

# MARKET BULLETIN

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<b>Title</b>	2010 Pilot Scheme for Claims
<b>Purpose</b>	2010 Pilot Scheme for claims (as incorporated into the Lloyd's 2006 Claims Scheme)
<b>Type</b>	
<b>From</b>	Rolf Tolle, Franchise Performance Director Franchise Performance
<b>Date</b>	30 November 2009
<b>Deadline</b>	
<b>Related links</b>	Lloyd's 2006 Claims Scheme (as amended) and 2010 Pilot Process Guidelines

## ***Introduction***

This Bulletin attaches the amended Lloyd's 2006 Claims Scheme made by the Franchise Board under the Underwriting Byelaw, which incorporates at Annex 1 the 2010 Pilot Scheme. This Bulletin also attaches the 2010 Pilot Process Guidelines ("the Guidelines").

The 2010 Pilot Scheme applies to claims made on certain contracts of insurance or reinsurance inception on or after 1 January 2010. The Guidelines provide an explanation of the process by which the underwriters will operate the 2010 Pilot Scheme and **do not form part of the 2010 Pilot Scheme**.

## ***Background***

In the last twelve months a Lloyd's market steering group developed a long term vision of how claims should be managed in the market. The vision was developed following extensive consultation with the Lloyd's managing agent and broking communities, associations and service providers. The vision was endorsed by the Franchise Board with support from the LMA Board and the MRG / LMG. The Claims Implementation Board, reporting to the Franchise Board, was set up to oversee implementation of the vision through the Claims Transformation Programme.

The 2010 Pilot Scheme incorporates a new claims agreement framework which has been designed to support the vision and will be piloted from 1 January 2010. The 2010 Pilot Scheme and Guidelines

take into account issues that were identified during extensive consultation with the market and advice of US counsel.

### **Key Features of the 2010 Pilot Scheme**

**1. Scope** – the 2010 Pilot Scheme will apply to claims on all insurance and reinsurance contracts allocated to specified risk codes (refer to Annex 1 to the 2010 Pilot Scheme). The 2010 Pilot Scheme will only apply to claims notified via ECF and does not apply to claims notified from contracts under binding authorities or singletons.

**2. Claims handling and agreement parties** –The pilot introduces:

- single party claims agreement for the majority of high volume, low value claims
- lead plus second claims agreement in high value or complex claims
- choice for managing agents to either in-source or outsource their role as second claims agreement party
- a mechanism to allow followers to participate more effectively in high value or complex claims by requesting a market meeting if 50% or more of Lloyd's participation wish to do so.

### **Implementation of the Lloyd's 2006 Claims Scheme and 2010 Pilot Scheme from 1 January 2010**

Brokers should use the following language in all slips or contracts of insurance or reinsurance incepting on or after 1<sup>st</sup> January 2010:

#### ***"Basis of Claims Agreement:***

*In accordance with the Lloyd's 2006 Claims Scheme or as amended*

#### **Claims Agreement Parties:**

*In respect of the Lloyd's 2006 Claims Scheme: The Leading Lloyd's Underwriter and XCS for the following Lloyd's syndicates.*

*In respect of the 2010 Pilot Scheme: The Leading Lloyd's Underwriter only for Category 3 claims. The Leading Lloyd's Underwriter and the Second Lloyd's Underwriter for Category 1 and 2 claims."*

All slips should, as soon as practicable, identify which managing agent(s) will fulfil the claims agreement party roles as set out above.

Since the amended Scheme overrides the slip or policy, for the time being Lloyd's underwriters and Xchanging are not required to reject slips or policies which are in error referring to the wrong scheme or agreement parties. Lloyd's expects the broker and the managing agents to have completed the slip to properly reflect their intention to follow the terms of the Claims Scheme. In the event that there is inconsistency between the slip and the Scheme, the Scheme should prevail. However, in the event that the broker wishes to endorse the contract (to correct the "basis of claims agreement" or "claims agreement parties" headings), Lloyd's will require the managing agents in question to agree

that endorsement to ensure that contracts which should be subject to the 2010 Pilot Scheme are determined in accordance with that Scheme.

***Queries***

If you have any questions about the implementation of the 2010 Pilot Scheme please do not hesitate to contact the project team at: [ClaimsTransformationProject@lloyds.com](mailto:ClaimsTransformationProject@lloyds.com) or 0207 327 5900.

## Lloyd's 2006 Claims Scheme

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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.

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*;
  - (f) *exempt satellite risk claims*; or
  - (g) *2010 pilot claims* which shall be determined in accordance with the principles and arrangements set out in the *2010 pilot scheme* attached at annex 1.
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 –
  - (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*;

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<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*

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

- (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*.

#### 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*.

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

<sup>6</sup> the *second 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.

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.

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

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

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

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

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
  - (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

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In this scheme,

“*2010 Pilot Scheme*” means the claims scheme set out at annex 1;

“*2010 pilot claim*” means a claim made on an *insurance* underwritten by two or more *syndicates* on or after 1 January 2010 of a risk to which one of the codes set out in schedule 1 to the *2010 Pilot Scheme* applies;

“*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 (other than before an ombudsman) or other contested proceeding relating to a *scheme claim* or a *2010 pilot 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 syndicate*;

“*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 and, for the purpose of this *2010 pilot scheme* only, shall also include any broker through whom a managing agent accepts business under paragraph 27 of the Underwriting 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, or in the relevant section of the slip, as the *second Lloyd’s syndicate*;

“*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, or in the relevant section of 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

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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

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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**

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*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, Ship repairers 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. Ship-owners Liability to Cargo (but not cargo's liability);
- s. Stevedores Liability;
- t. Warehouse Owners Liability to goods; and
- u. Wharfinger Liability.

## ANNEX 1

### 2010 Pilot Scheme

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This Lloyd's *2010 Pilot Scheme* has been made by *the Franchise Board* under paragraph 12 of the Underwriting Byelaw. The *Franchise Board* will keep the operation of the *2010 Pilot Scheme* under review and may revise it from time to time following consultation.

Words and terms shown in italics have the meaning set out in schedule 1 to the Lloyd's 2006 Claims Scheme.

#### Scope of the *2010 Pilot Scheme*

1. The *Franchise Board* requires every *managing agent* to comply with and implement the following principles and arrangements set out in the *2010 Pilot Scheme* for the *determination* of every *2010 pilot claim*.

#### Receipt of a *2010 pilot claim*

2. Upon receiving notification of a *2010 pilot claim*, the *managing agent* of the *leading Lloyd's syndicate* will confirm that it has been properly identified as the *leading Lloyd's syndicate* in respect of the *insurance* to which the *2010 pilot claim* has been submitted and, if so, shall –
  - (a) acknowledge receipt of the *2010 pilot claim* to the insured or its agent;
  - (b) where there are other Lloyd's slips within the same layer which are written on substantially the same terms through the same *Lloyd's broker*, use its best endeavours to agree with the *managing agents* of the other Lloyd's *syndicates* which *syndicate*, if any, will coordinate and act as the *leading Lloyd's syndicate* for that layer and, in respect of any *category 1 claim* and *category 2 claim* (as defined in subparagraph (d) below) which *syndicate*, if any, will coordinate and act as the *second Lloyd's syndicate*; and
  - (c) review any *2010 pilot claim* information presented with the notification and if not provided, request: (i) appropriate evidence of the *insurance* under which notification was submitted; and (ii) such preliminary *2010 pilot claim* information as appears reasonably necessary to take the next step and commence *determination* of the *2010 pilot claim*;

- (d) assess and decide, based on the information currently in hand and solely for assignment purposes whether:
- (i) the amount potentially claimed by the insured from the *leading Lloyd's syndicate* and the *following Lloyd's syndicates* is more than £5,000,000 or is currently subject to *dispute resolution proceedings* (a "*category 1 claim*");
  - (ii) the amount potentially claimed by the insured from the *leading Lloyd's syndicates* and the *following Lloyd's syndicates* is between £100,000 and £5,000,000 (a "*category 2 claim*"); or
  - (iii) the amount potentially claimed by the insured from the *leading Lloyd's syndicate* and the *following Lloyd's syndicates* is less than £100,000 (a "*category 3 claim*");

provided, however, that the *managing agent* of the *leading Lloyd's syndicate* initially may assign a *2010 pilot claim* to another category if it reasonably considers that this assignment would be appropriate in all of the circumstances having due regard to such guidance as Lloyd's may from time to time prescribe;

- (e) in respect of a *category 1 claim* or *category 2 claim*, will take appropriate steps to inform the *managing agent* of the *second Lloyd's syndicate* of the receipt of the *2010 pilot claim* and provide the claims information which it has received; and
- (f) take appropriate steps to inform the *managing agents* of the *following Lloyd's syndicates* of the receipt of the *2010 pilot claim*.

