

## MARKET BULLETIN

REF: Y4952

<b>Title</b>	Argentina: Appointment of Collection Agents
<b>Purpose</b>	To provide the Lloyd's Market with guidance on compliance with the requirement to appoint a Collection Agent (SSN Resolution No. 38,595/2014) when underwriting reinsurance risks in Argentina
<b>From</b>	Kim Swan, Senior Manager, International Regulatory Affairs
<b>Date</b>	21 December 2015
<b>Related links</b>	<a href="#">Argentina: New regulatory framework to govern reinsurance (2011)</a>

## Summary and Background

Lloyd's is registered as an admitted reinsurer in Argentina, allowing Lloyd's underwriters to:

- write retrocession business, except for group life and burial insurance (Section 2 of Annex of Section 2.1.1. of Resolution 38,708/2014<sup>1</sup>);
- reinsure the portion of each risk in excess of USD 50 million. It is compulsory for the first USD 50 million of each reinsurance risk to be written by local reinsurers (Section 4 of Annex of Section 2.1.1. of Resolution 38,708/2014); or
- reinsure 'exceptional' risks that cannot be underwritten in the local market –shown by formal denials by all local reinsurers- due to their magnitude or characteristics, where approval has been granted by the Superintendencia de Seguros de la Nacion (SSN) on a case-by-case basis, as defined in<sup>2</sup> Section 4 of Annex of Section 2.1.1. of Resolution 38,708/2014. Please note that SSN Resolution<sup>3</sup> 38,708/2014 states that if insurers place risks on this basis without having received the necessary approval, they will be deemed to have carried out an irregular insurance activity.

Under Argentinean foreign exchange regulations, only the debtor (for reinsurance premiums the (retro)cedant) of an obligation with a non-resident (i.e. reinsurers located outside Argentina) has access to the official foreign exchange market to make payments abroad.

SSN Resolution No. 38,595/2014 was introduced in September 2014 to enable cross-border reinsurance brokers to make premium payments to foreign reinsurers. It requires an appointed non-resident Collection Agent to be involved when risk and premium are transferred abroad (i.e. reinsurance and retrocession to reinsurers located outside Argentina). The (retro)cedant is able to comply with these foreign exchange regulations by involving a non-resident Collection Agent in the premium payment chain.

<sup>1</sup> Resolution 35,794 was replaced by Resolution 38,708/2014.

<sup>2</sup> Resolution 35,615 was replaced by Resolution 38,708/2014.

<sup>3</sup> Resolution 36,332 was replaced by Resolution 38,708/2014.

## Appointment of Collection Agents for Lloyd's placements

For the Lloyd's market in *London*, the Argentine regulator adopts the view that London-based Lloyd's Brokers act on behalf of the market. Due to Lloyd's unique structure, the London-based Lloyd's Broker – as part of the Lloyd's market – is therefore seen as the creditor who should receive the premium payment.

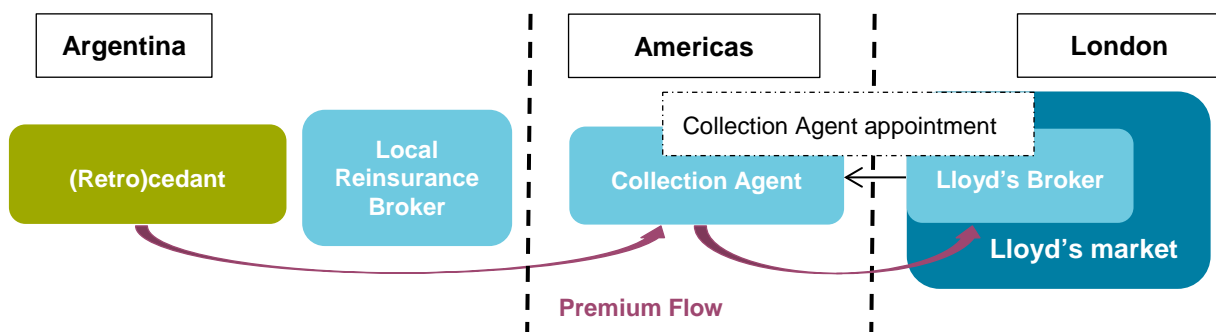
On the *Argentine* business side, the following two alternative ways to comply with the aforementioned requirement to appoint a non-resident Collection Agent have been developed in collaboration with the local market and the SSN.

