

MARKET BULLETIN

REF: Y4482

Title	Claims Transformation Programme: Expansion of 2010 Pilot Scheme Scope
Purpose	To communicate the new risk codes to be handled in accordance with the 2010 Pilot Scheme, and the associated effective dates
Type	Event
From	Tom Bolt, Performance Management Director Performance Management Directorate
Date	1 April 2011
Related links	2006 Claims Scheme (as amended)

Introduction

This Bulletin attaches Annex 1, Schedule 2 of the amended Lloyd's 2006 Claims Scheme made by the Franchise Board under the Underwriting Byelaw. Schedule 2 contains the additional risk codes to be introduced to the 2010 Pilot Scheme with effect from 1 July 2011, and applies to all claims notified via ECF made on contracts of insurance or reinsurance with the risk codes detailed in Schedule 2 and which incept on or after 1 July 2011. The risk codes within Schedule 2 include the remaining marine, property and casualty treaty codes not currently within the scope of the 2010 Pilot Scheme, and also all energy risk codes.

In addition this bulletin brings into scope all claims notified via ECF on contracts of insurance or reinsurance with the risk codes detailed in both Annex 1 Schedule 1 and Schedule 2 written under binding authorities, where the binding authority incept on or after 1 July 2011.

Background

On 30 November 2009 Market Bulletin Y4341 was issued, which attached the Lloyd's 2006 Claims Scheme (amended to incorporate Annex 1, the 2010 Pilot Scheme), and the 2010 Pilot Process Guidelines ("the Guidelines").

Since the 2010 Pilot Scheme has been in effect the Claims Implementation Board has been monitoring the handling of claims under the Scheme against the defined success criteria of speed, quality and market perception. These success criteria were met or exceeded, which has led to the decision of the Lloyd's Franchise Board, on the recommendation of the Claims Implementation Board, to expand the scope of the 2010 Pilot Claims Scheme with effect 1 July 2011.

Expansion of 2010 Pilot Scheme

1. Classes of Business –Annex 1 Schedule 2 of the amended 2006 Claims Scheme details the additional risk codes to be included within the scope of the 2010 Pilot Scheme. Please note that all claims arising from contracts of insurance or reinsurance with risk codes on this Schedule, which were written under binding authorities incepting on or after 1 July 2011, and are notified via ECF, will be within the scope of the 2010 Pilot Claims Scheme

In addition claims notified via ECF under contracts of insurance or reinsurance with Annex 1 Schedule 1 risk codes and written under binding authorities incepting on or after 1 July 2011 will also be in scope of the 2010 Pilot Claims Scheme.

Managing agents will be expected to take into account the financial value of individual claims on a bordereau, rather than the aggregated value on the bordereau, in triaging these claims. It is expected, therefore, that most bordereaux will be triaged as Category 3 (i.e. standard) claims even if the bordereau is of a value above £100,000 in its entirety.

Prior to 1 July 2011 we will issue revised 2010 Pilot Process Guidelines and further market training to provide greater clarification on the application of the 2010 Pilot Claims Scheme in practice.

2. Agreement parties – There is no change to the agreement structure under the 2010 Pilot Scheme, which remains:

- single party claims agreement for the majority of high volume, low value claims,
- lead plus second claims agreement in high value or complex claims.

Slip Wording

Brokers should continue to use the following language in all slips or contacts of insurance or reinsurance:

“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.

Queries

If you have any questions regarding the above please do not hesitate to contact the project team at: ClaimsTransformationProject@lloyds.com or 0207 327 5900.

Lloyd's 2006 Claims Scheme

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*¹ 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*²; and
 - (b) a *scheme service provider* on behalf of each *following Lloyd's syndicate*³

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*⁴ may at any time consult with one or more of the *following Lloyd's underwriters*;

¹ and the *second Lloyd's underwriter*

² and by the *second Lloyd's underwriter* on behalf of the *second Lloyd's syndicate*

³ other than the *second Lloyd's syndicate*

⁴ and the *second Lloyd's underwriter*

- (b) the *leading Lloyd's underwriter*⁵ 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*⁶ 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*.

⁵ and the *second Lloyd's underwriter*

⁶ 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*⁷ and *following Lloyd's underwriters*; and
 - (f) where the *scheme service provider* has been notified that the *leading Lloyd's underwriter*⁸ 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*⁹ 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*¹⁰ 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.

