

## Market Briefing – Confidential

### Title of paper: Swiss Regulatory Compliance – Article 19

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#### 1. Executive Summary

##### 1.1 Who is impacted:

- 1.1.1 Managing agents with syndicates that write Swiss regulated insurance business;
- 1.1.2 Brokers involved in the placement of Swiss regulated insurance business in the Lloyd's market; and
- 1.1.3 Coverholders (including service companies, "coverholders") writing Swiss regulated insurance business, both Swiss domiciled and non-Swiss domiciled.

##### 1.2 What you need to know:

- 1.2.1 As a result of Article 19 ("AVO 19"), Swiss Federal Ordinance of 9 November 2005 on the Supervision of Private Insurance Companies (Insurance Supervision Ordinance; SR 961.011), Lloyd's underwriters are required to hold data and documents relating to Swiss regulated insurance business ("Swiss data") locally at Lloyd's Zurich, which is the branch office for Lloyd's underwriters in Switzerland ("Lloyd's Zurich").
- 1.2.2 Lloyd's General Representative for Switzerland at Lloyd's Zurich ("Lloyd's General Representative") will hold documentation securely in Switzerland, acting on behalf of Lloyd's underwriters under the existing power of attorney granted to represent Lloyd's underwriters. Access to documentation will only be needed to demonstrate compliance with supervisory requirements, for audit purposes, or in the event of insolvency or other exceptional circumstances.
- 1.2.3 For open market insurance business Lloyd's General Representative will receive copy documents from the Insurers Market Repository (IMR) and Electronic Claim Files (ECF).
- 1.2.4 For delegated authority insurance business Lloyd's will need to acquire Swiss data directly from coverholders or brokers.

##### 1.3 When does this come into effect?

- 1.3.1 With immediate effect.

##### 1.4 Is any action required on your part?

- 1.4.1 For open market business, no action is necessary as the required Swiss data will be provided to Lloyd's Zurich by DXC.
- 1.4.2 For delegated authority business, additional documentation will be required to be submitted through the existing processes (full details can be found below).

**1.4.3** For all business, all parties should be made aware of the need to hold Swiss data at Lloyd's Zurich.

## **2. Background**

2.1 Lloyd's underwriters, as a regulated insurer in Switzerland, are required to comply with Swiss legislation and regulation. This includes, under the Swiss Federal Ordinance, AVO 19.

"The General Representative shall keep the documents relating to the Swiss insurance portfolio at the office for the totality of Swiss business affairs and shall keep the relevant books and records." (Unofficial translation).

2.2 The Swiss Financial Market Supervisory Authority ("FINMA") interprets this as requiring Swiss regulated insurers to have, stored at their Swiss office, data and documents related to their Swiss **insurance** business. Swiss reinsurance business is not in scope.

2.3 The Swiss data relates to Swiss insurance business written by underwriters at Lloyd's. However, the risks in question may also involve non-Lloyd's participations and therefore the Swiss data will include information relating to those non-Lloyd's participants. Processes and procedures will govern the transmission and storage of the whole of the Swiss data received by Lloyd's Switzerland, both the Lloyd's and non-Lloyd's elements (references to Swiss data should be read accordingly).

2.4 Lloyd's has worked hard to limit the scope of Swiss data required to be considered by FINMA to comply with AVO 19. Further discussion of FINMA's expectations and Lloyd's response are in **section 3**.

2.5 Lloyd's underwriters are required to hold Swiss data locally at Lloyd's Zurich. Swiss data held at Lloyd's Zurich would likely only need to be accessed to demonstrate compliance with supervisory requirements, for audit purposes, or in the event of insolvency or other exceptional circumstances.

2.6 Lloyd's is working to develop feeds of Swiss data to Lloyd's General Representative on a weekly basis to meet FINMA's requirements.

2.7 For open market insurance business Lloyd's General Representative will receive copy documents from the IMR and ECF. Details are in **section 4**.

2.8 In addition, brokers are reminded of the need to be registered with FINMA if placing Swiss regulated business into Lloyd's, and of the need to adhere to guidance for the usage of the IMR and ECF. Please refer to [Crystal](#) for further information regarding broker requirements. Details are in **section 4.8**.

2.9 For delegated authority insurance business Lloyd's will need to acquire Swiss data directly from coverholders or brokers. Details are in **section 5**.

