

Legal & Regulatory Update



Introduction and new faces

Here is the Legal and Regulatory team's roundup of activities in 2023 which we expect to build on going into 2024. We welcome feedback from members on what you would like to see more of (or less of) or anything new we should address on your behalf.

As a team, we assist both the market and other LMA teams in dealing with legal and regulatory developments in the UK and overseas.

This year, the team welcomed our second cohort of trainees, Tereza Kamari and Thomas Singleton (more on the training scheme below), who have quickly become integral to our team. We also welcomed John Levett (previously of the Financial Conduct Authority (FCA) and RSA) as our new Regulatory Affairs Senior Executive. With his extensive experience and strategic insight, John is poised to drive our regulatory work to new heights.

LMA Wordings Trainee Scheme

The Wordings Trainee Scheme hit its stride this year. Tara Allen and Faizan Mahmood began their secondments, gaining invaluable experience first at Argenta and Axis, and now at Kennedys and Beale & Co. They are continuing their programme of secondments to managing agencies and will qualify as solicitors in September. Tereza and Thomas are all geared up to follow in their footsteps this year, with their secondments beginning in March.

We're always looking for more collaborations! Interested members who wish to join our journey in nurturing legal/wordings expertise can reach out to ray.koh@lmalloyds.com. The scheme is fully funded by the LMA.

Committees and forums

The LMA's committees and forums are at the centre of what we do. From a legal and regulatory perspective, in addition to the main LMA Legal, Regulatory and Conduct committees, we have financial crime and international regulatory workstreams, as well as quarterly Lloyd's Europe forums and groups which have regular meetings with the Prudential Regulation Authority and FCA.

The year saw the birth of Next Gen Regulatory and Legal committees to foster the next generation of legal and compliance leaders. We have reinvigorated the Data Protection and CoSec forums and, in a new initiative with our Claims team, established the Environment and Climate Litigation Committee to address the burgeoning interest in climate-related claims and litigation. This committee will drive wider updates to relevant committees and inform a new newsletter to keep members up to date on developments.

We also re-formed our data protection working group bringing together the LMA, the International Underwriting Association, the London & International Insurance Brokers' Association and their members to address market data protection issues. The working group has reviewed and updated the market's Core

Uses Information Notice which will be hosted as an interactive portal on the London Market Group's website in Q1 2024. The working group reviewed the data protection aspects of both Velonetic's market services and the Digital Processing Services Agreement under Blueprint Two.

Please contact any of the members of the legal and regulatory teams if you are interested in joining any of these committees or forums.

Regulatory liaison

Consultations

We continue to engage strongly with the regulators. In 2023, the team responded to 23 consultations, discussion papers and calls for evidence on a range of issues including diversity and inclusion (both FCA and PRA), Senior Managers and Certification Regime (PRA and HMT), enforcement (PRA), third country reinsurance (EIOPA), horizontal agreements (CMA), the Arbitration Act (Law Commission) future regulatory review consultations and a several FCA conduct-related consultations, including multi-occupancy buildings insurance and dealing with consumers in financial difficulty. All LMA responses to consultations can be found [here](#).

One of the conduct challenges facing the market this year has been the implementation of the Consumer Duty. The LMA put together a working group comprising managing agents and Lloyd's which developed guidance around focus areas, data and market intelligence and the FCA's expectations regarding communications with customers.

Following lobbying throughout 2023 by the LMA on the FCA's approach to conduct regulation of the wholesale market, the LMA coordinated a working-level roundtable with the FCA including LMA members and other trade bodies. We anticipate the discussions will inform the FCA's thinking into 2024 with a view to a more formal consultation. We will also continue to engage with the FCA on this important topic with a view to improving regulatory proportionality and competitiveness.

Throughout 2023, we arranged for a number of FCA supervisor secondments to managing agents with positive feedback both ways. We also arranged for a number of PRA supervisors to undertake familiarisation days with underwriters for them to gain a better understanding of how business is transacted in the Lloyd's market.

Lloyd's

We successfully changed Lloyd's plans to exit the Canadian auto market by establishing a working group of managing agents and brokers to assist Lloyd's Canada in securing legal advice for the market, additional headcount in Canada and access to leading policy management systems.

Regarding master policies, the LMA's Conduct Committee provided substantive feedback on Lloyd's draft guidance and FAQs, and has held several meetings with Lloyd's to try to reach a regulatory approach which works for the market.

The LMA's Regulatory and CRO committees continue to meet with Lloyd's monthly to assist in the development of the Rio oversight framework.

