

MARKET BULLETIN

REF: Y4410

Title	U.S. Medicare reporting and registration requirements
Purpose	To provide an update on the project underway to co-ordinate Lloyd's response to the U.S. Medicare reporting requirements and the timetable for the next steps required by managing agents to implement and test an appropriate registration and reporting system for the Lloyd's Market.
Type	Event
From	Rosemary Beaver, Head of International Regulatory Affairs
Date	8 July 2010
Deadline	Ongoing responsibility
Related links	Lloyd's market bulletin Y4277, 12 May 2009 Lloyd's market bulletin Y4279, 13 May 2009 Lloyd's market bulletin Y4306, 10 August 2009 Lloyd's market bulletin Y4328, 6 November 2009 CMS User Guide, version 3.0 (Liability Insurance (Including Self-Insurance), No-Fault Insurance, and Workers' Compensation) Lloyd's market bulletin Y4375, 5 March 2010

Purpose

This market bulletin provides an update on progress made to enable Lloyd's to respond to the new U.S. Medicare reporting requirements, further to the above market bulletins and a letter to Lloyd's managing agents' CEOs of 27 April 2010.

In particular, it updates on:

- a) The successful outcome of discussions with the U.S. Federal agency, CMS (Centers for Medicare and Medicaid Services) to agree an appropriate approach to Lloyd's Medicare reporting obligations; and
- b) The tender process led by the Lloyd's Medicare Working Group (comprising a team of Lloyd's and managing agent representatives) to select an appropriate specialist third party vendor and to agree the terms and conditions on behalf of the market.

In addition, it sets out the expected timetable for future communications on how the Lloyd's market will commence the process of implementing and testing a registration and reporting structure utilising the services of a specialist third party vendor.

Background

Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (MMSEA) concerns mandatory reporting requirements which will affect many syndicates writing U.S. risks. It requires all property & casualty insurers (including surplus lines insurers) that pay a liability claim that includes medical expenses, or that releases the insurer from liability for medical expenses to any Medicare beneficiary (or their representative), to report the claim to CMS.

Agreement with CMS on an appropriate reporting model to accommodate Lloyd's unique legal structure

Lloyd's has been engaged over the last 6 months in constructive, helpful dialogue with the responsible U.S. federal agency, CMS, to secure its agreement as to how the Lloyd's market should register and report for MMSEA purposes. Based on the recommendations of the LMA and the Lloyd's Medicare Working Group, a structure has now been formally agreed with CMS to allow:

- (1) A managing agent, in respect of each of its managed syndicates, to act in the role of the Responsible Reporting Entity (RRE) for Medicare reporting purposes. The managing agent will be the registering and reporting agent on behalf of syndicates.
- (2) In respect of subscription business, the managing agent of the lead syndicate to act as reporting agent for the lead syndicate and the following subscribing syndicates. The lead managing agent, in its role as RRE and reporting agent on behalf of the following syndicates, will not assume responsibility for the following syndicates' liabilities under the MMSEA legislation.

Tender process and Request for Proposal (RFP) to develop a reporting process and negotiation services for Lloyd's

The current CMS timetable for implementing MMSEA requirements requires insurers to commence live reporting during Q1 2011. This timetable was deferred from the original reporting deadline of Q2 2010, following concerns raised with CMS by Lloyd's and other insurers in the U.S. and the E.U. about the original timetable.

As advised in the letter to Lloyd's managing agents' CEOs of 27 April 2010, on the recommendation of the market (and reported to LMA, LMACC and Binding Authority Claims Group (BACG) in January 2010) we are proceeding on the basis that to ensure that managing agents are able to capture and structure information for reporting to CMS a specialized third party vendor is required. This will ensure consistency of service, economies of scale and a standard set of contractual terms. It is anticipated that a single vendor solution will be required for at least two years but we will ensure that the contract is flexible enough to enable choice in the future.

Working with market representatives, an RFP was developed and then sent to a shortlist of five vendors (Q1 2010). The process to identify the preferred vendor, concluded in May 2010 and contract negotiations are now nearing completion. Market representatives participated in the vendor assessment process and their legal representatives have worked closely on defining the standard set of contractual terms with the successful vendor.

Every effort will be made to provide the Lloyd's market with the final contract as early as possible. The contract will be utilised across the Lloyd's market in accordance with the prior recommendations of the Lloyd's Medicare Working Group. The vendor will provide monthly query function (MQF) services; quarterly claims file (QCF) RRE reporting to CMS and negotiation services with CMS on Medicare liens (where applicable and required by the managing agent).

A further market bulletin will be issued addressing the vendor contract signing process in accordance with the timetable at Appendix A.