### Option 1: Lloyd's Brokers with companies of the same group located outside of Argentina

The first alternative generally (but not exclusively) applies where a local reinsurance broker – registered and supervised in Argentina – is part of an international group of companies which includes a Lloyd's Broker and a partner company outside Argentina. The broking group may be located anywhere in the world although in practice most partner companies of brokers trading in Argentina will be located in the Americas, for example in Miami or Bermuda. In this model, the local reinsurance broker is involved in the placement of the risk but not in the premium flow.

The Lloyd's Broker in London, by way of a specific appointment document (Appointment of Collection Agent Agreement, LSW1868), authorises a company located outside Argentina – the Collection Agent – to collect premium payments from Argentinean (retro)cedants on its behalf.

This is best illustrated in the following diagram:



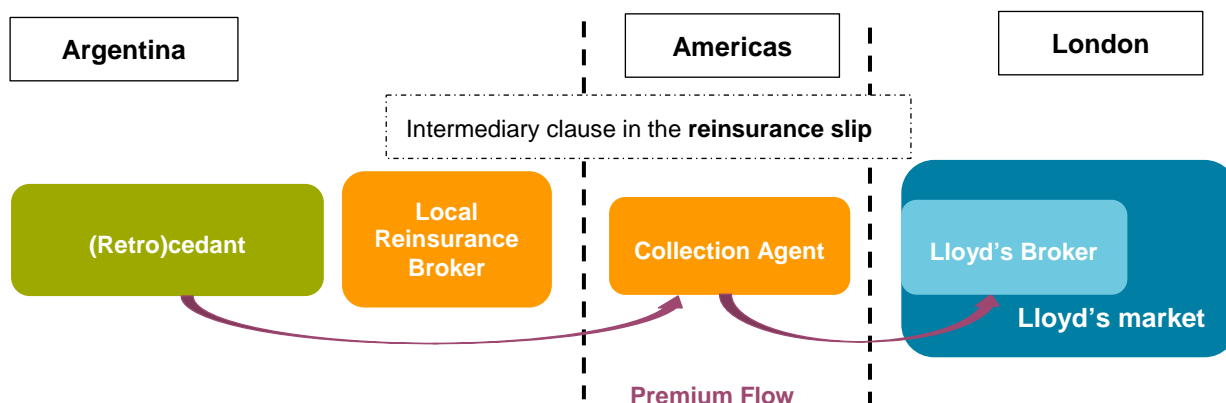
The signed Appointment of Collection Agent Agreement must be filed with the SSN and will then be applicable to all transactions conducted through the local reinsurance broker and the appointed Collection Agent. The submission has to be made via Lloyd's local attorney-in-fact, **Martín G. Argañaraz Luque** (For contact details please refer to [Crystal](#)).

**Annex 1** provides the agreed wording for the Appointment of Collection Agent Agreement. The wording is also available, both in English (LSW1868) as well as in Spanish (LSW1868-14), in the Lloyd's wordings repository.

## Option 2: Local reinsurance brokers

The second alternative was developed for placements where the involved local reinsurance broker – registered and supervised in Argentina – does not have a Lloyd's Broker in the same group and therefore the latter prefers not to grant a general authorisation to one and the same local reinsurance broker, as outlined in Option 1.

Under Option 2, when there is a local reinsurance broker intermediating in Argentina, the reinsurance slip/contract must include a clause (Broker's Collection Agent Clause, LSW1869) whereby the Lloyd's Broker appoints a non-resident Collection Agent to collect premium payments on its behalf. Please note that, in contrast to Option 1, this is not a general appointment but only relates to the particular reinsurance/retrocession agreement at hand. The diagram below provides a simplified summary of this alternative arrangement:



In this instance, as appointments are being made on a case-by-case basis, the (retro)cedant is required to file each and every reinsurance/retrocession agreement including the Broker's Collection Agent Clause with the SSN. Furthermore, the SSN may request a copy of the agreement in the course of on-site inspections at the local broker's office.