#### Reassignment of *2010 pilot claims*

- 3 The *managing agent* of the *leading Lloyd's syndicate* may reassign a *category 3 claim* to a lower-numbered category at any time if he reasonably considers that it would be appropriate in all of the circumstances having regard to such guidance as Lloyd's may from time to time prescribe.
- 4 The *managing agents* of the *leading Lloyd's syndicate* and the *second Lloyd's syndicate* may together reassign to a different category a *category 1 claim* or a *category 2 claim* at any time if they reasonably consider that it would be appropriate in all of the circumstances having regard to such guidance as Lloyd's may from time to time prescribe.

#### Claims determination – *category 3 claims*

- 5. A *category 3 claim* shall be *determined* by the *managing agent* of the *leading Lloyd's syndicate* on behalf of the *leading Lloyd's syndicate* and each of the *following Lloyd's syndicates*. Subject to paragraphs 27 to 32, in *determining* a

*2010 pilot claim on behalf of the members of the following Lloyd's syndicates (including where the managing agent has delegated the determination of a 2010 pilot claim under paragraph 10 of this 2010 Pilot Scheme), the managing agent of the leading Lloyd's syndicate, shall exercise the reasonable care of a reasonably competent managing agent.*

*Claims determination – category 1 claims and category 2 claims*

6. *A category 1 claim or a category 2 claim shall be determined by the managing agent of the leading Lloyd's syndicate in agreement with the managing agent of the second Lloyd's syndicate.*
7. *In the determination of a category 1 claim or category 2 claim, (i) the managing agent of the leading Lloyd's syndicate shall act on behalf of the leading Lloyd's syndicate and the following Lloyd's syndicates (other than the second Lloyd's syndicate), and (ii) the managing agent of the second Lloyd's syndicate shall act on behalf of the second Lloyd's syndicate and the following Lloyd's syndicates. Subject to paragraphs 27 to 32, in determining a 2010 pilot claim on behalf of the members of the following Lloyd's syndicates (including where the managing agent has delegated the determination of a 2010 pilot claim under paragraph 10 of this 2010 Pilot Scheme), the managing agents of the leading Lloyd's syndicate and the second Lloyd's syndicate shall exercise the reasonable care of a reasonably competent managing agent.*

*Claims determination – general*

8. *Every managing agent shall act in accordance with Lloyd's Claims Management Principles.*
9. *Where a managing agent is required to act on behalf of a following Lloyd's syndicate under the terms of the 2010 pilot scheme (whether as the managing agent of the leading Lloyd's syndicate or of the second Lloyd's syndicate), then it must act in the best interest of all syndicates on whose behalf it acts. If the managing agent concludes that it cannot do so, then it must notify the managing agents of the Lloyd's syndicates underwriting the insurance and the managing agent of the next following Lloyd's syndicate in slip order shall take its place for the purposes of this 2010 pilot scheme (and the assignment of leading Lloyd's syndicate, second Lloyd's syndicate and following Lloyd's syndicate shall be adjusted accordingly and as necessary).*
10. *The managing agent of the leading Lloyd's syndicate may delegate its determination of a 2010 pilot claim to another person, provided that the delegation is properly documented and notified to the managing agents of the following Lloyd's syndicates and any relevant Lloyd's broker. In the case of*

*category 1 claims and category 2 claims, the managing agent of the second Lloyd's syndicate may only delegate its determination of a 2010 pilot claim to Xchanging Claims Services Limited (except where it has delegated to another person the determination of claims where it acts as a managing agent of a leading Lloyd's syndicate, in which case the managing agent may delegate to that person) provided that the delegation is properly documented and notified to the managing agents of the following Lloyd's syndicates and any relevant Lloyd's broker.*

#### Professional advisers and reports

11. In respect of a *category 3 claim*, where necessary a *professional adviser* may be appointed and instructed by the *managing agent* of the *leading Lloyd's syndicate*.
12. In respect of a *category 1 claim* or a *category 2 claim*, where necessary a *professional adviser* may be appointed by the *managing agent* of the *leading Lloyd's syndicate*. The *managing agent* of the *leading Lloyd's syndicate* will give reasonable prior notice of a proposed appointment to the *managing agent* of the *second Lloyd's syndicate* which may question or object to the proposed appointment, provided it has reasonable grounds for doing so. However, the *managing agent* of the *leading Lloyd's syndicate* may instruct a *professional adviser* on behalf of the *following Lloyd's syndicates* without giving prior notice to the *managing agent* of the *second Lloyd's syndicate* in the following circumstances –
  - (a) in the considered judgment of the *managing agent* of the *leading Lloyd's syndicate*, the appointment of the *professional adviser* is essential to protect the position of the *syndicates*; and
  - (b) the *managing agent* of the *leading Lloyd's syndicate* has been unable to contact the *managing agent* of the *second Lloyd's syndicate* notwithstanding having used its best endeavours.
13. When a *professional adviser* is appointed in accordance with paragraphs 11 and 12 he or she shall be provided with –
  - (a) the identity of the *managing agent* which manages each of the *Lloyd's syndicates* underwriting the *insurance*;
  - (b) evidence of the *insurance*; and
  - (c) references which identify the *2010 pilot claim*.
14. A *professional adviser* appointed in connection with a *category 1 claim* or *category 2 claim* shall be instructed to send all reports to the *managing agents* of the *leading Lloyd's syndicate* and the *second Lloyd's syndicate*, and the *managing agent* of the *leading Lloyd's syndicate* shall make them available to the *following Lloyd's syndicates*. The *professional adviser's* fees shall be

agreed by the *managing agents* of the *leading Lloyd's syndicate* and the *second Lloyd's syndicate*.

15. A *professional adviser* appointed in connection with a *category 3 claim* shall be instructed to send all reports to the *managing agent* of the *leading Lloyd's syndicate*. The *professional adviser's* fees shall be agreed by the *managing agent* of the *leading Lloyd's syndicate*.

Brokers may show

16. Without prejudice to any other provision of the *2010 pilot scheme*, where a *Lloyd's broker* has been directed by the insured to show its *2010 pilot claim* to the *managing agents* of the *Lloyd's syndicates* which underwrote the *insurance*, the *Lloyd's broker* may show the *2010 pilot claim* to each *Lloyd's syndicate*.

Matters requiring referral to all *managing agents* of following Lloyd's syndicates

17. The *managing agents* of the *leading Lloyd's syndicate* and the *second Lloyd's syndicate* shall not agree on behalf of any *following Lloyd's syndicates* 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 *managing agents* of the *following Lloyd's syndicates* for agreement.

