

# MARKET BULLETIN

REF: Y4820

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| <b>Title</b>         | Brazil: Anti-Money Laundering Requirements regarding transactions with Politically Exposed Persons ('PEPs')  |
| <b>Purpose</b>       | To inform managing agents of PEP identification and monitoring requirements in respect of Brazilian business   |
| <b>Type</b>          | Event  |
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| <b>Date</b>          | Effective 1 October 2014   |
| <b>Related links</b> | <a href="#">Market Bulletin 4794</a>   |

## **Executive Summary**

Lloyd's must comply with requirements from SUSEP, the supervisor of the Brazilian insurance market, to introduce anti-money laundering (AML) controls in relation to the identification and monitoring of politically exposed persons (PEPs) in compliance with Circular SUSEP 445/2012.

From 1 October 2014, all Managing Agents writing Brazilian business must:

- Identify if the Brazilian cedant or retrocedant has in the position of 'administrator'<sup>1</sup> an individual who is a PEP. Lloyd's Brazil will provide this information to managing agents for all current clients of the Market.
- Where a PEP is identified in relation to the cedant or retrocedant, undertake a risk assessment of the cedant / retrocedant for money laundering risk, and obtain senior management approval at the establishment of the business relationship

<sup>1</sup> An 'administrator' is person in a position of ownership or control, as defined by the relevant Brazilian regulation. Lloyd's Brazil will identify all administrators relating to the relevant cedant or retrocedant on behalf of the Market.

- Monitor transactions with cedants or retrocedants associated with a PEP, including claims and return premiums.

The Brazilian definition of a PEP is provided at **Appendix 1**.

### **Identification and monitoring of PEP associated (retro)cedants for Brazilian business**

From 1 October 2014, Lloyd's Brazil will provide the Market with a list of Brazilian cedants and retrocedants who have as an administrator an individual (or individuals) who are a PEP. This list will be updated on a monthly basis and issued directly to Compliance Officers at Managing Agents, via a LITA Alert. Additionally, the list will be made available to the Market via the [Compliance Officers Secure Portal](#). The first PEP listing will be provided to Compliance Officers by LITA Alert following this bulletin.

### **PEP Identification**

Effective 1 October 2014, underwriters writing reinsurance of Brazilian cedants and retrocedants must, prior to binding the risk, identify if the cedant<sup>2</sup> has as an administrator a PEP related individual. To determine this, underwriters may refer to the monthly PEP list provided by Lloyd's Brazil, which will clearly highlight companies which meet these criteria. The Lloyd's Brazil PEP list will provide details of the company name, as well as any individuals in positions of ownership or control ('administrators') who are defined as a PEP pursuant to Brazilian legislation.

Where the cedant is identified as having a PEP related individual as an administrator, senior management approval must be obtained for the transaction to proceed. This approval process should involve a risk assessment of the cedant for money laundering risk, which should be recorded for future reference.

This process is only necessary at the establishment of the relationship, or if there is a change in the status of a PEP-related administrator of the company. It is not required for every transaction under the reinsurance contract.

- It is for the Managing Agent to decide on the senior management approval process, but

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<sup>2</sup> For the purposes of this bulletin, references to 'cedant' should be understood to include both cedants and retrocedants.

Lloyd's considers that Compliance Officer sign-off will be sufficient for these purposes.

- This process should be undertaken by the **lead syndicate on each Lloyd's placement**, on behalf of the following market.
- **'New to Lloyd's' cedants:** Lloyd's Brazil have undertaken PEP identification for all cedants who are currently clients of the Lloyd's Market, and provided details of the PEP status for all current clients on the Brazil PEP Listing. However, if a cedant is **new to Lloyd's**, the lead managing agent should consult with Lloyd's Brazil prior to binding the risk to check if such cedant has been identified as associated with a PEP since the list has been issued by Lloyd's Brazil and if the senior management approval is required. Lloyd's Brazil will endeavour to respond within 1 business day.
- **Binding authority business:** Where business is written by a binding authority, the managing agent may instruct the coverholder to undertake the PEP review and approval process. Where such delegation occurs, the managing agent should ensure that the coverholder has in place appropriate procedures to undertake this review, and should consider the coverholders compliance with this requirement during their audit of the coverholder.
- **Lineslips:** As the PEP approval requirement only applies on establishment of the relationship with the PEP, and the responsibility for PEP identification and monitoring rests with the lead, the lead should undertake any required PEP review on behalf of the follow market.

