

Market Bulletin

Ref: Y5327

Title	Brazil – New Anti-Money Laundering Reporting Requirements for Managing Agents Writing Brazilian Business
Purpose	To inform the market of changes to the Brazilian Anti-Money Laundering regulations which require action by managing agents writing Brazilian business
Type	Event
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Related Links	SUSEP Circular Letter no. 612/2020

Executive Summary

This Market bulletin replaces market bulletins [Y4764](#), [Y4794](#) and [Y4820](#) which relate to Brazilian Politically Exposed Persons (PEPs) and Return Premium Reporting requirements.

Its purpose is to inform managing agents underwriting Brazilian business of the continued requirements relating to Brazilian anti-money laundering ('AML') regulation but also of imminent changes to the Brazilian requirements as notified in the Superintendence of Private Insurance's ('SUSEP') Circular no. 612/2020 (Circular 612) which takes effect from 1 March 2021. In particular, managing agents should note that Articles 45 and 46 include requirements which came into effect on 2 September 2020 and relate to the freezing of assets of UN sanctioned entities.

Those requirements are summarised below, noting if they are a new or a continued requirement.

ACTIONS FOR MANAGING AGENTS UNDERWRITING BRAZILIAN BUSINESS RELATING TO AML REQUIREMENTS

Reporting of certain payments, suspicious transactions and UN sanctioned parties

- **Cash payments received by managing agents** with a value equal to or in excess of **BRL 10,000** and **transactions destined for a non-Brazilian bank account** with a value equal to or in excess of **BRL 100,000** must be reported to Lloyd's Brazil within 24 hours (for onward reporting to The Council for Financial Activities Control - COAF) (**new requirement**)
- **Suspicious transactions** must be reported to Lloyd's Brazil (for onward reporting to COAF) within 24 hours (**continued requirement**)
- **Insureds or claimants identified as subject to UN asset freezing restrictions** must be immediately notified to Lloyd's Brazil (for onward reporting to SUSEP, COAF and the Ministry of Justice and Public Security) (**continued requirement**)

Risk Assessments

- Keep records to evidence a client risk assessment has been undertaken in respect of Brazilian risks at the onboarding stage (**continued requirement**)
- In the event of a claim, conduct a risk assessment of clients, beneficiaries, third parties, and final beneficiaries, particularly any Politically Exposed Persons (PEPs) (**expanded requirement**)
- Identify and assess the risk of engaging with employees, partners and outsourced service providers (**new requirement**)
- **N.B. Reporting to Lloyd's of return premium risk assessments are no longer required.** Managing agents are no longer required to provide risk assessments to Lloyd's regarding return premiums related to Brazilian business with a value equal to or in excess of BRL 50,000, unless it is identified as a suspicious transaction.

THE OVERALL IMPACT OF CHANGES IMPLEMENTED BY CIRCULAR 612

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Background

Circular 612 introduces enhanced AML requirements applicable to Brazilian insurance companies, local and admitted reinsurers, as well as branches and subsidiaries of foreign companies in Brazil. As Lloyd's is an admitted reinsurer in Brazil, these requirements are applicable to Lloyd's managing agents writing Brazilian business.

Reporting Requirements

Under Circular 612, reinsurers are required to immediately report the transactions detailed below to COAF via its online portal. For Lloyd's managing agents, Lloyd's Brazil will submit the required report to COAF/SUSEP on the managing agent's behalf. The transactions that must be reported are:

