

## FAQ: ATTORNEY-IN-FACT-SIGNING

### General

What is the AIF process?

The AIF process is a process whereby an insurance contract written in London in respect of risks, insureds or reinsureds located in Canada will be replaced by a contract made in Canada.

Why do we need an AIF process?

We need an AIF process to meet the clarified requirements of Part XIII of the Canadian Insurance Companies Act which changed the emphasis of a federally regulated risk from location of risk to location of underwriting.

What business needs to go through the AIF process?

Any business where the risk, insured, reinsured is located in Canada

Will the AIF process be subject to audit?

Yes, there are random audits conducted on a daily basis and OSFI may also wish to periodically review the process.

How do I know if my risk is Canadian or has a Canadian element?

For insurance the risk is Canadian if either the risk or the insured is normally located in Canada, for reinsurance the business is Canadian where the Cedant is located in Canada.

Further information on location of risk is provided on [Crystal](#) for specialist lines of business such as Worldwide Cargo or Specie.

How does this apply to Facultative Reinsurance of risks domiciled in Canada?

Facultative reinsurance follows the same rules as reinsurance, where the insured is based outside of Canada but the cover is for risks located in Canada the risk is not Canadian. The reinsurance is only Canadian if the Insured is domiciled in Canada.

How does this apply to Global Treaty Reinsurance covers?

Where the cover provided includes a Canadian Cedant that element of the risk should be considered and treated as Canadian, so for example where Treaty property reinsurance covers a portfolio being written by a Canadian Cedant that element of the contract will be Canadian.

How long will it take the AIF to sign contracts submitted?

The AIF expects to sign and return valid contracts within 48 hours of receipt. Wet signature contracts will be processed by post so the time frame will be dependent upon postal services.

Valid contracts are those where the submitting broker has made the required confirmation statements, that have valid recipient(s) details and a valid UMR.

Who is responsible for ensuring the AIF signing process has been completed?

Whoever produces the documentation will generally be responsible.

Who is responsible for submitting the contract to the AIF?

The registered user or Super-user. In most cases that will be the placing broker or a Coverholder with a delegated authority.

What documentation is uploaded to the AIF Signing Process?

Open market, reinsurance, global contracts and non-Canadian domiciled broker business is to be processed through the AIF Signing Process so this will include insurer evidence of cover such as Coverholder certificates, declarations; MRC's or Slip equivalents and fully clausured policies where these are produced. The copy of the document which is to be forwarded to the policyholder is the copy of the document which should be uploaded in to the AIF Signing Process.

BID's (Broker Insurer Documents) and cover-notes are not required to be processed; however where a fully clausured policy follows an MRC or Slips **both** documents will require an AIF signature.

Documents are required to be uploaded in PDF format.

How will a difference in the MRC and any BID to the client be handled?

These will be administered as per current market practice; the AIF Signing Process has

no impact. What is the difference between the London and Canadian contracts?

The terms and conditions of the two contracts are identical, save for the addition of the AIF signature and "Made in Canada" wording being added to the Canadian contract. The London contract is the contract that is formed in London during the placing process, when this is signed by the AIF in Canada it then becomes the Canadian contract. Market Bulletins Y4518 and Y4456 address this process in further detail.

How are the wordings changing?

The 'Made in Canada' clause in the London wording will be withdrawn from London contracts and will now be appended by the AIF in Canada.

London contracts will contain a new "Intention for AIF to Bind" wording show that underwriters intend the AIF to bind the contract again in Canada and this wording is mandatory.

Global contracts that cover Canadian risks must include the "Intention for AIF to Bind" in Canada wording in respect of the Canadian element either in the Global contract or within the Canadian endorsement which will be submitted for the AIF to bind the Canadian element of the contract.

Detailed guidance with regard to wordings can be found on [Crystal](#).

Are wordings available for contracts processed through the AIF system from 1 January 2012?

Yes, these have been made available on the relevant wordings repositories accessible via the Lloyd's broker.

Will underwriters be able to request a copy of the Canadian contract from the AIF Signing Process?

Signed contracts will be returned to the submitting broker, underwriters should request information from their brokers as per the current market practice.

Does the AIF Signing Process affect underwriter's rights to recourse?

No, underwriters rights to recourse are unaffected by the AIF Signing Process?

How will it work with a slip that has mixed market i.e. both Lloyd's & Company market participants?

