

# MARKET BULLETIN

REF: Y4173

<b>Title</b>	US Classifications on Market Reform Contracts
<b>Purpose</b>	To remind the market of the US Classifications that it is permissible to use on Market Reform Contracts, and to note a recommendation that brokers provide a further breakdown in respect of "Non-regulated" risks.
<b>Type</b>	Event
<b>From</b>	Andrew Gurney, Senior Manager, International Licences, International Market Access Telephone: 020 7327 6194, Email: <a href="mailto:andrew.gurney@lloyds.com">andrew.gurney@lloyds.com</a>
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<b>Deadline</b>	None
<b>Related links</b>	<a href="http://www.marketreform.co.uk/">http://www.marketreform.co.uk/</a>

## Background

The Open Market, Binding Authority and Lineslip Market Reform Contracts (MRC) all include the heading "US Classification" in the Fiscal and Regulatory sections. This heading is required on all contracts where:

- The original premium is in US dollars; or
- The original premium is another currency and the country of origin is the US.

The purpose of this heading is to facilitate compliance with US regulatory requirements. Correct classification of a US insurance transaction ensures that it is accurately recorded. It is therefore essential for arranging correct funding of Lloyd's US trust funds and for the preparation and submission of regulatory reports. It also identifies the US regulatory regime applying to the contract.

The requirements set out in this Market Bulletin apply to MRC's underwritten partly or wholly at Lloyd's. Lloyd's cannot mandate requirements for the London market generally. Nevertheless, the approach set out here mirrors that contained within the Market Reform Office's MRC Implementation Guides, and has the support of the IUA.

### **Responsibility of the managing agent**

The failure to classify a US risk correctly implies that the underwriter cannot determine the true nature of the risk, and therefore funding of the correct US trust fund. This in turn implies that the managing agent is not meeting Pre Bind Quality Assurance requirements, nor Franchise Standards such as Underwriting Management. In addition the failure to classify and fund risks accurately may have consequences for Lloyd's ongoing ability to continue trading in the US. Therefore the underwriter must ensure that the appropriate classification is shown on the slip pre bind.

### **Processing of Lloyd's US transactions by Xchanging**

All US dollar business and all US situs business (regardless of currency) must be given the correct US classification, as detailed in Appendix 1. Please note the introduction of recommended breakdowns to the US Non-regulated classification. Xchanging can reject risks with missing or incorrect US classifications. The US classification must be shown on the MRC in the fiscal and regulatory section. The US classification must also be shown on any subsequent endorsements or any closing bordereaux.

### **Complex/multi-state risks**

For complex or multi state risks an MRC may show more than one US classification. It is the responsibility of the underwriter to ensure that all relevant classifications are shown appropriately, together with an estimate of premium splits. It is recognised that in the initial stages of contract negotiations between brokers and underwriters, the exact US classification may not be known. In such instances, it is important that the US classification is established and specified in the MRC prior to inception, or in the case of late placements, when underwriters subscribe to the risk.

Underwriters must also take into account instances where a policyholder notice (mandatory in some states) has already been provided to the insured, and their understanding as to the type of policy they have purchased (i.e. licensed, surplus lines or non-regulated).

### **Further information**

Further guidance regarding completion of the market reform contract and binding authority contract are available on the [Market Reform website](#).

The [QA tools](#) also provide details of Lloyd's contract quality requirements and [Crystal](#) provides regulatory and tax information on a country by country basis.

If you have any queries about this market bulletin, please contact:

Lloyd's International Trading Advice,  
Ground Floor,  
Underwriting Room  
Telephone: 020 7327 6677  
Email: [LITA@lloyds.com](mailto:LITA@lloyds.com)  
[www.lloyds.com/crystal](http://www.lloyds.com/crystal)

## Appendix 1 - US Classifications

### 1 Licensed business

Direct risks written under Lloyd's licences in Illinois, Kentucky and the US Virgin Islands must be classified as:

- "Illinois licensed"
- "Kentucky licensed"
- "USVI licensed"

An Open Market MRC with any of these classifications must include the name and address of the insurance intermediary other than the Lloyd's broker involved in placement under the heading "Overseas broker". This insurance intermediary must be a Lloyd's approved or registered Open Market Correspondent. Further details of this requirement can be found in Market Bulletin [Y3600.pdf](#), dated 22 July 2005.