FOS

We have started building a new relationship with the Financial Ombudsman Service (FOS) to reflect its increased remit having a bearing on members' business models. The first discussions have been on the FOS' approach to multiple eligible complainants on a single policy.

Lloyd's Europe

Throughout 2023, we have liaised closely with Lloyd's Europe (LIC) and have coordinated with them in preparing responses to the European Insurance and Occupational Pensions Authority's (EIOPA) consultations, such as third-country reinsurance and the insurance gap. Our Next Gen Legal Committee led a consultation on the LIC outsourcing agreement which is currently with managing agencies for signature.

The LMA's Regulatory Committee meets with LIC bi-monthly to discuss current and emerging regulatory issues. There has been work on shifting from Freedom of Establishment to Freedom of Services licenses in several jurisdictions and use of Financial Interest Clauses (FINC). We arrange quarterly forum meetings for members on a regular basis. Important topics arising this year have been the first inspection by the Belgian regulator of LIC's UK branch and proposed changes to continuing education requirements for secondees underwriters.

Sanctions and financial crime

Following the *AIG v Lafarge* case, the LMA convened a working group consisting of members from the Legal and Regulatory community to consider whether an update of LMA3100 (which has been a flagship clause for 20 years) was required in light of that case and any other changes required by the market. LMA3100A and LMA3200 were subsequently released, having been reviewed by Counsel from the UK, France and the US. The clauses were also socialised with the Office of Foreign Assets Control (OFAC) and the Office of Financial Sanctions Implementation (OFSI). A market briefing was held when the clauses were out for consultation with members, where the three instructed Counsel gave their views and support to the clauses.

It has been a busy year for the implementation of new sanctions, and we have liaised extensively with Lloyd's and the government agencies involved in picking a route through the issues for our members.

Wordings and agreements

The Legal and Regulatory team work closely with all teams in the LMA. Sometimes, that involves taking the lead on drafting agreements and wordings which do not fall within the scope of the LMA Underwriting team. Examples of two such agreements developed this year were:

1. Singapore Service Company Consortium Agreement (LMA3174) – this was developed in conjunction with Lloyd's Asia at the request of the market to facilitate the placing of business; and
2. Co-Lead Claims Agreement (LMA9186A) – this was drafted with the input of the Delegated Authority Claims Group and provides a mechanism for choosing the overall lead for claims arising from business written by a coverholder which holds several binding authorities over different slips. It was a wholesale rewrite of LMA9186.

There has been a significant amount of work supporting the Underwriting team in rolling out numerous clauses for the market, such as cyber war clauses, contingent parametric pandemic wording, bodily injury guidance, arbitration wordings and guidance. We responded to the Competition and Mergers Authority consultation on proposed changes to its rules, including a full explanation of the safeguards that we have in place to support cross-market work on wordings to support the efficiency of placement in a subscription market.

Other

The LMA was part of the committee that put together the revised Market Reform Contract v3 (formerly known as iMRC) which was launched at the end of March. We continue as members of the newly formed MRC Committee. As part of the overall goal of increasing awareness and take-up, the LMA led a market-wide introductory session on the changes made that underwriters should be aware of.

As members of an international community comprising academics and industry experts, we have contributed to the development of version two of a new private law of reinsurance – the Principles of Reinsurance Contract Law (PRICL). This UNIDROIT-sponsored project aims to “formulate a “restatement” of existing global reinsurance law”, taking the best from different systems of law to achieve as much certainty as possible. The result of this is a complete system of reinsurance law which can be chosen as the governing law in any reinsurance contract.

Update on forthcoming LMA Academy programmes

The LMA Academy supported the development of wordings expertise within our members’ organisations by delivering the CII-accredited Contract Wordings – Foundation and Liability programmes in the last quarter of 2023. These programmes will be delivered again in 2024, along with wordings programmes focusing on reinsurance and business interruption.

We are also pleased to announce that we will be delivering the Understanding the Board of a Lloyd’s Managing Agent training again in 2024. The content is aimed at those reporting into the Board or those working closely with the Board. This is an ideal training event for those in senior company roles who may already work with or sit on the managing agent Board.

This year, we are partnering with KPMG to run a webinar series on topics relevant to the market. The first of these webinars, Regulatory and Supervisory Priorities for 2024, will be held on 17 January.

We are also excited to introduce the new Working in the Lloyd’s Market for Professionals programme. This programme is aimed at established professionals who are new or in the early stages of a career in insurance and the Lloyd’s market. The next workshop is being delivered on 29 and 30 January.

Please visit the [Virtual Academy](#) to register for these upcoming events.

[Arabella Ramage](#)

Legal Director

Lloyd’s Market Association