

## Lloyd's Brussels and Recommendation 9

Frequently asked questions – April 2020

### What is happening?

Lloyd's Brussels is making changes to the business that it can accept from brokers and coverholders that are not authorised by a European Union regulator to undertake distribution activities. This will primarily affect brokers and coverholders that have their authorisation in the UK from the Financial Conduct Authority (FCA).

For these brokers and coverholders, from 1 October 2020 Lloyd's Brussels will not be able to accept new business where the risk in question is for a policyholder in an EU member state and where the risk location for that risk is within the EU. Business that falls within this category that has already been bound will also be affected and will, by the end of the year, need to be migrated to an intermediary with appropriate authorisation from a regulator of a European Union member state.

To document this change in the business that Lloyd's Brussels can accept, we are asking that brokers and coverholders endorse their Lloyd's Brussels Terms of Business Agreement (TOBA) or Coverholder Appointment Agreement (CAA) and we have prepared an addendum/endorsement for this purpose. We ask that the addendum/endorsement be executed by 25 May 2020 for brokers and by 1 July 2020 for coverholders. (Note that there is a different process to follow when executing the addendum/endorsement for brokers and coverholders).

### Why is Lloyd's Brussels making this change?

Lloyd's Brussels has a regulatory obligation to ensure that its distribution channels are properly authorised throughout the lifetime of its policies. We are making this change to ensure that Lloyd's Brussels remains compliant with the requirements of its regulators, the Belgium Financial Services and Markets Authority (FSMA) and the National Bank of Belgium (NBB) in their adoption of EIOPA Recommendation 9.

### What is Recommendation 9?

In February 2019, the European Insurance and Occupational Pensions Authority (EIOPA) published its 'Recommendations for the insurance sector in light of the United Kingdom withdrawing from the European Union'. Recommendation 9 provides, based on EIOPA's interpretation of the Insurance Distribution Directive (IDD), that all intermediaries and entities carrying on distribution activities to EU policyholders seeking cover for EU risks are required to be established and registered in the EU. This will impact UK authorised firms when the present Brexit transition period ends at the end of the year and UK firms are expected to lose their existing passporting rights. In preparation, many UK intermediaries have established an EU-authorized intermediary with a UK branch, also known as 'reverse branching'.

### Which brokers or coverholders does it affect?

The change we are implementing will primarily impact brokers and coverholders that obtain their authorisation from the UK's Financial Conduct Authority. From 1 October 2020, these firms will not be able to underwrite or place risks with Lloyd's Brussels where both the policyholder is from an EU member state and that risk has a EU risk location. In accordance with Recommendation 9, Lloyd's

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Brussels will require that all the intermediaries in the distribution chain must be authorised in an EU country.

## **What business is impacted by Recommendation 9?**

Business is impacted by Recommendation 9, and therefore requires all the intermediaries to be authorised in the EU, if the policyholder and risk location are both in an EU member state.

## **When do these changes take effect and what is the reason for the deadline?**

Brokers and coverholders that are not EU authorised should cease placing or underwriting business impacted by Recommendation 9 by 1 October 2020. The administration of business already bound with Lloyd's Brussels needs to be transferred by the intermediary to be administered by an EU authorised firm by the end of the year.

It is necessary to cease accepting new business impacted by Recommendation 9 in good time before the end of the year to start reducing the impacted business that Lloyd's Brussels has through non-EU authorised intermediaries and to allow those intermediaries a period to migrate the administration of that business to another intermediary that is authorised in an EU member country.

The stated position of the UK government is that it does not seek to extend the transitional period. We will continue to monitor the situation, but continue preparations on the assumption that this position will not change.

## **After 1 October 2020, what business can UK authorised brokers place with Lloyd's Brussels and what business can UK authorised coverholders bind on behalf of Lloyd's Brussels?**

From 1 October 2020, if you are a UK authorised broker you will only be able to place business with Lloyd's Brussels if the policyholder is not from an EU member state or the risk location is outside the EU. Coverholders similarly can only bind risks if these requirements are met.

In summary:

- Before 1 October 2020 UK authorised brokers and coverholders can continue to bring new and renewing impacted business to Lloyd's Brussels or they can choose to use an EU authorised entity for that purpose, if available (provided it has a TOBA or CAA with Lloyd's Brussels).
- From 1 October 2020 until the end of 2020, new and renewal business can only be placed with or bound on behalf of Lloyd's Brussels through an EU authorised entity. Risks already bound before 1 October 2020 do not need to be migrated yet.
- From the end of 2020 all business, mid-term, renewing or new, needs to be intermediated through an EU authorised entity and therefore any mid-term business as at 1 January 2021 will need to be migrated so it is administered through an EU authorised entity.

## I am a UK Broker – what do I need to do?

If you are a UK authorised broker with a TOBA with Lloyd's Brussels you will receive an email from Lloyd's by the end of March explaining these changes and providing you with an addendum to your TOBA. The addendum is intended to document the restriction on the business that can be accepted by Lloyd's Brussels. The email will explain how you should sign the addendum and return it to Lloyd's Brussels. This should be done by 25 May 2020 and the endorsement will take effect from 1 October 2020, after which date you should cease to place impacted business with Lloyd's Brussels.

If you do not receive an email from Lloyd's Brussels but believe that you are affected by these changes please contact [lloydsbrussels.toba@lloyds.com](mailto:lloydsbrussels.toba@lloyds.com).

## I am a UK coverholder – what do I need to do?

If you are a UK authorised coverholder with a CAA with Lloyd's Brussels you will receive an email from Lloyd's in April explaining these changes and asking you to endorse your CAA with LBS0082. The endorsement is intended to document the restriction on the business that can be accepted by Lloyd's Brussels. You will need to liaise with your broker who will work with your managing agents to ensure your CAA is endorsed with this wording. The endorsement should be executed by 1 July 2020 and will take effect from 1 October 2020, after which date you should cease underwriting impacted business on behalf of Lloyd's Brussels.