- **Cash** transactions received from an insured if equal to or in excess of **BRL 10,000** (ten thousand Brazilian reals);
- **Any transaction** from Lloyd's managing agents to a **non-Brazilian bank account** of either a client, third party, or an intermediary that is not a Lloyd's broker, coverholder, or service company, in an amount equal to or in excess of **BRL 100,000** (one hundred thousand Brazilian reals).
- **Immediate Reporting of Suspicious Transactions**: There is a requirement to report suspicious transactions to COAF, **within 24 hours of identifying the suspicion**. Then, COAF will provide the relevant information to SUSEP. **See [Appendix 1](#)** for further information about the expected content of the report and a list of criteria (as defined in Circular 612) which should trigger a suspicion of potential money laundering.
- **Reporting of UN sanctions matches**: If a managing agent writing Brazilian business identifies an insured or claimant as subject to UN asset freezing restrictions, it should immediately notify Lloyd's Brazil for onward reporting to SUSEP, COAF and the Ministry of Justice and Public Security. This is in addition to the managing agent's regulatory reporting obligations to applicable competent authorities such as the Office of Financial Sanctions Implementation (OFSI) in the UK.
- It should be noted that managing agents are **no longer required to provide risk assessments to Lloyd's regarding return premiums** related to Brazilian business with a value equal to or in excess of BRL 50,000, unless it is identified as a suspicious transaction.

Managing agents should report any of the above information to Marco Castro, Lloyd's Brazil MLRO, at marco.castro@lloyds.com and the Lloyd's Financial Crime team at FinancialCrime@lloyds.com. Lloyd's Brazil will then submit the required report to COAF on behalf of the managing agent.

Risk Assessments, Recording and Monitoring

Lloyd's managing agents will already have appropriate controls in place to mitigate against financial crime risk as per the financial crime minimum standards within Lloyd's MS10 Regulatory standard.

Circular 612 introduces additional AML controls that managing agents must comply with. These relate to the identification, monitoring, risk assessment and risk rating of clients, beneficiaries, third parties, final beneficiaries, employees, partners and outsourced service providers, as well as identification and monitoring of PEPs associated with the client or the operation.

Clients are defined in Circular 612 as insureds, (retro)cedants or assureds.

As from 1 March 2021, lead managing agents must:

- Record an AML and Counter-Terrorist Financing (CTF) risk assessment for Brazilian cedants and retrocedants. The assessment will record the client risk profile, the nature of the business relationship and the risk category of the client. A risk assessment should be conducted at least on an annual basis or more frequently if a client is categorised as higher risk. The methodology of the risk assessment should be revised every two years, or more frequently if there are significant changes to the risk profile of the business.
- Identify if the owners or controllers of the Brazilian (retro)cedant (also known as administrators) are PEPs [see Appendix 2] and ensure the appropriate senior management approval.
- For clients assessed to be higher risk, the following procedures must be adopted:
 - Obtain authorisation from senior management prior to the establishment of the business relationship or to the continuation of an existing business relationship; and
 - Conduct due diligence to establish appropriate financial resources and the source of wealth supporting transactions. When assessing source of wealth, given the nature of the entities the market transacts with on a reinsurance basis, the market may wish to take comfort in the fact that these entities will all be considered as low risk since they are separately regulated companies with large balance sheets, for whom source of wealth may not be such an issue as if they were transacting with private individuals.

- Ongoing monitoring must be carried out in the following situations:
 - Operations and transactions involving PEPs;
 - Business relationships which, due to their characteristics, have a risk of being related to money laundering or terrorism financing operations;
 - Operations or business relationships in which there are concerns about the accuracy and adequacy of customer identification or when it is not possible to identify the final beneficiary;
 - Operations or business relationships involving non-profit organisations; and
 - Operations that originate from or are destined for countries or territories that have been categorised as non-cooperative or deficient in adopting measures to prevent money laundering and terrorist financing.

- The client risk profile should be reviewed whenever there are changes to it and/or changes to the nature of the business relationship.

PEP identification

The Brazilian definition of a PEP is provided at [Appendix 2](#). Lloyd's Brazil will provide the Market with a list of Brazilian cedants and retrocedants ('the Brazil Client Listing') and any individuals associated with those companies, who are in positions of ownership or control and defined as a PEP pursuant to Brazilian legislation. Lloyd's Brazil will not provide PEP information on other clients such as brokers and other intermediaries.

This list will be updated on a quarterly basis and issued directly to Compliance Officers at managing agents, via a LITA e-alert/Compliance Officer Weekly Digest. Additionally, the list will be made available to the Market via the secure [Compliance Officer e-Alert archive](#).

