

MARKET BULLETIN

REF: Y4253

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| Title | Lloyd's Asia and other Overseas Territories: Important Information Regarding Placement & Claims Handling |
| Purpose | To provide managing agents with additional guidance in respect of placing and claims procedures |
| Type | Event |
| From | Rolf Tolle, Director Franchise Performance Director |
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| Related links | Please see below |

Introduction

Further to the issuing of Market Bulletin Y4196 *Lloyd's Asia – Stage I Enhancements; Franchise Standards, Claims Handling & Placement Protocols*, work has continued, in conjunction with the Market and the LMA, to further develop guidance to assist managing agents in the transaction of business overseas, following the recent focus on business sourced from Lloyd's Asia.

It was a condition of the 2009 business plan acceptance that managing agents will operate at or above the minimum published Franchise Standards (for the management of Claims, Risk and Underwriting, including Contract Certainty), in all territories where business is written and whether business is accepted directly or via any form of delegated authority, for the duration of the implementation of the agreed plan.

This bulletin sets out:

- guidance regarding contract certainty in the placement of business in overseas territories, and
- a Statement of Best Practice for the handling of claims in Lloyd's Asia

Guidance regarding contract certainty in the placement of business in overseas territories

The increase in Lloyd's market business being accepted overseas by managing agents' own operations, accelerated by the strategic development of Lloyd's Trading Centres, prompted Lloyd's to make enquiries regarding local placement procedures. During a helpful dialogue with managing agents involved in the Singapore market, local circumstances have been discussed, in the context of addressing Lloyd's Underwriting Standards. While Lloyd's recognises that London placement practices are not necessarily transferable to overseas territories, it was felt appropriate for Lloyd's to clarify expectations, via additional guidance. Also to confirm the resources that are available to assist where risks are being accepted in overseas territories by managing agents, or entities to who they have delegated their underwriting authority.

While this enquiry initially involved Singapore, the guidance that follows is applicable to all overseas territories where business is being accepted, and to business accepted within the UK outside of the Room. Lloyd's intends to add these guidance notes to the Underwriting Standards section on www.lloyds.com so that they are accessible to all concerned.

These guidance notes are not intended to replace or revise the requirements that Lloyd's already places upon managing agents involved in local underwriting carried out by coverholders, or service companies who fall within the definition of coverholders. Lloyd's requirements regarding coverholders can be viewed via the following link:

http://www.lloyds.com/Lloyds_Market/Market_participants/Coverholders/Coverholder+reference+information.htm

Lloyd's overall approach

Lloyd's is seeking to assist managing agents trading in local markets to manage the risks associated with contract certainty within the placing process, thereby ensuring that Lloyd's Underwriting Standards are being addressed. Lloyd's recognises that the way in which each managing agent manages those risks may differ.

Where existing Lloyd's tools/guidance can be used to good effect Lloyd's recommends that as good practice. Where managing agents operate alternative approaches which can be demonstrated to be effective Lloyd's has no concerns.

Managing agents operating in overseas markets are encouraged to adopt Lloyd's subscription business processes where risks are co-insured, to assist in the delivery of contract certainty, and for greater process efficiency for all parties. Lloyd's is not seeking the imposition of all Market Reform Contract (MRC) London market procedures 'across the board'. Lloyd's recognises that consistent placing processes require dialogue with international and indigenous brokers, as well as their continuing support and Lloyd's will actively support overseas markets to this end.

Market feedback regarding potential issues

Managing agents' feedback in late 2008 regarding slips assessed in Singapore, has identified that the following aspects presented issues, mainly where documentation is being developed by local brokers. The notes below are set out by way of example and it is very likely that managing agents in other territories would identify similar issues via their review activity.