⁷ and/or the *second Lloyd's underwriter*

⁸ or the *second Lloyd's underwriter*

⁹ or the *second Lloyd's underwriter*

¹⁰ 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

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

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

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

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

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 for policies incepting on or after 01/01/2010 in 2010 claims pilot

Class	Risk Code	Risk Code Description
Casualty Treaty	XF	NM LIABILITY EXCESS OF LOSS IN USA
Casualty Treaty	XG	NM LIABILITY EXCESS OF LOSS EXCL USA
Casualty Treaty	XM	MOTOR WHOLE ACCOUNT EXCESS OF LOSS
Marine	B	VSSLS SHIPBLDG ACV LOH AND CONTAINERS TLO EXCL WRO
Marine	G	MARINE LEGAL LIAB ALL OTHER NO CARGO EXCL WRO
Marine	GC	MARINE LEGAL LIAB CLAIMS MADE NO CARGO EXCL WRO
Marine	GX	XOL MARINE LEGAL LIAB EXCL CARGO ALL OTHER EXCL WRO
Marine	O	YACHTS INCL WAR EXCL WRO
Marine	SR	AGG STOP LOSS AND XOL MARINE OUTWARD WHOLE ACCOUNT
Marine	T	VESELS EXCL SHIPBLDG ACV LOH AND CONTAINERS EXCL WRO
Marine	TS	SHIPBUILDING EXCL ENERGY CONSTRUCTION
Marine	TX	XOL VESSELS SHIPBLDG ACV LOH INCL WAR EXCL WRO - From 01/01/05 also includes business previously coded "OX"
Marine	W	VESELS WAR AND OR CONFISCATION EXCL BREACH VOYAGES
Marine	WB	VESELS HULL WAR BREACH VOYAGES ONLY
Property (D&F)	3T	OVERSEAS LEG TERRORISM MARINE
Property (D&F)	6T	OVERSEAS LEG TERRORISM PROPERTY
Property (D&F)	AG	AGRICULTURAL CROP AND FORESTRY
Property (D&F)	BD	TERRORISM POOL RE
Property (D&F)	CA	ENGINEERING INCL MCHY AND BOILERS CAR AND ENG AR – Risk Code retired with effect from 01/01/2011: Use Risk Codes “CB” or “CC” as appropriate
Property (D&F)	CB	ENGINEERING ANNUAL RENEWABLE INCL CAR EAR MB CPE B&M EEI AND TREATY LOD
Property (D&F)	CC	ENGINEERING SINGLE PROJECT NON RENEWABLE INCL CAR EAR AND TREATY RAD
Property (D&F)	DC	DIFFERENCE IN CONDITIONS
Property (D&F)	HA	HAIL
Property (D&F)	HP	UK HOUSEHOLD BUSINESS

Class	Risk Code	Risk Code Description
Property (D&F)	LE	LEGAL EXPENSES
Property (D&F)	NL	NUCLEAR LIABILITY
Property (D&F)	NP	NUCLEAR PROPERTY DAMAGE
Property (D&F)	P2	PHYS DAMAGE FOR PRIM LAYER PPTY IN USA EXCL BINDERS
Property (D&F)	P3	PHYS DAMAGE FOR PRIM LAYER PPTY EXCL USA EXCL BINDERS
Property (D&F)	P4	PHYS DAMAGE FOR FULL VALUE PPTY IN USA EXCL BINDERS
Property (D&F)	P5	PHYS DAMAGE FOR FULL VALUE PPTY EXCL USA EXCL BINDERS
Property (D&F)	P6	PHYS DAMAGE FOR XS LAYER PPTY IN USA EXCL BINDERS
Property (D&F)	P7	PHYS DAMAGE FOR XS LAYER PPTY EXCL USA EXCL BINDERS
Property (D&F)	PB	PRODUCT RECALL
Property (D&F)	PG	OPERATIONAL POWER GENERATION TRANSMISSION AND UTILITIES EXCL CONSTRUCTION
Property (D&F)	SB	SURETY BOND REINSURANCE - From 01/01/05 also includes business previously coded "FC" or "FS"
Property (D&F)	TC	COMMERCIAL RITC
Property (D&F)	TE	MALICIOUS DAMAGE AND SABOTAGE
Property (D&F)	TO	OVERSEAS STAND ALONE TERROR EXCL "1T" to "8T" & "1E" to "4E"
Property (D&F)	TU	UK STAND ALONE TERRORISM WHICH IS NON POOL RE
Property (D&F)	WA	EXTENDED WARRANTY - From 01/01/05 also includes business previously coded "WS"

