

# MARKET BULLETIN

<b>From</b>	<b>Franchise Performance Director Lloyd's Franchise Performance Directorate (extn 6743)</b>
<b>Date</b>	<b>28 February 2006</b>
<b>Reference</b>	Y3754
<b>Subject</b>	<b>The Lloyd's 2006 Claims Scheme</b>
<b>Subject areas</b>	<b>Issue of the Lloyd's 2006 Claims Scheme to simplify and modernise the claims agreement process in the Lloyd's market.</b>
<b>Attachments</b>	<b>The Lloyd's 2006 Claims Scheme Explanatory Notes</b>
<b>Action points</b>	<b>Managing Agents to note the Lloyd's 2006 Claims Scheme</b>
<b>Deadlines</b>	<b>Lloyd's 2006 Claims Scheme effective date will be the 1 April 2006</b>

## ***Introduction***

This bulletin attaches the Lloyd's 2006 Claims Scheme which was made by the Franchise Board under the Underwriting Byelaw ("the 2006 Scheme"). The 2006 Scheme applies to claims made on contracts of insurance or reinsurance underwritten on or after 1 April 2006.

Within the 2006 Scheme, Lloyd's has taken account of the concerns which arose during the extensive consultation with the market and the issues that were identified during the consultation with the market on the Lloyd's 1999 Claims Scheme (Amended).

The 2006 Scheme identifies the key principles for determining claims in the Lloyd's market, rather than describing how all of the relevant processes may work in the short or longer term. The 2006 Scheme is neutral from an infrastructure perspective, in that claims that fall within the scope of the 2006 Scheme will need to be handled in a combined paper and electronic environment.

## ***Background***

As part of the Claims Strategic Review commenced in 2004 the Lloyd's 1999 Claims Scheme was amended to ensure compliance with the FSA's 'material outsourcing'

guidelines and to reinforce Xchanging Claims Services Limited's (XCS) role as the followers' claims agreement party, in line with the market's new Services Agreement with XCS. The Lloyd's 1999 Claims Scheme (Amended) was issued on 1 July 2005 as an interim measure, with an undertaking to the market that it would be rewritten to modernise and simplify the wording.

Lloyd's has coordinated the drafting of the new claims scheme, engaging the market via an extended consultation process. The views of the broking community have also been taken into account. The advice of US counsel has been sought and reflected within the 2006 scheme.

### ***Explanatory Notes***

This Bulletin also attaches a set of explanatory notes. These notes provide a brief explanation of how certain provisions of the 2006 Scheme are intended to operate. They are by no means comprehensive as it is recognised that there may be exceptional circumstances where a managing agent or the Scheme Service Provider will require a specific interpretation of a provision which may not be apparent from either the 2006 Scheme or these notes. These notes are not intended as a "user guide" and **do not form part of the 2006 Scheme.**

Regarding the continuation of "special category claims" it is Lloyd's intention to move to leader plus Scheme Service Provider for the agreement of all claims within the scope of the 2006 Scheme. Over the 12 months post publication of the 2006 Scheme Lloyd's is looking to work with leaders (particularly those intending to exercise the option to be an additional agreement party) and with the Scheme Service Provider to ensure that the adjusting activity concerned is of the quality required. Lloyd's will keep progress carefully under review.

### ***Implementation***

From 1 April 2006, the 2006 Scheme will apply to claims made on contracts of insurance entered into from 1 April 2006 and post.

From the date of this Market Bulletin arrangements should be made for all relevant slips to refer to the Lloyd's 2006 Claims Scheme. Lloyd's recognises that there are slips already being placed which refer to the Lloyd's 1999 Claims Scheme (Amended) ("the 1999 (Amended) Scheme"). Lloyd's has agreed with the LMBC a 'period of grace' from the date of this Bulletin to allow slips already being placed to continue to be subject to the 1999 (Amended) Scheme provided that the effective date (the 'inception date' stated under PERIOD in the slip) is no later than 31 May 2006. Slips with effective dates of 1 June 2006 or later must refer to the 2006 Claims Scheme under the BASIS OF AGREEMENT heading in the slip. Slips with effective dates of 1 June 2006 or later which do not refer to the Lloyd's 2006 Claims Scheme will be marked incorrect by the MRPO Slip Audit Team and could be rejected by XIS (with the exception of certificates or declarations off binding authorities or lineslips which themselves had effective dates stated on slips which are no later than 31 May 2006).

