CPCU Chapter Europe

Brexit from a Lloyd’s Europe perspective

21 April 2021

LLOYD'S

Speakers

Jack Knapen
Delegated Authority Manager - Lloyd's Europe

Haris Khan
Senior Admissions & Compliance Associate – Lloyd's and Lloyd's Europe

The setup of Lloyd’s Europe and the key differentiators between it and Lloyd’s of London

LLOYD'S

The setup of Lloyd’s Europe and the key differentiators between it and Lloyd’s of London

Lloyd’s Insurance Company SA (Lloyd's Europe) is a fully regulated and Solvency II compliant entity in Belgium

Although the first insurance was bound 1 January 2019, it is already the largest non-Life Insurer in Belgium

100% Reinsurance model with Service providers (Managing agents)

Has established a fully authorised UK Branch of Lloyd's Europe – registered under the FCA’s Temporary Permission Regime (TPR)

Has its own regulatory responsibility to its regulators the National Bank of Belgium (NBB) and the Financial Services Market Authority (FSMA)

The setup of Lloyd's Europe and the key differentiators between it and Lloyd's of London (cont'd)

Lloyd's of London does not operate as an insurance company

The regulatory responsibility lies with the carrier i.e. the syndicate

The differences in regulatory role between Lloyd's and Lloyds Europe has Material consequences:

- Lloyd's Europe is directly accountable for the appropriate licensing of its distribution chain
- Sub-delegation of authority is not allowed
- Lloyd's Europe is directly accountable for the performance of Coverholders in respect to:
  - Financial Crime;
  - Product Approval and review;
  - Client facing documents;
  - Treating customers fairly; and
  - Meeting all regulatory and compliance related requirements

LLOYD'S

Other consequences as a result of differences in regulatory responsibility

Implementation and mandate of a bordereaux reporting system, Delegated Data Manager (DDM):

- More control on bordereaux performance
- Stricter follow up on reporting time lines
- Resolving data quality issues

Audit Performance:

- Direct access to Audit reports via Lloyd's audit system Delegated Audit Manager (DAM)
- Better registration of recommendations / actions and closures

Specific Model Binder Wordings:

- Coverholder Appointment Agreements (CAA)
- Sets out the relationship between Lloyd's Europe, Managing Agents and Coverholder

Pre-approval from Lloyd's Europe required for:

- Mixed Market (Lloyd's and non-Lloyd's) Participation Binders
- Consortia Agreements
- Master Hub Binders
- Complaints Authority not given to the Coverholder
- Changes to the model wordings

Lloyd's Europe Operating Model

Lloyd's Europe started its activities around the same time that the IDD was implemented and, in addition to guidance issued by EIOPA, national supervisors are now more certain of the applicability of IDD provisions.

The Belgian Regulators initiated discussions regarding the nature of some activities performed by managing agents on behalf of Lloyd's Europe and the question of whether it was possible that they could be construed as constituting insurance distribution under the IDD

Lloyd's has proposed four possible options to the Regulators who have no objection in principle to them. One or more of them could be used across the market to suit the needs of each agent.

As well as confirmation that they do not have any objections in principle to these options, the regulators have said that they do not object to the current processes continuing to be used for Lloyd's Europe for the time being.

The changes required by Lloyd's and Managing General Agents as a result of Brexit

The changes required by Lloyd's and Managing General Agents as a result of Brexit - Pre-Brexit

Regulatory equivalence

Passporting -

Freedom of Services;

and

Freedom of Establishment

The changes required by Lloyd's and Managing General Agents as a result of Brexit – Post-Brexit

FCA's Temporary Permissions Regime

Reverse branching

No Insurance Distribution Directive equivalence

No Passporting

Trade Deal?