Once the endorsement has been added, brokers are asked to load the endorsement onto IMR so that managing agents and Lloyd's Brussels can easily validate that the endorsement has been signed. This is required to provide assurance to our Belgian regulators.

If you do not receive an email from Lloyd's Brussels but believe that you are affected by these changes please contact [lloydsbrussels.delegatedauthority@lloyds.com](mailto:lloydsbrussels.delegatedauthority@lloyds.com).

## How can brokers and coverholders bring business impacted by Recommendation 9 to Lloyd's Brussels?

Lloyd's Brussels is working to ensure that, despite Brexit, Lloyd's policyholders across the EU can continue to access the underwriting expertise and financial security of the Lloyd's market and their existing policies can continue to be serviced by the Lloyd's market, including the payment of valid insurance claims.

Your firm should already have in place a strategy for placing and servicing business impacted by Recommendation 9. Many UK intermediaries have established an EU-authorised intermediary with a UK branch for this purpose.

Brokers who wish to place impacted business with Lloyd's Brussels must first enter into a TOBA with Lloyd's Brussels. If an EU authorised firm does not already have a TOBA with Lloyd's Brussels, it will in most cases need first to be registered as a Lloyd's Broker, for which Lloyd's operates a fast-track process for groups that have an existing registered Lloyd's Broker. For further details please contact [lloydsbrussels.toba@lloyds.com](mailto:lloydsbrussels.toba@lloyds.com). If your EU authorised firm chooses not to register as a Lloyd's broker then you should provide evidence of support from a Lloyd's managing agent.

Please note that Lloyd's Brussels is currently updating the TOBA for EU authorised brokers, which will be rolled out shortly to all existing and new brokers.

Coverholders, who wish to be appointed by Lloyd's Brussels must first enter into a CAA and will require approval as a Lloyd's coverholder. You should contact your broker who will advise you on the process or otherwise you can contact [lloydsbrussels.delegatedauthority@lloyds.com](mailto:lloydsbrussels.delegatedauthority@lloyds.com).

## What has Lloyd's been doing to prepare for this change?

Since the publication by EIOPA of its 'Recommendations for the insurance sector in light of the United Kingdom withdrawing from the European Union', Lloyd's has worked closely with the relevant market associations, including LIIBA and the LMA to understand how the market intended to address the requirements of Recommendation 9. We have also been engaging with the Belgium regulators of Lloyd's Brussels. In October 2019 we wrote to all UK brokers and coverholders that have a TOBA or CAA with Lloyd's Brussels highlighting the potential impact of Recommendation 9 and asking brokers and coverholders to inform us of their plans for dealing with impacted business. We know that many intermediaries already have advanced plans to establish EU authorised firms with branches in the UK.

## Has Lloyd's engaged with the market associations?

Yes, Lloyd's has consulted with both the LMA and LIIBA in preparing for the changes.

## What is Lloyd's Brussels?

Lloyd's has established a subsidiary insurance and reinsurance company incorporated in Belgium, Lloyd's Insurance Company S.A. (Lloyd's Brussels). Lloyd's Brussels is authorised in Belgium by the National Bank of Belgium (NBB) and regulated by the NBB and the Financial Services and Markets Authority of Belgium (FSMA). It is capitalised according to the Solvency II standard formula and benefits from the same financial ratings as the Lloyd's market, which are provided by A.M. Best (A "excellent"); Standard & Poor's (A+ "strong"); and Fitch Ratings (AA- "very strong"). Lloyd's Brussels has 18 branches across the EEA and a branch in the UK.

Lloyd's Brussels writes all classes of non-life insurance business and non-life reinsurance (facultative and non-proportional excess of loss treaty only) business from EEA countries. It does not underwrite proportional treaty reinsurance.

The establishment of Lloyd's Brussels ensures that Lloyd's European intermediaries and policyholders still have access to the combined scale, expertise, capacity and claims service of the Lloyd's market through a single insurance company based at the heart of Europe.

## Part 7 & Recommendation 9

Lloyd's will be transferring all in-scope EEA risks bound by Lloyd's members to Lloyd's Brussels under a Part 7 transfer, scheduled for the end of October 2020. This will ensure the orderly run-off of existing EEA policies and claims without breaching legal or regulatory requirements. Part 7 of the UK Financial Services and Markets Act 2000 allows for the transfer of insurance business from one insurer to another without the need for individual policy novation. The effective transfer date proposed of the end of October 2020 is subject to UK High Court approval.

The following risks are in-scope for the Part 7 Transfer: EEA risks underwritten at Lloyd's from 1993 up to 12 April 2019 for direct business, and up to the end of October 2020 for reinsurance business not already written into Lloyd's Brussels. The inwards reinsurance business in-scope is only that where the legally recognised cedant is domiciled in Germany. Any multi-jurisdictional business with both EEA and non-EEA risks will need to be split, with only the EEA business transferring.

Policies that are in-scope to be transferred under the Part 7 arrangement and which are also 'impacted business' under Recommendation 9 will need to be administered by an EU authorised firm from 1 January 2021.

The Lloyd's Part 7 team will work with affected firms to explain what the Part 7 transfer will mean for them. For any questions on the Lloyd's Part 7, contact [Part7@lloyds.com](mailto:Part7@lloyds.com).

## **Where can I go for further information?**

To find out more about Lloyd's Brussels and how Lloyd's plans for business in Europe after Brexit, visit [www.lloydsbrussels.com](http://www.lloydsbrussels.com).