

# Lloyd's Europe and Recommendation 9

Frequently asked questions - March 2020

## What is happening?

Lloyd's Europe (formerly known as Lloyd's Brussels) is making changes to the business that it can accept from brokers and coverholders that are not authorised by an EU27 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 Europe 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 need to be migrated to an intermediary with appropriate authorisation from a regulator of a EU27 member state.

To document this change in the business that Lloyd's Europe can accept, we are asking that brokers and coverholders endorse their Lloyd's Europe 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 Europe making this change?

Lloyd's Europe 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 Europe remains compliant with the requirements of its regulators, the Belgium Financial Services and Market 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

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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 FCA. From 1 October 2020, these firms will not be able to underwrite or place risks with Lloyd's Europe 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 Europe 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?**

Brokers and coverholders that are not EU authorised should cease placing or underwriting business impacted by Recommendation 9 and endorse their TOBA or CAA by 1 October 2020. The administration of business already bound with Lloyd's Europe 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 Europe 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.

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

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

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

If you are a UK authorised broker with a TOBA with Lloyd's Europe you will receive an email from Lloyd's 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 Europe. The email will explain how you should sign the endorsement and return it to Lloyd's Europe. 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 Europe.

If you do not receive an email from Lloyd's Europe but believe that you are affected by these changes please contact [lloydseurope.toba@lloyds.com](mailto:lloydseurope.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 Europe you will receive an email from Lloyd's explaining these changes and providing you with the wording for an endorsement to your CAA. The endorsement is intended to document the restriction on the business that can be accepted by Lloyd's Europe. 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 Europe.

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

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

Lloyd's Europe 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.

Brokers who wish to place EEA risks with Lloyd's Europe must first enter into a TOBA with Lloyd's Europe. Please contact [lloydseurope.toba@lloyds.com](mailto:lloydseurope.toba@lloyds.com). If your firm is not a registered Lloyd's broker then you should provide evidence of support from a Lloyd's managing agent.

Coverholders, who wish to be appointed by Lloyd's Europe 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 [coverholders@lloyds.com](mailto:coverholders@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 Europe. In October 2019 we wrote to all UK brokers and coverholders that have a TOBA or CAA with Lloyd's Europe 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.

## What is Lloyd's Europe?

Lloyd's has established a subsidiary insurance and reinsurance company incorporated in Belgium, Lloyd's Insurance Company S.A. (Lloyd's Europe). Lloyd's Europe 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 Europe has 18 branches across the EEA and a branch in the UK.

Lloyd's Europe 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 Europe 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.

## Where can I go for further information?

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