Classification: Confidential

Lloyd's Part VII

As a result of the decision for the UK to leave the EU, UK incorporated insurers, including Lloyd's Underwriters, lost their EU passporting rights

Lloyd's Underwriters are unable to manage and service previously issued EEA and Monegasque policies, and global policies with EEA and Monegasque exposures

Lloyd's therefore transferred all in-scope EEA and Monegasque risks (incepting from 1993 up to 12th April 2019* for Direct business and up to the 29th October 2020 for Inwards German Reinsurance business*) to Lloyd's Insurance Company S.A. – Lloyd's Europe under a Part VII transfer, effective from for 30 December 2020

Lloyd's Europe is the insurer for the Part VII book of business. Insurance business originally written by or reinsured to close into a syndicate will, be reinsured back to that syndicate by way reinsurance agreements between Lloyd's Europe and that syndicate

Managing Agents act in relation to the Part VII book of business as outsourced service providers of Lloyd's Europe

All claim notification and settlements will be via existing processes on behalf of Lloyd's Europe

***Note -** German Reinsurance new business: It is important to note that as a result of the UK leaving the EU, all inwards German Reinsurance businesses underwritten by Lloyd's underwriters will have to be underwritten through Lloyd's Insurance Company starting from 30 October 2020.

LLOYD'S

European Insurance and Occupational Pensions Authority (EIOPA) Recommendation 9

What is EIOPA Recommendation 9 and why is it required?

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 in that document addresses firms carrying on distribution activities and provides that:

"Competent authorities should ensure that all intermediaries carrying out distribution activities which target EU27 policyholders and EU27 risks fall under the scope of the IDD".

The Impact to UK Authorised Intermediaries

No similar regime to the TPR has been put in place for UK firms looking to continue operating in the EU.

As a result of Recommendation 9, there are a number of UK Coverholders and Brokers were required to cease carrying on any activities that could fall within IDD and will need to ensure that the handling of their business is transferred to an EU authorised firm.

LLOYD'S

IDD exemption - Claims management

What is it?

The IDD provides that: "the management of claims of an insurance undertaking or of a reinsurance undertaking on a professional basis and loss adjusting and expert appraisal of claims" will not constitute insurance or reinsurance distribution.

A person who is managing claims, loss adjusting or undertaking expert appraisal should therefore not need to be authorised in the EEA under the IDD.

IDD does, however, allow discretion to member states on this, and the way in which the IDD has been implemented therefore differs between EU/EEA member states:

- some member states provide an exemption where the claims management activity is conducted by a person who only conducts claims management, loss adjustment and expert appraisal ('pure claims management exemption'); and

- some member states provide for an exemption from regulation for managing claims regardless of who is doing it ('claims management activity exemption').

Orphaned Coverholders

What is an Orphaned Coverholder or Binding authority?

- A coverholder may not be able to service a risk for a number of reason:
  - the risk is impacted by recommendation 9;
  - the entity undertaking the claims management activity is not exempt from the IDD; or
  - the coverholder would be undertaking IDD activities which it is no longer authorised undertake
- Where a coverholder or binding authority is 'orphaned' an EEA authorised entity will need to be appointed to service the binder.

Solutions to the orphaned coverholder problem

Several options are available to the Market for managing the servicing of EU binding authorities transferred as part of the Part VII scheme. One or more of them could be used by each Managing agent. This is not an exhaustive list –

- the orphaned coverholder establishes an EU authorised firm to take over their EU book of business to act as the intermediaries for Lloyd's Europe;
- a UK or EEA authorised Delegated Claims Administrator (DCA) is appointed to manage the claims activity;
- orphaned business is transferred to a Managing Agent's EEA authorised Service company; or
- a third party EEA authorised Lloyd's approved coverholder is utilised to service the orphaned business.

LLOYD'S

Is it all doom and gloom?

Are there any positives?…..Yes!

