

Market Bulletin

Ref: Y5265

Title	Fining policy for Lloyd's returns - Update
Purpose	To set out Lloyd's updated approach to the imposition of fines for late, inaccurate or incomplete Lloyd's returns
Type	Event
From	Peter Spires, General Counsel and Secretary to the Council of Lloyd's
Date	2 October 2019
Deadline	Immediate

Related links

Lloyd's requires that returns are correctly completed and submitted on time. Where returns are submitted late, are inaccurate or incomplete then this can put at risk the ability of Lloyd's teams to meet business timetable service levels, prepare aggregate market level data or meet reporting deadlines for the submission of data to UK or overseas regulators.

The Lloyd's Market Supervision & Review Committee (MSARC) has therefore, for a number of years, operated a fining policy for the submission of late, inaccurate or incomplete Lloyd's returns. This is currently set out in Schedules 8 & 9 of the Requirements made pursuant to the Enforcement Byelaw.

Following discussions between MSARC and the relevant Lloyd's teams, Lloyd's is now updating its approach to the submission of late, inaccurate or incomplete returns, as set out in this bulletin. In particular, the following changes are being made:

- A new process to be followed prior to Lloyd's seeking a fine
- Where fines are imposed, an increased fining level of £20,000 and £1,000 for each additional day late

With these changes, Lloyd's is introducing a stepped approach that makes clear that Lloyd's takes seriously all instances of late, inaccurate and incomplete returns while reserving

enforcement sanctions for managing agents who repeatedly fail to provide returns which meet the required standards. The increased level of fine is also intended to serve as a meaningful deterrent.

Process to be followed for returns required by the Performance Management and Finance Divisions.

For late, inaccurate or incomplete Lloyd's returns required by the Performance Management and Finance Divisions (as listed in Schedule 8 of the Requirements made pursuant to the Enforcement Byelaw), Lloyd's will now adopt the following two-stage process:

- **Stage one:** When any managing agent is late in making a submission (without first having notified and received approval from the Head of the relevant department), or makes an inaccurate or incomplete submission, it will receive a formal warning letter. This letter will draw the managing agent's attention to the provisions of the consolidated fining policy, require the managing agent to draw the late/inaccurate/incomplete submission to the attention of its Board, and confirm to Lloyd's that it has done so. The managing agent will also be informed that any further instances of late/inaccurate/incomplete submissions within a 12-month period will result in enforcement action being taken.
- **Stage two:** If any further unauthorised late or inaccurate or incomplete submissions are made within 12 months of the first offence (without prior Lloyd's agreement), then enforcement action will be taken.

Process to be followed for returns required by the International Regulatory Affairs team.

For late, inaccurate or incomplete Lloyd's returns required by the International Regulatory Affairs team (as listed in Schedule 9 of the Requirements made pursuant to the Enforcement Byelaw), Lloyd's will now adopt the following three-stage process. The three-stage process is intended to recognise that some returns required for overseas reporting are submitted by third parties on behalf of managing agents. Managing agents remain, however, ultimately responsible for the provision of the returns.

- **Stage one:** A formal warning letter will be sent to managing agents, informing them that they have or their agent has submitted a late or inaccurate or incomplete return, without prior authorisation. The letter will refer to Lloyd's fining policy and will require the managing agent to respond to Lloyd's with details of the actions taken to prevent any recurrence.
- **Stage two:** In the event of another late or inaccurate or incomplete submission, a second letter will be sent, noting the second breach and requiring the managing agent to draw the late/inaccurate/incomplete submission to the attention of its Board, and confirm to Lloyd's that it has done so. The letter will state that any further breach in the subsequent 12 months will result in enforcement action.

- **Stage three:** If any further unauthorised late or inaccurate or incomplete submissions are then made within 12 months of the first offence (without prior Lloyd's agreement), then enforcement action will be taken.

Notwithstanding the procedures set out above, it will still be open to Lloyd's to proceed with taking enforcement action, including by seeking a fine, in any cases of sufficient gravity, without first sending a prior warning letter.

Increase to the level of fines Lloyd's will seek

As fines will now be reserved for more serious and repeat offenders, it is important that the level of any fine acts as a suitable deterrent. Accordingly, MSARC is increasing the level of the fines that it will seek to:

Per return per syndicate – flat fine £20,000

Per return per syndicate – additional fine per working day late £1,000

Update to Lloyd's Consolidated and Overseas Fining Policies

To reflect the changes set out in this bulletin, MSARC has reviewed and updated the Lloyd's Consolidated and Overseas Fining Policies. This also includes an update to the schedule of returns covered by the policies. The updated policies are appended to this bulletin.

Further Information

If you have any questions regarding Lloyd's fining policy, please contact:

Lloyd's Consolidated Fining Policy: Contact your over Oversight Manager

Lloyd's Overseas Returns Fining Policy: Lloyd's International Trading Advice (LITA)
Tel: +44 (0) 207 327 6677
Lita@lloyds.com

Consolidated fining policy for Lloyd's returns

This Consolidated Fining Policy applies to the Lloyd's Returns listed in the Appendix attached to this document. The list of Lloyd's Returns to which this Consolidated Fining Regime applies may be amended by MSARC from time to time.

It is a requirement of the Council of Lloyd's that Lloyd's Returns are correctly completed and submitted on time.

Failure to submit a Lloyd's Return on time is a breach of the relevant Lloyd's Byelaw and may therefore result in a fine being imposed.

