

Market Bulletin

Ref: Y5433

Title	State backed cyber attack wordings
Purpose	To update Lloyd's requirements for state backed cyber attack wordings
Type	Event
From	Rachel Turk Chief Underwriting Officer
Date	14 May 2024
Related links	Market Bulletin Y5381

Background

Cyber continues to be a rapidly growing class and one which is increasingly important to our clients.

In August 2022 Lloyd's issued Market Bulletin Y5381 addressing the systemic risks arising from state-backed cyber attacks and the coverage provided for them in the standalone cyber market at Lloyd's. The intent of Market Bulletin Y5381 was to support the Lloyd's market in appropriately managing the systemic risk that Lloyd's believes can be posed by state backed cyber-attacks.

Lloyd's recognises that systemic risk in the cyber market does not exclusively arise from state-backed cyber-attacks and not all state-backed cyber-attacks pose a systemic risk. However, Lloyd's is of the view that the motivation behind and purpose of state-backed cyber-attacks may be to disrupt the functioning of other states and therefore, implicitly, such attacks may be designed to cause systemic failures. Lloyd's issued guidance to ensure that, where state-backed cyber-attack coverage is underwritten, it is done in a controlled and measurable way.

Following Market Bulletin Y5381, market participants have developed a number of clauses in order to address exposures arising from state backed cyber-attacks. In a limited number of instances, Lloyd's has agreed to clauses being adopted by way of a dispensation from the requirements set out in Market Bulletin Y5381, where an

appropriate rationale could be provided. These different types of clauses have been categorised by Lloyd's to allow for exposures to be monitored.

In our view, the market has made considerable progress towards clarifying the coverage position in respect of state backed cyber-attacks. However, as coverage continues to evolve, we wish to reiterate that policy language should be clear so that the scope of cover is understood by all the parties and the exposure is properly assessed and monitored by syndicates. In view of the evolution of the market in this class and the various clauses being adopted, the purpose of this Bulletin is to set out Lloyd's updated approach and expectations for the writing of this exposure.

Application – CY/CZ and RY/RZ policies

Unless stated otherwise, the requirements outlined in this Bulletin apply to standalone CY and CZ policies and multi-line policies where there is a CY and/or CZ coverage section. (See below for RY/RZ requirements).

These requirements apply to all types of business via any distribution method, including existing facilities and other delegated arrangements.

Attestations and clause classification update

In order for Lloyd's to continue to track exposures to the different types of clauses, managing agents are required to continue to complete the clause adoption attestation. However, after completion of the Q2 2024 return, these attestations will now only be required twice a year beginning with Attestation 1 due 31 January 2025:

- Attestation 1: All policies incepting on 1 July up to and including 31 December.
- Attestation 2: All policies incepting on 1 January up to and including 30 June.

The deadline for the return of each attestation is one month after the final inception date.

Syndicates writing cyber treaty reinsurance will need to complete the attestation from 31 January 2025. We will work with the market and the LMA to ensure the attestation template is appropriate for treaty reinsurance business.

Since Lloyd's created the clause classification approach, the Lloyd's Market Association (LMA) has been offering clause compliance and classification assessments for market participants developing their own clauses. The LMA has agreed to continue to provide this service to both members and non-members. Clauses can be found on the LMA website [\[here\]](#) and new clauses can be submitted for consideration. The remainder of this bulletin assumes that clauses have been appropriately classified within one of the categories defined by Lloyd's.

Updated oversight approach for insurance risks (business allocated to risk codes CY and CZ)

No clause or clauses which do not comply with Market Bulletin Y5381 (Type 7)

Lloyd's do not consider these clauses to be sufficiently clear or robust in respect of state-backed cyber-attacks.

- Consistent with Market Bulletin Y5381, managing agents must not use Type 7 clauses including on any new or renewal business incepting from 1 July 2024.

Clauses which do not comply with Market Bulletin Y5381, but for which dispensations were granted (Type 6)

In a limited number of instances, dispensations to use non-compliant clauses were granted for an agreed period to allow for an orderly transition to full compliance with Market Bulletin Y5381.

- New dispensations or extensions of existing dispensations to write business in a non-compliant manner will not be granted.
- Any in force dispensations will cease at the expiration of the relevant period.
- Where syndicates wish to continue to use clauses that are not compliant with Market Bulletin Y5381, Lloyd's will support their efforts to develop affirmative coverage provisions.

