

Guidance for resolving residual legacy

Introduction and Purpose of this Guidance

The Legacy Policy Code of Practice (February 2006) outlined the basis of prioritisation for legacy and the principles to be applied in the formulation of plans to tackle the legacy issue.

The Legacy Code of Practice Process Guidance (May 2006) outlined some additional implementation principles, together with a high level process to support implementation activities.

The 2007 Market Reform Group (MRG) work plan included targets for legacy reduction on an indexation basis from June 2006 (Index 100), down to 60 and 40 by June and December 2007 respectively.

The purpose of this guidance is to provide updated principles and a revised approach for reviewing the residual legacy that may still be outstanding at December 2007. A corresponding decision flow chart is also included.

Principles Relating to the Residual Legacy

1. This document is for guidance purposes only. Each (re)insurer and broker will need to review its own approach to determine how best to resolve its residual legacy position.
 - *The characteristics of residual legacy will require consideration and judgement at individual contract and (re)insurer level in the context of the firm's own risk management strategies.*
2. Continued priority should always be given to any (re)insured's request for further contract documentation
 - *In any circumstances where, for whatever reason, this may not be achievable, "current contract documentation prevails" may prove to be the most appropriate resolution.*
3. Legal entitlement to make any changes to an existing contract is unlikely without the prior agreement of all interested parties
 - *If a counter party to the contract no longer exists, it is unlikely that any further contract documentation can be agreed by that counter party for its own part.*
4. The agreement of further contract documentation may be materially compromised if a contract has been, or is, the subject of a claim.
 - *It is unlikely to be a prudent course of action for either party to attempt to agree new documentation under a contract which either has been, or is, the subject of a claim.*
5. 'Current contract documentation prevails' may be an acceptable resolution.
 - *For each legacy risk, some contract documentation will exist (usually the original placing slip/documents). A conclusion that "current contract documentation prevails" can, in many cases, constitute the most appropriate resolution.*
6. A change of circumstances may result in the opportunity to revise a previously drawn assessment/conclusion.
 - *For example, a broker may now be able to provide some risk information which enables a (re)insurance policy to be produced and authorised which previously had not been possible.*

RESIDUAL LEGACY DECISION GUIDANCE

The following decision flowchart should be read in conjunction with the principles and guidance set out above:

