

MARKET BULLETIN

REF: Y4036

Title	Italian intermediaries and premium payments
Purpose	To give details of the change of law in Italy and the implications of this
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Date	6 July 2007
Deadline	30 September 2007
Related links	

Italian premium collection

As you may be aware, the implementation into Italian law of the Insurance Mediation Directive ("IMD") has resulted in a change in the way premium payments are regulated.

Payment of Premium to Brokers in Italy

The provision that has been introduced (Article 118 cod. ass. e dall'art.55 del Regolamento Isvap n.5/2006) states that all payments of premium made in good faith by clients to an insurance intermediary are to be deemed made directly to the insurer (and, therefore, bring the insurance policy into effect regardless of whether the intermediary actually transfers the payment to the insurers). This rule, however, is only applicable to insurance intermediaries classified as brokers if they have been expressly authorised by the insurer to collect monies on its behalf. Brokers were required to give written notice to clients of the authorisation they receive to collect the premium as from 1 July 2007.

The situation whereby brokers have authority to accept premium on behalf of underwriters is not a new one in Italy. Prior to the implementation of the IMD, Lloyd's is advised that any payment to the broker would have already been effective as payment to underwriters. This was still an area of uncertainty in Italian law, however, and the procedure has now been formalised through this change in regulation. For Lloyd's, this means that the, Italian producing broker now needs permission in writing from the managing agent to accept premium on behalf of underwriters.

This issue only concerns Lloyd's accredited open market correspondents (OMCs).

For reference, before an intermediary can place Italian insurance business with Lloyd's underwriters via a Lloyd's broker on an open market basis it must be registered by Lloyd's in Italy as an open market correspondent. There are approximately 300 intermediaries (including coverholders) currently registered. Lloyd's Milan carries out checks that the applicant is suitable to act as an open market correspondent, including confirming that the applicant is enrolled in the Italian Intermediaries Register and that it complies with the relevant regulatory requirements.

All Lloyd's open market correspondents are members of the Italian Guarantee Fund. This fund has previously compensated insurers (including Lloyd's underwriters) for cases where the brokers had not passed on premiums collected from insureds.

This change in law will only affect coverholders where either the model binding authority agreement (LMA 3019), or a wording incorporating the equivalent of section 4.1.2, has not been used as this section of the model wording already grants the coverholder authority to collect premium on the underwriter's behalf. Where a binding authority does not include this section of the wording managing agents should consider endorsing the agreement if appropriate. Provided the binding authority agreement incorporates an equivalent clause to section 4.1.2 of LMA 3019, coverholders will not be affected.

Interim Arrangements

Following consultation with the managing agents underwriting the most Italian premium, and the LMA, Lloyd's has written to all Lloyd's accredited open market correspondents in Italy giving them temporary authorisation to accept premium on behalf of thirteen managing agents. One managing agent has undertaken to liaise directly with the OMCs with whom it places business. The temporary authorisation given by Lloyd's on behalf of managing agents is valid only for risks placed until 30 September 2007. If any other managing agents wish to take advantage of the interim general authorisation Lloyd's has given to OMCs you are asked to contact Zoë Kilminster: zoe.kilminster@lloyds.com, (0207 327 5772).

During this period managing agents will need to take the opportunity to assess their relationships with the Italian open market correspondents that they use and any credit control implications they foresee.

The most appropriate long term basis for proceeding will also need to be decided. In this regard, Lloyd's would like to hear from the market with regard to managing agents' preferred basis for proceeding once the interim authorisation expires on 30 September 2007. The most practical option is to have a provision dealing with brokers' authority incorporated into the cooperation agreement between Lloyd's Milan and intermediaries upon their accreditation as open market correspondents. An alternative approach may be for Managing agents to deal with this issue on a case by case basis with each OMC.

If you have any comments or questions on this please provide them to us by Friday 13 July. We will continue to assess the situation and consult with Lloyd's Italy and take legal advice where necessary.

If you have any general queries regarding doing business in Italy, please contact:

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