

19 November 2004

TO ALL MEMBERS

Dear Sirs

INSURANCE MEDIATION DIRECTIVE

Outline

This Circular informs Members who place their business with the Association through an intermediary (i.e. a broker and any other third party introducing insurance business to an insurer ("Intermediary")) based in the European Economic Area ("EEA") of the Association's requirements with effect from 14th January 2005 following the entry into force of the European Union's Directive on Insurance Mediation.

Introduction

Following the European Union's Directive (2002/92/EC) on Insurance Mediation ("IMD"), legislation has been enacted in the United Kingdom to implement its terms and to regulate those businesses that fall within its scope. The Financial Services Authority ("FSA") as the UK regulator has produced rules for types of businesses to which the IMD applies, the Association being one. Other Member States within the EEA have introduced or are in the process of introducing legislation to implement the IMD within their own jurisdiction.

Insurance Mediation Activities

The purpose of the IMD is to regulate the activities of firms carrying out Insurance Mediation Activities. Insurance Mediation Activities have been categorised by the FSA as:

- advising on contracts of insurance
- arranging deals in contracts of insurance
- making arrangements with a view to transacting contracts of insurance
- dealing as an agent in contracts of insurance
- assisting in the administration and performance of contracts of insurance
- agreeing to carrying on a regulated activity.

However, it should be noted that by virtue of Article 1(3) of the IMD its terms and obligations do not apply where the mediation activities relate to risks and commitments located outside the EEA. In relation to ships the risk is deemed to be located in the state of registration and thus mediation activities involving non-EEA flagged ships will not be Insurance Mediation Activities falling within the scope of the IMD.

P.T.O.

The IMD will apply to all Intermediaries in the EEA who perform Insurance Mediation Activities. The IMD defines Insurance Mediation Activities very widely and may apply to parties who up until now may not have considered themselves to be Intermediaries.

If you use an EEA Intermediary to place your business with the Association, the IMD requires that the Intermediary is authorised in its Home State to carry out Insurance Mediation Activities. In addition, an Intermediary based in an EEA country other than the United Kingdom must obtain permission from its Home State regulator under the Third Non-Life Insurance Directive to provide similar services in the United Kingdom. If the Intermediary is unsure of whether or not its activities fall under the terms of the IMD, it should check the position with the relevant regulator as soon as possible.

In the United Kingdom the IMD also applies to the Association as primary insurer when it deals directly with a Member without the involvement of an Intermediary. Accordingly, the Association has applied for and received from the FSA a variation of its existing permission so that it can carry out Insurance Mediation Activities.

The Association's requirements from Intermediaries

With effect from 14th January 2005, the legislation will impose on the Association a legal responsibility to ensure that when transacting with Intermediaries domiciled in the EEA, it ensures that those Intermediaries have the necessary authorisation. In order to discharge that responsibility, the Association intends to implement a system of self-certification, whereby Intermediaries based in the EEA introducing EEA business to the Association will be expected to confirm that they are authorised in the country of their domicile for IMD purposes and, where relevant, that they have freedom of services permission. In order to simplify the process for Intermediaries the International Group Clubs have agreed a common approach. Regulated Intermediaries will be expected to confirm that they have the necessary approval from their Home State regulator by using the appropriate form of certification from the suggested examples below.

The proposed wordings are:

a) for Intermediaries regulated in the UK by the FSA:

"[Name of Intermediary] is registered for IMD purposes with the Financial Services Authority, and will advise you of any change in that status."

b) for Intermediaries regulated in the EEA and introducing EEA business (excluding UK business):

"[Name of Intermediary] is registered for IMD purposes with [Name of Regulator] in [Country of Regulation], and will advise you of any change in that status."

c) for Intermediaries regulated in the EEA and introducing UK business:

"[Name of Intermediary] is registered for IMD purposes with [Name of Regulator] in [Country of Regulation], has permission under that country's freedom of service legislation to perform intermediary activities within the UK, and will advise you of any change in that status."

In order for the Association to accept a risk placed with it by an Intermediary to which the IMD applies, one of the forms of certification from those listed above must be provided by the Intermediary. Without that certification the Association will not be able to accept the risk.

The Association is writing to EEA-based Intermediaries advising them of these requirements.

If any Member requires further information they are requested to contact Anthony Jones on telephone +44 (0)20 7772 8131 or email anthony.jones@a-bilbrough.com.

Yours faithfully
A BILBROUGH & CO LTD
(MANAGERS)