**Queries**

If you have any queries arising out of the implementation of the 2006 Scheme, please do not hesitate to contact one of the following:

Kent Chaplin, Head of Claims at [kent.chaplin@lloyds.com](mailto:kent.chaplin@lloyds.com) or 020 7327 5552

Neil Dalton, Senior Claims Leader at [neil.dalton@lloyd's.com](mailto:neil.dalton@lloyd's.com) or 020 7327 5589

Rolf Tolle  
Franchise Performance Director  
Lloyd's Franchise Performance Directorate

## Lloyd's 2006 Claims Scheme

---

This Lloyd's Claims Scheme (the "Scheme") has been made by *the Franchise Board* under paragraph 12 of the Underwriting Byelaw. The *Franchise Board* will keep the operation of the Scheme under review and may revise it from time to time following consultation with the *LMA*, the *scheme service provider(s)* and the London Market Insurance Brokers Committee.

Words and terms shown in italics have the meaning set out in schedule 1 to the Scheme.

The additional provisions set out in the footnotes to the Scheme apply only in respect of a *special category claim*.

### Scope of the Scheme

1. The *Franchise Board* requires every *managing agent* to comply with and implement the following principles and arrangements set out in the Scheme for the *determination* of every claim made on an *insurance* underwritten by two or more *syndicates* on or after 1 April 2006 other than –
  - (a) where each of the *syndicates* are managed by the same *managing agent*;
  - (b) term life claims;
  - (c) a claim administered under the *Claims Payable Abroad Scheme*;
  - (d) where the *Franchise Board* otherwise gives a *managing agent* or any class or group of *managing agents* dispensation from this Scheme whether in respect of a class or type of claim or otherwise;
  - (e) *exempt binding authority claims*; or
  - (f) *exempt satellite risk claims*.
2. Claims which must be determined in accordance with this Scheme are referred to as *scheme claims*.

## Receipt of a claim

3. Upon receiving notification of a *scheme claim*, a *leading Lloyd's underwriter* shall ensure that it has been properly identified as the *leading Lloyd's underwriter* in respect of the *insurance* to which the claim relates and, if so, it shall –
  - (a) acknowledge receipt of the claim to the insured or its agent;
  - (b) use its best endeavours to agree with other *Lloyd's underwriters* who shall be the sole *leading Lloyd's underwriter* for any other slips within the same layer of coverage where they are written on substantially the same terms through the same *Lloyd's broker*;
  - (c) review the claim information presented by or on behalf of the insured (in whatever readable format) and if not included request (i) evidence of the *insurance* in question (ii) such preliminary claim information as appears reasonably necessary to commence *determination* of the claim; and
  - (d) take reasonable steps to ensure that the relevant *scheme service provider*<sup>1</sup> is informed of the receipt of the claim and provided with the same information.

## Claims handling

4. Every *managing agent* and every *scheme service provider* shall act in accordance with *Lloyd's Claims Management Principles*.
5. A *scheme claim* must be *determined* by –
  - (a) the *leading Lloyd's underwriter* on behalf of the *leading Lloyd's syndicate*<sup>2</sup>; and
  - (b) a *scheme service provider* on behalf of each *following Lloyd's syndicate*<sup>3</sup>

following appropriate consultation between them and before any payment is made to (or any binding agreement to pay is entered into with) the insured notwithstanding any agreement (in the slip or elsewhere) to the contrary.

6. Notwithstanding the provisions of paragraph 5 of the Scheme –

---

<sup>1</sup> and the *second Lloyd's underwriter*

<sup>2</sup> and by the *second Lloyd's underwriter* on behalf of the *second Lloyd's syndicate*

<sup>3</sup> other than the *second Lloyd's syndicate*

- (a) in his or her *determination* of a *scheme claim*, the *leading Lloyd's underwriter*<sup>4</sup> may at any time consult with one or more of the *following Lloyd's underwriters*;
- (b) the *leading Lloyd's underwriter*<sup>5</sup> may delegate the *determination* of a *scheme claim* to another person provided that the delegation is properly documented and notified to the relevant *scheme service provider* and any relevant *Lloyd's broker*.