Huge increase in local knowledge and expertise in respect to the European market

Utilising a local talent pool that understands the nuances of the local European market, whilst maintaining close ties with the London Market

Having closer ties and better working relationship with Managing Agents, Broker and coverholder on new opportunities

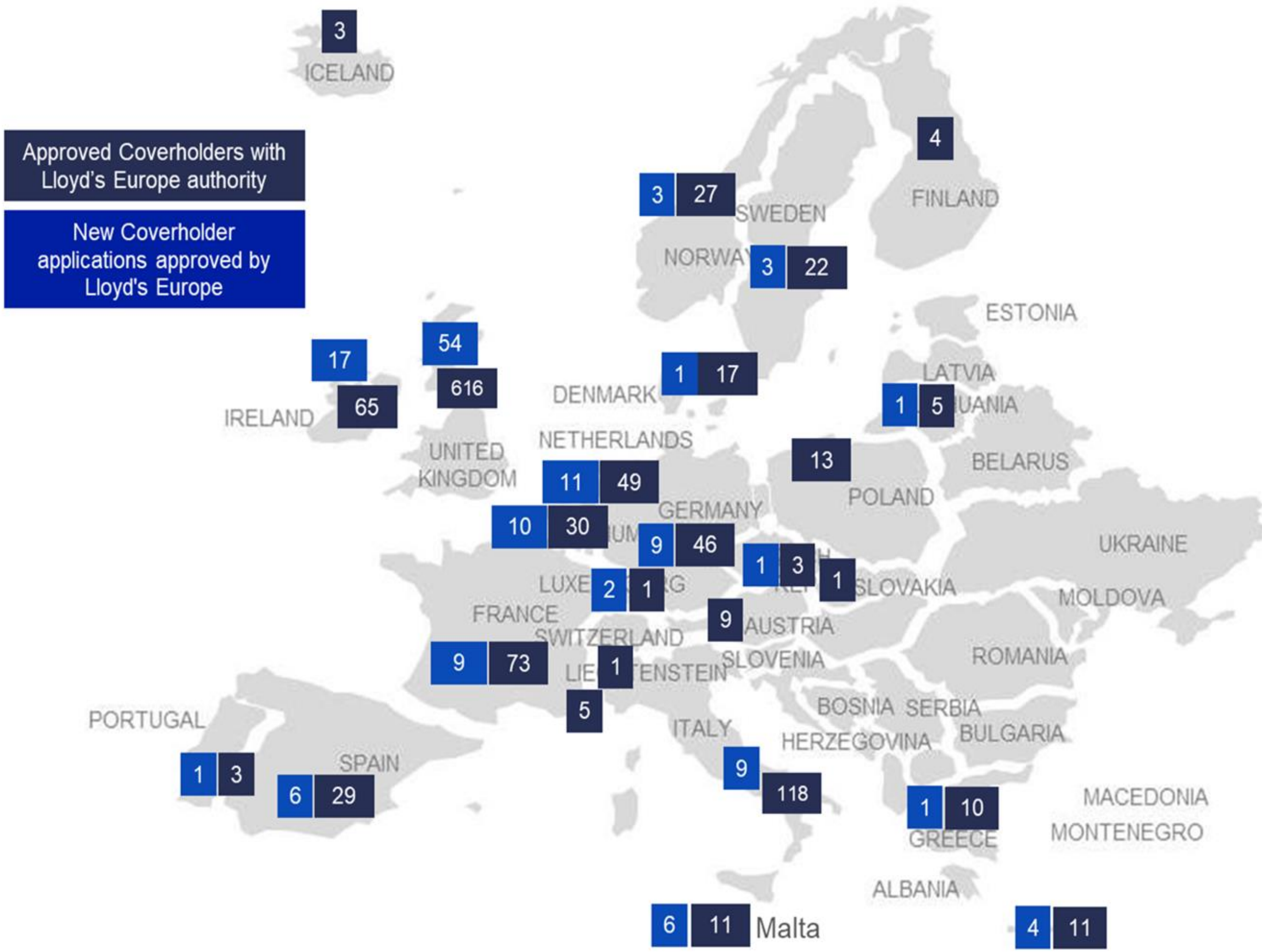
Lloyds Europe – Brings new opportunities to Lloyd's that would never had reach Lloyd's