**2.9.1** The requirements for Swiss domiciled coverholders are in **section 5.3**.

**2.9.2** The requirements for non-Swiss domiciled coverholders are in **section 5.4**.

2.10 Data security and privacy is critical, with processes and procedures having been put in place to ensure confidentiality and preserve legal privilege. Details are in **section 6**.

### **3. Lloyd's AVO 19 compliance requirements**

#### **FINMA's expectations**

- 3.1 Lloyd's underwriters are required to hold Swiss data locally at Lloyd's Zurich. This is to comply with Swiss insurance supervision law and – together with other data and documentation – to enable FINMA to conduct or supervise the legally prescribed insolvency proceedings in the unlikely event of the insolvency of Lloyd's or because of other exceptional circumstances.
- 3.2 FINMA would like to see, ideally, real time provision of data and documentation to Lloyd's Zurich.
- 3.3 FINMA also expects regulated insurers to hold at least 10 years data and documentation, in line with local data retention requirements.

#### **Lloyd's response**

- 3.4 Lloyd's has presented numerous detailed briefings to FINMA on the Lloyd's business model, and the implications this has for compliance with AVO 19.
- 3.5 Lloyd's has sought to focus FINMA on the use of data to meet requirements, seeking to build acceptance to be able to rely on existing data to the maximum extent possible.
- 3.6 Lloyd's has also focused on limiting the scope of Swiss data to be held – in terms of its nature, the frequency of submission, and on the level of historical data required to be deemed to comply with AVO 19.

#### **Lloyd's compliance requirements**

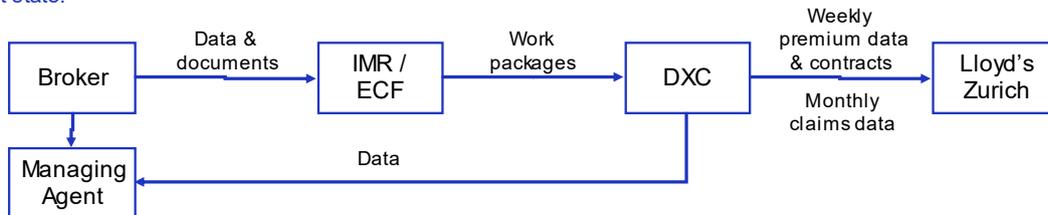
- 3.7 Lloyd's has committed that Lloyd's Zurich will receive weekly transmission of Swiss data.
- 3.8 Lloyd's has agreed that Lloyd's underwriters will store copies of key documents related to the policies written and to subsequent claims made on those policies at Lloyd's Zurich.
- 3.9 Lloyd's has agreed that it will hold historical documents for "open" business as at 31 March 2022:
  - 3.9.1** Policy and claims documentation relating to unexpired policies and open claims as of 31 March 2022.
  - 3.9.2** Where open claims are on a previously expired policy, documentation relating to both the policy and claims is required to be submitted.
  - 3.9.3** Where new claims are notified, or where a previously closed claim is reopened on a previously expired policy, documentation relating to both the policy and claims is required to be submitted.
  - 3.9.4** Backfilling is to be completed by 31 August 2022.

#### 4. What does this mean for open market insurance business?

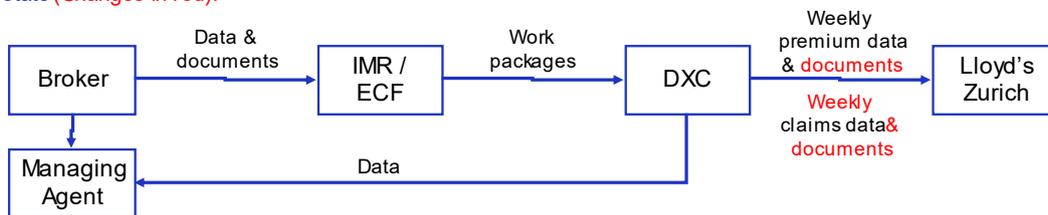
LLOYD'S

### Open Market business

- Current state:



- Future state (Changes in red):



