

MARKET BULLETIN

REF: Y4801

Title	Lloyd's Kentucky Surplus Lines Eligibility
Purpose	This bulletin confirms Lloyd's surplus lines eligibility in Kentucky with effect from 15 July 2014 following the enactment of legislation permitting Lloyd's underwriters to write Kentucky risks on a surplus lines basis.
Type	Event
From	Rosemary Beaver, Head of International Regulatory Affairs
Date	29 May 2014
Deadline	Effective date 15 July 2014
Related links	Lloyd's Market Bulletin Y4500 Link to the NAIC IID Quarterly Listing of Alien Insurers Kentucky Department of Insurance: Licensed Surplus Lines Brokers Crystal: Kentucky Report

Purpose

This bulletin is addressed to all Lloyd's market stakeholders dealing with the placement and underwriting of business from the state of Kentucky. The bulletin confirms Lloyd's surplus lines eligibility in Kentucky and sets out key considerations for writing surplus lines business from Kentucky (Appendix A). These arrangements are effective from 15 July 2014.

Background

Lloyd's market bulletin Y4500 (dated 23 June 2011) set out the implications of the Nonadmitted and Reinsurance Reform Act (NRRA) for Lloyd's which was effective on 21 July 2011. At that time, Lloyd's was unable to take up surplus lines eligibility in Kentucky owing to certain provisions of Kentucky law.

On 7 April 2014, Legislation House Bill 375 was signed into Kentucky law, permitting Lloyd's to hold dual status as both a licensed/admitted insurer and as a surplus lines insurer. The legislation takes effect from 15 July 2014 and allows an association of underwriters (i.e. Lloyd's) licensed/admitted in Kentucky also to qualify as a surplus lines insurer if listed on the National Association of Insurance Commissioners (NAIC), Quarterly Listing of Alien Insurers ("IID List").

It is important to note that Lloyd's licensed/admitted status in Kentucky is unchanged. Underwriters at Lloyd's may continue to write business on a licensed basis in accordance with all existing licensed business regulatory requirements This

means that underwriters can continue to access Kentucky risks, including bloodstock cover, in the admitted market.

Kentucky Surplus Lines Business

There are a number of compliance considerations for Lloyd's underwriters (see Appendix A) to ensure surplus lines risks from Kentucky are properly exported in accordance with surplus lines laws. As with all US surplus lines business, Lloyd's syndicates writing surplus lines insurance in Kentucky must appear on the IID List (and are therefore subject to Lloyd's U.S. Surplus Lines Trust Fund and reporting requirements). Lloyd's, working with the market, will continue to make an annual surplus lines eligibility filing with the NAIC as it has done in the past to ensure that, in accordance with NRRA standards, Lloyd's is an eligible surplus lines insurer.

Further Information and Contacts

If you require information regarding the regulatory requirements for underwriting or placing risks located in Kentucky or regarding Lloyd's US surplus lines eligibility generally, please contact:

Lloyd's International Trading Advice
Lloyd's Desk, Ground Floor, Underwriting Room
Telephone: + 44 (0) 20 7327 6677
Email: LITA@Lloyds.com
www.lloyds.com/crystal

or

Steve Yates, Manager, Lloyd's International Regulatory Affairs, Lloyd's
+44 (0)20 7327 5351 or Email stephen.yates@lloyds.com, or;

Luther Collins, Executive, Lloyd's International Regulatory Affairs, Lloyd's
+44 (0)20 7327 6355 or Email luther.collins@lloyds.com.

Appendix A

Lloyd's Surplus Lines Eligibility in Kentucky – Key Considerations

With effect from 15 July 2014, Lloyd's will be an eligible surplus lines insurer in Kentucky. Lloyd's underwriters and brokers should note the following key considerations where accepting surplus lines risks from Kentucky (further guidance concerning Lloyd's status and business placement requirements in Kentucky can be found on Crystal and in the Lloyd's QA tool).