Provision of information to *following Lloyd's syndicates*

18. In respect of *category 3 claims* the *managing agent* of the *leading Lloyd's syndicate* shall notify the *following Lloyd's syndicates* of the following matters or events as soon as practicable –
  - (a) any recommended reserve or reserves for the *2010 pilot claim*;
  - (b) any revision to the recommended reserve or reserves;
  - (c) any commencement of *dispute resolution proceedings* relating to a *2010 pilot claim* and the *managing agent* of the *leading Lloyd's syndicate* shall make available to the *managing agents* of the *following Lloyd's syndicates* documents relating to the *dispute resolution proceedings*; and
  - (d) where the *leading Lloyd's underwriter* has delegated the *determination* of a *2010 pilot claim* to another person under paragraph 10 of the *2010 pilot scheme*, the identity of that person.

A *managing agent* of a *following Lloyd's syndicate* may request the *managing agent* of the *leading Lloyd's syndicate* to provide such further information as the *managing agent* of the *following Lloyd's syndicate* may reasonably require.

19. In respect of *category 1 claims* and *category 2 claims* the *managing agent* of the *leading Lloyd's syndicate* and the *managing agent* of the *second Lloyd's syndicate* shall notify the *managing agents* of the *following Lloyd's syndicates* of the following matters or events as soon as practicable –
- (a) any recommended reserve or reserves for a *2010 pilot claim*;
  - (b) any revision to the recommended reserve or reserves;
  - (c) any commencement of *dispute resolution proceedings* relating to a *2010 pilot claim* and make available to the *managing agents* of the *following Lloyd's syndicates* documents relating to the *dispute resolution proceedings*; and
  - (d) where either of the *managing agents* of the *leading Lloyd's syndicate* or the *second Lloyd's syndicate* has delegated the *determination* of a *2010 pilot claim* to another person under paragraph 10 of the *2010 pilot scheme*, the identity of that person.

A *managing agent* of a *following Lloyd's syndicate* may request either of the *managing agents* of the *leading Lloyd's syndicate* and *second Lloyd's syndicate* to provide such further information as the *managing agent* of the *following Lloyd's syndicate* may reasonably require.

Resolution of disagreements between the *managing agents* of the *leading Lloyd's syndicate* and the *second Lloyd's syndicate*

20. In respect of *category 1 claims* and *category 2 claims* if the *managing agents* of the *leading Lloyd's syndicate* and the *second Lloyd's syndicate* disagree on the *determination* of a *2010 pilot claim* they will confer and use best endeavours to resolve that difference and proceed with agreed next steps. If any disagreement remains unresolved, in respect of *category 2 claims* the *managing agents* shall consult with the *managing agents* of the *following Lloyd's syndicates* in order to agree on a way in which to proceed. In respect of *category 1 claims* the *managing agents* shall follow the procedures set out in paragraphs 21 and 22.
21. The *managing agent* of the *leading Lloyd's syndicate* shall convene a meeting (a "*market meeting*") to which all *following Lloyd's syndicates* shall be invited if:
- (a) the *leading Lloyd's syndicate* and the *second Lloyd's syndicate* are unable to resolve a difference under paragraph 20 or;

- (b) the *managing agent(s)* of one or more *following Lloyd's syndicates* so requests at any time, provided that those *following Lloyd's syndicates* have underwritten in the aggregate at least 50% of the *insurance* (excluding any share of the *insurance* underwritten by a non-Lloyd's insurer).
22. The following procedures will apply to a *market meeting* –
- (a) the *managing agent* of the *leading Lloyd's syndicate* sets a reasonable time and location for the *market meeting* and invites the *managing agents* of all *following Lloyd's syndicates*;
  - (b) the *managing agents* of the *leading Lloyd's syndicate* and the *second Lloyd's syndicate* shall confirm that the relevant information required for the meeting is available to those invited in good time in advance of the meeting;
  - (c) the meeting is chaired by a senior representative of the *managing agent* of the *leading Lloyd's syndicate* or someone nominated by him or her and that person facilitates a fair and open discussion of the matter; and
  - (d) the attendees use their best endeavours to reach a consensus and agree the next steps in the *determination* of the *2010 pilot claim*.

#### Processing of claims payments

23. Those involved in the *determination* of a *2010 pilot claim* shall ensure that all supporting information has been properly documented prior to payment of the *2010 pilot claim* being authorised.
24. Where, with the knowledge of the relevant *Lloyd's broker*, a *2010 pilot claim* is to be paid directly to the insured, the *managing agent* of the *leading Lloyd's syndicate* shall make reasonable efforts to advise the relevant *Lloyd's broker* prior to the *2010 pilot claim* being paid.

#### Legal Dispute Resolution Procedures

25. Before a *managing agent* of a *syndicate* that underwrote an *insurance* can bring a legal claim against the *managing agent* of another *syndicate* in relation to the *determination* of a *2010 pilot claim* it must attempt to resolve the dispute as follows:
- (a) The *managing agent* shall notify the other *following Lloyd's syndicates* which underwrote the *insurance* to which the *2010 pilot claim* relates that it is commencing the dispute resolution procedure prescribed in this paragraph 25.

- (b) The dispute shall first be referred to senior representatives of the *managing agents* in dispute who shall meet in a good faith effort to resolve the dispute. If resolution is not achieved within 14 days from the date the dispute was referred to these individuals, the matter shall be escalated to a board member responsible for claims of each *managing agent* who shall attempt to resolve the matter.
  - (c) If any dispute referred to in sub-paragraph (a) above has not been resolved within 21 days from the date upon which the matter is referred to the board members, then the parties shall enter into an agreement to mediate in such form as may be prescribed by Lloyd's from time to time and shall promptly notify Lloyd's of this action.
  - (d) If the resulting mediation fails to resolve the dispute, then the dispute shall be settled by arbitration in accordance with arbitration rules as may be prescribed by Lloyd's from time to time, provided always that the decision to commence an arbitration must be taken by the board of the *managing agent* in question, the board having concluded that the other parties to the arbitration have, in their view, –
    - (i) failed to meet the appropriate claims handling standards prevailing in the Lloyd's market at the time in question; and
    - (ii) that failure has given rise to serious adverse consequences for the *managing agent* commencing the arbitration.
26. The Council of Lloyd's may give directions as necessary to ensure that *managing agents* comply with paragraph 25.

#### Limits of liability

27. *Managing agents* and all members are deemed to have agreed to and to be bound by the limits of liability set out in paragraphs 28 - 32 by their participation in the *2010 pilot scheme*, regardless of any expression to the contrary.
28. The total liability, whether in contract, in tort (including but not limited to negligence), breach of fiduciary duty, breach of statutory duty or otherwise, of:
- (i) a *managing agent* of a *leading Lloyd's syndicate*; or
  - (ii) in respect of a *category 1* or *category 2 claim*, a *managing agent* of a *second Lloyd's syndicate*

to all members of *following Lloyd's syndicates* in aggregate on whose behalf the *managing agents* in (i) or (ii) have acted or are acting under the *2010 pilot scheme* shall not exceed –

- (a) £2,000,000 in respect of any one *2010 pilot claim*; and
- (b) £10,000,000 in respect of all *2010 pilot claims* made in any one calendar year.

- 29. If the aggregate liability of a *managing agent* to the members of *following Lloyd's syndicates* in respect of any one *2010 pilot claim* would, but for the limit of liability in paragraph 28(a), exceed that limit of liability, the members of the *following Lloyd's syndicates* shall be entitled to be paid only a share of the limit of liability calculated in proportion to each member's share of each *following Lloyd's syndicate's* share of the *insurance* to which the *2010 pilot claim* relates.
- 30. In the event that it appears to Lloyd's that a *managing agent's* liability to members of *following Lloyd's syndicates* in respect of *2010 pilot claims* made in any one calendar year may in the opinion of Lloyd's exceed the limit of liability set out in paragraph 28(b), the Council of Lloyd's shall prescribe requirements for the basis on which the limit of liability shall be shared between the members of relevant *following Lloyd's syndicates*.
- 31. A *managing agent* of a *leading Lloyd's syndicate* and a *managing agent* of a *second Lloyd's syndicate*, in acting on behalf of members of a *following Lloyd's syndicate* under this *2010 pilot scheme*, shall not be liable for loss of profits, loss of business, loss of use or any indirect, special, or consequential damages alleged to have been suffered by a member of a *following Lloyd's syndicate*.
- 32. The limits of liability and procedures set out in paragraphs 28 - 31 shall not apply in respect of death or personal injury caused by the negligence of a *managing agent of a leading Lloyd's syndicate* or a *second Lloyd's syndicate* while acting on behalf of *following Lloyd's syndicates* under the *2010 pilot scheme* or as otherwise prohibited by law.