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- 4.1 Lloyd's is working to develop and facilitate feeds of Swiss data to Lloyd's General Representative on a weekly basis to meet FINMA's requirements and will hold copies of relevant Swiss data in secure storage at Lloyd's Zurich.
- 4.2 For open market insurance business, Lloyd's believes the most effective and efficient route to access the required documents is by receiving copy documents from the IMR and ECF.
- 4.3 DXC will transmit weekly data files in respect of open market business (policies and claims), and weekly files of the relevant documents associated with those transactions. Transmission will commence from 31 March 2022.
- 4.4 The FERN agreements have been amended to reflect this new service by CCN, and the LMA, IUA, DXC and LIMOSS have been engaged and consulted.
- 4.5 **I am a managing agent writing open market Swiss regulated insurance business through one or more syndicates. What do I need to do?**
  - 4.5.1 For open market insurance business, Lloyd's believes the most effective and efficient route to access certain required documentation is by receiving copy documentation from the IMR and ECF.
  - 4.5.2 For open market insurance business, DXC will run weekly reports based on the relevant UMR or UCR to identify transactions processed during the preceding

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period. DXC will then provide feeds of copy documentation and data to Lloyd's Zurich for secure retention on its server.

**4.5.3** Documentation to be provided by DXC (where available – DXC will not pursue documents not held in IMR/ECF)

**4.5.4** Premium documentation to be deposited:

- Proposal form (where used and available)
- Policy/Market Reform Contract (MRC)/slip/certificate
- Endorsements to policy/MRC/slip/certificate
- Tax schedule, premium calculations, signed line calculations
- Broker invoice, confidential terms & lines, schedules of assets
- Fully cloused policy, policy copy of endorsement, agreed wording

**4.5.5** Claims documentation to be deposited:

- Client correspondence
- Claim notification, file closure notification
- Loss adjuster / lawyer reports (or those of other relevant 3rd party experts)
- Claim adjustment calculations, photos, sensitive documentation
- Sanctions attestations, regulatory split calculations
- Details required for processing the claim through DXC
- Instructions exchanges, query exchanges

**4.6 I am a non-Swiss domiciled Open Market Correspondent producing Swiss open market insurance business to the Lloyd's market. What do I need to do?**

**4.6.1** Nothing. The relevant data and documentation relating to this business will be supplied to Lloyd's Zurich by DXC.

**4.7 I am a Lloyd's Swiss broker producing only Swiss open market insurance business to the Lloyd's Market. What do I need to do?**

**4.7.1** The data content supplied to Lloyd's General Representative via the premiums template and the claims template will remain unchanged, but the required frequency will increase from monthly to weekly.

**4.7.2** The process for submitting the templates will remain as currently undertaken to SecureShare.

**4.7.3** You are not required to change your reporting, closing or accounting processes to managing agents – the only change is to the reporting required to Lloyd's Zurich.

**4.7.4** Data submitted to Lloyd's General Representative via SecureShare will be validated, before being ingested for regulatory reporting purposes and copied to Lloyd's Zurich, per the existing processes.

- 4.7.5** The documentation relating to this business will be supplied to Lloyd's General Representative by DXC.
- 4.7.6** Please ensure that all parties are aware that Swiss data will be held at Lloyd's Zurich on behalf of Lloyd's underwriters.
- 4.8 I am a Lloyd's broker, placing open market Swiss insurance business into the Lloyd's Market. What do I need to do?**
- 4.8.1** The Swiss data relating to this business will be supplied to Lloyd's Zurich by DXC.
- 4.8.2** Please ensure that all parties are aware that Swiss data will be held at Lloyd's Zurich on behalf of Lloyd's underwriters.
- 4.8.3** A Lloyd's broker may process "Swiss direct insured business" at DXC; these are transactions with a regulatory risk location "Switzerland" and without a Swiss broker in the chain. DXC allocates the FIL Code "SWE1" for such business.
- 4.8.4** Lloyd's brokers are reminded that to do so, they must be registered with FINMA. Please refer to [Crystal](#) for further information.
- 4.8.5** From 2 May 2022, DXC will check that, for such business with a policyholder domiciled in Switzerland (ie a primary or principal Swiss insured), the Lloyd's broking company appears on FINMA's Register of Insurance Intermediaries ("FINMA Register"). This may be searched on the [FINMA website](#).
- 4.8.6** Should a Lloyd's broker not currently be entered on the FINMA Register, it can do so by following this link to the [FINMA website](#).
- 4.8.7** EEA subsidiaries of Lloyd's brokers will also need to be entered on the FINMA Register if they wish to place such business.
- 4.8.8** Lloyd's brokers are advised to read the registration requirements in full before commencing the registration process.
- 4.8.9** This additional control will be performed by DXC on all premium transactions, including APs, and RPs.
- 4.8.10** Such transactions will not be processed by DXC unless and until the Lloyd's broker can confirm its entry on the FINMA Register.
- 5. What does this mean for delegated authority business?**
- 5.1** For delegated authority insurance business, Lloyd's will need to acquire Swiss data directly from coverholders or brokers.
- 5.1.1** Lloyd's General Representative will require coverholders writing Swiss delegated authority insurance business to commence weekly reporting of Swiss data (data and documentation from Swiss domiciled coverholders, documentation for non-Swiss domiciled coverholders) as quickly as possible after March 2022 month-end reporting is complete.
- 5.1.2** Also, with immediate effect, Lloyd's General Representative will require coverholders writing Swiss delegated authority insurance business to