A European Insurance Company with aspirations to grow

LIC DA Developments since 2019

EU Excl. UK
1-1-2019 : 449
Q1 2021 : 543
Approved: 94

UK:
1-1-2019: 562
Q1 2021: 616
Approved: 54



LLOYD'S

The future of DA – improving the approach

Current Approach: A long route to the final approval

LLOYD'S

Improving the approach - 2

To make the puzzle fit

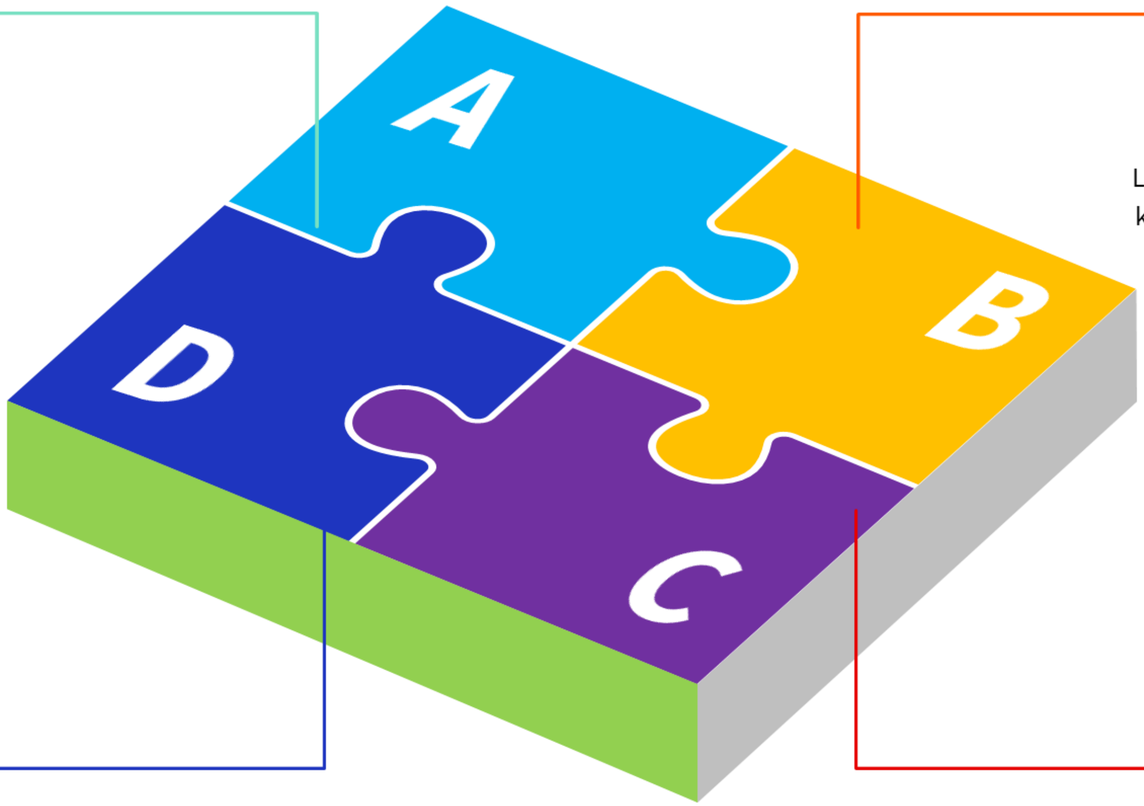
Not changing written procedures but changing the approach

Identify

What can be improved in the current application process.

Improve

We can inform all involved on country specific requirements to avoid adjustments that are not applicable.



Alignment

Lloyd's Europe has the local knowledge on country level and can share that during the process.

Oversight

Lloyd's Europe can oversee the whole process and advise accordingly.

Improving the approach - 3

When the application is submitted there is a joined view.

Lloyd's Europe liaises with the Managing Agent

Lloyd's Europe guides the Coverholder during the application process.

Lloyd's Europe is engaged when the broker introduces the opportunity

LLOYD'S

Q&A

LLOYD'S