'New to Lloyd's' (retro)cedants: If a (retro)cedant is **new to Lloyd's**, and therefore is not showing on the list of clients (and associated PEPs) provided by Lloyd's Brazil, the lead managing agent should consult with Lloyd's Brazil **prior** to binding the risk. This will allow Lloyd's Brazil to conduct an ad hoc check to see if the new (retro)cedant is associated with a PEP and for the client to be added to the Brazil Client Listing for future reference. Lloyd's Brazil will endeavour to respond within 1 business day.

Binding authority business: Where business is written by a binding authority, the managing agent may instruct the coverholder to undertake the client review and approval process. Where such delegation occurs, the managing agent should ensure that the coverholder has in place appropriate procedures to undertake this review and should

consider the coverholder's compliance with this requirement during their audit of the coverholder.

Lineslips: The lead managing agent should undertake any required client review, including on-going monitoring on behalf of the follow market.

Record keeping

Managing agents should ensure they have appropriate record keeping procedures in place, so that they can evidence the client risk assessment has been undertaken in respect of Brazilian risks, where relevant. These records may be requested by the Brazilian regulator at any time, and therefore must be made available to Lloyd's Brazil if required.

The following documents and information must be made available if requested: i) customer registration information and respective documentation evidence; ii) records of all operations with clients, beneficiary third parties and other related parties; iii) policies, manuals, studies, analyses and reports developed in the context of the prevention of money laundering and financing of terrorism; and iv) other documents that prove compliance with the provisions of SUSEP Circular no. 612/2020.

Lloyd's Annual Audit

SUSEP requires, as part of a robust AML framework, that positive assurance is obtained in respect of the adequacy of AML controls. In order to obtain such assurance, Lloyd's Brazil is subject to an annual audit which will include checks to ensure that these controls are satisfactory; therefore, managing agents may also be requested to provide details of the processes they have in place.

Further Information

Should managing agents require further information, please contact:

Lloyd's International Trading Advice (LITA@lloyds.com)

and

Lloyd's Brazil (marco.castro@lloyds.com)

Appendix 1 - Information required for COAF report and criteria for suspicion of potential money laundering.

The report to COAF must:

- Describe the suspicious transaction, identify the individual or legal entity involved in the transaction and specify the business undertaken;
- Identify the intermediary broker of the transaction, if any;
- Elaborate on the characteristics of the transaction carried out, such as the insurable interest, the method of payment and the instrument used to form the contract, for example an on-line proposal form etc;
- Include the relevant party's(ies') due diligence information such as company registration, source of wealth and whether the party is or has a relationship with a PEP.
- Include any additional due diligence that clarifies the suspicious transaction or describes the customer behaviour; and
- Use the method defined by COAF to submit the reporting (i.e via the online portal) and without disclosing the fact of the report to COAF to any other person, including the involved parties.

List of criteria – trigger for a suspicion of potential money laundering

Suspicious transactions are defined in Articles 35 and 36 of SUSEP Circular no. 612/2020, by reference to a list of criteria which should trigger a suspicion of potential money laundering. These triggers align with the AML red flags to which managing agents should already be familiar under the UK's Proceeds of Crime Act 2002. Transactions of this nature (and indicators of which managing agents should particularly take heed) will be characterised by:

- Engagement by a non-resident foreigner for services rendered by a PEP, without a justifiable reason;
- Proposals or transactions incompatible with the socioeconomic profile, financial capacity or occupation of the client, beneficiary, third parties, and other related parties;
- Proposals or transactions incompatible with normal market conditions;
- Payment to the beneficiary without apparent relationship to the contractor without justifiable reason;