Risk & coverage details:

- wording not confirmed or not complete i.e. with all clauses attached or referenced
- jurisdiction not clearly defined
- risk details not completed correctly
- use of TBAs (limited to 7 days and excluding "material information")
- information relating to the risk not always attached
- options not always taken up before inception
- status of warranties/ subjectivities/ conditions not made clear

Claims:

- basis of claims notification and agreement not clear

Taxes:

- unclear or missing tax details

Premiums and accounting details:

- premium or rate not clearly expressed
- absence of 'settlement due date'
- payment terms not clearly defined

Subscription details:

- absence of subscription agreements (risks accepted on coinsurance basis, via email), thereby losing the efficiencies of subscription placements
- absence of LMA3333 (LSW1001 not full alternative)
- slip leader not identified
- no provision for agreement of contract changes

Insurance documentation:

- responsibility for production and despatch of documentation not defined
- insurer-authorized evidence of cover not specified

Slip references:

- absence of UMR
- MRC headings missing

As can be seen a number of these aspects represent significant risks for the managing agent. Other aspects, for example UMR and coding, may be more about the ability to process and record although still important to the parties involved. The existing guidance notes regarding Pre-Bind Quality Assurance (accessible via the Underwriting Standards section in lloyds.com) set out the approach expected of the market i.e. that each managing agent will have their own procedures in place for the assessment of contracts, based upon their own consideration of exposure to risk.

Available tools/ information

When considering their required procedures, Lloyd's strongly suggests to managing agents that they consider the following sources of assistance regarding placement activity, accessible anywhere in the world via www.loyds.com or via the Market Reform website where noted. Below are examples which while developed within London may provide managing agents with potential solutions for their business written overseas:

- Contract Certainty principles and guidance notes, all via www.marketreform.co.uk
- Guidance notes regarding the management of underwriting embedded within Lloyd's Underwriting Standards (as well as information regarding Lloyd's Claims and Risk Standards). In particular the suggested approach to the management of pre-bind quality assurance is addressed under Underwriting Controls, underlining the risk-based approach expected of all managing agents, and endorsed by a market working group. Available via the following url:

http://www.loyds.com/Lloyds_Market/Performance_management_framework/Franchise_Standards/
- The Market Reform Contract (MRC) template and guidance documents addressing open market, lineslips and delegated authority business. There is no requirement to use either the generic template or extensive guidance on slip content, although it should be noted that these were developed by market practitioners, largely to satisfy the need for contract certainty. Available via www.marketreform.co.uk
- Sample slip content. Recognising the wish of Lloyd's operations in overseas markets to adopt subscription market procedures, where these are appropriate, generic subscription slip content, using the MRC template, can be accessed under the 'Placing' section of www.marketreform.co.uk. Apart from subscription elements, this example shows good general practice regarding the content of all slips.
- The Lloyd's Wordings Repository (of model clauses & wordings) – a readily available source of model wordings and a home for managing agents who want to retain their own wordings safely and securely, with international access via loyds.com
- Lloyd's QA tools checks – a source of checks against which slips can be reviewed, as well as access to Wordsensa QA a software package for all managing agents which will run the checks and supply slip assessment reports. The majority of managing agents in London have arranged licenses for the use of Wordsensa QA.
- Crystal database for extensive Lloyd's tax and regulatory information held at country level, available via loyds.com

Additionally, managing agents have developed a range of their own tools to support the attainment of quality in insurance contracts. By way of example, Lloyd's is aware of structured training regarding required slip content, summary sheets of slip content priorities for underwriters (structured around slip sections and highlighting mandatory content), peer and independent reviews of slip quality achieved, as well as underwriting team briefings and the use of external checking service providers.

Areas where overseas practices may differ

Lloyd's recognises that there are differences between procedures operated in the Room and in overseas territories which will need to be reflected within slips. A number of these are highlighted below:

- Claims agreement and settlement procedures: Market Bulletin Y4196 acknowledged that certain London procedures regarding claims do not operate in overseas territories and that revised arrangements will be required.
- Coding: managing agents will need to have regard to the inclusion of relevant coding needed for Lloyd's processing, followers and the completion of bordereaux returns. UMRs on subscription risks and would assist co-insurers in the management of their portfolios.
- Bureau services: there should be no reference to XIS/ XCS or any bureau services in slips within territories where these services are not applicable.
- Settlement Due Dates: where bureau services are not operating, it should be clear that SDDs specify the requirements of the insurers concerned.
- Insurers' evidence of cover: it is recognised that London market agreement on what constitutes an insurer's evidence of cover (in brief, the slip, Lloyd's policy or agreed certificate under a master policy) will need additional consideration within overseas territories. It is expected that there will be clear and written agreement as to what will be issued to the Insured and whether the insurer regards that as its evidence of cover.
- local tax & regulatory requirements: Lloyd's supplies extensive tax and regulatory information, by territory, within Crystal - www.loyds.com/crystal managing agents will need to monitor requirements in the territories where they operate and are encouraged to liaise with Lloyd's local managers regarding any issues or concerns

