

Contract Certainty Summary Guide

June 2007

“Contract Certainty is achieved by the complete and final agreement of all terms between the insured and insurer by the time that they enter into the contract, with contract documentation provided promptly thereafter.”

Contract Certainty Principles

Applicable to general insurance contracts entered into by an FSA regulated insurer, or arranged through an FSA regulated intermediary



B | I | B | A



Principle A When entering into the contract

Clearly express terms Have you clearly and unambiguously expressed all terms including any conditions or subjectivities?

Principle B After entering into the contract

Provide documentation Have you provided contract documentation promptly?

Principle C Demonstrate performance

Demonstrate performance Can you demonstrate achievement of principles A and B above?

Principle D Contract changes

Maintain certainty and document Have you ensured changes are certain and documented promptly?

Principles E and F More than one participating insurer

When entering into the contract

Agree final participation basis Have you included the basis for determining each insurer's final participation in the contract?

Over-placing Have you avoided post-inception over-placing?

After entering into the contract

Final participation Has the final participation been provided to each insurer promptly?

Principle G If the principles are not met

Resolve exceptions Have you resolved exceptions as soon as practicable and without undue delay?

Important: This guide is intended only to provide a summary of the main points of Contract Certainty. It is recommended that you refer to the Code of Practice, Principles and Guidance, June 2007 which can be viewed at your association web site



When entering into the contract

Before making or accepting an offer, express all terms clearly and unambiguously including any conditions or subjectivities

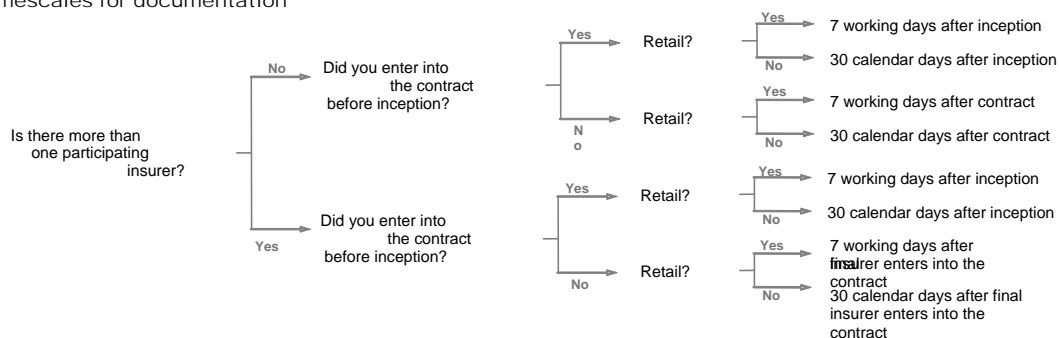
Achieving Contract Certainty	
Non-binding indications	Clearly identify non-binding indications as such. Contract Certainty principles may be applied but are not a prerequisite at this stage
Firm quotations	Ensure the proposed contract meets the principles of Contract Certainty
Parties	Clearly identify all parties to the contract
Terms	Fully express or unambiguously identify all terms
Subjectivities	Clearly express any subjectivities you use as part of the terms
More than one participating insurer	Clearly state the method for calculating insurer participations – the ‘signing provisions’ Include a suitable several liability clause
If you are the insurer	
Check contract	Before formally committing to the contract, check that all terms are clearly identified
If cover starts before contract entered into	Ensure this is legally permissible Ensure the scope of coverage for any claims that arise before the contract is entered into is clear
If you are the broker	
Provide information	Provide the necessary risk and contractual information that represents the insured’s demands and needs to enable the agreement of all terms
If more than one insurer	Complete the placement as soon as practicable and without undue delay

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After entering into the contract

Provide contract documentation promptly

Timescales for documentation



If you are the insurer

Contract documentation to the insured Provide contract documentation to the insured or its agent promptly. You are responsible for this, even if you delegate it to, say, a service provider

Allow sufficient time Allow sufficient time for others (e.g. broker, service provider, etc) to check and forward documentation within the timescales, observing any market protocols

If you are the broker

Contract documentation to the insured Where responsible, provide contract documentation to the insured or its agent promptly

If more than one insurer Calculate insurer participations by inception or on completion of placement if later

Respond to any insurer requests for participation information and routinely provide all insurer participations within 30 days

If an insurer prepares the contract documentation, provide participations in sufficient time

Demonstrate performance

Insurers and brokers must be able to demonstrate their achievement of principles A and B

What you need to do

Know the procedures Ensure you know procedures that apply in your firm

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Contract changes

Contract changes need to be certain and documented promptly

	What you need to do
Maintain Contract Certainty	Obtain agreement of the insured (or its agent) and insurer(s) to the change. Maintain Contract Certainty whilst so doing
Provide documentation	Provide contract change documentation promptly

Subjectivities

Insurers may impose a subjectivity on the contract. Subjectivities can be pre-inception, post-inception or both. They can be a pre-condition of the contract or a condition of continued coverage after entering into contract. They can relate to all or part of the cover

What you need to do

Ensure any subjectivities define:

- Who needs to do what by when, and to what standard
- The terms that apply until it is done
- The consequences if it is not done

If the principles are not met

If all terms have not been agreed by the time of entering into the contract then every effort should be made to do so as soon as practicable thereafter

Rectify any documentation inaccuracy observing any market protocols

Keep the insured informed if the delay is likely to be significantly beyond the required timescales

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