Key considerations under the Kentucky Insurance Code:

1. Placement by a licensed surplus lines broker – Lloyd's underwriters are responsible for ensuring that every U.S. surplus lines risk they write, where Kentucky is the 'home state' (see 3. below) for the placement, is placed via a resident or non-resident broker who possesses a current Kentucky surplus lines licence. A search of licensed Kentucky surplus lines brokers can be carried out on the Kentucky Department of Insurance webpage (see "Related Links").
2. Diligent search requirement – In order for a risk to be exportable to the surplus lines market, the broker must conduct a diligent search and the full amount of insurance must not be procurable from among the insurers licensed to transact and actually writing that kind and class of insurance in Kentucky. Only the amount of insurance in excess of the amount procurable from licensed insurers may be exported.
3. Home State – The Kentucky Insurance Code has followed the federal law (NRRA). For the federal definition of home state, please refer to the 'Lloyd's authorisation' section on the U.S. page on Crystal.
4. Notice to the insured (LMA 9092) - Every insurance contract procured and delivered as Kentucky surplus lines coverage must have conspicuously stamped upon the face page, initialled by or bearing the name of the surplus line broker who procured it, the required notice. *"This insurance has been placed with an insurer not licensed to transact business in the Commonwealth of Kentucky but eligible as a surplus lines insurer. The insurer is not a member of the Kentucky Insurance Guaranty Association. Should the insurer become insolvent, the protection and benefits of the Kentucky Insurance Guaranty Association are not available."* (Established pursuant to KRS 304.10-090). A substantially similar wording cannot be used.

Key considerations under Lloyd's requirements for transacting U.S. surplus lines business from Kentucky:

1. U.S. Classification - The standard Market Reform Contract (MRC) for an open market placement includes, in its Fiscal and Regulatory section, the heading 'U.S. Classification'. The U.S. classification for a Kentucky surplus lines risk should be 'U.S. surplus lines'. Kentucky licensed business should still receive the U.S. Classification 'US Kentucky licensed'.

2. Service of suit nominee - Mendes and Mount is frequently designated as the service of suit nominee for Lloyd's underwriters' U.S. surplus lines business. The use of Mendes and Mount is not mandatory and underwriters are free to appoint another nominee if desired. Lloyd's underwriters are still required to appoint Lloyd's Kentucky Inc. as nominee for service of process on licensed business.
3. LPAN/FIL Codes - Kentucky surplus lines premium should be included within the LPAN prepared for U.S. surplus lines premium. A separate LPAN for Kentucky surplus lines premium is not required. The FIL code to be used on a Kentucky surplus lines risk is 'USL1'.
4. Certificates issued under binding authorities – The surplus lines certificate to be used for Kentucky surplus lines business is 'SLC3 (USA)'.
5. US General Cover conditions (LMA 5058A) – The US general cover conditions are currently being reviewed to differentiate licensed and surplus lines Kentucky business.
6. Coverholder extension - A Kentucky risk written on a surplus lines basis via a binding authority must be bound by an approved coverholder. Coverholders that are approved for U.S. surplus lines business do not require an approval for a regional extension from Lloyd's. This is because surplus lines business from Kentucky falls within Lloyd's general U.S. surplus lines coverholder regional authorisation. For further information, see market bulletin Y4125.
7. Bordereaux - If a Kentucky risk is written on surplus lines basis then there is no requirement to separately carve out the Kentucky part of the premium on the bordereaux. As with all US surplus lines placements under a binding authority, the bordereaux should contain details of the name and address and surplus lines licence number of the surplus lines broker, the home state of the insured and the total premium. However, on a Kentucky surplus lines placement on an open market basis, the name, address and surplus lines licence number of the Kentucky broker who has made the surplus lines filing and arranged payment of the surplus lines tax, as well as the home state of the insured, must be shown on the MRC
8. Open Market Correspondents (OMCs) - Lloyd's OMC requirements applicable to Kentucky licensed business, do not apply to Kentucky surplus lines placements.
9. Filing of forms and rates – A surplus lines placement does not require filing of forms and rates with the Kentucky Department of Insurance.
10. Cancellation Clause – The normal practice for surplus lines should be followed.
11. Countersignature – It should be noted that Kentucky surplus lines risks do not require countersigning by Lloyd's Kentucky Inc.