The concept of "general good" is discussed in the Appendix.

3 FIL Codes

The standard EU definition of the "Member State where a risk is situated", as set out in the EU's 2nd Non-Life Insurance Directive, should be used to determine whether a risk is situated in one of the accession countries. This definition is set out in the Appendix. It applies with immediate effect to business from all the accession territories, including Malta and Cyprus and will also be used for FIL coding.

The following FIL codes will be applied to transactions processed through Xchanging Insure Services and Xchanging Claims Services, where the insurance contract incepts on or after 1st May 2004:

Country	Insurance		Reinsurance					
			Facultative		Non-proportional treaty		Proportional treaty	
Czech Republic	CZE1	UA	CZE2	UB	CZE3	UC	CZE4	UC
Estonia	EEE1	UD	EEE2	UE	EEE3	UF	EEE4	UF
Hungary	HUE1	UG	HUE2	UH	HUE3	UI	HUE4	UI
Latvia	LVE1	UJ	LVE2	UK	LVE3	UL	LVE4	UL
Lithuania	LTE1	UM	LTE2	UN	LTE3	UO	LTE4	UO
Poland	PLE1	UP	PLE2	UQ	PLE3	UR	PLE4	UR
Slovakia	SKE1	US	SKE2	UT	SKE3	UU	SKE4	UU
Slovenia	SOE1	UV	SOE2	UW	SOE3	UX	SOE4	UX

For the time being, the existing FIL coding structure will continue in relation to Malta and Cyprus. Notification of changes will be provided in due course.

4 Currencies

None of the countries adopted the euro as its national currency at accession date. Their existing currencies remain in use for the time being.

5 Global (or multinational) Policies

Market bulletin Y2920 issued on 26 November 2002 details Lloyd's requirements for global policies, i.e. policies having an exposure in more than one country. Reference should be made to that bulletin when determining how to deal with exposures under a global policy in one or more of the accession countries. Slips that make a reference to multi-national exposures must include a premium breakdown and correctly identify the taxes applicable.

6 Taxation

For details of taxation in these countries, please refer to the Lloyd's Taxation department website which can be found on www.lloyds.com. Taxation department will release a separate market bulletin shortly.

7 Further information and distribution

Further information is available from Worldwide Market Services at box 190 in the Underwriting Room, telephone number 020 7327 6677, email: market.services@lloyds.com.

Underwriters and brokers interested in seeing the Worldwide Markets publication "Opportunities in Central Europe" may do so via the Lloyds.com website at the following address: <http://www.lloyds.com/index.asp?ItemId=4168>. This information is password-protected: details of the password can be obtained from Worldwide Market Services.

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

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Appendix

The EU insurance regime – some further details

The information in this appendix is provided as a guide for Lloyd's underwriters and brokers only, and is not intended to be a definitive account of all the provisions applicable to business conducted in the EU on a freedom of services basis.

The EU insurance régime is set out in a series of directives, separate directives applying to life and to non-life insurance. The three Non-Life Insurance Directives are:

- 1st Non-Life Insurance Directive 73/239/EEC
- 2nd Non-Life Insurance Directive 88/357/EEC
- 3rd Non-Life Insurance Directive 92/49/EEC

These directives include definitions relevant to the accession process and to Lloyd's underwriters' ability to carry on insurance from the accession countries. These are set out below. Provisions relating to life insurance are similar.

Home state supervision

See 1st Non-Life Directive Article 13.1 (as amended):

“The financial supervision of an insurance undertaking, including that of the business it carries on either through branches or under the freedom to provide services, shall be the sole responsibility of the home Member State.”

Freedom of services

Provisions relating to the “freedom to provide services” are set out in the 2nd Non-Life Directive. Article 12 of that Directive identifies “freedom to provide services” as:

“...where an undertaking, through an establishment situated in a Member State, covers a risk situated...in another Member State...”

Lloyd's interprets this as permitting Lloyd's underwriters to write business from another EU member state on an open market basis, or via facilities which do not permit the underwriting or finalisation of the contract to take place other than in Lloyd's “establishment” in the UK or in any “establishment” in other EU member states.

Lloyd's underwriters' ability to carry on business from the accession countries has been obtained in accordance with the applicable UK legislation. This enacts Article 14 of the 2nd Non-Life Directive, which states that:

“Any undertaking that intends to carry on business for the first time in one or more Member States under the freedom to provide services shall first inform the competent authorities of the home Member State, indicating the nature of the risks it proposes to cover.”

The home state's regulatory authority grants authorisations to carry on business for particular classes. The insurance undertakings to which authorisation may be granted include “the

association of underwriters known as Lloyd's". Lloyd's therefore seeks and maintains authorisations within the EU on a collective basis for all Lloyd's members.

General good

Whilst the financial supervision of insurers is carried out on a home state basis, there are certain aspects of insurance supervision which remain subject to 'host state' supervision, within the EU framework. Article 28 of the 3rd Non-Life Directive states that:

"The Member State in which a risk is situated shall not prevent a policyholder from concluding a contract with an insurance undertaking...as long as that does not conflict with legal provisions protecting the general good in the Member State in which the risk is situated."

The regulatory authorities of an accession country in which a risk is situated may therefore require an insurer insuring the risk on a freedom of services basis to comply with its "general good" provisions. Such provisions may include those concerning marketing and selling and contract law in respect of 'mass' (i.e. principally personal lines) risks.

The Directives do not define the concept of "general good". A European Commission interpretive communication issued in 2000 provided some clarification on this point and on freedom to provide services. The interpretive communication stated that:

"For such a measure to be justified as being in the general good, it:

- must not have been harmonised at Community level;
- must be non-discriminatory;
- must be justified by imperative requirements in the general interest;
- must be objectively necessary;
- must not duplicate rules of the country of origin;
- must be proportionate to the objective pursued."

The interpretive communication can be found at:

<http://europa.eu.int/scadplus/leg/en/lvb/l24227.htm>

Premium taxes and parafiscal charges are also subject to the rules of the country where the risk is located.

Member State where the risk is situated

See Article 2(d) of the 2nd Non-Life Directive. The "member state where the risk is situated" means:

- The Member State in which the property is situated, where the insurance relates either to:
 - **Buildings**, or
 - **Buildings and their contents**, covered by the same policy.

*This definition applies also to **liability or consequential loss relating to the building** (if covered as a risk ancillary to the building insurance).*

- The Member State of registration where the insurance relates to vehicles of any type.

“Vehicles” includes motor vehicles, ships, boats (including yachts) and aircraft, insured against loss, damage or liability (including ancillary risks).

- The Member State where the policyholder took out the policy in the case of policies:
 - of a duration of four months or less;
 - covering travel or holiday risks;
 whatever the class concerned.

- In all cases not explicitly covered by the foregoing indents, the Member State where the policyholder:
 - Has his habitual residence (*if the policyholder is a natural person*); or
 - The Member State where the policyholder’s establishment, to which the contract relates, is situated, if the policyholder is a legal person (*i.e. a business or other organisation*);

Businesses established in the country’s territory include the local subsidiaries or branches of foreign enterprises

(Interpretative comments are set out in italics. The definition set out here uses the same wording as the Directive, but for ease of reference the set out has been changed).

The definition of “the Member State where the risk is situated” for PREMIUM TAX purposes is wider. Details are available from the taxation department website.