#### Professional advisers and reports

7. A *professional adviser* will be appointed and instructed by the *leading Lloyd's underwriter* and the *scheme service provider* only. However where the *professional adviser* has not been selected in advance of a *scheme claim* the *leading Lloyd's underwriter* shall not instruct a *professional adviser* on behalf of the *following Lloyd's syndicates* without the agreement of the *scheme service provider*, except
  - (a) in the cases where the appointment of the *professional adviser* is essential to protect the position of the *syndicates* and
  - (b) where the *leading Lloyd's underwriter* has been unable to contact the *scheme service provider* notwithstanding having used his or her best endeavours
8. When a *professional adviser* is appointed by a *leading Lloyd's underwriter* and the *scheme service provider* they shall ensure that the *professional adviser* is informed of –
  - (a) the identity of the *managing agent* which manages the *leading Lloyd's syndicate* and the identity of the *scheme service provider*;
  - (b) evidence of the *insurance*; and
  - (c) references which identify the claim.
9. A *professional adviser* appointed in accordance with paragraph 8 of this Scheme shall be instructed to send all reports to the *leading Lloyd's underwriter*<sup>6</sup> and the *scheme service provider*.
10. A *professional adviser's* fees shall be agreed by the *leading Lloyd's underwriter* and the *scheme service provider*.

---

<sup>4</sup> and the *second Lloyd's underwriter*

<sup>5</sup> and the *second Lloyd's underwriter*

<sup>6</sup> , the *second Lloyd's underwriter*

Brokers may show

11. Without prejudice to paragraph 5 or any other provision of the Scheme, where a *Lloyd's broker* has been directed by the insured to show its claim to the *Lloyd's underwriters* which underwrote the *insurance*, the *Lloyd's broker* may show the claim to each *Lloyd's underwriter*.

Matters requiring referral to all following Lloyd's underwriters

12. The *scheme service provider* shall not agree on behalf of any *following Lloyd's underwriters* any *ex gratia* settlement, commutation or rescission of an *insurance*, other than in accordance with the terms of that *insurance*, without referring the matter to the *following Lloyd's underwriters* for agreement.

Notifications to following Lloyd's underwriters

13. The *scheme service provider* shall notify the *following Lloyd's underwriters* of the following matters or events as soon as practicable –
  - (a) a new *scheme claim*;
  - (b) the recommended reserve or reserves for a *scheme claim*;
  - (c) any revision to the recommended reserve or reserves;
  - (d) the commencement of *dispute resolution proceedings* relating to a *scheme claim*;
  - (e) the procedures that the *scheme service provider* has implemented to manage any conflicts of interest in the *determination* of the claim including where the *scheme service provider* acts for the *leading Lloyd's underwriter*<sup>7</sup> and *following Lloyd's underwriters*; and
  - (f) where the *scheme service provider* has been notified that the *leading Lloyd's underwriter*<sup>8</sup> has delegated the *determination* of a *scheme claim* to another person under paragraph 6(b) of the Scheme, the identity of that person.

and a *following Lloyd's underwriter* may request the *scheme service provider* to provide such further information as it may reasonably require.

---

<sup>7</sup> and/or the *second Lloyd's underwriter*

<sup>8</sup> or the *second Lloyd's underwriter*

## Disagreement

14. If the *leading Lloyd's underwriter*<sup>9</sup> and the *scheme service provider* disagree on the *determination* of a claim they shall promptly seek to resolve that disagreement amongst themselves. If the disagreement cannot be resolved the *scheme service provider* (with the *leading Lloyd's underwriter*<sup>10</sup> where he or she so wishes) shall consult with the *following Lloyd's underwriters* in order to agree on a way in which to proceed.
15. If a *following Lloyd's underwriter* and the *scheme service provider* disagree on the *determination* of a claim they shall promptly seek to resolve that disagreement amongst themselves. If the disagreement cannot be resolved the *scheme service provider* shall consult with the *following Lloyd's underwriters* in order to agree on a way in which to proceed.

## Processing of claims payments

16. Where a *scheme claim* has been *determined* the *leading Lloyd's underwriter* and the *scheme service provider* shall ensure that all supporting information has been properly documented prior to payment of the claim being authorised.
17. Where a *scheme claim* is to be paid directly to the insured the *leading Lloyd's underwriter and the scheme service provider* shall agree who shall notify the relevant *Lloyd's broker* prior to the claim being paid and that person shall make the notification.

