

MARKET BULLETIN

REF: Y4584

Title	Lloyd's U.S. Virgin Islands Surplus Lines status
Purpose	This bulletin confirms Lloyd's surplus lines eligibility in the U.S. Virgin Islands, in accordance with the Nonadmitted and Reinsurance Reform Act (NRRA)
Type	Event
From	Rosemary Beaver, Head of International Regulatory Affairs
Date	13 April 2012
Deadline	Immediate
Related links	Lloyd's market bulletin Y4500 Link to the NAIC IID Quarterly Listing of Alien Insurers List of licensed USVI surplus lines brokers Crystal link to Lloyd's US Virgin Islands Link to NRRA page on Lloyds.com

Purpose

This bulletin is addressed to all Lloyd's market stakeholders dealing with the placement and underwriting of business from the U.S. Virgin Islands (USVI). The bulletin confirms, with immediate effect, Lloyd's surplus lines eligibility in the USVI, in accordance with the Nonadmitted and Reinsurance Reform Act (NRRA).

Background

Lloyd's Market Bulletin Y4500, dated 23 June 2011, subsequent market briefings and letters, set out the provisions and impact on surplus lines business of the NRRA, enacted as part of the Dodd-Frank Act, which became effective on 21 July, 2011.

In accordance with Section 524(2) of the NRRA¹ "no state can prohibit a surplus lines broker from placing surplus lines insurance with an alien insurer that appears on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the NAIC", known as the "IID List". All Lloyd's syndicates that write surplus lines insurance in the U.S. appear on the IID List. Accordingly, our position is that Lloyd's is an eligible surplus lines insurer in all States. The NRRA applies to all U.S. states and territories, including the USVI. Lloyd's has confirmed this position with the USVI Director of Banking & Insurance.

¹ 15 U.S.C. §8204(2)

However, there are a number of compliance considerations for Lloyd's underwriters (see Appendix A) to ensure surplus lines risks from the USVI are properly exported in accordance with surplus lines laws.

It is important to note that Lloyd's licensed (admitted) status in the USVI is unchanged. Underwriters at Lloyd's may continue to write business on licensed basis in accordance with all existing licensed business regulatory requirements.

We are currently in discussions with the Kentucky Department of Insurance to clarify Lloyd's status in Kentucky. Lloyd's is currently recognized only as a licensed insurer in Kentucky.

Lloyd's maintains a dual status (both licensed and surplus lines) in Illinois, which remains unchanged.

USVI Surplus Lines Business

As with all US surplus lines business, Lloyd's syndicates writing surplus lines insurance in the USVI must appear on the IID List (and are therefore subject to Lloyd's U.S. Surplus Lines Trust Fund and reporting requirements). Lloyd's, working with the market, will continue to make an annual surplus lines eligibility filing with the IID as it has done in the past to ensure that, in accordance with NRRRA standards, Lloyd's is an eligible surplus lines insurer.

Next Steps

Lloyd's will continue to monitor how states implement NRRRA requirements and will issue further updates to the market as required through 2012.

Further Information and Contacts

Lloyds.com is a central point of reference for communications and guidance concerning Lloyd's and the [NRRRA](#). Further information can be found under the US section of Crystal. Managing agents who are unable to access the dedicated area of the Lloyds.com website should contact Lloyd's International Trading Advice (see contact details below):

Lloyd's International Trading Advice:

Tel: 020 7327 6677 or Email: lita@lloyds.com

For questions regarding Lloyd's US surplus lines eligibility, please contact:

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Appendix A

Lloyd's surplus lines eligibility in the USVI – key considerations

With immediate effect, Lloyd's is an eligible surplus lines insurer in the USVI. Lloyd's underwriters and brokers should note the following key considerations where accepting surplus lines risks from the USVI (further guidance concerning Lloyd's status and business placement requirements in the USVI can be found on Crystal and in Lloyd's QA tool).

Key considerations under the USVI Insurance Code:

1. Placement by a licensed surplus lines broker - Lloyd's underwriters are responsible for ensuring that every U.S. surplus lines risk they write, where the USVI is the 'home state' (see 3. below) for the placement, is placed via a broker who possesses a current USVI surplus lines licence.