Lloyd's oversight of contract standards in overseas territories

It is expected that all managing agents will be monitoring the standard of contracts being entered into where risks are being accepted in overseas territories by syndicates, or entities to whom they have delegated their authority. It can be expected that Lloyd's will, in the first instance, make requests to the managing agent's risk and compliance team for evidence of the extent to which slips meet contract certainty and the managing agent's own risk-based procedures. Thereafter, specific enquiries may be made within overseas territories, working with the managing agent's leadership team.

Statement of Best Practice for the handling of claims in Lloyd's Asia

Appendix I – *Lloyd's Asia: Statement of Best Practice for the Handling of Claims*, is a statement of best practice for the handling of claims arising from co-insurance business written in Lloyd's Asia. It has been developed following consultation with the market and in accordance with the following key principles:

- minimal expansion of existing regulatory and performance framework
- minimal imposition of front-loaded costs
- minimal deterrent to new business opportunities with local brokers

The Lloyd's 2006 Claims Scheme ("Claims Scheme") identifies the framework for determining subscription claims in the Lloyd's market. On the basis that the local infrastructure for claims management in Lloyd's Asia does not support the operation of the Claims Scheme, bulletin Y4196 issued on 15 October 2008, expressly exempted claims arising from business placed in Lloyd's Asia

from the Claims Scheme. Where the same business is placed both in Lloyd's London and Lloyd's Asia, the Claims Scheme will apply to the Lloyd's London market but not Lloyd's Asia. The bulletin also required managing agents to

- adopt a claims process which protects the interests of other co-insuring managing agents
- use their best endeavours to communicate with each other in relation to each claim notified

Lloyd's Claims Management Principle 8 also requires "for subscription business... an effective claims agreement process to protect the interests of followers, supported by full co-operation of lead underwriters".

Purpose of the Statement

The purpose of the Statement is to identify, in the absence of the Claims Scheme, best practice for the handling of Lloyd's co-insurance claims that will:

- enable Lloyd's to respond promptly to claims advices and queries
- avoid unnecessary duplication of claims costs to the Lloyd's market
- protect the Lloyd's brand
- establish sufficient controls over the quality of Lloyd's claims handling and reporting activities

Implementation of best practice

This Statement of Best Practice is intended to facilitate effective communication between Lloyd's co-insurers. Lloyd's expects managing agents to apply this Best Practice as far as practicable, subject to the key principles set out above.

In order to assist managing agents in applying the best practice, a suggested policy wording is included at Appendix II – *Lloyd's Asia, Claims Clause*. Over the forthcoming months Lloyd's will be assessing the extent to which the best practice has been applied and any issues faced in doing so. Managing agents will be expected to monitor the application and impact of the best practice on its claims management performance on an ongoing basis, and to share their findings with Lloyd's. Summary findings will be fed back to managing agents and taken into account in the future developments of Lloyd's claims processes.

Appendix I - Lloyd's Asia: Statement of Best Practice for the Handling of Claims

Scope of the statement

1. This statement of best practice applies to each *managing agent* and its *Lloyd's Asia service company* for the *determination* of every claim notified under an *insurance* underwritten by *Lloyd's Asia co-insurers*.

Policy terms

2. *Lloyd's Asia co-insurers* shall take steps to identify the claims lead at the time of placement. The suggested wording at Appendix II includes a provision for the identification of such a lead.

Receipt of claim

3. Upon receiving notification of any claim *Lloyd's Asia service company* shall take reasonable steps to identify any *Lloyd's Asia co-insurers*. Where appropriate, and where not clear from the relevant slips(s), the *Lloyd's Asia co-insurers* shall agree which is to act as *Lloyd's Asia Claims Lead*. If appropriate, the broker should be requested to facilitate this process.