The AIF only has a mandate to bind on behalf of Lloyd's security and all the language within the relevant wordings points explicitly to binding on behalf of Lloyd's underwriters therefore the risk should be placed in the normal manner and when it is submitted to the AIF he will bind on behalf of Lloyd's Underwriters only.

What happens regarding amendments, such as midterm changes and endorsements, during the policy period?

Endorsements and mid-term adjustments do not need to go through the AIF process as they will attach to the Canadian contract in the normal way.

However if a Canadian risk attaches to a direct global contract or the territorial exposure of a global reinsurance contract is extended to include a Canadian Cedant the contract will require a Canadian endorsement to be processed to make that new Canadian element "Insure in Canada a risk".

What is the position if the policy is finalized post inception and what are the implications if there were to be a claim during the period between London contract formation and Canadian contract formation?

Post inception policies still go through the same AIF process, claims received between the London and Canadian contract formations would attach to the Canadian contract as soon as it is formed.

Why has Lloyd's adopted different procedures to the London company market?

Lloyd's has adopted a model which is very similar to the Chief Agent model used by other foreign insurers doing Canadian business in the London market. Lloyd's AIF Signing process has been developed to meet the regulatory requirements in consultation with the Canadian regulator.

Is there guidance on use of wordings?

Guidance is available and can be found on [Crystal](#).

Are changes permitted to AIF documentation e.g. the model wordings and "Intention for AIF to Bind" clause?

The model wordings are not mandatory and can be amended, however they have been developed in consultation with the market and internal and external lawyers therefore Lloyd's are confident that these meet legal and regulatory requirements. Should you wish to amend the model wordings, please discuss this with LITA.

The Intention for AIF to Bind clauses LMA5180, LMA5181 and LMA5182 are mandatory, have been agreed with the regulator and should not be changed.

Following submission of documentation, can the AIF be instructed to return a signed copy of the contract back to the Lloyd's submitting broker rather than sending it to the policyholder?

To ensure that Lloyd's business is considered insure in Canada a risk the contracts bound in Canada must be communicated from Canada to the policyholder or the policyholder's agent.

In most instances the policyholder's agent will be the Canadian broker with the exception of Global contract placements where there may be no Canadian broker in the chain, in these instances the London or US broker is likely to be the policyholder's agent.

In every instance the contract will be returned to the submitting broker. In addition there is a field that the submitting broker can check to confirm that they are the only recipient where they are acting as the policyholder's agent. However it should be noted that if the submitting broker checks this box and are not acting as the policyholder's agent the risk will not meet the requirements of the regulation.

What impact does the AIF Signing Process have on how claims are handled?

None, claims will be processed in the usual manner.

What will Xchanging's role be in the AIF signing process?

Xchanging will ensure that the AIF signature is on all relevant contracts prior to processing. If the AIF signature is not included, Xchanging will not process the contract.

Are there any excise tax implications arising from the AIF process?

The AIF Signing Process does not change the nature of the Federal Excise Tax liabilities.

Will Lloyd's Canada be licensed for ITAR?

Yes, the Lloyd's AIF will be licensed for ITAR purposes. If practitioners identify other specific license requirements they should contact LITA.

## **Global Contracts**

For a Global Policy does the whole policy have to be countersigned by the AIF?

No and it is important that only the Canadian endorsement identifying the Canadian exposure within the Global Contract is signed. **If the whole contract is signed in Canada, the whole contract would be considered "Insure in Canada a risk" and the liabilities under the whole contract would be subject to funding requirements in Canada.**

When submitting a global risk it is important that the Canadian endorsement is uploaded first and this is the document that will be signed, the global contract should then be uploaded for reference and record keeping requirements. **Please note that if these documents are loaded in the incorrect order the global contract will become "insure in Canada a risk" and funded.**

What is a global contract?

A global contract is a policy that covers one or more jurisdiction.

Is this the same as a worldwide cover?

No worldwide covers will usually be provided for moveable risks such as Cargo in Transit or Specie and the location or risk advice on [Crystal](#) should be applied.

Will the AIF signature page for Canadian business be the same as the one for the Global contracts?

Yes, though the signing page for a pure Canadian risk will attach to the MRC, Slips or fully claused policy whereas for a Global risk this will attach to the Canadian endorsement.

Is it necessary to issue a separate Canadian policy on a global contract where the Head Quarters are outside of Canada?

Where a direct global policy cover subsidiaries in Canada the procedure for global policies with a Canadian office should be followed to ensure that the Canadian element of the risk is considered

“Insure in Canada a risk”.

