

MARKET BULLETIN

From	Director, Worldwide Markets
Date	12 April 2006
Reference	Y3789
Subject	Switzerland: New insurance requirements for Swiss aviation business
Subject areas	Switzerland: Aviation liability business
Attachments	Yes
Action points	Details are listed in the attachments
Deadlines	Immediate

Background

On 22 June 2005, the Swiss Federal Council ratified the Montreal Convention, which lays down new rules on liability in respect of the international carriage by air of persons, baggage and cargo. The new regulations of the Montreal Convention of 1999 replace those of the Warsaw Convention of 1929 and came into effect in Switzerland on 5 September 2005.

Attached to this bulletin is an unofficial translation of the circular letter sent by the Swiss Federal Office for Civil Aviation (FOCA) to all insurers in Switzerland as well as unofficial translations of Articles 125 and 132a of Air Navigation Ordinance SR 748.01. Those Articles set out the new minimum insurance amounts for liability claims of third parties for a loss event on ground for all categories of aircraft by maximum take-off weights and for liability claims by passengers.

The official French and German versions of FOCA's circular letter can be obtained (in hard copy version only) from Lloyd's Zurich Office. The complete Ordinance on Air Transport can be found on the Federal Authorities of the Swiss Confederation's website, http://www.admin.ch/ch/d/sr/c748_411.html.

Implications for Lloyd's

Air carriers and/or aircraft operators will now have to demonstrate compliance with the new insurance requirements. To this end the Swiss Federal Office for Civil Aviation has issued new certificates (also commonly known as "attestation cards") for third party liability insurance on earth (BAZL 50.042.0) as well as new insurance certificates in respect of liability for passengers (BAZL 50.042.1).

A period of transition has been set by the Federal Office for Civil Aviation to 30 June 2006, by when all Swiss-registered aircraft must be issued with the new certificates. The Lloyd's Zurich Office would however like to update all Lloyd's certificates as soon as possible.

Lloyd's brokers with "direct assured" liability business in force for Swiss-registered aircraft are therefore kindly requested to supply Lloyd's Zurich Office with all the information (e.g. copy certificates, cover notes etc.) necessary for the production of the new certificates.

It should also be noted that the consequences of war-like acts or disturbances may no longer be excluded from insurance coverage.

Further information

If you have any queries relating to the new insurance requirements or to the procedure to be adopted for the issuance of the new documentation, please address them to Graham West at Lloyd's Zurich Office (Tel. 00 41 1 261 3310; graham.west@lloyds.com).

This bulletin is being sent to all members' agents, direct corporate members, managing agents, recognised accountants, market associations, underwriters and Lloyd's brokers for information.

Julian James
Director
Worldwide Markets

APPENDIX 1



CONFOEDERATIO HELVETICA
Die Bundesbehörden der Schweizerischen Eidgenossenschaft

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Art. 125

¹ Liability claims of third parties for a loss event on earth must be guaranteed for the following minimum amounts (death / bodily injury and property damages combined):

	Minimum Insurance Amount (in Million Special Drawing Rights) SDR
a. Aircraft with a Maximum Take-Off Weight (MTOW) below 500 kg	0,75
b. Aircraft with a Maximum Take-Off Weight (MTOW) of 500 kg or above, but below 1,000 kg	1,5
c. Aircraft with a Maximum Take-Off Weight (MTOW) of 1,000 kg or above, but below 2,700 kg	3
d. Aircraft with a Maximum Take-Off Weight (MTOW) of 2,700 kg or above, but below 6,000 kg	7
e. Aircraft with a Maximum Take-Off Weight (MTOW) of 6,000 kg or above, but below 12,000 kg	18
f. Aircraft with a Maximum Take-Off Weight (MTOW) of 12,000 kg or above, but below 25,000 kg	80

g. Aircraft with a Maximum Take-Off Weight (MTOW) of 25,000 kg or above, but below 50,000 kg	150
h. Aircraft with a Maximum Take-Off Weight (MTOW) of 50,000 kg or above, but below 200,000 kg	300
i. Aircraft with a Maximum Take-Off Weight (MTOW) of 200,000 kg or above, but below 500 000 kg	500
j. Aircraft with a Maximum Take-Off Weight (MTOW) of 500,000 kg or above	700. ¹

² Para.1 does not apply to captive balloons, hang gliders, parachutes, kites and paragliders. The [Federal] Department [of Environment, Transport, Energy and Communications] sets the insurance amount for these aircraft.²

³ For flights which, by reason of the nature of the goods transported, present a special danger, the Federal Office [for Civil Aviation] can make the granting of an operator's licence conditional upon proof of a supplementary guarantee of the liability claims of third parties for a loss event on earth.³

¹ Version per Annexe, point II of Air Transport Regulation of 17 August 2005 (SR [748.411](#)).