commence backfilling documents relating to policies unexpired as of 31 March 2022, and open claims as at 31 March 2022. In addition, Lloyd's will require coverholders to backfill the relevant documents where new claims occur, or previously closed claims reopen on previously expired policies.

**5.1.3** Lloyd's will work with the market to facilitate weekly feeds of the required Swiss data in respect of delegated authority business, with the aim of establishing weekly transmission of Swiss data as quickly as possible and completing the backfilling of historical documentation by 31 August 2022.

**5.1.4** Lloyd's has sought and expects to receive exemption from the requirements of AVO 19 for key delegated authority business portfolios in run-off – this will be notified to the relevant stakeholders directly.

**5.1.5** Lloyd's will set out detailed procedures directly to coverholders and brokers and will provide copy correspondence to managing agents.

**5.2 I am a managing agent writing delegated authority Swiss insurance business through one or more syndicates. What do I need to do?**

**5.2.1** Please support and work with your coverholders, service companies and brokers involved in the writing of delegated authority insurance business to ensure that they provide the required Swiss data in a timely manner and in full.

**5.2.2** Where a coverholder has ceased, and binder business is being run-off by a managing agent, that managing agent would be responsible for providing Swiss data where required.

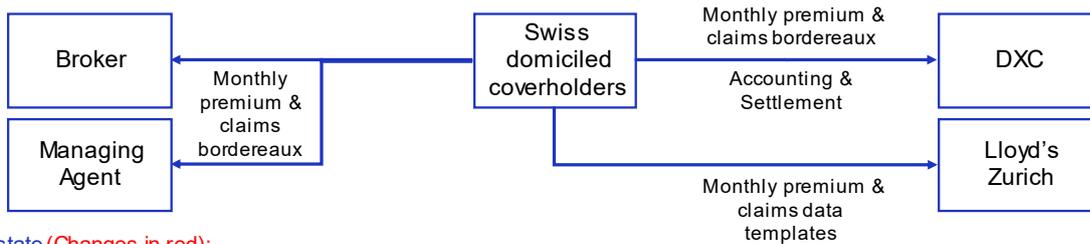
### 5.3 I am a Swiss domiciled coverholder binding Swiss regulated insurance business for Lloyd's. What do I need to do?



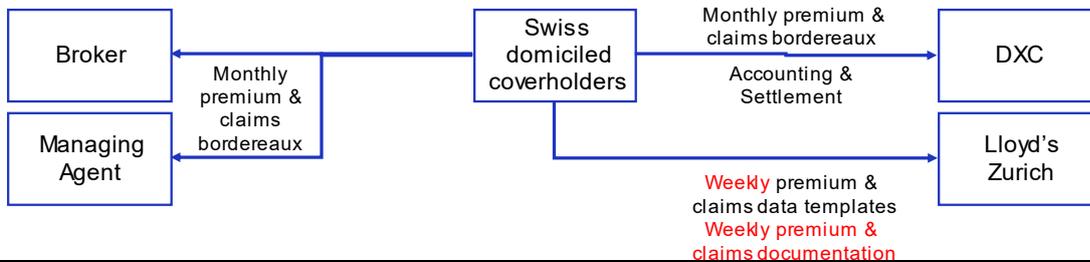
#### Delegated authority business

Swiss domiciled coverholders

- Current state:



- Future state (Changes in red):



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- 5.3.1** As a Swiss domiciled coverholder writing delegated authority business, you are already providing data to Lloyd's General Representative by submitting monthly premiums and claims templates. As quickly as possible once the March monthly reporting is completed, you are required to produce and submit these templates weekly. Nil returns are not required. You will continue to be asked annually to attest to the fact that you have provided all the required information accurately, completely and on a timely basis. When no data or documentation is received at Lloyd's Zurich in a calendar quarter you will be requested, as currently, to sign a quarterly "zero bordereau declaration".
- 5.3.2** The data content supplied to Lloyd's General Representative via the premiums template and the claims template will remain unchanged, but the required frequency will increase from monthly to weekly. Lloyd's Zurich will continue to produce its bordereau to Swiss domiciled coverholders and Lloyd's Swiss brokers.
- 5.3.3** The process for submitting the templates will remain as currently undertaken to SecureShare.

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- 5.3.4** You are not required to change your reporting, closing or accounting processes to managing agents – the only change is to the reporting required to Lloyd’s General Representative.
- 5.3.5** Data submitted to Lloyd’s General Representative via SecureShare will be validated as currently the case, before being ingested for regulatory reporting purposes and copied to Lloyd’s Zurich server, as currently.
- 5.3.6** Swiss domiciled coverholders will be required to provide Lloyd’s General Representative with a copy of each delegated authority contract (and endorsements/amendments thereto) under which it is binding Swiss regulated business, and to provide a copy of the general insurance conditions provided to policyholders under each delegated authority contract.
- 5.3.7** Swiss domiciled coverholders will be required to provide the following documentation along with the premium template (where available – Lloyd’s Zurich will not pursue documents not transmitted beyond the attestations set out in 5.3.1) for transactions after 31 March 2022:
- Proposal form (where completed by the policyholder)
  - Certificate of insurance issued to the policyholder
  - Schedules of assets/values insured (where not included in the certificate)
  - Premium payment invoice sent to policyholder
  - Premium payment chasers sent to policyholder
  - Endorsements of certificates, extensions to cover etc (whether generating changes to premiums or not)
- 5.3.8** Swiss domiciled coverholders will be required to provide the following documentation along with the claims template (where available – Lloyd’s Zurich will not pursue documents not transmitted beyond the attestations set out in 5.3.1) for transactions after 31 March 2022:
- Notification of claim by the policyholder
  - Claims form completed by the policyholder
  - Third party reports (loss adjuster, lawyer, police etc) related to the claim
  - Correspondence and information critical to the adjudication of the claim
  - File closure notifications
- 5.3.9** Documentation can be submitted in most common file formats (Word, pdf, Excel etc) and uploaded to SecureShare.
- 5.3.10** Detailed procedures for the uploading of documentation will be issued to coverholders shortly, in a separate communication from Lloyd’s Zurich. Correspondence will be copied to managing agents and brokers.

**5.3.11** FINMA requires all authorised insurers of Swiss insurance business to hold books and registers related to the entirety of its Swiss business. Lloyd's has committed to FINMA to facilitate the holding of data and documentation in Switzerland by Lloyd's underwriters in relation to Lloyd's current Swiss business. This means policies which have not yet expired, policies which have expired but where there is an open claim, and all open claims as at 31 March 2022. Lloyd's has also committed to Lloyd's underwriters subsequently backfilling documentation where a new claim is made on a previously expired policy, or where a previously closed claim is reopened. Coverholders are asked to commence backfilling the policy and claims documentation set out in section 5.3.7 & 5.3.8 as quickly as possible and complete backfilling by 31 August 2022.

**5.3.12** Where a binder has ceased and binder business is being run-off by a coverholder, that coverholder would remain responsible for providing data and documentation as required.