Registration with CMS and commencement of testing/implementation

In Lloyd's market bulletin Y4375 (dated 5 March, 2010), Managing Agents were advised **not** to register and commence reporting with CMS until further advice was provided by Lloyd's. **This remains the position.** The timetable at Appendix A includes registration. Lloyd's is working with CMS to determine the most efficient method for registering Lloyd's RRE's, coordinating Lloyd's filings via a single CMS representative. Once these arrangements have been finalised and the process agreed, Lloyd's will issue a further market bulletin providing guidance as to how registration will be completed working with the third party vendor.

Lloyd's will not commence this phase of the Medicare reporting process until contractual negotiations with the third party vendor are complete and managing agents have signed their contract with the vendor. Additionally, prior to registration, Lloyd's will want to ensure that the processes necessary to permit the Lloyd's subscription market to complete mandatory reporting to CMS have been tested and are understood by all stakeholders providing data to or receiving data from the third party vendor.

E.U. Data Protection and U.S. Privacy Obligations

Lloyd's has monitored the advice issued by CMS and worked with trade associations (AIA, LMA CEA and IUA) to consider how the MMSEA reporting requirements are impacted by U.S. privacy and E.U. data protection requirements. In what is a complex area, Lloyd's has undertaken a review of the U.S. and E.U. data protection obligations and is working with both UK and US counsel to find a practical solution. Lloyd's will ensure that the solution is reflected in contractual arrangements with the specialist third party vendor.

Reminder of the need to continue collecting data for reporting purposes

In Market Bulletin Y4328 (dated 6 November 2009), Managing Agents and Brokers were reminded (further to advice provided in Market Bulletin Y4306 dated 17 August 2009) that, regardless of the deferral of the registration and reporting timetable, they should be taking action to ensure the gathering of data on claims that are potentially impacted by the Medicare Secondary Payer legislation, i.e., claims data for “Ongoing Reporting of Medicals” (ORM) claims should be collected for claims payments made after **1 January 2010**; and claims data for “Total Payment Obligation Claimant” (TPOC) claims should be collected for claims payments made after **1 October 2010**.

Conclusion and next steps

The timetable for issuing further guidance concerning the vendor contract signing process, the registration process for creating syndicate/managing agent RRE's and the process for implementing and testing the reporting processes can be found at Appendix A.

Lloyd's is aware that some U.S. domestic insurers, further advanced in this process, have encountered difficulties during implementation. It must therefore be recognised that the challenges facing Lloyd's subscription market are likely to raise similar or even new issues as the Lloyd's market tackles the MMSEA requirements for the first time. Lloyd's will continue, as it has throughout this process, to consult with the Lloyd's Medicare Working Group and the LMA and will continue to discuss any problems with CMS where they arise.

Managing agents are therefore urged to continue completing the “cross desk” claims volumes exercise currently in progress with the Lloyd's Claims team. This information will ensure that managing agents and Lloyd's centrally have the best possible information in order to assess Lloyd's claims exposures and inform and support the ongoing dialogue with CMS and the scope of services required from a vendor.

In the interim, Managing Agents should await further information from Lloyd's before attempting to register and commence reporting with CMS. Managing Agents must, however, ensure that they are gathering the required data on claims that are potentially impacted by the Medicare Secondary Payer legislation, and are implementing the recommended claims investigation and handling procedures for Medicare claimants, as advised in previous Lloyd's market bulletins.

Further Contacts and Communications

Appendix A sets out the timetable for future key communications. A market briefing for managing agent compliance officers is scheduled for 12 July 2010.

A dedicated “Medicare reporting and registration” section of Crystal will shortly be available to registered users of Crystal which will provide a single point of reference to key reference information as the project proceeds through its various stages.

If you have any queries about this market bulletin, please contact:

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Appendix A

2010 Timeline for Medicare Registration and Reporting and future updates

Date commenced	Advised by	Action	Completion by
End of July	Market Bulletin Presentation to Claims Matters Forums	Contract negotiations with vendor concluded and contract issued to managing agents for signing. Key features of contractual arrangement and services outlined. Data Protection guidance issued	End of August
Early August	Market Bulletin	Lead syndicate/managing agents register as RRE's. Working with Lloyd's and vendor, RRE registration to be completed in time to allow full quarter's testing through Q4	End of September
Q4 2010	Key CMS deadline	Deadline for RRE registration to allow full quarter's testing	30 September
Late August	Market Bulletin Presentation to Claims Matters Forums Medicare Workshop	Implementation and testing phase of Lloyd's Medicare Registration and Reporting processes. Includes set-up of managing agents, TPA's and coverholders on vendor's system	Through Q4 2010
Q1 2011	Key CMS Deadline	Commencement of live reporting via vendor to CMS	Ongoing