

Market Bulletin

Ref: Y5205

Title	Cannabis related risks in Canada
Purpose	To provide guidance to managing agents considering insuring cannabis related risks in Canada
Type	Event
From	Caroline Dunn Head of Class of Business Performance Management
Date	30 August 2018
Deadline	None
Related links	www.lloyds.com/supplementalrequirements

From 17 October 2018 it will be legal to produce, distribute, sell and possess cannabis in Canada, subject to complying with the provisions of the Canadian Cannabis Act. It is anticipated that this legalisation of cannabis related activities will give rise to new opportunities for insurers considering writing related risks.

Lloyd's is satisfied that, if properly done, Lloyd's underwriters are well positioned to write Canadian cannabis business subject to compliance with local Canadian requirements.

However, as cannabis remains a Class B drug in the UK, Lloyd's has considered whether Part 7 of the Proceeds of Crime Act 2002 (POCA) is engaged by underwriters providing insurance cover in Canada. In particular, it is recognised by Lloyd's that by reason of a combination of section 328(3), 329(2) and 340 POCA, sections 4, 6, and 37 Misuse of Drugs Act 1971, the production etc. of cannabis in Canada could be said to be "*proscribed conduct*" under POCA. This raises the question whether providing cannabis related insurance could result in an offence under section 328 POCA, notwithstanding that the underlying risks have been legalised in Canada.

Having taken advice from specialist Leading and Junior Counsel, Lloyd's is satisfied that:

- Providing insurance for Canadian cannabis risks would not amount, in the circumstances under consideration, to entering into, or becoming concerned in, an arrangement which facilitates the acquisition, retention, use or control of criminal property by another person thereby breaching section 328 POCA.
- That neither POCA – nor any of its statutory predecessors – was designed to bring wholly lawful conduct such as the provision of insurance of business activity carefully legalised in another country, into its scope.
- This view is consistent with the Explanatory Notes to POCA, including for example paragraph 6 which states that the statute's purpose was to criminalise money laundering in its broadest form which "*is the process by which the proceeds of crime are converted into assets which appear to have a legitimate origin so that they can be retained permanently or recycled into further criminal enterprises*" – this is far removed from Lloyd's underwriters openly and properly providing businesses in Canada with insurance against a conventionally covered ascertainable external event.

Lloyd's will therefore consider the writing of Canadian cannabis business by syndicates at Lloyd's as part of the usual business planning process. Managing agents will, however, be required to demonstrate an appropriate understanding of the Canadian Cannabis Act to ensure compliance with all local laws. Where necessary, and should there be any question as to the legality of accepting any particular risk, either under UK or Canadian laws, managing agents will be required to obtain appropriate legal advice.

Note: this guidance only applies to the writing of Canadian cannabis risks. Lloyd's has issued separate guidance in relation to the writing of cannabis risks in the USA, where different considerations apply. Particularly in view of the proximity of the USA to Canada and the potential to write cross-border exposures, it is important that managing agents ensure that any cannabis risks have Canadian risk location only. Managing agents should refer to '[Performance Management – Supplemental Requirements and Guidance](#)'.

Further Information

For further information contact: Lloyd's International Trading Advice (LITA) (Tel: 020 7327 6677; LITA@lloyds.com).

For legal queries, contact: Will O'Connor, Manager, Litigation and Enforcement (will.o'connor@lloyds.com).

Managing agents wishing to discuss proposals to write Canadian cannabis business should contact their Syndicate Business Performance Manager.