

Model Signing Provisions Guidance

Background

The Signed Lines Guidance issued in December 2005 established the following signing principles:

- Wherever possible, the [signing down] calculation method should be explicit on the submission, subject to client wishes, allowing the insurer to determine how their line will be calculated.
- The broker should obtain client instructions regarding signed lines prior to inception, wherever possible.
- Any post-inception change(s) in signing must be agreed by all parties whose lines are to be varied.

Model Signing Provisions can assist with the implementation of these principles and help to provide certainty of signed lines at inception. This is important for clients, to confirm their security and for (re)insurers, to confirm their participation and commitment of capital. It also clearly establishes the proportion to be borne by each (re)insurer in the event of a loss.

The signing provisions contained in this guidance enable the signed lines for each contract to be clearly determined at the conclusion of placement. Any subsequent variation of these signed lines then requires the documented agreement of the (re)insured and all (re)insurers whose lines are to be varied.

It is recommended that every contract should contain a clause which sets out the signing provisions, to assist with certainty in this area. The Model Signing Provisions below have been reviewed by leading counsel.

There are two versions of the Model Signing Provisions; one without a disproportionate signing clause, and one that allows disproportionate signing before inception at the election of the (re)insured. The broker can select the appropriate version to use on the slip, taking account of the (re)insured's requirements. The model clauses are not mandatory and (re)insureds, brokers and (re)insurers may make additions, deletions or amendments.

(Re)insurer signing instructions

The Market Reform Group (MRG), supported by the opinion of leading counsel, recommends that the use of all insurer signing instructions other than line "To Stand" should be discontinued. For example, the use of (re)insurer signing instructions such as "20% to sign 8%" should be discontinued, as their meaning may be unclear and compromise contract certainty.

If the lines written by (re)insurers "To Stand" should exceed 100% of the order, then opinion obtained from leading counsel suggests that the agreement of (re)insurers would be required to vary these lines. In the event of a disproportionate signing, priority should be given to any intended variation of lines written "To Stand".

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Without Disproportionate Signing

SIGNING PROVISIONS

In the event that the written lines hereon exceed 100% of the order, any lines written "To Stand" will be allocated in full and all other lines will be signed down in equal proportions so that the aggregate signed lines are equal to 100% of the order without further agreement of any of the (re)insurers.

However:

- a) in the event that the placement of the order is not completed by the commencement date of the period of insurance then all lines written by that date will be signed in full;
- b) the signed lines resulting from the application of the above provisions can be varied, before or after the commencement date of the period of insurance, by the documented agreement of the (re)insured and all (re)insurers whose lines are to be varied. The variation to the contracts will take effect only when all such (re)insurers have agreed, with the resulting variation in signed lines commencing from the date set out in that agreement.

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However:

- a) in the event that the placement of the order is not completed by the commencement date of the period of insurance then all lines written by that date will be signed in full;
- b) the (re)insured may elect for the disproportionate signing of (re)insurers' lines, without further specific agreement of (re)insurers, providing that any such variation is made prior to the commencement date of the period of insurance, and that lines written "To Stand" may not be varied without the documented agreement of those (re)insurers;
- c) the signed lines resulting from the application of the above provisions can be varied, before or after the commencement date of the period of insurance, by the documented agreement of the (re)insured and all (re)insurers whose lines are to be varied. The variation to the contracts will take effect only when all such (re)insurers have agreed, with the resulting variation in signed lines commencing from the date set out in that agreement.

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