

Lloyd's Claims Lead Arrangements (CLA)

Managing Agent Specialist Guidance Co-Lead binder claims

Effective 1 June 2023

Co-lead binding authority claims & the consistent application of the Lloyd's Claims Lead Arrangements

The Lloyd's Claims Lead Arrangements (CLA) applies to claims notified to policies (i.e. 'declarations') bound under more than one binding authority in the same way as it does to open market claims. This means that, in common with all CLA claims:

- a) The managing agent of the leading Lloyd's syndicate (referred to in this guidance as the 'Lead CAP') for each risk has authority to handle *standard* claims notified to that policy on behalf of all syndicates subscribing to the binding authorities under which the risk was written.
- b) The Lead CAP plus the managing agent of the second Lloyd's syndicate, (referred to in this guidance as the 'Second Lead CAP') have joint authority to handle *complex* claims on behalf of all syndicates subscribing to the binding authorities.

Co-lead binding authority claims do have some different features to them which managing agents need to take into account in complying with the CLA. These can be addressed by the parties adopting a Co-Lead Claims Agreement (CLCA). A number of market practices have also been developed on co-lead arrangements to ensure claims can be handled efficiently and so as not cause undue delay to policyholders, including in relation to the appointment of DCAs.

Binding authority wordings

Where possible binding authority agreements should identify which managing agents are nominated and will, where required, act as the Lead and Second Lead CAP for claims notified to policies written under the binding authority. Where there is more than one section to the binding authority and it is intended that different Leads and Second Lead CAPs will be appointed on each section this should be specified.

All binding authorities should also include Basis of Claims Agreement and Claims Agreement Parties provisions which should refer to the Lloyd's Claims Lead Arrangements and identify the CAPs.

Agreeing the Lead & Second Lead CAPs on Co-Lead arrangements – CLCA

Where binding authorities may be part of co-lead arrangements, then a CLCA should be in place to identify the CAPs or determine how the CAPs will be identified as between the different binding authorities, to handle claims on behalf of all participating syndicates on the policy. Managing agents should work with the broker(s) to confirm whether a binding authority will be combined with other binding authorities when risks are written. If this is confirmed managing agents should work with the broker and all other binding authority leads to agree the Lead and Second Lead CAPs or the mechanism by which they will be identified, to be specified in the CLCA.

The CLCA should where possible be referred to in the relevant binding authority agreements.

Managing agents should take all reasonable steps to ensure that a CLCA is in place before any binding authority incepts if there is potential for the binding authority to be used as capacity together with other binding authorities.

The CLCA should include the following provisions:

- a) Identity of each binding authority subject to the CLCA, by UMR, with binding authority lead syndicate details for each binding authority
- b) Identity and contact details of Lead and Second Lead CAPs, or the mechanism by which they will be identified
- c) Any variations to Lead and Second Lead CAP for each section
- d) Identity and claim contact details of all other binder leads
- e) Identity of any DCA that it is agreed may be appointed including financial limit of authority that can be delegated to the DCA
- f) Mechanism for making payments either by adopting the Faster Claims Payment facility or otherwise by establishing loss funds under the control of any DCA appointed (which should include agreed levels for the loss fund, and the authority of the Lead CAPs for agreeing any increase to loss funds).
- g) Roles and responsibilities of CAPs and broker(s) in communicating with all other syndicates – including the responsibilities provided in CLA, for example the Lead CAP's responsibility to inform follow syndicates of the commencement of dispute resolution proceedings against syndicates.

The CLCA must be consistent with the CLA. If any terms are inconsistent, the terms of the CLA should be followed and the parties should ensure this is made clear in the CLCA.

Where a binding authority lead becomes aware that a coverholder has written a risk using the capacity from more than one binding authority and there is no CLCA in place that identifies the Lead and Second Lead CAPs for that risk or sets out the mechanism for the CAPs to be determined, then the binding authority lead should promptly notify the broker to arrange for a CLCA to be prepared and entered into, or for the binding authority(ies) to be included in a pre-existing CLCA.