It is important to note that USVI law currently provides that a surplus lines broker must maintain an office at a designated location within the territory in order to be issued a surplus lines licence, i.e. non-resident surplus lines brokers cannot hold a USVI surplus lines licence. A list of licensed USVI surplus lines brokers is available on Lloyds.com

2. Diligent search requirement - The USVI Insurance Code requires that insurance brokers must conduct a diligent search of the licensed market before a risk may be exported to the surplus lines market. In order to meet the USVI diligent search requirement, brokers must obtain declinations from a majority of the admitted insurers licensed for that risk and an affidavit setting forth the facts to establish this must be submitted by the surplus lines broker. (Lloyd's underwriters, as a licensed insurer, should not be counted as a declination).
3. Home State - USVI has not enacted any law regarding 'home state', so the federal law (NRRRA) applies. For the federal definition of home state, please refer to the 'Lloyd's authorisation' section on the U.S. page on Crystal.
4. Notice to the insured - Every insurance contract procured and delivered as USVI surplus lines coverage must have stamped upon it, initialled by or bearing the name of the surplus line broker who procured it, the required notice: *"This contract is registered and delivered as a surplus lines coverage under the Insurance Code of the Virgin Islands. It is not covered by the Guaranty Fund established pursuant to Title 33, section 3061, V.I.C."* A substantially similar wording cannot be used.

Key considerations under Lloyd's requirements for transacting U.S. surplus lines business from the USVI:

1. U.S. Classification - The standard Market Reform Contract (MRC) for an open market placement includes, in its Fiscal and Regulatory section, the heading 'U.S. Classification'. The U.S. classification for a USVI surplus lines risk should be 'U.S.

surplus lines'. USVI licensed business should still receive the U.S. Classification 'US Virgin Islands (USVI) licensed'.

2. Service of suit nominee - Mendes and Mount is a frequently designated as the service of suit nominee for Lloyd's underwriters' U.S. surplus lines business. The use of Mendes and Mount is not mandatory and underwriters are free to appoint another nominee if desired. Lloyd's underwriters are still required to appoint Lloyd's USVI attorney-in-fact as nominee for service of process on licensed business.
3. LPAN/FIL Codes - USVI surplus lines premium should be included within the LPAN prepared for U.S. surplus lines premium. A separate LPAN for USVI surplus lines premium is not required. The FIL code to be used on a USVI surplus lines risk is 'USL1'.
4. Certificates issued under binding authorities - The surplus lines certificate to be used for USVI surplus lines business is 'SLC3 (USA)'.
5. US General Cover conditions (LMA 5058) - The US general cover conditions are currently being reviewed to differentiate licensed and surplus lines USVI business.
6. Coverholder extension - A USVI risk written on a surplus lines basis via a binding authority must be bound by an approved coverholder. Coverholders that are approved for U.S. surplus lines business do not require an approval for a regional extension from Lloyd's. This is because surplus lines business from the USVI falls within Lloyd's general U.S. surplus lines coverholder regional authorisation. Further guidance will be provided in a future market bulletin.

Lloyd's underwriters and brokers should note that for USVI licensed business purposes, coverholder extension approval is still required as per market bulletin Y4125. If a Lloyd's coverholder is approved for the U.S. only, the subsection(s) of the binding authority wording relating to risks location and the insured's domicile must refer to 'the US excluding USVI licensed'.

7. Bordereaux - If a USVI risk is written on surplus lines basis then there is no requirement to separately carve out the USVI part of the premium on the bordereaux. As with all US surplus lines placements under a binding authority, the bordereaux should contain details of the name and address and surplus lines licence number of the surplus lines broker, the home state of the insured and the total premium.

However, on a USVI surplus lines placement on an open market basis, the name, address and surplus lines licence number of the USVI surplus lines broker who has made the surplus lines filing and arranged payment of the surplus lines tax, as well as the home state of the insured, must be shown on the MRC.

8. Open Market Correspondents (OMCs) - Lloyd's OMC requirements applicable to USVI licensed business, do not apply to USVI surplus lines placements.
9. Filing of forms and rates - A surplus lines placement does not require filing of forms and rates with the USVI Division of Banking and Insurance.