

Market Bulletin

Ref: Y5262

Title Change of suggested/default service of suit agent in USA

Purpose To inform the market of the change and stipulate the action required

Type Event

From Joseph Gunset, General Counsel, Lloyd's America, Inc.

Date 30 September 2019

Deadline Effective immediately

Related links

Background

Lloyd's has a longstanding agreement with US regulators that every Lloyd's US insurance policy will contain a service of suit clause with a nominee based in the US, generally a US law firm.

Historically, a variety of different firms accepted service on behalf of Lloyd's underwriters, although the number of firms willing to provide this service began to diminish around 10 years ago. As a service to the market, therefore, in recent years Lloyd's has contracted centrally with Mendes & Mount LLP ("**Mendes**") to act as the suggested/default service of suit agent for Lloyd's underwriters in the US (other than in California).

It has not been mandatory for managing agents to nominate Mendes as agent for service of suit (they are free to pick an alternative agent), although many managing agents have traditionally done so (and continue to do so).

In recent years, Mendes has seen a significant increase in the number of suits that it receives, which has increased the costs involved in providing its services to the market. In that context, Lloyd's has re-assessed how it can best provide a suggested/default agent for service to the market.

Following discussions with Mendes, it has been agreed that Lloyd's America, Inc. will take over provision of the service of suit function previously provided by Mendes. This has involved a transfer of the key personnel from Mendes who previously dealt with service of suit. In this regard, effective July 1, 2019 Barbara Demosthene, formerly of Mendes, joined Lloyd's America as Litigation Counsel. Ms. Demosthene previously handled service of suit matters at Mendes and is managing the transition of the service of suit function from Mendes to Lloyd's America.

Action required

No action is required to be taken in respect of historic policies which name Mendes as agent for service of suit. Absent any prior arrangements with Mendes, suits served upon Mendes are now being forwarded to Lloyd's America. If managing agents wish to continue using Mendes as their agent for service of suit they must separately contract with Mendes for this service.

Managing agents wishing to avail themselves of the centralized service of suit handling to be provided by Lloyd's America, must update the wording specifying the agent for service of suit for US policies (with the exception of California policies) to refer to Lloyd's America rather than Mendes. This change may be implemented immediately. Policies issued after January 1, 2020 must refer to Lloyd's America unless special arrangement has been made with Mendes or another service agent.

Effective immediately, the address of Lloyd's America for purposes of Underwriters' service of suit clauses is as follows:

Lloyd's America, Inc.
Attention: Legal Department
280 Park Avenue, East Tower, 25th Floor
New York, NY 10017

In some instances, Lloyd's America may receive pleadings related to policies where another entity has been designated as the agent for service of suit. Underwriters should take notice that in accordance with past practice, all service made upon Lloyd's America which is directed to Lloyd's generally or any Lloyd's syndicate will be accepted whether or not such syndicate has designated Lloyd's America as agent for service of suit and therefore will be considered properly served upon the respective syndicate(s).

California

Policies issued in California must nominate a service of suit agent resident in California. Lloyd's suggested agent for service of suit in California remains Foley & Lardner LLP. Therefore, no changes are required in relation to Californian policies.

Caveat

This bulletin relates only to service of suit which is deemed to be originating process. Lloyd's America will not act as a notice agent for claims, tenders, demands or similar documents (which, as now, should be served in accordance with the notice procedures laid down in policies).

Crystal / Lloyd's International Trading Advice ("LITA")

For additional information on state requirements for service of suit please refer to the individual states' Crystal pages or contact LITA.

LITA is the primary point of contact for advice and information on Lloyd's trading status worldwide.

On line: For quick and easy access to Lloyd's international regulatory and taxation information visit: www.lloyds.com/crystal

On site: Lloyd's International Trading Advice, Lloyd's Desk, Ground Floor, Underwriting Room, Telephone: +44 (0) 20 7327 6677, Email: lita@lloyds.com

Note: this bulletin was updated on 13 November 2019, following consultation with the LMA, LIIBA and the IUA.