Annex 1, Schedule 2

Risk Codes for policies incepting on or after 01/07/2011 in 2010 claims pilot

Class	Risk Code	Risk Code Description
Energy	EA	ENERGY LIABILITY ONSHORE CLAIMS MADE
Energy	EB	ENERGY LIABILITY ONSHORE ALL OTHER
Energy	EC	ENERGY CONSTRUCTION OFFSHORE PROP AND SEARCH PROD VSSLS EXCL WRO
Energy	EF	ENERGY ONSHORE PROPERTY
Energy	EG	ENERGY LIABILITY OFFSHORE CLAIMS MADE
Energy	EH	ENERGY LIABILITY OFFSHORE ALL OTHER
Energy	EM	ENERGY SEARCH PROD VSSLS AND OFFSHORE PROP GOM WIND EXCL WRO EXCL CONSTRUCTION
Energy	EN	ENERGY SEARCH PROD VSSLS AND OFFSHORE PROP EXCL GOM WIND EXCL WRO EXCL CONSTRUCTION
Energy	EY	ENERGY OPERATORS XTRA EXPENSES AND CONTROL OF WELL GOM WIND
Energy	EZ	ENERGY OPERATORS XTRA EXPENSES AND CONTROL OF WELL EXCL GOM WIND
Marine	CT	ARMOURED CARRIERS AND CASH IN TRANSIT
Marine	FA	FINE ART
Marine	GS	GENERAL SPECIE INCLUDING VAULT RISK
Marine	JB	JEWELLERS BLOCK JEWELLERY ETC INCL ROBBERY – From 01/01/05 also includes business previously coded “FR”
Marine	Q	CARGO WAR AND OR CONFISCATION RISKS ONLY
Marine	RX	XOL HULLS OF AIRCRAFT WAR AND OR CONFIS RISKS ONLY
Marine	V	CARGO ALL RISKS INCL WAR EXCL WRO
Marine	VL	LEGAL LIAB CARGO AND PROP INCL CCC OF ASSURED EXCL WRO
Marine	VX	CARGO ALL RISKS EXCLUDING WAR ONLY RISKS
Marine	WL	WAR ON LAND – From 01/01/05 also includes business previously coded “QL”
Marine	WX	XOL VESSELS WAR AND OR CONFISCATION RISKS ONLY - From 01/01/05 also includes business previously coded “QX”
Marine	X2	MARINE XOL ON XOL INCL WAR
Marine	XE	ENERGY ACCOUNT XOL INCL WAR - From 01/01/05 also includes business previously coded “X5”
Marine	XT	MARINE WHOLE ACCOUNT XOL INCL WAR
Property (D&F)	1E	OVERSEAS LEG TERRORISM ENERGY OFFSHORE PROPERTY
Property (D&F)	2E	OVERSEAS LEG TERRORISM ENERGY OFFSHORE LIABILITY
Property (D&F)	3E	OVERSEAS LEG TERRORISM ENERGY ONSHORE PROPERTY

Class	Risk Code	Risk Code Description
Property (D&F)	4E	OVERSEAS LEG TERRORISM ENERGY ONSHORE LIABILITY
Property (D&F)	4T	OVERSEAS LEG TERRORISM MISC AND PECUNIARY LOSS
Property (D&F)	5T	OVERSEAS LEG TERRORISM MOTOR
Property (D&F)	7T	OVERSEAS LEG TERRORISM THIRD PARTY LIABILITY
Property (D&F)	8T	OVERSEAS LEG TERRORISM TRANSPORT
Property (D&F)	B2	PHYS DAMAGE BINDER FOR PRIVATE PPTY IN USA
Property (D&F)	B3	PHYS DAMAGE BINDER FOR COMMERCIAL PPTY IN USA
Property (D&F)	B4	PHYS DAMAGE BINDER FOR PRIVATE PPTY EXCL USA
Property (D&F)	B5	PHYS DAMAGE BINDER FOR COMMERCIAL PPTY EXCL USA
Property (D&F)	FM	MORTGAGE INDEMNITY - From 01/01/05 also includes business previously coded "BS"
Property (D&F)	N	LIVESTOCK
Property (D&F)	NB	BLOODSTOCK
Property (D&F)	NX	LIVESTOCK EXCESS OF LOSS
Property (D&F)	P	MISCELLANEOUS PECUNIARY LOSS - From 01/01/05 also includes business previously coded "PE" "PP" "PS" and "PW"
Property (D&F)	PC	CANCELLATION AND ABANDONMENT
Property (D&F)	PF	FILM INCLUDING FILM COMPLETION BONDS
Property (D&F)	PN	NON APPEARANCE
Property (D&F)	PU	MISCELLANEOUS CONTINGENCY - From 01/01/05 also includes business previously coded "PO"
Property (D&F)	PZ	PRIZE INDEMNITY INCLUDING HOLE IN ONE
Property Treaty	TR	ALL RISK PHYSICAL OR LOSS DAMAGE DIRECT PPNL RI
Property Treaty	X3	NM PROP OR PECUNIARY LOSS XOL ON XOL RETROCESSION
Property Treaty	XA	NM PROPERTY OR PECUNIARY LOSS WHOLE ACCOUNT XOL IN USA
Property Treaty	XC	PER RISK EXCESS OF LOSS PROP PECUNIARY LOSS REINS
Property Treaty	XJ	NM PROPERTY OR PECUNIARY LOSS WHOLE ACCOUNT XOL IN JAPAN
Property Treaty	XR	NM PROPERTY OR PECUNIARY LOSS WHOLE ACCOUNT XOL IN REST OF WORLD
Property Treaty	XU	NM PROPERTY OR PECUNIARY LOSS WHOLE ACCOUNT XOL IN ALL OF EUROPE INCL UK