Is a Canadian Intermediary required for Global or US risks that have incidental locations in Canada?

This is dictated by provincial regulatory requirements. In addition it is preferable to facilitate the receipt of premium. Brokers should continue to be aware of the potential Federal Excise Tax liability and should seek the relevant advice.

### **Non-Domiciled Binders, Service Companies and Underwriting Agencies writing Canadian Risks**

Does the Binding Authority have to go through the AIF signing process?

No, but certificates and declarations for non-Canadian domiciled service companies and Coverholders writing Canadian business should be submitted to the AIF Signing Process.

Is there a wording to be attached to the non-domiciled Binding Authority to require certificates are processed by the AIF?

Yes, this will read as follows:

OTHER CONDITIONS AND/OR REQUIREMENTS – Canada:- Where Canadian business is underwritten by a Coverholder outside of Canada, ensure that the binding authority contract provides that all policies and/or certificates must be sent to Lloyd's Canadian Attorney In Fact for countersignature.

What do non-Canadian Coverholders need to submit to XIS for premium to be processed?

Non-domiciled Coverholders should submit bordereaux as per the current settlement process, however this should for risks incepting on or after 1 January 2012 include a statement that all Canadian risks detailed within that bordereaux have been signed Lloyd's Attorney in Fact in Canada. Without this statement Xchanging will not process Canadian declarations.

How do we treat global risks attaching to a non-domiciled binder?

You should follow the process for global risks and endorse the certificate.

Does the AIF process effect non-domiciled underwriting agencies writing Canadian business?

Yes, this business needs to be submitted to the AIF Signing Process.

Will a service company have to change their procedures with respect to paying premiums to the syndicate?

No, but the Super-user will need to ensure all relevant documentation has been signed by the AIF, and bordereaux presented to Xchanging confirm that all declarations have been signed by the AIF and contain the relevant wordings.

### **Canadian Domiciled Coverholders**

Are these affected by the AIF process?

No, as the underwriting is done within Canada this has always been considered by the regulator as “Insure in Canada a risk”.

Will the wordings change?

Predominately no, although Lloyd's has reissued the certificate jacket LSW1548 A as LSW1548 B to include the new LMA5185 “Made in Canada” wording.

## **Mandates**

Do managing agents have to appoint the Lloyd's AIF?

Yes, the AIF will require a mandate in order to bind contracts on behalf of managing agents.

How will the submitting broker or non-domiciled Coverholder know if a managing agent has a mandate in place?

A list of mandates will is available on [Crystal](#). Brokers can request that underwriters confirm they have a mandate in place during the placing process and, if they require an additional level of comfort incorporate this requirement into the slip language.

What happens if one of the syndicates has not signed a mandate and is on the slip with others that have?

It is Lloyd's policy that all Canadian business will be "Insure in Canada a risk" therefore all syndicates wishing to write Canadian business must have a mandate in place.

## **Compliance**

Will Lloyd's Canada check each policy for local compliance requirements?

No, this remains the responsibility of the underwriter and broker. However, Lloyd's Canada will audit the process to ensure that risks submitted to the process meet the regulatory requirements and it is likely that the regulator will perform independent reviews of this business.

## **Super-users**

What is a Super-user?

A Super-user is assigned to the AIF Signing Process by their company and acts as the administrator for their company and the registered users of their company.

Must every company have a Super-user?

Any company wishing to place Canadian business with Lloyd's Underwriters in London must have at least one registered Super-user. Service companies and coverholders domiciled outside Canada writing Canadian business will also need a Super-user.

What is the role and responsibilities of the Super-user?

The Super-user has devolved administration rights for the Company to manage users and responsibility for setting up and managing users for their company, they have the ability to see all contracts submitted to the AIF Signing Process and monitor their progress through the system.

Can a company have more than one Super-user?

Yes, Lloyd's would suggest larger companies consider more than one Super-user to accommodate absence management.

Is there a limit or restriction on the number of Super-users a company can have?

No, but a pragmatic commercial approach is encouraged, with consideration given to additional administration and control issues arising from Super-user privileges.

Super-users can view all contracts for their company; if this creates governance issues please

contact LITA to discuss how this might be addressed.

Can only the Super-user upload documents for AIF Signing Process?

No, both the Super-user and any users registered by the Super-user on behalf of their company can submit contracts. It is anticipated primarily the users who are registered by the Super-user will upload documents in to the AIF signing process.

When will Super-users be registered?