Claims handling

4. Each *Lloyd's Asia co-insurer* will agree its own share of claims notified.
5. Where there is a *Lloyd's Asia Claims Lead*, *Lloyd's Asia co-insurers* shall have regard to the decisions of that *Lloyd's Asia Claims Lead* before communicating their own position to the broker or policyholder. The decisions of the *Lloyd's Asia Claims Lead* in relation to policy response and reserving should be documented and made available promptly to *Lloyd's Asia co-insurers* upon request.
6. Where there is no *Lloyd's Asia Claims Lead* but there is a non-Lloyd's claims lead, Lloyd's Asia co-insurers shall use their best endeavours to determine the position of the other Lloyd's Asia co-insurers before communicating their own position to the broker.
7. If the *Lloyd's Asia co-insurers* disagree over the *determination* of a claim they shall seek promptly to consult with each other to resolve that disagreement.
8. Where a *Lloyd's Asia co-insurer* delegates the *determination* of a claim to another party the terms of delegation should be documented properly and the contact details of the third party should be notified to the other *Lloyd's Asia co-insurers* and any relevant broker. In the event of such delegation this best practice statement applies to the third party acting on behalf of the *Lloyd's Asia service company*.
9. Where *insurance* is written by one or more *Lloyd's Asia service company* and additional managing agents operating in London, the *Lloyd's Asia service company(s)* will use best endeavours to co-ordinate and collaborate with the London Lloyd's claims lead to try to reach a unified position.

10. Each *managing agent* and *Lloyd's Asia service company* shall act in accordance with Lloyd's Claims Management Principles.

Professional advisers and reports

11. Where there is a *Lloyd's Asia Claims Lead* and the *Lloyd's Asia Claims Lead* deems it is appropriate to appoint a *professional adviser*, the *Lloyd's Asia Claims Lead* will ensure that a professional adviser is instructed. The instructions will be appropriately documented and will:
- (a) identify on whose behalf the instructions are given and who is responsible for paying any fees incurred;
 - (b) be copied to each *Lloyd's Asia co-insurer* if known, via the broker if appropriate;
 - (c) require all reports to be sent to each *Lloyd's Asia co-insurer* if known, via the broker if appropriate.

Definitions

In this Statement:

"determination / determine" means all claims handling activities necessary in order to (i) accept or deny a *Lloyd's Asia co-insurance* 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;

"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;

"managing agent" shall have the meaning given to it in the Definitions Byelaw;

"Lloyd's Asia co-insurance claim" shall be means a claim arising from an insurance underwritten by Lloyd's Asia co-insurers;

"Lloyd's Asia co-insurers" means any two or more syndicates underwriting an insurance through a Lloyd's Asia service company coverholder through the same broker on either the same contract or on different contracts within the same layer of coverage on substantially the same terms;

"Lloyd's Asia Claims Lead" shall be the Lloyd's Asia co-insurer identified in the slip(s) or agreed by all Lloyd's Asia co-insurers;

"Lloyd's Asia service company" means *service company coverholder* located in Singapore;

"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;

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

"service company coverholder" shall have the meaning given to it in the Definitions Byelaw;

"syndicate" shall have the meaning given to it in the Definitions Byelaw.

Appendix II - Lloyd's Asia Claims Clause (in support of Lloyd's Asia: Statement of Best Practice for the Handling of Claims)

Each insurer to agree claims own share

Claims Lead:

(to be agreed prior to inception)

Claims notification party:

(insert contact details of claims contact at syndicate)

Broker agrees:

- to notify all insurers of a claim within 3 days of notifying Claims Lead
- to provide all adjuster reports to all insurers within 7 days of receipt
- to advise all insurers of Claims Lead's comments on adjuster reports and reserve with calculations within 7 days of being informed of the same
- to provide to all insurers the Claims Lead's written agreement to settle the claim and/or fees/expenses or their declination of the claim within 3 days of receipt of the same
- to provide to all insurers the names of each other insurer subscribing to the risk (and the claims contact details)

Approved surveyors/adjuster: