

MARKET BULLETIN

From	Director, Worldwide Markets (extn 6677)
Date	11 April 2006
Reference	Y3787
Subject	Japan – Unregulated Kyosai and Small Amount and Short Term Insurers
Subject areas	This bulletin provides information on the latest developments in Japan relating to Unregulated Kyosai and Small Amount and Short Term Insurers.
Attachments	Appendix 1 – Unregulated Kyosai In Japan Market Bulletin of 19 May 2003 (Y3059)
Action points	Brokers and underwriters should obtain suitable written confirmation before Kyosai and Short Amount and Short Term Insurers business is placed.
Deadlines	Effective 1 April 2006

1.0 Purpose of Bulletin

This Bulletin provides information on the latest developments in Japan relating to Unregulated Kyosai. The previous Bulletin issued on 19th May 2003 is attached and not only provides complete and essential background, but its basic content continues to apply in full.

The scope of the original message is expanded to include Small Amount and Short Term Insurers (SASTI). Effective 1st April 2006 the situation is as follows:

- a) Before Kyosai business is placed, brokers and underwriters should obtain suitable written confirmation that the Kyosai in question is regulated in Japan.
- b) Before SASTI business is placed, brokers and underwriters should obtain suitable written confirmation that the SASTI in question has received specific permission from the Japanese Financial Services Agency (Japanese FSA) to secure reinsurance from overseas.

2.0 Background

Effective 1st April 2006 the law in Japan has changed to deal with Unregulated Kyosai. The detail is considerable and this Bulletin merely concentrates on the issues specific to business offered to Lloyd's. Briefly, going forwards all Unregulated Kyosai will be divided into three distinct categories as follows:

- a) Continuing Unregulated Kyosai (effectively those enterprises that satisfy the original concept of small mutual aid societies)
- b) Small Amount and Short Term Insurers ("SASTI")
- c) Proper Insurance Companies

The Unregulated Kyosai of the future will be small enterprises that are extremely unlikely to consider spreading risk through reinsurance either in Japan or indeed overseas. However, the attached Bulletin remains in full force as guidance for Lloyd's underwriters.

SASTI evolve from moderately large Unregulated Kyosai and will be subject to the Insurance Business Law (IBL). Specifically, they are required to seek any reinsurance solutions from insurance and reinsurance companies located and licensed in Japan. By definition this includes Lloyd's Japan Inc. In the event that the local market is unable to respond adequately, in whole or in part, then a case by case application for reinsurance overseas can be filed with the Japanese FSA. However, the simple nature of the insurance products for participating individuals means that official approval would be most unlikely.

Proper Insurance Companies are just that, and relationships with these new entities should be conducted in the same manner as the established Japanese insurers in the territory.

Lastly, the attached Bulletin mentions pre-existing Regulated Kyosai which are regulated by government ministries other than the Japanese FSA. For these organizations there are no changes or concerns.

3.0 Unregulated Kyosai, SASTI and Lloyd's

Effective 1st April 2006 the Japanese FSA have ensured that continuing Unregulated Kyosai fulfil their originally intended function of being small mutual aid societies. Additionally, SASTI (previously moderately large Unregulated Kyosai) have special status and fall under the IBL. Whilst the new rules provide greater clarity than before, commercial and reputational risk still remains for those reinsurers writing Kyosai and SASTI risks without a good understanding of the regulatory requirements and the nature of the enterprises reinsured.

If you have any queries about the above please contact one of the following:

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

The information contained in this market bulletin is provided in order to support managing agents in meeting their commitment ***'to protect Lloyd's licences and authorisations to conduct insurance business in the UK and overseas'***. The information will also help underwriters decide, prior to binding, how a risk can be underwritten in compliance with Lloyd's trading rights in the country concerned.

More detailed information on Lloyd's trading rights may be found on www.lloyds.com/Lloyds_Worldwide. Select the appropriate country from the Lloyd's country guide box and then the Quick Reference Guide. More detailed information may then be obtained for certain countries by selecting 'Manual' from the menu on the left hand side of the screen. You will be asked to input a password. Please contact the Worldwide Market Services (contact details as above) in order to obtain this information.

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Director
Worldwide Markets

*Market Bulletin***LLOYD'S**

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FROM: Director, Worldwide Markets
LOCATION: G12
EXTENSION: 5998
DATE:
REFERENCE:
SUBJECT: UNREGULATED "KYOSAI" IN JAPAN
SUBJECT AREA(S): Advice to the market on the implications of supporting Unregulated "Kyosai"
ATTACHMENTS:
ACTION POINTS: **Brokers and underwriters should obtain suitable written confirmation that the Kyosai in question is regulated in Japan before the business is placed.**
DEADLINE: **Immediate**

1.0 Purpose of Bulletin

This Bulletin provides information on the growth of unregulated 'Kyosai' in Japan and highlights the regulatory and reputational implications for Lloyd's should underwriters wish to accept such "Kyosai" business.

Before Kyosai business is placed, brokers and underwriters should obtain suitable written confirmation that the Kyosai in question is regulated in Japan.

2.0 Background

"Kyosai" are mutual aid societies, formed by persons with a common interest (such as doctors or train drivers) which provide modest benefits (e.g. funeral expenses) from the pooled financial contributions of the membership.

These organisations can either be Regulated or Unregulated. The conventional insurance industry is regulated by the Japanese Financial Services Agency (Japanese FSA). Regulated Kyosai are regulated by government ministries other than the Japanese FSA, but a large number of Kyosai operate totally free of any regulation.

Numerous unregulated Kyosai are marketing their products to the general public and acting in the manner of a conventional insurance company. This is contrary to the established traditional role of Kyosai as small mutual aid organisations devoted solely to serving the interests of their memberships.

Unregulated Kyosai are the subject of increasing media coverage in Japan and are beginning to attract regulatory scrutiny. The Life Insurance Association of Japan undertook an investigation into unregulated Kyosai. The Marine & Fire Insurance Association of Japan is also undertaking an investigation, and the Foreign Insurers Non-Life Insurance Association (FINLIA) is similarly looking into the matter.

3.0 Unregulated Kyosai and Lloyd's

Involvement with unregulated Kyosai raises reputational concerns for the Society of Lloyd's.

Independent legal advice, sought by Lloyd's, indicates that underwriters could, depending on the circumstances, be in breach of the Insurance Business Law of Japan (IBL).

The legal advice indicates that unregulated Kyosai, which solicit business from the general public and also offer products accompanied by substantial benefits, would be in violation of the law, because they lack the authorisation to conduct insurance business under the IBL. (This contrasts with the usual unregulated Kyosai, who are fulfilling the established traditional practice of concentrating on specified persons and offering products which afford only small benefits. These organisations are not in breach of the law, but in any case fall outside the ambit of the IBL.)

The legal advice also suggests that any entity whose business falls outside the ambit of the IBL is not an insurer for the purposes of Japanese Law and as such cannot buy reinsurance. Only conventional insurers (and regulated Kyosai) can buy reinsurance. Thus, any relationship formed by Lloyd's underwriters with these unregulated Kyosai could only be one of direct insurance. The IBL is clear that the only way for direct business to be written for Japanese domestic risks, which require Lloyd's security, is via Lloyd's Japan Inc in Tokyo.

If you have any input or enquiries about the above please contact any of the following:

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We have sent this bulletin to active underwriters and the compliance officers of Lloyd's brokers and managing agents and for information to market associations.

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