## Payment of claims to reinsureds

18. Where a *scheme claim* has been *determined* and payment is to be made to a reinsured the *scheme service provider* shall process the payment provided that a *managing agent* may, by giving 10 working days written notice (containing the information set out in schedule 3 to the Scheme) to the *scheme service provider, Lloyd's* and any relevant *Lloyd's broker*, withdraw its authority to process payments to the reinsured (for periods of up to 6 months) if the *managing agent* wishes to properly exercise a right of set-off and –
  - (a) the reinsured has been declared bankrupt or insolvent; or

---

<sup>9</sup> or the *second Lloyd's underwriter*

<sup>10</sup> or the *second Lloyd's underwriter*



- (b) the reinsured is an insurance company which no longer accepts new or renewal business and has withdrawn from the central settlement systems of the *IUA*; or
- (c) the reinsured owes £375,000 or equivalent currency or more (or such other amount which may be prescribed by the *Franchise Board* from time to time) to the relevant *syndicate* and –
  - (i) such amount has been due and payable to that *syndicate* for a period of 6 months or more; and
  - (ii) the reinsured has not disputed that it owes the monies to the *syndicate*.

#### Commencement

19. This Scheme shall come into force on 1 April 2006.

## Schedule 1 Definitions

---

In this scheme,

“*active underwriter*” shall have the meaning given to it in the Definitions Byelaw;

“*binding authority*” shall have the meaning given to it in the Definitions Byelaw;

“*Claims Payable Abroad Scheme*” means the scheme which enables Underwriter’s at Lloyd’s to use the services of Lloyd’s Agents to adjust and settle claims brought by local consignees under specific Lloyd’s marine cargo policies of insurance. This is also known as Settlement of Claims Abroad.;

“*coverholder*” shall have the meaning given to it in the Definitions Byelaw;

“*determination/determine*” means all claims handling activities necessary in order to (i) accept or deny a *scheme claim*, in whole or in part; (ii) agree any amount payable and (iii) resolve finally any open matter by agreement or, if necessary, dispute resolution ;

“*dispute resolution proceedings*” means any litigation, arbitration, regulatory hearing or other contested proceeding to determine a *scheme claim*;

“*exempt binding authority claims*” has the meaning set out in schedule 2 of this Scheme;

“*exempt satellite risk claims*” means a claim on a contract of *insurance* coded with such risk codes as the *Franchise Board* may from time to time prescribe;

“*following Lloyd’s underwriters*” means the *Lloyd’s underwriters*, other than the *leading Lloyd’s underwriter*, who underwrite the *insurance* on behalf of a syndicate;

“*following Lloyd’s syndicates*” means *syndicates* that have underwritten the *insurance* other than the *leading Lloyd’s syndicate*;

“*Franchise Board*” means the board established by the Council of Lloyd’s with that name;

“*insurance*” shall also be deemed to include reinsurance save where the context otherwise provides;

“*IUA*” means the International Underwriting Association of London;

“*leading Lloyd’s underwriter*” means the first *Lloyd’s underwriter*, in slip order, to underwrite the *insurance* on behalf of a *syndicate* or such other *Lloyd’s underwriter* nominated on the slip as the *leading Lloyd’s underwriter*;

“*leading Lloyd’s syndicate*” means the first *syndicate*, in slip order, to underwrite the *insurance* or such other *Lloyd’s syndicate* nominated on the slip as the *leading Lloyd’s underwriter*;

“*Lloyd’s Claims Management Principles*” means the claims management principles and minimum standards prescribed from time to time by the *Franchise Board* under paragraph 12 of the Underwriting Byelaw;

“*LMA*” means the Lloyd’s Market Association;

“*Lloyd’s broker*” shall have the meaning given to it in the Definitions Byelaw;

“*Lloyd’s underwriter*” means the *active underwriter* of a *syndicate* or its staff;

“*managing agent*” shall have the meaning given to it in the Definitions Byelaw;

a “*professional adviser*” may include, but is not limited to, a lawyer, adjuster, surveyor, actuary or accountant;

“*scheme claims*” means claims that must be determined in accordance with this scheme;

“*scheme service provider*” means a service provider authorised by the *Franchise Board* to provide services under this Scheme;

“*second Lloyd’s syndicate*” means the second *syndicate*, in slip order, to underwrite the *insurance* or such other *Lloyd’s syndicate* nominated on the slip as the second *Lloyd’s underwriter*;

“*second Lloyd’s underwriter*” means the second *Lloyd’s underwriter*, in slip order, to underwrite the *insurance* on behalf of a *syndicate* or such other *Lloyd’s underwriter* nominated on the slip as the second *Lloyd’s underwriter*;

“*special category claim*” means a *scheme claim* made on –

- (a) legal liability insurance (other than the classes and categories set out in Schedule 4)
- (b) bankers blanket bond, forgery or fidelity insurance;
- (c) contract frustration insurance;
- (d) political risk insurance;
- (e) credit risk insurance

where

- (i) the slip provides that the *second Lloyd’s underwriter* may determine claims on behalf of the *second Lloyd’s syndicate*;
- (ii) the *second Lloyd’s underwriter* has not delegated the determination of the claim to a *scheme service provider*;

“*syndicate*” shall have the meaning given to it in the Definitions Byelaw;

“*Third Party Administrator*” shall have the meaning given to it in the Delegated Underwriting Byelaw;

“TPA” means *Third Party Administrator*;

“*TPA Agreement*” means an agreement which specifies the nature and extent of the *Third Party Administrator’s* authority to settle claims arising out of any *insurances* underwritten under the relevant *binding authority*.

## Schedule 2

### Exempt binding authority claims

---

1. Subject to paragraphs 2 and 3 of this Schedule, an *exempt binding authority claim* is a claim made on an insurance which was underwritten by a *coverholder* in accordance with a *binding authority* where
  - (a) authority to *determine* claims has been delegated to the *coverholder* or *TPA* in accordance with the terms of the *binding authority* or *TPA Agreement*; or
  - (b) the *leading Lloyd's underwriter* agrees to *determine* the claim on his or her own behalf and on behalf of the *following Lloyd's underwriters* to whom the *leading Lloyd's underwriter* has accepted a duty of care and this agreement is set out in the slip.
2. Notwithstanding paragraph 1 of this Schedule, *exempt binding authority claims* shall not include claims which meet the following criteria-
  - (a) a liability claim that involves death, brain injury, spinal injury, loss of sight or hearing, loss of limb, or permanent disability or disfigurement and the *coverholder* or *TPA* has not been granted authority in respect of such a claim in the *binding authority* or *TPA Agreement*; and/or
  - (b) the *coverholder* or *TPA* in question proposes for any reason to deny coverage or reject payment of the amount claimed, in whole or in part and the *coverholder* or *TPA* has not been granted that authority in accordance with the terms of the *binding authority* or *TPA Agreement*;
  - (c) *dispute resolution proceedings* against *Lloyd's underwriters* have been commenced and the *coverholder* or *TPA* has not been granted authority in respect of such *dispute resolution proceedings* in the *binding authority* or *TPA Agreement*; or
  - (d) the *leading Lloyd's underwriter* elects to refer the claim to the *scheme service provider* upon first advice or receipt of first report and will document the file accordingly.
3. If, upon receipt of the first report by the *leading Lloyd's underwriter* it is unclear whether the claim is an *exempt binding authority claim* the claim must be referred to the *scheme service provider* and will be *determined* in accordance with the Scheme.

### Schedule 3

#### Notice of Withdrawal for Processing Claims Payments

---

The written notice to the *scheme service provider* in accordance with paragraph 18 of this Scheme must contain the following information and relevant supporting documents:

- Full name and details of the reinsured as it appears on the slip(s)
- Confirmation that a right of set-off exists against the reinsured
- A statement of net monies owed
- Confirmation that the monies owed have not been disputed i.e. that no formal written communication has been received by the Lloyd's underwriter from the reinsured denying the claim(s) in whole or in part and that no proceedings have been commenced by the reinsured in respect of the claim(s)
- Dates on which the collecting notes were issued
- Confirmation that the broker(s) has passed on collecting notes to the reinsured and is not holding any monies due to the syndicate from the reinsured
- Copies of the slips on which claims have been advised (with the *scheme service provider's* references) or are likely to be advised with signing numbers and dates. These are required so that the *scheme service provider* can administer the process effectively
- Any other document that the managing agent considers to be relevant

The written notice must be signed by either the Managing Director/CEO or the Compliance Officer of the underwriter's *managing agent* and sent with attachments to the Opt-Out Manager of the *scheme service provider*, Lloyd's Reinsurance Department and the relevant *Lloyd's broker*.