#### Commencement

- 33. This Scheme shall come into force on 1 January 2010.

Annex 1, Schedule 1  
**Risk Codes in 2010 claims pilot**

<b>Class</b>	<b>Risk Code</b>	<b>Risk Code Description</b>
Casualty Treaty	<b>XF</b>	NM LIABILITY EXCESS OF LOSS IN USA
Casualty Treaty	<b>XG</b>	NM LIABILITY EXCESS OF LOSS EXCL USA
Casualty Treaty	<b>XM</b>	MOTOR WHOLE ACCOUNT EXCESS OF LOSS
Marine	<b>B</b>	VSSLS SHIPBLDG ACV LOH AND CONTAINERS TLO EXCL WRO
Marine	<b>G</b>	MARINE LEGAL LIAB ALL OTHER NO CARGO EXCL WRO
Marine	<b>GC</b>	MARINE LEGAL LIAB CLAIMS MADE NO CARGO EXCL WRO
Marine	<b>GX</b>	XOL MARINE LEGAL LIAB EXCL CARGO ALL OTHER EXCL WRO
Marine	<b>O</b>	YACHTS INCL WAR EXCL WRO
Marine	<b>SR</b>	AGG STOP LOSS AND XOL MARINE OUTWARD WHOLE ACCOUNT
Marine	<b>T</b>	VESSELS EXCL SHIPBLDG ACV LOH AND CONTAINERS EXCL WRO
Marine	<b>TS</b>	SHIPBUILDING EXCL ENERGY CONSTRUCTION
Marine	<b>TX</b>	XOL VESSELS SHIPBLDG ACV LOH INCL WAR EXCL WRO - From 01/01/05 also includes business previously coded "OX"
Marine	<b>W</b>	VESSELS WAR AND OR CONFISCATION EXCL BREACH VOYAGES
Marine	<b>WB</b>	VESSELS HULL WAR BREACH VOYAGES ONLY
Property (D&F)	<b>3T</b>	OVERSEAS LEG TERRORISM MARINE
Property (D&F)	<b>6T</b>	OVERSEAS LEG TERRORISM PROPERTY
Property (D&F)	<b>AG</b>	AGRICULTURAL CROP AND FORESTRY
Property (D&F)	<b>BD</b>	TERRORISM POOL RE
Property (D&F)	<b>CA</b>	ENGINEERING INCL MCHY AND BOILERS CAR AND ENG AR
Property (D&F)	<b>DC</b>	DIFFERENCE IN CONDITIONS
Property (D&F)	<b>HA</b>	HAIL
Property (D&F)	<b>HP</b>	UK HOUSEHOLD BUSINESS
Property (D&F)	<b>LE</b>	LEGAL EXPENSES
Property (D&F)	<b>NL</b>	NUCLEAR LIABILITY
Property (D&F)	<b>NP</b>	NUCLEAR PROPERTY DAMAGE
Property (D&F)	<b>P2</b>	PHYS DAMAGE FOR PRIM LAYER PPTY IN USA

<b>Class</b>	<b>Risk Code</b>	<b>Risk Code Description</b>
		EXCL BINDERS
Property (D&F)	<b>P3</b>	PHYS DAMAGE FOR PRIM LAYER PPTY EXCL USA EXCL BINDERS
Property (D&F)	<b>P4</b>	PHYS DAMAGE FOR FULL VALUE PPTY IN USA EXCL BINDERS
Property (D&F)	<b>P5</b>	PHYS DAMAGE FOR FULL VALUE PPTY EXCL USA EXCL BINDERS
Property (D&F)	<b>P6</b>	PHYS DAMAGE FOR XS LAYER PPTY IN USA EXCL BINDERS
Property (D&F)	<b>P7</b>	PHYS DAMAGE FOR XS LAYER PPTY EXCL USA EXCL BINDERS
Property (D&F)	<b>PB</b>	PRODUCT RECALL
Property (D&F)	<b>PG</b>	OPERATIONAL POWER GENERATION TRANSMISSION AND UTILITIES EXCL CONSTRUCTION
Property (D&F)	<b>SB</b>	SURETY BOND REINSURANCE - From 01/01/05 also includes business previously coded "FC" or "FS"
Property (D&F)	<b>TC</b>	COMMERCIAL RITC
Property (D&F)	<b>TE</b>	MALICIOUS DAMAGE AND SABOTAGE
Property (D&F)	<b>TO</b>	OVERSEAS STAND ALONE TERROR EXCL "1T" to "8T" & "1E" to "4E"
Property (D&F)	<b>TU</b>	UK STAND ALONE TERRORISM WHICH IS NON POOL RE
Property (D&F)	<b>WA</b>	EXTENDED WARRANTY - From 01/01/05 also includes business previously coded "WS"

# **CTP: 2010 PILOT PROCESS GUIDELINES**

**30 NOVEMBER 2009**

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# DOCUMENT PURPOSE

This document has been produced in conjunction with the managing agents working group in preparation for the 2010 Pilot. It sets out the process by which the underwriters will operate the Lloyd's 2010 Pilot Claims Scheme (the "2010 Pilot Claims Scheme") and does not form part of the 2010 Pilot Claims Scheme.

These Guidelines are not intended to be prescriptive recognising that:

- Managing agents will need to exercise their judgment in each instance to respond to claims and communicate with other Lloyd's syndicates appropriately.
- There may be circumstances where a managing agent will require further assistance in implementing the 2010 Pilot Claims Scheme or these Guidelines. Assistance may be obtained from the Lloyd's Claims Project Team at either [claimstransformationproject@lloyds.com](mailto:claimstransformationproject@lloyds.com) or 0207 327 5900.

## 1.0 BACKGROUND

- The Claims Business Requirements Review of 2008/9 continued consideration and development of claims management in the Lloyd's market. The review was carried out by a steering committee of senior executives from Lloyd's Corporation, the LMA and 10 managing agents of varying sizes. Market views were solicited through consultation, and recommendations of the steering committee were reviewed with and approved by the Franchise and LMA Boards.
- The recommendations included testing by pilot the claims agreement framework incorporated into the 2010 Pilot Claims Scheme. The pilot ("2010 Pilot") will run over 12 months for the selected risk codes (identified in Schedule 1 to Annex 1 to the Claims Scheme) under the processes outlined below.

## 2.0 PACKAGE POLICIES AND DELEGATION

- Where a contract contains several sections (eg 'package policies') and one or more sections relate to a 2010 Pilot Claims Scheme risk code(s), the 2010 Pilot Claims Scheme will apply only to the sections that cover the 2010 Pilot Claims Scheme risk code(s).
- During the 2010 Pilot, managing agents who are Second may only delegate to XCS unless lead claims handling services have already been delegated to another third party in which case that third party may also carry out the Second role under the 2010 Pilot. All managing agents will be advised of those managing agents who elect to outsource to XCS.

## 3.0 CLAIM HANDLING PROCEDURES

- All participants in the 2010 Pilot should be familiar with the ECF and Lloyd's Systems Processes & Procedures ('SP&P') and continue to act in accordance with these provisions. As before, each claim should be considered, assessed and handled based on all the circumstances presented in light of the Lloyd's Claims Management Principles and Minimum Standards that apply. Within these overarching considerations, managing agents should endeavour during the 2010 Pilot to apply the following process guidelines.

## 3.1 Process Maps

The process of determining 2010 pilot claims is represented in the process maps at Appendix 1.