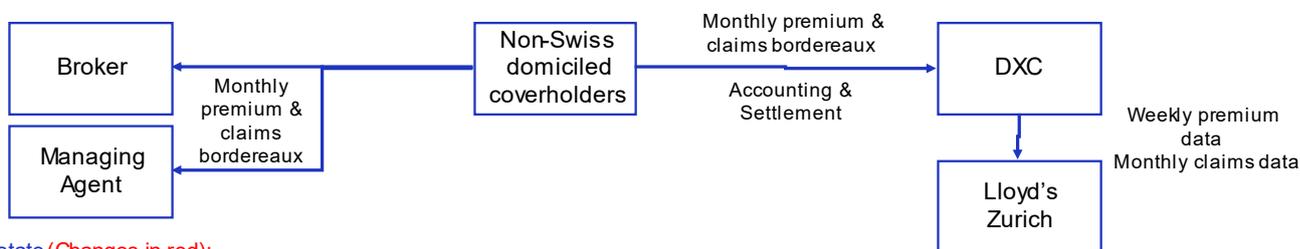
**5.4 I am a non-Swiss domiciled coverholder binding Swiss regulated insurance business for Lloyd's. What do I need to do?**



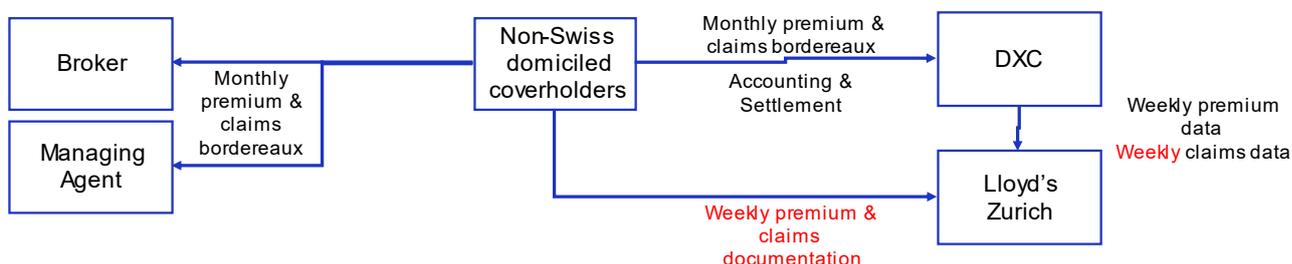
**Delegated authority business**

Non-Swiss domiciled coverholders

- Current state:



- Future state (Changes in red):



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**5.4.1** As a non-Swiss domiciled coverholder writing delegated authority business, you are not required to submit premium and claims templates.

**5.4.2** Non-Swiss domiciled coverholders will be required to provide Lloyd's General Representative with a copy of each delegated authority contract (and endorsements/amendments thereto) under which it is binding Swiss regulated

business, and to provide a copy of the general insurance conditions provided to policyholders under each delegated authority contract.

- 5.4.3** It is important to note that Lloyd's General Representative does not need a copy of every delegated authority contract that permits the binding of Swiss regulated insurance business, only that where Swiss regulated insurance business is actually bound.
- 5.4.4** Non-Swiss domiciled coverholders will be required to provide the following documentation for each risk bound that is fully or in part Swiss regulated business (where available – Lloyd's Zurich will not pursue documents not transmitted beyond the attestations set out in 5.4.8) for transactions after 31 March 2022:
- Proposal form (where completed by the policyholder)
  - Certificate of insurance issued to the policyholder
  - Schedules of assets/values insured (where not in the certificate)
  - Premium payment invoice sent to policyholder
  - Premium payment chasers sent to policyholder
  - Endorsements of certificates, extensions to cover etc (whether generating changes to premiums or not)
- 5.4.5** Non-Swiss domiciled coverholders will be required to provide the following documentation (where available – Lloyd's Zurich will not pursue documents not transmitted beyond the attestations set out in 5.4.8) for transactions after 31 March 2022:
- Notification of claim by the policyholder
  - Claims form completed by the policyholder
  - Third party reports (loss adjuster, lawyer, police etc) related to the claim
  - Correspondence and information critical to the adjudication of the claim
  - File closure notifications
- 5.4.6** Documentation can be submitted in most common file formats (Word, pdf, Excel etc) and uploaded to SecureShare.
- 5.4.7** Detailed procedures for the uploading of documentation will be issued to coverholders shortly, in a separate communication from Lloyd's Zurich. Correspondence will be copied to managing agents and brokers.
- 5.4.8** You will be asked annually to attest to the fact that you have provided all the required information accurately, completely and on a timely basis.
- 5.4.9** FINMA requires all authorised insurers of Swiss insurance business to hold books and registers related to the entirety of its Swiss business. Lloyd's has committed to FINMA to facilitate the holding of data and documentation in Switzerland by Lloyd's underwriters in relation to Lloyd's current Swiss

business. This means policies which have not yet expired, policies which have expired but where there is an open claim, and all open claims as at 31 March 2022. Lloyd's has also committed to Lloyd's underwriters subsequently backfilling policy and claims documentation where a new claim is made on a previously expired policy, or where a previously closed claim is reopened. Coverholders are asked to commence backfilling the policy and claims documentation set out in section 5.4.4 & 5.4.5 as quickly as possible and complete backfilling by 31 August 2022.