- Change in business holder or property owner immediately prior to the loss;
- Payment of premium outside the banking network;
- Payment of premium by a person outside the operation or released from this payment;
- Transactions whose special characteristics as regards the interested parties, amounts, form of accomplishment, instruments used or by the lack of economic or legal grounds, even though they bring some advantage to the company, reinsurer or broker, which may be deemed as a circumstantial evidence of money laundering, terrorism financing or any other illicit act;
- Unnecessary use of a complex network of brokers for a reinsurance or retrocession contracting;
- Notices of apparently legitimate losses, however with an abnormal frequency;
- Relevant changes in the amount insured without an apparent cause;
- Conducting business, whatever the value, by people who have committed or attempted to commit terrorist acts, or participated in or facilitated their commission, in accordance with the provisions of Law No. 13.260/2016;
- Movements that can be associated with the financing of the terrorism, in accordance with the provisions of Law No. 13.260/2016;
- Payments sent to a non-Brazilian bank account of either a client, third party, or an intermediary that is not a Lloyd's broker, coverholder, or service company; and
- Proposals or operations in which it is not possible to identify the final beneficiary in the identification process.

Appendix 2 - Definition of Politically exposed persons (PEP)

A PEP is an individual who is considered to pose a higher risk for potential involvement in financial crime, particularly with regard to money laundering and bribery and corruption, due to the influence their position may hold.

SUSEP Circular no. 612/20 defines a PEP as public agents who hold or have held in the past five (5) years, positions, offices, relevant public duties, as well as their representatives, family members and other persons of their close relation, in Brazil or in foreign countries, territories and facilities as below:

1. Elective officials holding offices in the Executive and Legislative Branches of the Brazilian Federal Government;
2. Officials holding offices in the Executive Branch of the Brazilian Federal Government:
 - a. As a Minister of State or equivalent,
 - b. Of special nature or equivalent,
 - c. As a President, Vice-President and Director or equivalent, of the public indirect administration entities, as autonomous government agencies, public foundations, state-owned companies or government- controlled companies, and,
 - d. In the Upper Management and Advisement Group – DAS, level 6 or equivalent;
3. The members of the National Council of Justice, of the Federal Supreme Court and Superior Courts; of Federal Regional Tribunals, of Labour, and Electoral, of the Superior Council for Labour Justice and of the Federal Justice Council;
4. The members of the National Council of the Prosecutor's Office, the General Federal Prosecutor, the Vice-General Federal Prosecutor, the General Labour Prosecutor, the General Prosecutor of the Military Justice, the Sub-General Federal Prosecutor and the General Public Attorney of the States and of the Federal District;
5. The Members of the Accounting Court of the Brazilian Federal Government, the General Prosecutor of the Public Prosecution Office and the Sub-General Prosecutors of the Public Ministry before the Accounting Court of the Brazilian Federal Government;
6. The political parties' presidents and national treasurers, or equivalent;
7. The States' and Federal District's governors and secretaries, States' and District Deputies, presidents, or equivalent, of states' and district's entities of the public indirect administration, presidents of States' and Federal District's Courts of Justice, of Military, of Accounts, of the States and of the Federal District or equivalent;

8. The Mayors, City Councillors, Municipal Secretaries, presidents or equivalent, of municipal public indirect administration entities and Presidents of the Municipal Courts of Accounts or equivalent; and
9. People who are, in foreign countries, heads of State or Government, politicians of higher echelons, occupant of government positions of the higher echelons; general officers and members of the higher echelons of the judiciary; senior executives of public companies; leaders of political parties; leaders of higher echelons of international legal entities, public or private.

Note:

- Family members are immediate relatives and also include parents, children, grandparents, grandchildren, as well as partners, stepparents and stepchildren.
- Other persons of their close relation are i) natural persons known to have any kind of close relationship with a PEP, including for: having joint participation in a legal entity of private law or appearing as trustee, even if by private instrument with a PEP; or having joint participation in arrangements without legal personality; ii) natural persons who control private corporate or unincorporated arrangements, known to have been created to benefit a PEP.
- Managing agents should monitor i) the public registers; ii) the list of PEPs provided by Lloyd's Brazil, obtained by an outsourced company; as well as iii) obtain a declaration of the person who is being identified; to try to comply the determinations of the Circular.