## 3.2 Notification

Upon receipt of first advice, the Lead reviews what is presented and seeks as soon as circumstances reasonably allow the types of information that will assist underwriters to assess the claim, decide what action needs to be taken, and to respond on an appropriate basis. The action to be taken includes making information available to any Second and followers via ECF as described below.

### Lead

#### All claims

- On receipt of notification of a claim that is identified in the ECF Claims Scheme field as a 2010 pilot claim the Managing Agent identified by the broker as Lead confirms that it has been correctly identified.
- In the event the Lead identifies any conflict, that Managing Agent advises the broker and followers, via ECF, in accordance with SP&P, and a new Lead is designated.
- The Lead reviews the matter notified and confirms that it:
  - falls within a risk code in scope for the Pilot
  - is not a binder or singleton claim
  - is in scope for ECF
- In the event that a claim:
  - does not fall within a pilot risk code or
  - is a binder or
  - is a singleton claim

the Lead de-selects “2010”, in the Claims Scheme field on ECF and selects “2006 and prior”
- The Lead ensures that the broker has:
  - loaded and identified on ECF the documents and information listed in the SP&P and identified in Appendix 2.1
  - identified the Lead and Second Claims Agreement Parties on the (relevant section of the) slip which is loaded onto the IMR
  - identified as necessary any related policies in the London market not shown on the slip
- Before agreeing any transaction, from notification to closing the claim, the Lead ensures that sufficient information is available on ECF to enable XCS to accurately complete the fields identified in Appendix 2.2. For the sake of completeness, Appendix 2.3 also indicates the remaining fields which XCS technical processing team will complete.
- Where appropriate, the Lead calls the broker or raises a query via ECF.
- If information that is incomplete or needs correction can be obtained or corrected later and is not necessary to the current transaction, the Lead agrees the ECF transaction and contacts the broker, by ECF or otherwise, to request that information. The Lead records that contact and the date it is made on ECF for further reference and review, if needed, by followers.

- The Lead also takes reasonable steps to ensure that XCS has issued the SCM containing an appropriate narrative for the new 2010 pilot claim. Depending on the circumstances, the Lead may elect to communicate additional information to all following Lloyd's syndicates through other channels.
- The Lead responds appropriately to requests from followers for information about the claim and steps to resolution.

### **Claim Categories**

- On receipt of notification, the Lead considers the information then in hand and makes an initial assignment to one of the 2010 Pilot Claims Scheme Categories and makes the related entry in the Triage Category field on ECF.
- The Lead's assignment is based on the amount potentially claimed in the notification (or in the first advice indicating an amount to be potentially claimed). The assignment value bands for the three categories are as follows:
  - Category 1 (amount potentially claimed to all Lloyd's syndicates being in excess of £5,000,000)
  - Category 2 (amount potentially claimed to all Lloyd's syndicates being between £100,000 and £5,000,000)
  - Category 3 (amount potentially claimed to all Lloyd's syndicates being less than £100,000)
- The Lead also considers other factors that may apply to the initial assignment. If there is pending dispute resolution proceeding between the (re)insured and the syndicates in relation to the claim, then the Lead designates the matter as a Category 1 claim. In addition the Lead may consider a range of other non-financial factors in assigning a claim category, including without limitation:
  - claims seeking extra contractual damages or punitive damages against the insured or the insurer
  - criminal proceedings against the (re)insured
  - multiple, complex or high value lawsuits against (re)insured
  - potential for questions as to coverage or quantum
  - potential denial of coverage
  - claims where fraud is alleged or otherwise at issue
  - potential breach of regulation, including SEC/regulatory investigations
  - serious injury and fatalities implicated by the claim
  - notice claiming improper handling of claim
- The Lead may wish to confer with the Second in evaluating these factors and making the assignment, and if any uncertainty remains, the claim is assigned to the lower numbered category under consideration.

### **Categories 1 & 2 claims**

- Where the Lead has decided to assign a notified pilot claim to Category 1 or 2 the Lead, prior to agreeing the transaction:
  - selects in the agreement party section on ECF the managing agent who is named in the (relevant section of the) slip as Second
  - lists on ECF the contact details for the person at the Lead who is handling the claim

## Second

- The following process guidelines assist managing agents who are nominated as Second underwriter on slips or sections of slips that are subject to the 2010 Pilot and who, jointly with the Lead, manage and agree Category 1 and 2 claims:
  - the current ECF/csv file system generally does not advise the Second that it is a claims agreement party at the time the Second is first identified as such by the Lead. Managing agents identify claims which require their action as Second by searching the ECF Claims Awaiting Action screen manually. Managing agents who are potential Seconds are asked during the 2010 Pilot to carry out these searches regularly.
  - once advised, the Second checks to ensure that it has been correctly identified as the Second syndicate and whether it has any current conflict that would compromise its ability to act in the interests of all following underwriters
  - the confirmed Second then reviews the Lead's initial assignment to the claim category and contacts the Lead to discuss any issues that exist
  - the Second lists on ECF the contact details for that person at the Second who is handling the claim
  - the Second reviews, independently assess, and if necessary confers concerning the Lead's proposed actions, including requests for information, planned next steps on the claim, and/or instructions to experts (see below)
  - generally, the Lead and Second agree or reach agreement following consultation. To illustrate, if the Lead has entered an ECF response of query/return, (which will result in the claim appearing the Seconds 'Claims Awaiting Action' list as a queried transaction) the Second consults with the Lead and the response is altered or both submit a query/return response. The Lead and Second endeavour to reach agreement on all matters before reverting to the broker with a single Lloyd's response. In exceptional circumstances, the Lead and Second may consider it necessary to invoke the disagreements resolution mechanism described in section 4 below.
  - appropriate documentation of issues are made available to followers on ECF. The Second responds appropriately to requests from followers for information about the claim and steps to resolution

## Followers

- Followers receive notification of a claim via the csv file and SCMs and usually have 'read only' access to the ECF file.
- Followers review SCMs and identify claims where they require further information from ECF or the Lead or Second.
- Followers may wish to contact Lead (or Second) to raise a query or share their views on the steps to resolve the claim.

## XCS

- Once claims agreement parties action the claim notification on ECF, the XCS processing team processes the claim in accordance with its contract and service standards.

### 3.3 Process Guidelines During the Claim

#### Lead

##### Proactive Management

- Each step taken by the Lead is on behalf of itself and all followers.
- The Lead endeavours throughout the life of the claim to identify the steps to be taken to resolve the claim, including where possible who will take these steps and the currently projected time frame.
- The Lead manages progress and takes such additional steps as are necessary to address complications encountered and progress towards resolution.

##### Communication

- The Lead makes available to followers (via ECF or otherwise) the management plan and where known information about:
  - any investigation that is to be carried out to assess the existence and quantum of any potential liability under the policy
  - the positions being advanced by the insured or its broker and the Leads responses on behalf of the followers
  - the possibility of any recovery opportunities and the current plan for assessing and pursuing them
- The Lead communicates to followers via ECF developments in the claim and, where appropriate, requires the broker to create a transaction on ECF and responds to that ECF transaction to generate an appropriate SCM.
- The Lead communicates its response to the claim to the broker via ECF.
- While the claim is open, the Lead regularly considers and, if necessary, adjusts the triage category to which the claim is assigned.
- The Lead provides a response to reasonable requests received from followers for additional information concerning the claim.

##### Category 1 & 2 claims:

- The Lead and Second each act on behalf of itself and all followers on Category 1 and 2 claims and may not take action affecting the followers' rights without first conferring and agreeing on that action. Generally, the Lead takes the initiative and obtains the concurrence of the Second.
- While the claim is open and remains a Category 1 or 2 claim, the Lead continues to co-ordinate with the Second and to ensure joint access to claim information as it becomes available.
- In the first instance, the Lead co-ordinates communications with respect to the claim and responds to reasonable queries from followers. The Lead also co-ordinates market meetings and ensures that market agreements are reflected on ECF.
- The Lead and Second can jointly re-assign a Category 1 or 2 claim to another category at any time.

## Second

- The Second works with the Lead on open Category 1 and 2 claims and helps ensure that appropriate plans are in place to address the claim, including steps being taken to facilitate progressing towards resolution within projected time frames. If a matter needs to be discussed before agreement, the Second contacts the Lead.
- The Second timely makes its comments, on Lead determinations and other involvements, on ECF or, as appropriate, through other procedures such as market meetings.

## XCS

As with notification, once the agreement parties have identified and approved the action to be taken, the XCS Technical Processing Team processes the claim in accordance with its contract and service standards.

### 3.4 Contingent Financial Planning (Reserves, Costs etc.)

## Lead

- The Lead authorises actions necessary to obtain information that bears on financial contingencies, including indemnity reserves, expert costs, and other matters of potential interest to regulators, auditors and capital providers.
- When appropriate, the Lead identifies on ECF suggested reserves or adjustments that XCS should enter on CLASS. This process involves indicating any loss and fee reserves to be entered together with a description of this decision and reference to any related documentation which the Lead has loaded onto the IMR.
- The Lead's review and action also includes the following steps:
  - instructions to XCS in the comments field to enter the correct TBA/Outstanding Qualifier as appropriate
  - updating a reserve following any payment, including expert fees
  - splitting indemnity and fee reserves where appropriate
  - confirming that a correct SCM is issued for that transaction
- The Lead responds to reasonable queries from followers on ECF or otherwise.

## Second

- The Second works with the Lead and assists in ensuring that the above processes are implemented and any necessary corrections are made.
- The Second also reviews the considerations and documentation underlying the Lead's proposed action and recommended reserve. If there are questions or other matters to discuss, the Second contacts the Lead. If the Second concur with the proposed action and reserve, the Second communicates its agreement on ECF.

- In the event that the Lead and Second do not reach agreement on the recommended reserve after conferring, the followers will be informed and where appropriate a suitable SCM message is issued. If the Lead and Second decide to hold a market meeting to discuss the matter, the Lead will arrange it.

## **XCS**

- XCS is responsible for processing via CLASS the reserves recommended by the Lead on ECF and for issuing SCMs in accordance with its contract and service standards.

## **3.5 Experts**

### **Lead**

- The Lead assesses the need for third-party experts, the timing of their involvement, and the scope of instructions. The instructions to experts:
  - identify who is giving the instructions
  - indicate how fees will be collected from instructing syndicates
  - are posted on the IMR
- In working with experts, the Lead:
  - communicates the steps the expert is to take to advance claim evaluation and determination
  - obtains reports on a timely basis and follows up as needed to ensure that the expert is addressing and delivering information and advice consistent with the instructions given
  - reviews and agrees or queries fee statements
  - takes steps to ensure that supported invoices are processed and paid on a timely basis.

### **Category 1 & 2 claims**

- The Lead either seeks the Second's agreement prior to instructing a third party expert or informs the expert at the time instructions are given by the Lead that retention on behalf of other syndicates subscribing to the policy is subject to the agreement of the Second.
- The Lead advises the expert at the time of instruction that the claim is jointly handled by the Lead and the Second and that the expert simultaneously sends all of its reports and other communications in that matter to both the Lead and the Second.
- The Lead and the Second discuss as necessary the management of the third-party experts, including any issues with the expert's advice or actions to be taken in relation to the expert's performance;
- If the Lead and Second are unable to agree on the choice of a third-party expert or the advice to be sought from an expert, that matter is resolved by reasonable discussion, including their respective Heads of Claims or the followers where necessary.

## Second

- The Second works with the Lead in selecting and managing third-party experts for Category 1 and 2 claims. Among other things, the Second:
  - considers whether the instructions are appropriate in the circumstances
  - confirms that expert reports or other advice are reflected on ECF and available to followers
  - checks and follows up to ensure that the expert's assessment is sufficient and current
  - ensures that an appropriate code has been indicated by the Lead on ECF (e.g., when reserve is "TBA");
  - reviews whether an appropriate fee reserve is established
- The Lead and Second ordinarily confer and agree on the choice of third-party experts for Category 1 and 2 claims. If the Second does not agree with the expert proposed by the Lead, the Second explains its concerns and proposes another expert to the Lead who does not present those concerns. Further reasonable discussions to reach resolution follows the process outlined above.

## 3.6 Settlement Process

### Lead

- Where all or part of a claim has been accepted for payment by the agreement parties:
  - the Lead obtains and makes available via ECF documentation which supports that payment and takes such reasonable steps as necessary to confirm that the payment processed by XCS
  - the Lead confirms that any fees pertaining to the work leading up to and implementing the payment have been submitted, reviewed, processed and paid accordingly
  - the Lead continues managing any open balance of the claim up to and including closing the file at the appropriate time.

### Second

- In connection with Category 1 and 2 claims, the Second continues to work with the Lead up to and including settlement and closing the file, including:
  - reviewing, assessing and discussing with the Lead as necessary of proposals by the Lead to settle all or part of the claim
  - confirming that current, available information relevant to a proposed settlement is on ECF or otherwise accessible to followers, including any third party reports that bear on the decision and proposed action

### XCS

- Where the agreement parties confirm an authorised action, XCS Technical Processing Team processes all payments and file closures in accordance with its contract and service standards.

## 4.0 RESOLUTION OF DISAGREEMENTS UNDER THE 2010 PILOT

- As detailed above, the Lead and Second jointly manage and confer concerning the handling of Category 1 and 2 claims. The 2010 Pilot assumes that, consistent with long-established market practice, the agreement parties will independently evaluate the decisions to be made and, after conferring as necessary, will reach agreement on the steps to be taken.
- Additionally, in the case of Category 1 claims only, if any situation should arise in which the Lead and Second are unable to agree, or the follower(s) representing at least 50% of the Lloyd's participation so requests, the following process applies.

### Lead

- The Lead identifies with the Second a mutually convenient date, time, and location for a market meeting and the Lead provides notice and invitation to all managing agents with syndicates that are followers on risk.
- Within sufficient time to allow review prior to the meeting, the Lead identifies to the Second and the followers the matter(s) to be addressed at the meeting and any documentation or other material that should be reviewed prior to the market meeting.
- The Lead chairs the meeting and ensures that all attendees have fair and equal opportunity to ask questions and present their views. The discussion continues until a market consensus is achieved.
- The Lead records on ECF that step(s) in the claim process agreed at the market meeting.