Once Super-users have submitted their details to Lloyd's we will register Super-users. The Super-user will then receive an email leading them through a registration process.

When registering Super-users and Users, is the broker number or name used?

The broker name only is required.

How do I register a Super-user or know whether our Company has nominated a Super-user?

In the first instance your compliance officer. We have contacted Compliance Officers of all brokers; non- domiciled Coverholders and service companies involved in Canadian business and requested details to allow us to register their Super-users.

## **System**

Will managing agents have access to the system?

Only in the instance that they are acting for a service company domiciled outside of Canada writing Canadian business.

What security will be in place to protect documentation submitted on the AIF system?

The system has been developed in accordance with Lloyd's security standards.

Will the AIF be able to make amendments to the documents?

No, the documents are submitted in PDF format and the process precludes the AIF making amendments to documents.

Does this system have disaster recovery procedures in place?

Yes, the Platform has full redundancy across its servers; data is replicated every hour in addition to taped back-ups which are performed nightly.

Is a user guide available for the AIF Signing process?

Yes, there are two system manuals, one for submitting brokers and the other for the recipient brokers.

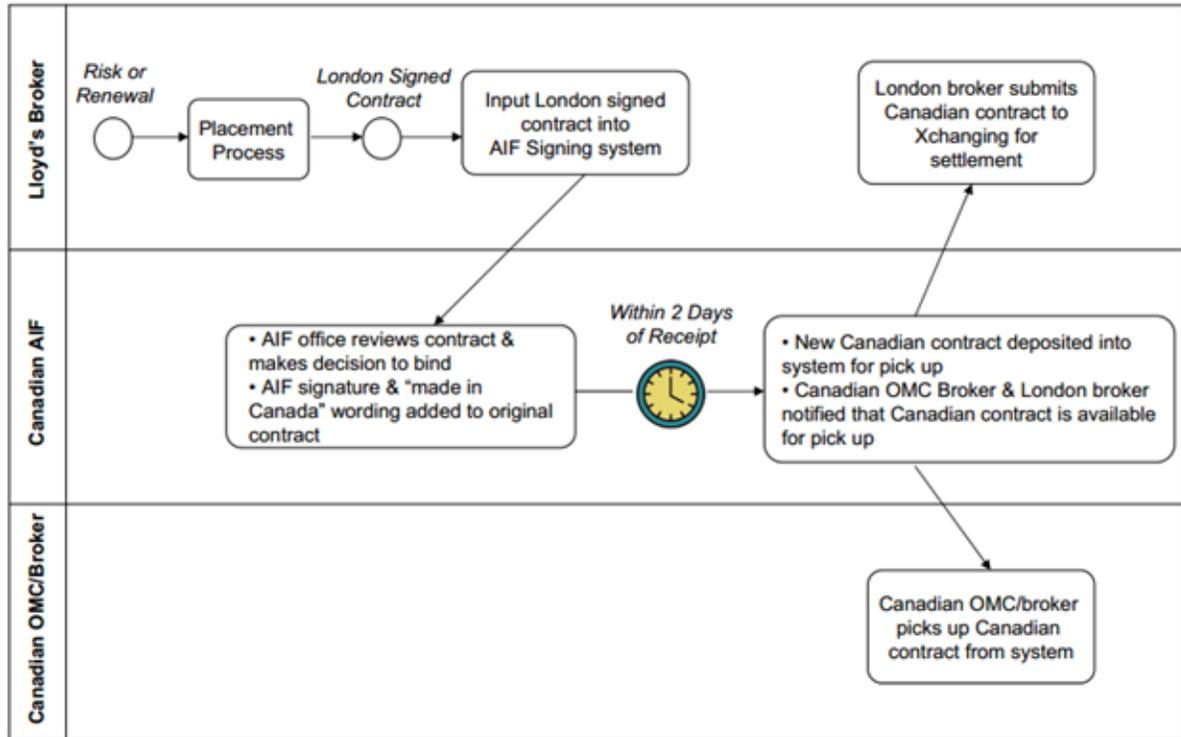
Will training be given on the AIF signing system?

Training sessions are available upon request.

Please refer, other than [Crystal](#) for additional information please refer to the Lloyds.com Canada Site Market Conduct AIF Tab

<https://www.lloyds.com/lloyds/offices/americas/canada/market-conduct>

## AIF Signing Process



For additional information please contact: [canadianaif@lloyds.com](mailto:canadianaif@lloyds.com) or call 1-855-288-5098