Schedule 4  
Special Category Claims – Exemptions

---

*Scheme claims* made on the following categories and classes of legal liability insurance shall not be treated as *special category claims* under this Scheme –

- a. P&I, Shiprepairers Liability, Charterers Liability, Cargo Liability (excluding claims involving US Assureds or subsidiaries or where a US lawsuit has been filed or the occurrence is in US territorial waters;
- b. Aviation Liability – risk codes L, AO and AP;
- c. Auctioneers Liability;
- d. Bailees Liability to goods including care custody and control;
- e. Boiler & Machinery Liability (ex USA as above);
- f. Collision Liability (Running Down Clause);
- g. Forwarding Agents Liability;
- h. Furriers Liability;
- i. Garage Keepers Legal Liability;
- j. Guest Voluntary Settlement (Aviation);
- k. Logging Liability;
- l. Motor Truckers Liability to goods;
- m. Recours des Voisins;
- n. Reinsurance with a full Reinsurance Clause (where there is no claims control or claim co-operation provision);
- o. Risques Locatif;
- p. Road Hauliers Liability to goods/Convention Merchandise Route (CMR);
- q. Security Carriers Liability;
- r. Shipowners Liability to Cargo (but not cargo's liability);
- s. Stevedores Liability;
- t. Warehouse Owners Liability to goods; and
- u. Wharfinger Liability.

# LLOYD'S 2006 CLAIMS SCHEME – EXPLANATORY NOTES

**24 FEBRUARY 2006**



## **DISCLAIMER**

The communication of information in this document is not intended for distribution to, or use by, any person or entity in any jurisdiction or country where such distribution or use would be contrary to local law or regulation. In particular, the contents and / or subject matter do not constitute an offer of information, products or services to US persons or in the United States, or in any other jurisdictions where such an offer may be unlawful.

Furthermore, the attached communication does not represent a prospectus or invitation in connection with any solicitation of capital. Nor does it constitute an offer to sell securities or insurance, a solicitation of an offer to buy securities or insurance, or a distribution of securities in the United States or to a US person, or any other jurisdiction where it is contrary to local law. Such persons should inform themselves about and observe any applicable legal requirement.

No responsibility of liability is accepted by the Society of Lloyd's, the Council, or any Committee of Board constituted by the Society of Lloyd's or the Council or any of their respective members, officers, or advisors for any loss occasioned to any person acting or refraining from action as a result of any statement, fact, figure or expression of belief contained in this document or communication.

The views expressed in the paper are Lloyd's own. Lloyd's provides the material contained in this document for general information purposes only. Lloyd's accepts no responsibility, and shall not be liable for any loss which may arise from reliance upon the information provided.

# CONTENTS

<b>Scope of the Scheme</b>	<b>04</b>
Paragraph 1	04
<b>Receipt of a Claims</b>	<b>04</b>
Paragraph 3	04
<b>Claims Handling</b>	<b>05</b>
Paragraph 5	05
<b>Professional Advisers &amp; Reports</b>	<b>05</b>
Paragraph 7	05
Paragraph 8	06
Paragraph 9	06
<b>Brokers May Show</b>	<b>06</b>
Paragraph 11	06
<b>Notifications to following Lloyd's Underwriters</b>	<b>06</b>
Paragraph 13	06
<b>Disagreement</b>	<b>07</b>
Paragraphs 14 & 15	07
<b>Processing of Claims Payment</b>	<b>07</b>
Paragraph 18	07
Schedule 2 – Exempt Binding Authority Claims	07

These notes provide a brief explanation of how some of the provisions of the Lloyd's 2006 Claims Scheme are intended to operate. These notes are not comprehensive as it is recognised that there may be exceptional circumstances where a Managing Agent or the Scheme Service Provider will require a specific interpretation of a provision which may not be apparent from either the Lloyd's 2006 Claims Scheme or these notes. These notes are not intended as a "user guide" and **do not form part of the Lloyd's 2006 Claims Scheme** ("the 2006 Scheme").