Clauses which comply with Market Bulletin Y5381 but additionally provide coverage for state-backed cyber-attacks carried out as part of a conventional war (Type 4)

These clauses provide coverage that sits outside our standard risk appetite.

- For policies incepting from 1 January 2025, syndicates that wish to provide cover for cyber-attacks carried out as part of a conventional war, must do so with a clear and distinct coverage grant, for example through a separate, affirmative product.
- For policies incepting from 1 April 2024, only syndicates approved as "Advanced" may use a type 4 clause and on renewal business only, subject to caps on the overall aggregate limit.
- The use of Type 4 clauses for both new and renewal policies incepting from 1 January 2025 will not be permitted for Lloyd's syndicates.

All other clause types

The use of Types 1, 2, 3 and 5 will continue to be monitored by Lloyd's through managing agent attestations.

Updated oversight approach for reinsurance risks (business allocated to risk codes RY and RZ)

Syndicates writing cyber reinsurance will be subject to the same requirements as those writing insurance business. However, recognising the original later implementation date for reinsurance business, Lloyd's will provide a slightly longer run off period for business that includes Type 4 or Type 7 clauses.

These requirements also apply to blended treaties where:

- cyber exposure is greater than 10% of the overall exposure; and/or
- where Type 4 or Type 7 clauses are used in the underlying portfolio.

For reinsurance written on a Losses Occurring basis, run-off coverage can be provided until the underlying coverage expires.

Type 7

- Managing agents must cease using and/or supporting new or renewal business written on this basis incepting from 1 January 2025.

Type 6

- No dispensations have been provided for the treaty reinsurance market.
- Where syndicates wish to continue to use (or reinsure cedants that use) clauses that are not categorised as Types 1, 2, 3 or 5, affirmative coverage grants must be developed.

Type 4

- No changes are being implemented before 30 June 2024.
- Between 1 July 2024 and 31 December 2024, syndicates approved by Lloyd's as "Advanced" may use a type 4 clause on renewal business only, subject to caps on the overall aggregate limit.
- The use of Type 4 clauses (both new and renewal) for policies incepting from 1 January 2025 will not be permitted for Lloyd's syndicates.
- For policies incepting from 1 January 2025, syndicates that wish to provide cover for state-backed cyber-attacks carried out as part of a conventional war, must do so with clear and distinct coverage grant, for example thorough a separate, affirmative product.

As with syndicates writing insurance business, syndicates who support cedants with Type 4 or Type 7 exposed portfolios in 2024 must have had their capabilities reviewed to ensure they have the appropriate tools, governance and processes in place to manage exposures appropriately. Syndicates that write both insurance and reinsurance, and who have already been reviewed by Lloyd's, can rely on the capabilities already assessed in respect of the insurance review.

Where syndicates are not able to demonstrate appropriate capabilities, and require urgent transition arrangements, exemptions may be provided where there are minimal gross limits exposed to portfolios with Type 4 or Type 7 exposures. Exemptions are less likely for business written on a proportional basis. These treaty reinsurance requirements also apply to other treaty reinsurance contracts that include cyber coverage.

In summary:

Type	Brief Description	Oversight Approach
Type 1	excludes all state backed cyber-attacks (war and non-war)	Usage monitored through attestations
Type 2	excludes state backed cyber-attacks as part of war and excludes all significant impairment losses for non-war	Usage monitored through attestations
Type 3	as Type 2 but does not exclude significant impairment non-war losses which occur outside the impaired state	Usage monitored through attestations
Type 4	as Type 3 but does not exclude state backed cyber-attacks as part of war outside the warring states	1. For policies incepting from 1 April 2024 (insurance) and 1 July 2024 (treaty reinsurance), usage only by syndicates who have been assessed as demonstrating "Advanced" capability and only on renewal business and only to the renewing limit (without prior approval). 2. For policies incepting from 1 January 2025 (insurance and treaty reinsurance), usage not permitted.
Type 5	As per Type 2 or Type 3 coverage but the "significant impairment" threshold is addressed by:	Usage monitored through attestations

	a) state response by the use of force (whether war is declared or not) <u>and</u> b) broad infrastructure impact (Whether using a single clause or through a combination of clauses).	
Type 6	clauses which have been granted dispensations by Lloyd's	Usage permitted until the expiration of the current dispensation. After such dispensation expires, usage not permitted.
Type 7	non-compliant clauses or no clause	1. For policies incepting from 1 July 2024 (insurance), usage not permitted. 2. For policies incepting from 1 January 2025 (treaty reinsurance), usage not permitted.