### Second

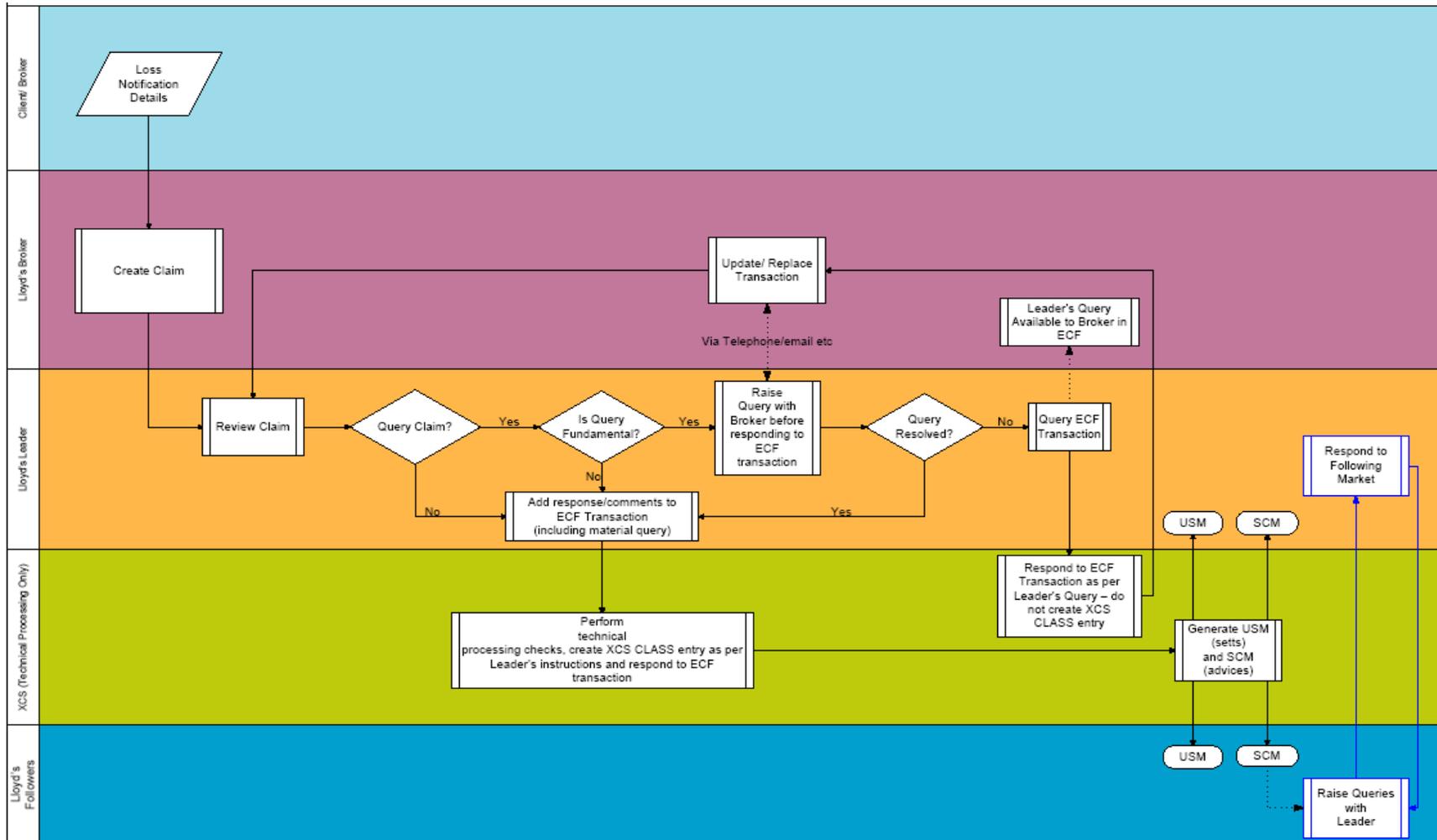
- At the time the market meeting is called, the Second confers with the Lead about the identification of the matter(s) to be addressed at the meeting and any documentation or other material to be reviewed by followers. If the Second does not consider that the identification by the Lead is complete, the Second provides the followers with a supplementary identification.
- The Second assists the Lead at the meeting in ensuring that all participants have a fair and equal opportunity to present their views and to ask questions.

### Followers

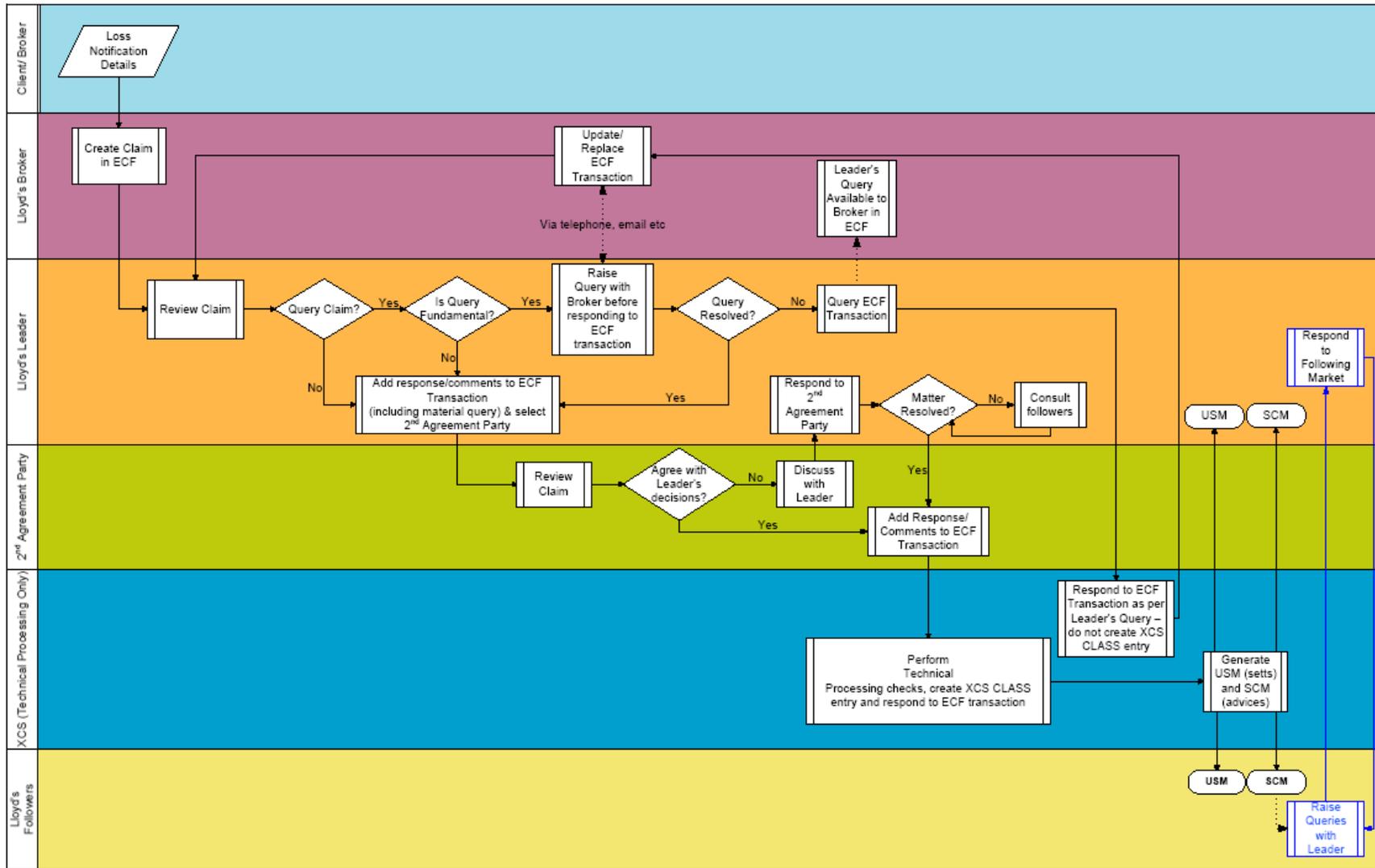
- Followers select a representative with sufficient experience and authority to speak for the syndicate and who is available to attend the market meeting. The attendees:
  - review the information and material prior to the meeting that was identified by the Lead and the Second and be prepared to comment on the matter(s) for discussion
  - make best efforts to provide constructive input to the market discussion
  - commit the syndicate to a position at the meeting