MSARC wishes to set out its policy for imposing fines in such cases:

1. Where a Managing Agent has reason to believe that it may be unable to submit a Lloyd's Return on time it must contact the relevant Lloyd's individual at the earliest opportunity in advance of the deadline to discuss the matter. Failure to do so will be a factor Lloyd's will take into account in deciding whether a fine is appropriate.
2. MSARC may in its discretion impose a fine in respect of Lloyd's Returns which are submitted by the deadline but are either inaccurate or incomplete. In deciding whether to exercise that discretion MSARC will have regard to whether the Managing Agent itself identified the inaccuracy and brought the matter to Lloyd's attention at the earliest opportunity.
3. Where MSARC is satisfied that a fine is appropriate then the following fining regime will be implemented in respect of the late, inaccurate or incomplete submission of a Lloyd's Return other than where MSARC is satisfied that an alternative fine is appropriate:

Per Lloyd's Return per syndicate – flat fine £20,000

Per Lloyd's Return per syndicate – additional fine per working day late £1,000

4. Before imposing a fine, Lloyd's may first issue a Managing Agent with a warning letter and, in this regard, Lloyd's has issued guidance on the procedure it will follow in Market Bulletin Y5265.

Persistent delays will lead to further disciplinary action.

These levels of fines will be reviewed by MSARC from time to time.

This Consolidated Fining Policy has been agreed by the Market Supervision and Review Committee.

Appendix – Lloyd’s returns

This Appendix lists the Lloyd’s Returns to which the Consolidated Fining Policy for Lloyd’s Returns applies:

Performance Management Data Return
Quarterly Monitoring Return - Part A
Quarterly Monitoring Return - Part B
Realistic Disaster scenario
Realistic Disaster scenario - light
Syndicate Reinsurance Structure
Syndicate Business Forecast
Syndicate Information Statement
UK Tax
Lloyd’s Capital Return
Gross Quarterly Return
Technical Provisions Data
Quarterly Solvency Return (QSR)
Quarterly Asset Data Return (QAD)
Annual Solvency Return – Part A (ASR)
Annual Solvency Return – Part B (ASB)
Annual Asset Data Return – (AAD)

Lloyd's overseas returns fining policy

This Policy applies to the regulatory returns and compliance reports listed in the Appendix attached to this document ("Returns"). The list of Returns to which this Policy applies may be amended by MSARC from time to time.

It is a requirement of the Council of Lloyd's under this Policy that Returns, whether required to be filed with Lloyd's or an overseas regulator, are correctly completed and submitted on time.

Whilst Returns may be submitted by Service Companies, Coverholders or other entities in respect of business in overseas countries or territories ("Intermediary"), this requirement of Council applies to the Managing Agent who is ultimately responsible in respect of the business to which the Return relates.

Failure to submit a Return on time is a breach of this Policy and may therefore result in a fine being imposed.

Lloyd's may also recoup any fine imposed on it by an overseas regulator as a result of the late submission of a Return.

Restitution of fines imposed by an overseas regulator on Lloyd's

Lloyd's will require a Managing Agent in accordance with paragraph 5 of the Overseas Underwriting Byelaw to pay to Lloyd's directly or reimburse Lloyd's in respect of fines which may be imposed upon Lloyd's by an overseas regulator as a result of a failure to meet the deadlines for submission of the Returns.

Lloyd's own fines

In addition to the recouping of any fine imposed by the overseas regulator, MSARC wishes to set out its policy for imposing Lloyd's own fines on a Managing Agent in such cases:

1. Where the Intermediary or Managing Agent has reason to believe that it may be unable to submit a Return on time it must contact the relevant Lloyd's individual at the earliest opportunity in advance of the deadline to discuss the matter. Failure to do so will be a factor Lloyd's will take into account in deciding whether a fine is appropriate.
2. MSARC may in its discretion impose a fine in respect of Returns which are submitted by the deadline but are either inaccurate or incomplete. In deciding whether to exercise that discretion MSARC will have regard to whether the Intermediary or Managing Agent itself identified the inaccuracy and brought the matter to Lloyd's attention at the earliest opportunity.

3. Where MSARC is satisfied that a fine is appropriate then the following fining regime will be implemented in respect of the late, inaccurate or incomplete submission of a Return other than where MSARC is satisfied that an alternative fine is appropriate:

Per Return per syndicate – flat fine £20,000

Per Return per syndicate – additional fine per working day late £1,000

4. Before imposing a fine, Lloyd's may first issue a Managing Agent with a warning letter and, in this regard, Lloyd's has issued guidance on the procedure it will follow in Market Bulletin Y5265.

Persistent delays will lead to further disciplinary action.

These levels of fines will be reviewed by MSARC from time to time.

This Policy has been agreed by the Market Supervision and Review Committee.

Appendix – Lloyd’s Overseas Returns fining policy

This Appendix lists the regulatory returns and compliance reports to which the Overseas Returns Fining Policy applies:

Singapore Regulatory Returns as prescribed under the Insurance (Lloyd’s Asia Scheme) Regulations
Hong Kong Risk Return
Hong Kong Claim Return
Australian Reinsurance Pool Corporation (ARPC) Quarterly Return
Australian Reinsurance Pool Corporation (ARPC) Annual Return
Annual and Quarterly Non-XIS Returns
US Trading Quarterly and Annual Regulatory Returns
Listing of Lloyd’s Syndicates as Eligible Surplus Lines Insurers in the United States Annual Return
US Terrorism Risk Insurance Act of 2002 (“TRIA”), as amended (“TRIPRA 2015”) - TRIA Reporting
NAIC’s International Insurers Department “IID” Annual Filing
Canadian Trading Quarterly and Annual Regulatory Returns
Canadian Provincial Returns
Annual MBI Audit
Quarterly Danish Guarantee Fund