### **PEP monitoring**

At the establishment of a relationship with a (retro)cedant associated with a PEP, in addition to obtaining senior management approval, managing agents will, as part of their standard underwriting due diligence processes, ensure that the (retro)cedant associated with a PEP has appropriate financial resources and that they are satisfied with the "source of wealth" supporting transactions, such as the payment of premium. This may include consideration of:

- Company accounts,

- Whether the premium payment has been paid from the company directly, as opposed to being paid by an individual.

However, in practical terms, when considering source of wealth, given the nature of the entities the market transacts with on a reinsurance basis, the market may wish to take comfort in the fact that these entities will all be separately regulated companies with large balance sheets, for whom source of wealth may not be such an issue as if they were transacting with private individuals.

In addition to this, there is a requirement for ongoing monitoring of further transactions with a (retro)cedants associated with a PEP. This means that further transactions should be monitored, such as at the point of a claim being made or premium being returned. Guidance to the Market on return premium transactions with Brazilian cedants was provided in [Market Bulletin Y4794](#). Managing agents should update their internal compliance procedures to allow for regular AML monitoring of Brazilian PEP business.

### **Record keeping**

Managing agents should ensure they have appropriate record keeping procedures in place, so that they can evidence a PEP assessment has been undertaken in respect of Brazilian risks, where relevant. These records may be requested by the Brazilian regulator at any time, and therefore must be made available to Lloyd's Brazil if required.

### **Lloyd's Annual Audit**

SUSEP requires, as part of a robust AML framework, that positive assurance is obtained in respect of the adequacy of AML controls. In order to obtain such assurance, Lloyd's Brazil is subject to an annual audit which will include checks to ensure that these controls are satisfactory; therefore managing agents may also be requested to provide details of the processes they have in place.

### **Enquiries**

For further information, managing agents should contact:

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**Appendix 1 - Definition of a PEP**

A PEP is an individual who is considered to pose a higher risk for potential involvement in financial crime, particularly with regard to money laundering and bribery and corruption, due to the influence their position may hold.

SUSEP circular 445/12 defines a PEP as public agents who hold or have held in the past five (5) years, positions, offices, relevant public duties, as well as their representatives, family members and other persons of their close relation, in Brazil or in foreign countries, territories and facilities as below:

- 1 Elective officials holding offices in the Executive and Legislative Branches of the Brazilian Federal Government;
- 2 Officials holding offices in the Executive Branch of the Brazilian Federal Government:
  - a. As a Minister of State or equivalent,
  - b. Of special nature or equivalent,
  - c. As a President, Vice-President and Director or equivalent, of autonomous government agencies, public foundations, state-owned companies or government-controlled companies, and,
  - d. In the Upper Management and Advisement Group – DAS, level 6 and equivalent;
- 3 The members of the National Council of Justice, of the Federal Supreme Court and Superior Courts;
- 4 The members of the National Council of the Prosecutors Office, the General Federal Prosecutor, the Vice-General Federal Prosecutor, the General Labour Prosecutor, the General Prosecutor of the Military Justice, the Sub-General Federal Prosecutor and the General Public Attorney of the States and of the Federal District;

- 5 The Members of the Accounting Court of the Brazilian Federal Government and the General Prosecutor of the Public Prosecution Office before the Accounting Court of the Brazilian Federal Government;
- 6 The State and Federal District governors, the Chief Judges of the Court of Appeals, State Legislature and District Chamber; and the Chief Judges of the State, Municipal and Federal District Accounting Courts and Council,
- 7 The Mayors and Chairpeople of the City Council of the State capitals.