**5.4.10** Where a binder has ceased and binder business is being run-off by a coverholder, that coverholder would remain responsible for providing data and documentation as required.

## **6. Data Governance and Security**

6.1 Data security and privacy is critical, with processes and procedures having been put in place to ensure confidentiality and preserve legal privilege.

### **6.2 How will Lloyd's hold data securely, how will access and retention be controlled?**

**6.2.1** Documentation will be held securely on Lloyd's Zurich's server to meet the requirements of AVO 19, separated from other data and information, and accessible only by Lloyd's General Representative acting under his existing Power of Attorney, or by those to whom the General Representative can delegate access in accordance with the Power of Attorney. Lloyd's will not be allowed access to the documentation other than approved Group Technology staff who would have access for the purpose of technology maintenance and security management.

**6.2.2** Swiss data held at Lloyd's Zurich would likely only need to be accessed locally to demonstrate to FINMA compliance with supervisory requirements, for audit purposes, or in the event of insolvency or other exceptional circumstances. Where feasible (other than routine audits), Lloyd's General Representative will notify the relevant managing agents in advance of all documentation intended to be accessed and viewed.

**6.2.3** Lloyd's General Representative will hold documentation in Switzerland, acting on behalf of Lloyd's underwriters under the existing Power of Attorney granted to him to represent Lloyd's underwriters. Accordingly, the documentation will continue to be held on behalf of Lloyd's Underwriters only and not on behalf of anyone else (including Lloyd's). This ensures the maintenance of the protection for those documents subject to legal privilege, confidentiality clauses or other such arrangements.

**6.2.4** The Swiss data held in Zurich will be retained in accordance with the Lloyd's underwriters Swiss document retention policy. Please note, this document is currently under review and being updated by local lawyers to account for Lloyd's underwriters' obligations under AVO 19 and for possible changes resulting from the recent update to the Swiss Data Protection Act. Once finalised, the relevant wording will be available from Lloyd's General Representative on request.

**6.2.5** Any personal data within the Swiss data will be a copy of the data held by the party/parties to the policy or claim with the direct relationship with the data subject. Consequently, it is unlikely that subject access requests will be directed at the data held in Switzerland. The Data Controllers of this personal data may need to review their privacy notices to ensure their described processing covers storage of personal data, relevant to Swiss insurance business in Switzerland.

**6.3 What about business written on a subscription basis with non-Lloyd's participants?**

**6.3.1** Where Lloyd's participates on a contract which includes Swiss regulated insurance business, and which has mixed market security (ie includes non-Lloyd's carriers), documentation in which Lloyd's has a bona fide interest must be provided to Lloyd's General Representative for storage. Where documentation is only relevant to non-Lloyd's security, it should not be provided to Lloyd's Zurich. Lloyd's processes and procedures for the secure transmission and storage of Swiss data apply, whether in relation to Lloyd's or non-Lloyd's participants.

**6.4 What about global or regional business that includes an element of Swiss regulated insurance business?**

**6.4.1** Where a contract is global or regional in nature but includes elements which constitute Lloyd's Swiss regulated insurance business, the relevant documentation must be provided to Lloyd's via the appropriate route. The relevant claims documentation must be provided where there is a claim in relation to the Swiss element of the coverage provided.

6.5 Consideration will be given to the need to add a clause to MRC's, delegated authority contracts and certificates to ensure that all parties are aware of the need to hold Swiss data in Switzerland. However, with immediate effect all parties should be made aware that, where the contract relates to Swiss regulated business, in whole or in part, Swiss data will be held at Lloyd's Zurich on behalf of Lloyd's underwriters.

**7. Market briefings**

7.1 Lloyd's will be hosting a series of Q&A sessions, details of which will be communicated separately.

**8. Contact Details**

**Lloyd's AVO 19 mailbox**

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