The broker(s) should ensure that a copy of each CLCA (and any amendments to it) is sent promptly to the following:

- a) All syndicates that participate on the binding authorities that are included in the CLCA, by uploading a copy to IMR
- b) Any other broker(s) involved in the binding authorities that are included in the CLCA
- c) Any DCA specified in the CLCA

Default CAPs In the absence of a CLCA

In circumstances where there is not CLCA in place, the Lead and Second Lead CAPs will be as follows, pending the creation of a CLCA:

- a) The Lead CAP will be the lead of the binding authority with the largest share of the risk. If there are two or more binding authorities with equal largest shares, then (from these binding authorities) the Lead CAP will be the managing agent nominated as having authority to be the Lead CAP in the binding authority that is first named in the insurance documentation provided to the policyholder.
- b) The Second Lead CAP will be either the lead of the binder with equal largest share that is second in the list of binding authorities in the documentation provided to the policyholder, or if there is only one binding authority with the largest share, the nominated Lead CAP of the binding authority with the second largest share. If there are two or more binding authorities with equal second largest share, the Second Lead CAP will be (from these binding authorities) be the nominated Lead CAP that is first named in the insurance documentation provided to the policyholder.

The broker should promptly inform all binding authority leads and appointed DCA(s) of the identity of the default Lead and Second Lead CAPs once a claim is notified with a request that the binding authority leads agree a CLCA as soon as possible, either confirming or changing the default Lead and Second lead CAPs. Pending the agreement of any CLCA, the default Lead CAP (and Second Lead, if complex) have responsibility for determining the claim.

DCA Arrangements

DCAs are widely used in co-lead binding authority arrangements. The effect of the CLA framework is that any DCA that is appointed is providing its claims handling services under the authority delegated to it by the Lead CAP only.

Whereas for open market business, the Lead and Second Lead CAP may delegate their responsibility to different DCAs, the common practice in co-lead arrangements is to have a single DCA appointed. It is also common practice for underwriters on co-lead arrangements to agree that a single DCA (or a specified panel of DCAs) will handle all claims arising on policies where their binding authorities participate under co-lead arrangements. This brings with it operational efficiencies for all parties. CLCAs may therefore specify the DCA or panel of DCAs that underwriters agree may be appointed by the Lead CAPs to handle claims covered by the CLCA for all of the Lloyd's syndicates on the risk.

The DCA nevertheless remains an appointment by the lead CAP and in determining a claim the DCA is providing its claims handling services to the lead CAP alone. Any contract with a DCA should therefore specify that the DCA's services are required by the contracting managing agent to handle claims notified to risks for which that managing agent is Lead CAP on behalf of all other syndicates subscribing to the binding authorities under which the risk to which the claim was notified was written.

The contract should require the DCA to report on claims to each binding authority under which the risk was written.

The contract with the DCA should also specify the financial limit of the authority of the DCA with reference to the whole of Lloyd's share of the claim and not just to the Lead CAP's share of the claim or their binding authority's share of the claim. If the CLCA specifies limits of authority for any DCA the Lead CAP should agree with the DCA that the limits set out in the CLCA should prevail over any limit contained in the DCA contract.

At all times the Lead CAP is responsible for determining claims in accordance with the CLA and accordingly the Lead CAP should remain ready to take over the handling of the claim from the DCA in accordance with the CLA if the claim falls outside the DCA's authority or it is unable to handle the claim for any other reasons.

Reporting and settlement collections by the broker

Claims that are within the claims handling authority of the coverholder or a DCA appointed by the lead CAP should be notified to all syndicates by brokers via bordereaux uploaded to ECF to all binding authority UMRs. This should also be the mechanism for topping up any loss funds (unless Faster Claims Payment is being used).

Where no DCA or coverholder has claims authority or the claim is above the DCA or coverholder's authority, the notification, subsequent updates and requests for a response or agreement, and all supporting documentation, should be submitted by the broker to the lead CAP via email or ECF. If the Lead CAP informs the broker that the claim is complex, the notification/request/information should also be provided by the broker to the Second Lead CAP via email or ECF.

Cash calls for these claims should be submitted via ECF to the Lead CAP (and Second Lead CAP if complex) for agreement on behalf of all other syndicates. Evidence of the agreement of the Lead CAP (and Second Lead CAP if complex) to these requests should be provided to other binding authority leads to support requests for settlement payments with an indication that the settlement has already been agreed by the CAP(s).

Communication by the Lead CAP

The Lead CAP should comply with Lloyd's requirements to communicate the receipt of the commencement of proceedings against underwriters and other material developments to all follow syndicates, including those on other binding authorities. This information should be provided either by an expert, the broker or by the Lead CAP directly.

The Lead and Second Lead CAPs should respond to all reasonable requests for information about claims from other binding authority leads or follow syndicates.

Implementation dates

From 1 June 2023

- The above framework applies to all risks written under co-lead binding authority arrangements that comprise binding authorities which all incept from 1 June 2023.

From 1 January 2024

- The above framework applies to all risks written under all other co-lead binder arrangements.

Managing agents are encouraged to adopt a CLCA for co-lead binder arrangements as soon as practicable.