# 5.0 APPENDIX 1

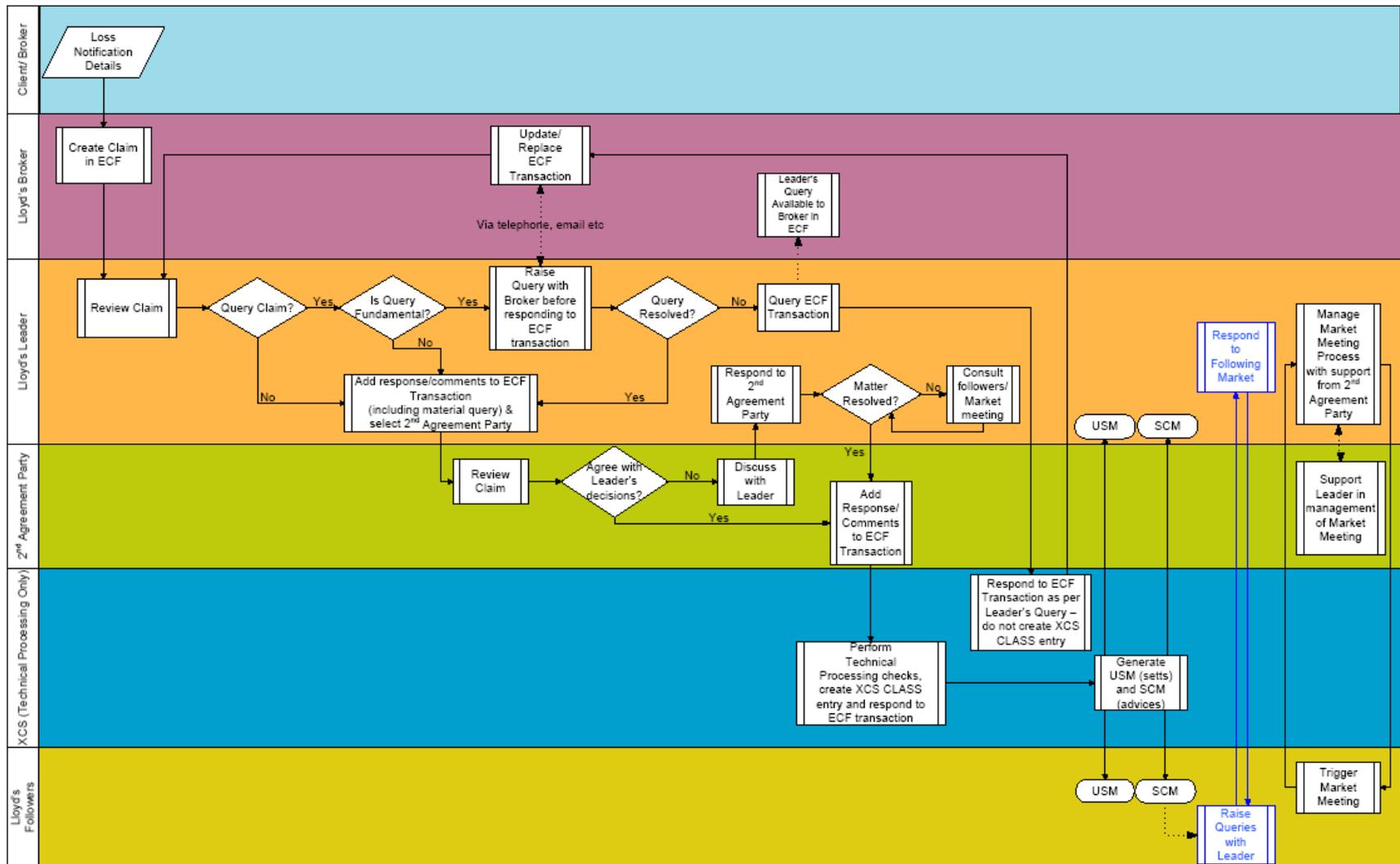
## Category 3 Claims Process Overview



## Category 2 Claims Process Overview



## Category 1 Claims Process Overview



## 6.0 APPENDIX 2

### 2.1 SP&P documents / information

The following list is an extract from the SP&P, being a quick reference to the responsibilities of the Lead when using ECF. If any of this information is omitted or unclear, the Lead will raise a query with the broker and/or advise the XCS Technical Processing team what information should be populated.

- Confirm broker has uploaded correct claims documents and review same. Will include:
  - slip with OSND and policy, if available and all relevant endorsements (including AP/RP and Non Premium)
  - cover note/Certificate/Declaration, where applicable
  - expert reports, invoices, receipts, shipping documents etc
- Check coverage of details and confirm:
  - certificate/Insured/interest/declaration attaches to policy and sum insured
  - DOL/DCM falls within policy/certificate period
  - claim falls within available policy/certificate limits
  - applicable coverage type
  - deductible/excess/franchise correctly applied
  - loss location
- Review and assess claim documentation. Will include (but not limited to):
  - identity of Insured/Coverholder/Cedant/Reinsured
  - preliminary and subsequent loss details
  - expert reports
  - release form/Proof of Loss Form etc

### 2.2 XCS CLASS data fields - Lead

The following list shows fields within XCS CLASS which capture information that the Lead ensures is present, correct and clear on ECF, including the IMR. If the information is not present or unclear the Lead advises the XCS Technical Processing team what information should be populated.

Claim Field	Mandatory in XCS CLASS
CAT/Cause/PCS code	
Claim (Transaction) Narrative	Yes
Claimant	
Insured	Yes
Loss Name	Yes
Direct Report Indicator	
Subrogation Indicator	
O/S Expense	

Claim Field	Mandatory in XCS CLASS
O/S Fee	
O/S Loss	
O/S Total / Qualifier	Yes
PTT Exp	
PTT Fee	
PTT Loss	
Settlement Currency	Yes
Sett Rate of Exch.	Yes – if settlement

### 2.3 XCS CLASS data fields – XCS Technical Processing

The following list shows the additional fields which the XCS Technical Processing team complete where applicable.

Claim Field	Mandatory in XCS CLASS
100% VAT Amt	
Advise on SCM Tick Box	
AP SND	
Basis of Limit	
Bkr Claim Ref 1	Yes
Bkr Contact	Yes
Bkr Phone No	Yes
Bkr UCR	Yes
Block Indicator	
Broker TR	Yes
Broker TR /Qual	
Bureau Leader	
Bureau Ppn Amt	
Ccy of Limits	
Certificate of Insurance No(s)	
Charge Type	Yes
Claim Bkr Ref 2	
Claim in Litigation Indicator	
Claim/Ref/Rec	
Claim/Risk Type	Yes - if marine
Country of Origin	Yes
DCM/DOD From	
DCM/DOD Qual	
DCM/DOD To	
DOL From	Yes
Expert Code	
Expert Name	
Expert Org Name	
Expert Ref	

Claim Field	Mandatory in XCS CLASS
Expert Type	
DOL To	
DTI Code	
ECF Claim Indicator	
Excess	
FIL Code 1	
FIL Code 2	
Interest	
Limits	
Location/Voyage of Risk	
Loss Date Narrative	
Loss Fund Advanced Indicator	
Loss Fund Entry Indicator	
Loss Fund Indicator	
Loss Location	
Market Code	
NAIC Code	Yes
NAIC Qual	
Narrative Code	
Non Chargeable Ind	Yes
Orig Ccy	
Orig Insured	Yes
Original Broker	
OSND1	Yes
OSND2	Yes
OSND3	
Other Name	
Other TF Code	
Payee Bkr (Bkr no used in TR)	

Claim Field	Mandatory in XCS CLASS
Payee Broker Pseudonym	
Peer Review	Yes
Perils/Conditions	
Pol/Cert Narrative	Yes
Pol/Cert Period From	Yes
Pol/Cert Period To	Yes
Pol/Cert Qualifier	
Presentation Date	Yes
PTD total	
PTT Total	
Redenom Indicator	
Reinsured	
Risk Code	Yes
Sett/Adv	Yes
Settled in Sett Ccy	
Settlement Bkr Ref 1	
Settlement Bkr Ref 2	
Sim RI Indicator	
Slip Order 1	Yes
Slip Order 2	
Slip type	
State Code	
Syndicate %	Yes
Syndicate No	Yes
Syndicate Ref	
TF Code	
UMR	Yes
Vessel/Aircraft/Conveyance	
Voyage	

Claim Field	Mandatory in XCS CLASS
War Amount	
War Indicator	
XCS Recovery Indicator	
XCS Service Type	Yes
YOA	Yes