

Internet Trading

Kiln looks for confirmation that the following regulations were complied with at the time of setting up an internet trading platform and are still being adhered to.

Background

It is essential for all firms operating a website, whether they intend to use the site purely for advertising/promotion or to transact business online, that they seek their own independent legal advice covering their specific business activities/needs. The following legislation and regulations may be of relevance when developing a website (this is not a definitive list and is provided as a guide only):

- Data Protection Act 1998
- Computer Misuse Act 1990
- Consumer Protection (Distance Selling) Regulations 2000
- Codes issued by the Advertising Standards Authority
- Regulations from overseas regulators if the firm intends to market insurance products in another country outside the UK
- For the sale and promotion of insurance products in the EEA consider the requirements of the Insurance Mediation Directive (No. 2002/92/EC) and the Distance Marketing Directive (no. 2002/65/EC)
- For the sale and promotion of insurance products from a UK establishment directed at UK customers consider the provisions within the FSA rules.

Firms wishing to sell insurance online must ensure that their controls over acceptance and handling of business via the internet are comparable with those employed for the acceptance of business in the traditional manner.

Protection of Lloyd's licences

There is a potential for insurance to be purchased via the internet by policyholders situated in territories where Lloyd's is not licensed. It is, therefore, important that firms do not give the impression that they are seeking business in such unlicensed territories.

There is no hard and fast way in which to do this but regulators have previously stated that disclaimers and validation procedures will be specifically considered in order to determine whether a product was deliberately being marketed in an unlicensed territory.

Disclaimers

Disclaimers on websites are essential for a number of purposes. In relation to territorial availability, it is fundamental that there is a clear statement displayed prominently on firms' sites stating the territories in which the insurance is available, or alternatively, those territories where it is not available. The statement of territorial availability must be subject to regular review to ensure that it remains consistent with Lloyd's licensing arrangements. Ideally, the disclaimer should be displayed to all visitors on entering the site.

Specific reference, where relevant, should also be made about underwriters' licensed and unlicensed status in the various US states. It should also be stressed that coverage with underwriters in unlicensed states is only available through a locally licensed surplus lines broker.



It is strongly recommended that all sites, whether targeting the US or not, are legally reviewed to ensure that the disclaimers are accurate, clear and not misleading. Any sites intending to target business from the US should also seek specific independent US legal advice.

Validation Procedures

If selling insurance online, firms must not allow users to whom they do not wish to sell insurance to conclude insurance contracts. Therefore, it is important to have validation procedures to prevent such an event from occurring; a disclaimer on its own is not sufficient.

Examples of such steps are:

- Compulsory fields (e.g. user's address, postcode and telephone number) which can then be validated by the firm;
- Automatic bounce back applications from unlicensed territories;
- Disclaim and disable techniques preventing invalid/unauthorised visitors from accessing further sections of the site.