² Version per Annexe, point II of Air Transport Regulation of 17 August 2005 (SR [748.411](#)).

³ Introduced by point I of Regulation of 28 October 1998 ([AS 1998 2570](#)).

Status per 30 August 2005

APPENDIX 2



CONFOEDERATIO HELVETICA
Die Bundesbehörden der Schweizerischen Eidgenossenschaft

[Systematische Sammlung des Bundesrechts](#)

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■ **Art. 132**

Art. 132a

¹ The minimum guarantee for liability claims of passengers is 250,000 Special Drawing Rights per passenger. In the case of non-commercial flights made with aircraft with a maximum take-off weight of up to 2,700 kg, the minimum guarantee can be less than this amount, but must be at least 100,000 Special Drawing Rights per passenger.

² In the case of non-commercial flights without passengers, a minimum guarantee for liability claims of passengers can be disregarded.

³ Articles 123, 124 para. 1, 126 paras. 1 and 4, 128 letters a and c, 129, 131 and 132 are applicable by analogy to the liability towards passengers.

Status per 30 August 2005

APPENDIX 3

Bundesamt für Zivilluftfahrt (BAZL)
Office fédéral de l'aviation civile (OFAC)
Ufficio federale dell'aviazione civile (UFAC)
Federal Office for Civil Aviation (FOCA)

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New Rules for Air Transport

Coming into Force of the Montreal Convention and of the Ordinance on Air Transport (LTrV)

Montreal Convention

The Convention for the Unification of Certain Rules for International Carriage by Air ("Montreal Convention"), of 28 May 1999 applies to every international carriage of passengers, luggage or goods for reward by means of aircraft. It also applies to carriages by aircraft which are free of charge, if they are performed by aviation companies authorised for the purpose.

With the 22 June 2005 ratification of the Convention by the [Swiss] Federal Council, this **comes into force on 5 September 2005**.

It replaces the Warsaw Convention of 1929 and is designed to prevent the further breaking up of various Rules for Air Transport. In general, this Convention regulates the new limits of liability.

Ordinance on Air Transport (LTrV)

LTrV represents a complete overhaul of the Air Transport Regulation (LTrR, SR 748.411). The latter will be repealed with the coming into force of LTrV on **5 September 2005**.

For international flights not covered by the Montreal Convention, as well as for all internal flights, LTrV adopts the provisions of the Convention. This Ordinance also takes into account the new European Regulations¹.

The new liability rules of the Montreal Convention and of the European Regulations assumed into LTrV have also resulted in a change to the **Aviation Ordinance** (LFV, RS 748.01). The guaranteed minimum insurance amounts for third party liability insurance for passengers or on earth must accordingly be amended in line with those provisions. A new rule is that, for private flights **with** passengers, the aircraft operator must be in the

possession of an insurance certificate in respect of liability for passengers. The amendment to the Aviation Ordinance also comes into force on **5 September 2005**.

The Airworthiness Ordinance (VLL, SR 748.215.1) must also be amended, in order to comply with the new requirements on the documents required to be carried on board. What is new is that not only must the certificate of third party liability insurance on earth be kept on board the aircraft, but also, insofar as applicable, the insurance certificate in respect of liability for passengers. This amendment came into force on **5 September 2005**. Aircraft operators have been granted a transitional period until **30 June 2006**, in which to align their certificates of insurance with the new conditions. The new insurance regulations and minimum insurance amounts already apply, however, from 5 September 2005.

¹ Regulation (EC) No. 889/2002 of the European Parliament and of the Council of 13 May 2002 amending Council Regulation (EC) No. 2027/97 on air carrier liability in the event of accidents (ABI. L 140 of 30.5.2002, p. 2), Regulation (EC) No. 785/2004 of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators (ABI. L 138 of 30.4.2004, p. 1) and Regulation (EC) No. 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (ABI. L 46 of 17.2.2004, p. 1).