**Annex 2** provides the agreed wording for the Broker's Collection Agent Clause. The wording is also available, both in English (LSW1869) as well as in Spanish (LSW1869-14), in the Lloyd's wordings repository.

## Preference of Appointment of Collection Agent Agreement (Option 1) over Broker's Collection Agent Clause (Option 2)

Notwithstanding the process mentioned in **Option 2**, Lloyd's Brokers who do not belong to the same international group as the local reinsurance broker, have the choice to appoint a non-resident Collection Agent via a general appointment as mentioned under **Option 1**. In case of such a general appointment it is not necessary to include the Broker's Collection Agent Clause in each reinsurance/retrocession agreement as outlined in Option 2.

The same applies as mentioned above – ie the submission of the signed appointment document has to be made via Lloyd's local attorney-in-fact, **Martín G. Argañaraz Luque**.

### **Lloyd's Coverholders**

Please note that both Option 1 and 2 also apply in cases when the business is brought to the Lloyd's market by a Lloyd's Coverholder, instead of a Lloyd's Broker.

### **Appointment document / Intermediary clause**

Lloyd's advises the market to use the wordings provided in the Annexes to ensure full compliance with the local requirement to appoint a Collection Agent for cross-border reinsurance placements from Argentina.

### **Further information**

If you have any general queries relating to this bulletin please contact:

Lloyd's International Trading Advice  
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**ANNEX 1  
(LSW1868)**

**APPOINTMENT OF COLLECTION AGENT  
SSN Resolution No. 38,595**

**(Name / Address / E-Mail / Tel of Lloyd's Broker / Lloyd's registration number)** hereby appoints **(Name / Address / E-Mail / Tel of Collection Agent appointed)** as a Collection Agent for the sole purpose of collecting payments of the premiums on behalf and by authority of **(Lloyd's Broker)**, that are payable to any Lloyd's underwriter, agency or syndicate writing risks under Lloyd's registration with the Argentine Superintendence of Insurance under those reinsurance or retrocession agreements in which **(local Broker registered in Argentina)**, registered in the Reinsurance Brokers Registry under number ... of the Argentinean Superintendence of Insurance, has acted as reinsurance broker.

The signatory hereby puts on record that it has authority to issue this letter of appointment and undertakes to report to the Argentine Superintendence of Insurance any change in the situation of the Collection Agent appointed hereby within 15 days after taking notice of any such change.

Therefore, all collections related to reinsurance contracts, whether compulsory or non-compulsory may be sent to the following fiduciary account:

**[Bank account data]**

**Signature:** \_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**Place:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

**[Notary Public's certification regarding the signature and capacity of the undersigned]**

**[Apostille or consular legalisation]**

**ANNEX 2  
(LSW1869)**

**BROKER'S CLAUSE – LLOYD'S**

**(Broker registered in Argentina; name / address / e-mail / tel)**, a reinsurance broker duly licensed by the Argentine Superintendence of Insurance to act as such within the Argentine territory and registered in the Reinsurance Brokers' Registry under number ..., is hereby recognised as reinsurance broker in respect of this transaction.

In order to enable **(broker registered in Argentina)** to fulfil its duties as a broker in accordance with current laws and regulations, **((Retro)Cedant)** and **(Lloyd's Broker; Name / Address / E-Mail / Tel of Lloyd's Broker / Lloyd's registration number)** undertake to send all correspondence, accounts and any communication in connection with this agreement through **(broker registered in Argentina)**, without limiting or restricting the direct relationship between the parties.

**(Lloyd's Broker)** hereby appoints **(non-resident Collection Agent)** as collections and payments agent for the sole purpose of collecting the premiums related to this transaction on behalf and by authority of **(Lloyd's Broker)**.

Therefore, all collections of premiums and claims as a result of this agreement shall be sent to the following account:

**[Bank account data]**

According to the provisions of Section 6.3.d) of Annex of Section 2.1.1 of SSN Resolution 38,708, we include a detail of our commission accounts with \_\_\_\_\_, which accounts may under no circumstance be used for payments of premiums or claims.

**Signature:** \_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**Place:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

**[Notary Public's certification regarding the signature and capacity of the undersigned]**

**[Apostille or consular legalisation]**