### 2 Surplus/excess lines business

Direct risks written pursuant to the surplus (or excess) lines laws of the state from which the risk is exported must be classified as:

- "US surplus lines"

An Open Market MRC with this classification must include:

- Under "Surplus Lines Broker", the name, address and licence number of the surplus lines broker handling the regulatory and fiscal filings associated with the premium; or, alternatively, its name, surplus lines licence number and the US state or territory in which its business premises are located.
- Under "State of Filing", the US state or territory in which a filing has been made, or will be made.

These details must also be provided on binding authority bordereaux containing details of US surplus lines premiums.

For further information regarding these details please refer to market bulletin [Y3889.pdf](#).

### 3 US reinsurance

All US reinsurance risks must be classified as:

- “US reinsurance”

This classification is used for every contract reinsuring an insurer domiciled in a state, district, territory, commonwealth or possession of the US, including reinsurance:

- Of a US branch of an alien insurer with a port of entry in a state of the US.
- Of a US domiciled captive.
- Where a letter of credit is issued to the cedent.
- Where the cedent is not seeking to take balance sheet credit (underwriters must still fund their liabilities as US reinsurance, in the US Situs Credit for Reinsurance Trust Fund or by alternative security).

An Open Market MRC with this classification must include:

- Under “Reinsured”, the name of every US insurer reinsured by the contract.
- Under “NAIC Code”, the ceding US insurer’s NAIC code. If the cedent does not have an NAIC code, its FEIN code may be used instead.

These details must also be provided on binding authority bordereaux containing details of US reinsurance premiums.

#### 4 **US Non-regulated**

Non-regulated risks must be classified as:

- “Non-regulated” or “Exempt”.

Risks classified as “Exempt” must be exempt from US state “doing business” and surplus lines laws. “Exempt” cannot be used to identify surplus lines risks exempt from tax. Such risks must be classified as “US surplus lines”.

It is recommended that Lloyd’s brokers provide a further breakdown for the underwriter to demonstrate the reason for classifying a risk as “non-regulated”. It is suggested that the following breakdowns are used:

- “Non-regulated – Non US risk”;  
Contracts where a US classification must be allocated because the original premium is in US dollars, but the insured risk is outside the US, and so the transaction is either not regulated by US state insurance laws or is subject to an exemption under those laws.

- “Non-regulated – Industrial insured”  
Many states have exemptions from surplus lines laws for sophisticated buyers of insurance. The definition of an “industrial insured” varies by state. For further information please refer to [www.lloyds.com/Crystal](http://www.lloyds.com/Crystal).
- “Non-regulated – MAT exemption”  
Many states exempt Marine, Aviation and Transport risks from their surplus lines laws. The exact exemptions vary by state, and do not apply in every state. For further information please refer to [www.lloyds.com/Crystal](http://www.lloyds.com/Crystal).
- “Non-regulated – Independent procurement”  
A US insured has a constitutional right to leave their state to procure insurance of their own risks, wherever located, with an insurer of their own choosing, a way of placing business known as “independent procurement”. Any such placement must be handled strictly in accordance with all applicable laws. For example, if an insured travels to another US state where the solicitation, negotiation and implementation of a placement with an unauthorised insurer occurs, the insured, the broker and the insurer are subject to all applicable laws of that particular US state.

## 5 Various

A facility type contract, such as a binding authority or lineslip, may result in contracts with a mixture of the above classifications. In such instances, the binding authority or lineslip MRC may show the classification:

- “Various”

This classification cannot be used on an Open Market MRC and cannot be used on any premium or claim closing.

The term “various” is deemed to include all forms of US classification and syndicates must not subscribe to slips using this classification unless they are eligible to trade in all capacities for the year of account in question.

All bordereaux closings or declarations under facility contracts that have been classified as “various” must show a detailed breakdown of the risks into the appropriate classifications as set out above.

## 6 US transactions in currencies other than US dollars

US transactions expressed and settled in currencies other than US dollars must still be classified as US. The denomination of policies in other currencies does not avoid the need to fund gross liabilities in the appropriate Lloyd’s US Trust Fund. Managing Agents must then make manual adjustments in their syndicate’s quarterly US reporting packs to include the contract’s premiums and liabilities at an appropriate rate of exchange.

## **7 Definition of the US**

The United States of America include the 50 US states and commonwealths, one district (the District of Columbia) and the following dependent territories: American Samoa, Guam, Northern Mariana Islands, Puerto Rico, the US Virgin Islands, Midway Islands, Wake Island, Johnston Atoll, Baker, Howland & Jarvis Islands, Kingman Reef, Navassa Island and Palmyra Atoll.

The requirement to include a US classification applies to contracts insuring risks situated, or reinsuring insurers domiciled, in all these locations.