

FROM: Director, Worldwide Markets
LOCATION: G12
EXTENSION: 5998
DATE: 19 May 2003
REFERENCE: Y3059
SUBJECT: UNREGULATED "KYOSAI" IN JAPAN
SUBJECT AREA(S): Advice to the market on the implications of supporting unregulated "Kyosai"
ATTACHMENTS:
ACTION POINTS: **Brokers and underwriters should obtain suitable written confirmation that the Kyosai in question is regulated in Japan before the business is placed.**
DEADLINE: **Immediate**

1.0 Purpose of Bulletin

This Bulletin provides information on the growth of unregulated 'Kyosai' in Japan and highlights the regulatory and reputational implications for Lloyd's should underwriters wish to accept such "Kyosai" business.

Before Kyosai business is placed, brokers and underwriters should obtain suitable written confirmation that the Kyosai in question is regulated in Japan.

2.0 Background

"Kyosai" are mutual aid societies, formed by persons with a common interest (such as doctors or train drivers) which provide modest benefits (e.g. funeral expenses) from the pooled financial contributions of the membership.

These organisations can either be Regulated or Unregulated. The conventional insurance industry is regulated by the Japanese Financial Services Agency (Japanese FSA). Regulated Kyosai are regulated by government ministries other than the Japanese FSA, but a large number of Kyosai operate totally free of any regulation.

Numerous unregulated Kyosai are marketing their products to the general public and acting in the manner of a conventional insurance company. This is contrary to the established traditional role of Kyosai as small mutual aid organisations devoted solely to serving the interests of their memberships.

Unregulated Kyosai are the subject of increasing media coverage in Japan and are beginning to attract regulatory scrutiny. The Life Insurance Association of Japan undertook an investigation into unregulated Kyosai. The Marine & Fire Insurance Association of Japan is also undertaking an investigation, and the Foreign Insurers Non-Life Insurance Association (FINLIA) is similarly looking into the matter.

3.0 Unregulated Kyosai and Lloyd's

Involvement with unregulated Kyosai raises reputational concerns for the Society of Lloyd's.

Independent legal advice, sought by Lloyd's, indicates that underwriters could, depending on the circumstances, be in breach of the Insurance Business Law of Japan (IBL).

The legal advice indicates that unregulated Kyosai, which solicit business from the general public and also offer products accompanied by substantial benefits, would be in violation of the law, because they lack the authorisation to conduct insurance business under the IBL. (This contrasts with the usual unregulated Kyosai, who are fulfilling the established traditional practice of concentrating on specified persons and offering products which afford only small benefits. These organisations are not in breach of the law, but in any case fall outside the ambit of the IBL.)

The legal advice also suggests that any entity whose business falls outside the ambit of the IBL is not an insurer for the purposes of Japanese Law and as such cannot buy reinsurance. Only conventional insurers (and regulated Kyosai) can buy reinsurance. Thus, any relationship formed by Lloyd's underwriters with these unregulated Kyosai could only be one of direct insurance. The IBL is clear that the only way for direct business to be written for Japanese domestic risks, which require Lloyd's security, is via Lloyd's Japan Inc in Tokyo.

If you have any input or enquiries about the above please contact any of the following:

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We have sent this bulletin to active underwriters and the compliance officers of Lloyd's brokers and managing agents and for information to market associations.

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Director
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