

MARKET BULLETIN

REF: Y4940

Title	Gibraltar: Changes to authorisation and appointment of a General Representative
Purpose	To inform the market that Lloyd's underwriters have obtained freedom of services and establishment authorisation in Gibraltar and appointed a General Representative in Gibraltar.
Type	Event
From	Kim Swan, Senior Manager, International Regulatory Affairs General Counsel Division
Date	16 November 2015
Deadline	With effect from 1 January 2016
Related links	Crystal report for Gibraltar

Summary

Lloyd's underwriters have received authorisation to write insurance business from Gibraltar on a freedom of services basis and in Gibraltar on an establishment basis.

Lloyd's has appointed Yvonne Chu-Feetham, partner of the law firm Hassans in Gibraltar, as its and underwriters' General Representative for Gibraltar.

Background

For many years, Lloyd's underwriters have underwritten business from Gibraltar on the basis of an exemption in the Financial Services (Insurance Companies) Act 1987 from the requirement to hold an insurance licence in Gibraltar. However, recent changes to local insurance legislation as part of transposing Solvency II mean that this exemption will cease to exist from 1 January 2016.

To maintain the trading rights of Lloyd's underwriters in Gibraltar, Lloyd's underwriters have obtained freedom of services and establishment authorisation for Gibraltar with effect from 1 January 2016. This has been done through the usual passporting process of the European Union (EU) / European Economic Area (EEA).

Prior to 1 January 2016, Lloyd's underwriters may continue to underwrite risks located in Gibraltar under the existing arrangements.

Authorisation

Freedom of services

Under freedom of services authorisation in Gibraltar, Lloyd's underwriters will be permitted to underwrite term life and all non-life classes of insurance, except motor third party liability. Lloyd's underwriters will also be permitted to write all classes of reinsurance from Gibraltar on a cross-border basis.

Freedom of services authorisation permits Lloyd's underwriters to underwrite risks located in Gibraltar via the following routes:

- By a coverholder or service company in Gibraltar under a prior-submit binding authority agreement.
- By a coverholder or service company in an EEA member state under any type of binding authority agreement.
- By a managing agent in the UK on an open market basis.

Lloyd's underwriters will not be permitted to write motor third party liability risks located in Gibraltar on a freedom of services basis from 1 January 2016.

Establishment

Under establishment authorisation, Lloyd's underwriters will be permitted to underwrite all non-life classes, including motor third party liability.

Establishment authorisation permits insurance to be underwritten in Gibraltar by a branch of an insurance undertaking whose head office is located in another EEA member state. For the purposes of Lloyd's, this permits Lloyd's underwriters to appoint coverholders in Gibraltar to write risks located in Gibraltar under a full, pre-determined rates or no discretion binding authority agreement. It also provides the ability for managing agents to establish service companies in Gibraltar.

Lloyd's underwriters will not be permitted to write term life risks located in Gibraltar on an establishment basis from 1 January 2016.

Lloyd's General Representative

It is a requirement of the freedom of establishment authorisation for Lloyd's underwriters to appoint a General Representative in Gibraltar. The contact details of Lloyd's General Representative in Gibraltar are:

Yvonne Chu-Feetham
Lloyd's General Representative for Gibraltar
Hassans

57 Line Wall Road
Gibraltar
GX11 1AA

Tel: +350 200 79000
Fax +350 200 71966
E-mail: yvonne.feetham@lloyds.com

Territorial status of Gibraltar

Gibraltar is a British Overseas Territory with internal self-government. It is not a member state of the EU or EEA. Gibraltar is incorporated into the EU due to the UK's membership. Under Article 299(4) of the Treaty of Rome, which established the European Community, the Treaty of Rome applies to all territories in Europe for whose external relations an EU member state is responsible. This means that the UK government is ultimately responsible for ensuring that EU law (with some exemptions in areas that do not relate to insurance) is transposed and implemented into Gibraltar law. Other EEA member states are entitled to regard Gibraltar as part of the UK.

Passporting arrangements for intermediaries

As Gibraltar is incorporated into the EU, the EU/EEA passporting process for the authorisation of insurance intermediaries applies in the territory.

Consequently, insurance intermediaries located in an EEA member state outside Gibraltar, including insurance intermediaries in the UK, must have passporting authorisation for Gibraltar from their home state regulator before they carry on insurance mediation activity in or from the territory. Similarly, insurance intermediaries in Gibraltar who wish to carry on insurance mediation in or from an EEA member state, including in or from the UK, must passport into that member state by notifying the Gibraltar Financial Services Commission (GFSC).

For further details, please refer to the [Routes into Lloyd's section on Crystal](#).

Market development

Please note that the Lloyd's General Representative in Gibraltar is a "type 1" legal representative office which is the minimum required to enable underwriters to conduct establishment business. As such the office does not provide any additional services and underwriters wishing to obtain more information about business opportunities or market development in Gibraltar should contact the Lloyd's Iberia office in Madrid.

FIL codes

The EU definition of the "Member State where a risk is situated", should be used to determine whether a risk is situated in Gibraltar. This definition is set out in Article 2(d) of

EU Directive 88/357/EEC (Second Non-Life Insurance Directive)¹. The definition of a risk located in Gibraltar is also available on [Crystal](#).

The following FIL codes will apply to Gibraltarian insurance business.

Placing Route	FIL Code
Gibraltarian risk placed under a full, pre-determined rates or no discretion binding authority held by a coverholder in Gibraltar. (Freedom of Establishment)	GBE1
Gibraltarian risk not placed under a full, pre-determined rates or no discretion binding authority held by a coverholder in Gibraltar. This includes prior-submit and open market placements. (Freedom of Services)	GBS1

The new insurance FIL codes above will be used with effect from 1 January 2016. The above codes will apply to premiums (including APs/RPs and declarations off binding authorities) and claims.

No changes are required to the FIL coding of Gibraltarian reinsurance business at this time. Reinsurance business will continue to receive a non-country specific reinsurance FIL code.

Taxation

At the time of issue there are no indirect taxes applicable to insurance premiums received in relation to risks located in Gibraltar. However, please refer to the [Tax sections of Crystal](#) for up to date information.

Managing agents writing business in Gibraltar must obtain their own tax advice based on their individual operations and activities to ensure all Gibraltarian tax obligations are met.

Further information

If you require information regarding the regulatory requirements for underwriting or placing Gibraltarian business, 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

If you require information regarding business opportunities in Gibraltar, please contact:

¹ Replaced by Article 13(13) of EU Directive 2009/138/EC with effect from 1 January 2016.

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