

# Market Bulletin

Ref: Y5419

<b>Title</b>	Switzerland: Overview of key incoming revisions to insurance regulations
<b>Purpose</b>	To inform the market of key changes to regulations introduced by the revised Insurance Supervision Act and revised Insurance Supervision Ordinance
<b>Type</b>	Event
<b>From</b>	Yael Chen, Head of International Regulatory Development and Reporting
<b>Date</b>	20 December 2023

## Background

Following a comprehensive review of insurance supervision legislation in Switzerland, the revised Insurance Supervision Act ("rISA") and revised Insurance Supervision Ordinance ("rISO") will come into force on 1 January 2024.

This Market Bulletin summarises the key provisions explained through regulatory e-Alerts distributed to Compliance Officers of Lloyd's managing agents and Lloyd's brokers between September and November 2023 and does not contain new information which has not been previously communicated. Compliance Officers are required to review the regulatory e-Alerts to ensure their entities are prepared for the rISA and rISO implementation on 1 January 2024. Lloyd's continues to monitor developments of Swiss insurance regulation and will communicate further as necessary.

## Who do the changes apply to?

The revised Swiss insurance regulations are relevant to all market participants who write Swiss regulated insurance business. However, all Lloyd's managing agents are required to sign and return the Article 15a agreement referred to below.

### **Tied and non-tied provisions**

Under Article 44 rISA, intermediaries are prohibited from simultaneously acting as tied and non-tied intermediaries. Where Swiss intermediaries that place Swiss business at Lloyd's wish to continue operating in both tied and non-tied capacity, they will need to do so through separate legal entities which will correspond to either a Lloyd's coverholder or a Lloyd's open market correspondent<sup>1</sup> ("OMC") status accordingly.

### **Simplified registration process for Lloyd's Swiss coverholders**

To ease the transition, Lloyd's has prepared a one-off, simplified registration process for new Lloyd's Swiss coverholders that will be created as a result of the need to transfer their current binding authority agreements to new legal entities established to comply with the rISA requirement.

### **Open market correspondents process**

Lloyd's Swiss coverholders have been requested to confirm in writing to Lloyd's Switzerland whether they wish to modify their current entity to an OMC (retaining Lloyd's Swiss broker number). The change to the OMC process will be handled by Lloyd's. OMCs must ensure they abide by OMC guidelines, including those relating to use of the Lloyd's logo and coat of arms.

### **Professional liability insurance**

Under Article 189 rISO, insurance intermediaries, including Lloyd's brokers that place Swiss business, Lloyd's Swiss coverholders and OMCs, must obtain professional liability insurance for financial loss to cover their liability arising from the breach of their professional duty of care.

The policy must be subject to Swiss law and the place of jurisdiction and performance must be in Switzerland.

Additionally, to fulfil Swiss legal requirements concerning the reporting of coverage, Lloyd's Switzerland must be informed immediately of the inception, suspension, or changes to, professional liability insurance placed at Lloyd's.

---

<sup>1</sup> An OMC is an insurance intermediary who introduces business to a Lloyd's broker for placement in the Lloyd's market on an open market basis, who has a fiduciary relationship with the client and acts in the client's interest.

## **Article 15a – Service of suit**

Article 15a rISA provides that, as of 1 January 2024, all claims are to be asserted through, or against, the Lloyd's General Representative for Switzerland (the General Representative). This will replace the current practice where legal actions may be taken against Lloyd's underwriters.

## **Article 15a wording – LMA2242B**

Lloyd's has prepared an updated version of the Pre-Contractual Information/General Conditions which should be adopted to satisfy the requirements of Article 15a rISA. The wording is available on the [Lloyd's Wording Repository in English, French and German](#). Separately, the *individual* clauses within LMA2242B which address the requirements of Article 15a are provided in **Appendix 1**, for ease of reference. Policies using LMA2242A or similar conditions should be amended accordingly.

## **The Article 15a agreement**

Article 15a rISA places responsibility on the General Representative beyond receiving service of suit. Accordingly, all managing agents (including future new entrants) must enter into an agreement with the General Representative. Lloyd's regulatory e-Alert of 16 November 2023 provides information on the agreement and immediate next steps.

## **Broker onshoring requirements**

Article 186 rISO requires non-tied insurance intermediaries conducting business in Switzerland, e.g. Lloyd's brokers, to have corporate presence in the country from 1 January 2024 (referred to as 'onshoring requirement').

FINMA has introduced a six month transition period in respect of the onshoring requirement ending on 30 June 2024. In the meantime, Lloyd's continues to monitor the negotiations on the UK-Switzerland Mutual Recognition Agreement under which FINMA is expected to exercise its exemption powers in respect of the onshoring requirement for the UK based Lloyd's brokers.

## **Who should I contact?**

## **Lloyd's International Trading Advice (LITA)**

t: +44 (0)20 7327 6677

e: [LITA@lloyds.com](mailto:LITA@lloyds.com)

**Lloyd's Zurich Mailbox**

e: [LloydsZurich@lloyds.com](mailto:LloydsZurich@lloyds.com)

**Jakob Thyme**

**Lloyd's General Representative for Switzerland**

t: +41 (0)44 266 6070

e: [Jakob.Thyme@lloyds.com](mailto:Jakob.Thyme@lloyds.com)

## **APPENDIX 1**

The following clauses have been extracted from wording LMA2242B and were prepared to specifically address the requirements of Article 15a rISO.

### **English**

#### **7. LITIGATION**

Legal actions for the full claim must be directed against the General Representative for Switzerland at the expense of Underwriters subscribing to this insurance (Article 15a Insurance Supervision Act, ISA; Representative Action (Prozessstandschaft)).

#### **8. JURISDICTION**

In the event of any litigation, the Underwriters shall accept the jurisdiction of the court at their seat of administration for the entire Swiss business, Seefeldstrasse 7, 8008 Zurich, or at the Swiss domicile of the Policyholder or Beneficiary.

### **German**

#### **7. KLAGEN**

Klagen sind für den ganzen geltend gemachten Anspruch gegen den schweizerischen Generalbevollmächtigten geltend zu machen, zu Lasten der am vorliegenden Versicherungsvertrag beteiligten Lloyd's Versicherer (Art. 15a Versicherungsaufsichtsgesetz, VAG; Prozessstandschaft).

#### **8. GERICHTSSTAND**

Für alle Streitigkeiten anerkennen die Versicherer den Gerichtsstand ihrer Geschäftsstelle für das gesamte schweizerische Geschäft, Seefeldstrasse 7, 8008 Zürich, oder des schweizerischen Wohnortes des Versicherungsnehmers oder Anspruchsberechtigten.

### **French**

#### **7. PROCEDURE**

Les actions en justice doivent être ouvertes par ou contre le Mandataire général du Lloyd's pour la Suisse, à la charge des Assureurs participant au présent contrat pour le montant total de la prétention (selon l'article 15a de la Loi sur la surveillance des assurances, LSA; qualité de partie).

#### **8. FOR**

Pour toutes les contestations découlant de ce contrat, les Assureurs reconnaissent le for de leur siège pour l'ensemble des affaires suisses, Seefeldstrasse 7, 8008 Zurich, ou celui du domicile suisse du Preneur d'Assurance ou de l'Ayant Droit.