## Scope of Scheme

### Paragraph 1

The 2006 Scheme will apply to claims made on all contracts of insurance or reinsurance which fall within the scope of the Scheme and where the effective date stated on the slip is 1 April 2006 or later. Where contracts of insurance or reinsurance fall within the scope of the 2006 Scheme, the slip should make reference to the Lloyd's 2006 Claims Scheme as the basis of agreement. The 2006 Scheme will apply to contracts attaching to binding authorities which fall within the scope of the 2006 Scheme (including Schedule 2) and where the effective date of the binding authority, stated on the slip, is 1 April 2006 or later.

The 2006 Scheme applies to contracts of insurance underwritten by two or more Lloyd's syndicates other than where each of the syndicates are managed by the same managing agent. However the 2006 Scheme does not apply to term life claims, claims administered under the Claims Payable Abroad Scheme, exempt binding authority claims and exempt satellite risk claims.

Under paragraph 1(d) the Franchise Board may grant a request for dispensation. The form of that dispensation will depend upon the nature of the request. For example it may be a request for an exemption from the 2006 Scheme for a particular class of claim, or a facility such as a consortium arrangement. Where an application is made to the Franchise Board for dispensation this should be made in writing via Lloyd's Head of Claims.

Before the 2006 Scheme comes into force, Lloyd's will confirm the requirements with respect to the handling of claims on satellite risks. The process for handling these claims will be based on the principle that there is an appropriate procedure in place to ensure adequate protection for the following Lloyd's underwriters subscribing to the insurance in the determination of any claim on the insurance.

Consortium and service company arrangements fall within the scope of Schedule 2, exempt binding authority claims, unless dispensation has been granted by the Franchise Board under paragraph 1(d).

## Receipt of a Claim

### Paragraph 3

Under paragraph 3(a) the method by which the receipt of a claim is acknowledged to the insured will very much depend on how the claim was advised in the first place. It is expected that this will often be done via the insured's agent, i.e. the broker.

It is accepted that there may be a number of slips for the same risk, in respect of the same insured/reinsured. At the point of claim, where the coverage and terms are substantially the same,

it may be appropriate that in the determination of the claim the underwriters agree on a sole leading Lloyd's underwriter in discussion with the Lloyd's broker. If agreement cannot be reached then each Lloyd's slip will have to be treated separately for the purposes of the operation of the 2006 Scheme.

Where different slips are placed by different brokers and perhaps on different terms, Lloyd's would encourage a coordinated response however this is not a requirement. Lloyd's is not requiring any specific alterations to the contract itself or any endorsements however, where agreement is reached, we are requiring underwriters to make it clear on the file and to the broker and the Scheme Service Provider who will be the overall leader for the claim.

## Claims Handling

### Paragraph 5

Where appropriate the leading Lloyd's underwriter and the Scheme Service Provider are expected to consult with each other before proceeding to settle a claim to ensure all matters have been properly taken into account. This will usually occur on large, complex or high profile claims. If they cannot agree on an approach then they will consult with the following underwriters as required by paragraph 14.

On the classes of business referred to as "special category" the second Lloyd's underwriter may elect on the slip to be added as an additional agreement party at the time the risk is written. The second Lloyd's underwriter agrees claims for his or her own part. He or she does not act as an agreement party for the following Lloyd's market. The Scheme Service Provider will not act for the second Lloyd's underwriter where he or she has elected to be an additional agreement party unless, when a claim is first notified to the second Lloyd's underwriter, that party delegates its authority to determine the claim to the Scheme Service Provider under the provisions of paragraph 6(b) and the Scheme Service Provider agrees to act on his or her behalf.

In the case of special category claims, the footnotes in the 2006 Scheme identify those provisions which apply to the second Lloyd's underwriter where the second Lloyd's underwriter has elected to be an additional agreement party on the slip and has not delegated his or her authority to another person or the Scheme Service Provider (special category claims are defined in Schedules 1 and 4 of the 2006 Scheme).

## Professional Advisers & Reports

### Paragraph 7

In exceptional circumstances and usually in cases of an emergency, where an appointment has not been pre-agreed, the leading Lloyd's underwriter (either directly or via the broker) should make every reasonable effort to contact the Scheme Service Provider to agree the appointment of an adviser on behalf of the following Lloyd's underwriters. If it has not been possible to contact the Scheme Service Provider after reasonable effort then the leading Lloyd's underwriter may proceed with the appointment of the adviser on behalf of the following Lloyd's underwriters and that appointment must be ratified by the Scheme Service Provider as soon as practicable. It is expected that the exceptional circumstances will normally exist outside normal office hours.

