

MARKET BULLETIN

REF: Y4730

Title	Lloyd's Requirements for Australian Consumer Business
Purpose	To advise the Market of Lloyd's requirements for the writing of consumer business in Australia.
Type	Event
From	Peter Montanaro, Head – Delegated Authorities Team Performance Management Directorate Adrian Humphreys, Lloyd's General Representative – Lloyd's Australia
Date	17 October 2013
Deadline	(1) For new applications / proposals for Australian business, these requirements are applicable immediately (2) For existing Australian consumer business, the expectation is that this business will be reviewed and these requirements adhered to by January 2014.

Background

Policyholders buying policies from Lloyd's underwriters expect to be treated fairly in their dealings. This expectation has increasingly been reflected in regulatory rules to which Lloyd's underwriters are subject. The failure to treat customers fairly can also damage the reputation of Lloyd's.

The underwriting of consumer business in Australia is governed by a strict licensing and regulatory regime. Lloyd's already insists that all consumer business is written through an appropriately licensed Australian coverholder¹. Details of Lloyd's requirements for writing Australian consumer business have been advised to the market both in the [Australian section](#) of Crystal and via communications from Lloyd's International Trading Advice (LITA).

In Australia, consumer business is known as 'retail' for regulatory purposes and a 'retail' client is defined in the Corporations Act 2001 and Regulations. Further information on Australian regulatory requirements and the definition of 'retail' or consumer business is available in the [Australian section](#) of Crystal.

¹ In this instance, an 'appropriately licensed coverholder' means a coverholder who holds a suitable Australian Financial Services Licence ('AFSL').

To further manage the regulatory risk that the writing of consumer business in Australia can present, Lloyd's is introducing additional controls as set out below. In particular, before Lloyd's will permit managing agents to write consumer business in Australia (or to write any additional products) Lloyd's will require evidence from managing agents that demonstrates that the managing agent has given due consideration to the relevant local rules and can demonstrate its ability to comply with those rules.

Lloyd's will, at its discretion, amend market charges or pass on costs to the market for any additional resources required due to increased consumer business. Lloyd's will also advise Managing Agents of new regulatory requirements relating to Australian consumer business as and when they arise.

Lloyd's Requirements for Consumer Business

With immediate effect for all new business (and by January 2014 for existing business) managing agents or brokers who wish to write new or additional Australian consumer business products will need demonstrate to Lloyd's that they are equipped to write and service such business. This should take the form of a documented business plan for the proposed business, which must be reviewed by Lloyd's Australia in advance of commencing underwriting the business.

The areas that will need to be addressed in the business plan include the compliance arrangements for both new and existing coverholders. Where a managing agent has an existing relationship with an Australian coverholder, but wishes to expand this relationship to include the underwriting of consumer products, or they wish to underwrite new consumer products which differ from their existing product offering, these must be separately approved by Lloyd's Australia, in line with the requirements for new coverholders.

These issues should be addressed in a written document which should be submitted to Lloyd's Australia for review. New coverholder or coverholder class of business applications should first be submitted on Atlas. In addition, Lloyd's may require responses to the below to be substantiated through a pre-approval audit, if appropriate.

1. Requirements for new coverholders or existing coverholders who wish to write new classes of consumer business

(a) Compliance with licensing and conduct rules

The proposed coverholder must hold the correct licences. There is an existing Lloyd's requirement that a coverholder (with the exception of those writing purely reinsurance business) hold an Australian Financial Services Licence ('AFSL'). Managing agents should note, however, that an AFSL does not automatically allow a company to deal in consumer insurance, and that permission to do so must have been sought in the application and confirmed on the licence.

In addition to licensing, the managing agent and coverholder will need to demonstrate a clear understanding of local legislative requirements, including but not limited to:

- the *Insurance Contracts Act 1984*, as amended by the *Insurance Contracts Amendment Act 2013*

- the *Corporations Act 2001*, and
- consumer standards which are set out in the *General Insurance Code of Practice* ('GICP')

GICP sets strict minimum standards for sales, and timeframes for claims handling and complaints in Australia. These are detailed on the [Australian section](#) of Crystal and at www.codeofpractice.com.au

(b) Robust consumer interface, infrastructures and resourcing

The business plan must include the following, with supporting evidence, where appropriate:

- projections for the number of policies, claims and disputes expected by product
- a description of the product sales process including how the consumer applies for the product, how and by whom the policy is quoted and bound and who issues the policy
- a description of the proposed resourcing / staffing for the answering of consumer policy queries, including confirmation of a dedicated phone number for this purpose,
- a description of the proposed resourcing / staffing to manage claims and complaints, including authority levels
- a description of claim costs, which include third party service providers costs, Lloyd's dispute charges and Financial Ombudsman Service fees a Business Continuity Plan including a fully operational alternative site / systems.

(c) Oversight of fair pricing and fair selling practice

Evidence should be provided that consideration has been given to local regulations addressing fair pricing and fair selling practice. This includes the relevant regulatory guides issued by the Australian Securities & Investments Commission ('ASIC'), specifically '[RG168: Product disclosure statements](#)' and '[RG 234: Advertising financial products](#)'.

2. Requirements for existing coverholders

Managing agents will need to satisfy Lloyd's on an on-going basis that regulatory requirements are being met.

(a) Consumer product variations

In the event an existing coverholder writing consumer business wishes to offer new or additional consumer products, the proposed product wordings must be provided to Lloyd's Australia for consideration.

Example 1: 'Coverholder XYZ' is currently approved to write motor insurance, based on the business plan they submitted to Lloyd's which emphasises their motor product is for a small book of classic cars. If they wanted to expand their product offering to include standard cars or motorbikes, this would be an additional product, and they would need to provide Lloyd's Australia with the policy wordings prior to issuance.

In addition, Lloyd's Australia must be notified of any planned or unplanned changes to the coverholder's internal dispute resolution contact.

(a) Audit scope – consumer products

Managing agents must ensure that annual external audits of coverholders who bind consumer business include a review of the systems and processes they have in place to manage consumer business, including their complaints registers.

(b) Notification of breaches

Australian coverholders must advise Lloyd's Australia of any significant breaches of the GCIP within 5 days of the breach occurring, as well as provide Lloyd's Australia with a copy of their annual breach report at the time of submitting their annual FOS Data Report. This is currently required in August each year.

A significant breach is defined in the GCIP as a breach that is determined to be significant by reference to similar breaches; the adequacy of arrangements to ensure compliance with the Code; the extent of any consumer detriment; and the duration of the breach.

The GCIP annual self-assessment and desktop audit forms must be completed and provided to the Lloyd's Australia a week prior to the date they are due at the Australian Financial Ombudsman Service ('FOS'). Results of the FOS review will be shared with the Delegated Authorities Team.

Lloyd's may require investigation into increased complaints activity compared to the business plan or peers, at the discretion of the Lloyd's Australia Compliance Manager.

Group or Master Policy Arrangements

Master policies still require approval of the Lloyd's Australia prior to being written (as per [Market Bulletin Y4535](#)) regardless of the class of business. In addition prior to underwriters issuing new group or master policies, where the ultimate beneficiary of the cover is a consumer, Lloyd's Australia must be satisfied that:

- consideration has been given to ASIC Regulatory Guide 195 in relation to group purchasing bodies
- processes are in place to meet the consumer standards as if the beneficiaries were individually insured, and

- a coverholder with a retail AFSL is involved

Further Information

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