In all other circumstances the leading Lloyd's underwriter may proceed to appoint an expert although the expert will not be appointed on behalf of the following Lloyd's underwriters unless and until the appointment is agreed by the Scheme Service Provider. As a matter of principle it is expected that in making an appointment, the leading Lloyd's underwriter will advise the Scheme

Service Provider of his or her selection at which point the Scheme Service Provider can agree the selection on behalf of the following Lloyd's underwriters (or challenge the selection).

In promoting appropriate collaboration between the leading Lloyd's underwriter and the Scheme Service Provider, Lloyd's would expect leading Lloyd's underwriters and the Scheme Service Provider to have pre agreed arrangements for the selection of experts relevant to particular classes of business.

The second Lloyd's underwriter on special category claims is not required as a mandatory agreement party for the appointment of an expert.

### **Paragraph 8**

The leading Lloyd's underwriter and the Scheme Service Provider are expected to agree how the information required in paragraph 8 should be provided to the adviser at the time that adviser is instructed by them.

### **Paragraph 9**

As part of the instructions to the adviser the leading Lloyd's underwriter and the Scheme Service Provider will agree with the adviser how they (and the second Lloyd's underwriter if necessary on special category claims) would like to receive reports. This may involve using the broker to forward reports to Lloyd's or any other markets. In agreeing the method of distribution it should be borne in mind that the broker may not have the resources to distribute reports or may not wish to carry out this service.

## **Brokers May Show**

### **Paragraph 11**

The broker is not required to inform the leading Lloyd's underwriter or the Scheme Service Provider of its intention to show the claim to the following Lloyd's underwriters. This does not affect the agreement procedures.

## **Notifications to Following Lloyd's Underwriters**

### **Paragraph 13**

A reserve notified to the following Lloyd's market by the Scheme Service Provider will normally be consistent with the reserve held by the leading Lloyd's underwriter. Where the reserve recommended by the Scheme Service Provider is different from the reserve held by the leading Lloyd's underwriter, the Scheme Service Provider should advise the following Lloyd's market of both reserves. If any of the following Lloyd's underwriters would like to know the reasons behind the differences in the reserves they should consult with the Scheme Service Provider and/or the leading Lloyd's underwriter.

## Disagreement

### Paragraphs 14 & 15

Under paragraphs 14 and 15 it will not always be necessary for the Scheme Service Provider to consult with all of the following Lloyd's underwriters. The extent of their consultation will depend upon the nature of the disagreement always bearing in mind the contractual obligations of the Scheme Service Provider to act in the best interests of all of the following Lloyd's underwriters.

It is possible that a dispute between the leading Lloyd's underwriter and the Scheme Service Provider may result in them each taking a different approach to the claim.

It is possible that a disagreement may be resolved by the Scheme Service Provider taking a different approach for different following underwriters.

## Processing of Claims Payment

### Paragraph 18

This paragraph relates to reinsurance opt-outs in respect of scheme claims only. Rights of set-off relating to claims that fall outside the scope of the 2006 Scheme are not affected by this provision.

## Schedule 2 – Exempt Binding Authorities Claims

Claims within the coverholder or TPA's delegated authority will not fall within the scope of the 2006 Scheme. Claims above the coverholder or TPA's delegated authority will fall within the scope of the 2006 Scheme unless the leading Lloyd's underwriter has indicated in the binding authority slip that he or she is prepared to determine claims on his or her own behalf and on behalf of the following Lloyd's underwriters. In such circumstances the leading Lloyd's underwriter may agree a financial limit to his or her claims settlement authority and may also delegate that authority to any person provided this is done in an appropriate manner.

Lloyd's expects managing agents to effectively manage their coverholders and TPAs in accordance with the Lloyd's Claims Management Principles and Minimum Standards. This includes requirements for the coverholder or TPA to provide regular claims bordereaux for processing by the Scheme Service Provider.

Coverholders and TPAs will need specific delegated authority to agree claims as described under paragraph 2 of this schedule.

Kent Chaplin

Head of Claims,

Franchise Performance, Lloyd's