

## Broking and Agency

We have specialist knowledge of the broking and insurance intermediary markets and advise on issues of both a contentious and non-contentious nature. We have a thorough understanding not only of the legal and regulatory framework and of the commercial pressures applicable to acting as an intermediary in the market, but also of the issues that arise in practice.

In addition, we act for a number of international brokers who place business into the London Market. We also assist with the passporting of EU intermediaries to provide insurance to UK consumers.

### What we do

As well as being instructed on **Commercial, Transactional and Regulatory** issues, we have extensive experience of advising on, and handling claims relating to, insurance intermediaries, their principals, their clients, their liquidators and their professional indemnity insurers.

In addition, we have acted on behalf of:-

- Insurance and reinsurance brokers in the London market.
- Overseas producing brokers.
- Managing general agents (“MGAs”), underwriting agents, coverholders and intermediaries holding authority to bind their principals.
- Appointed representatives.
- Inspection agents.
- Third party administrators (“TPAs”).

We deal with the full range of professional negligence claims alleged against brokers and other agents, from the smallest claims brought by litigants in person, through to claims of the highest value and complexity involving a number of parties in both a domestic and international context. We act for professional indemnity insurers and, in cases where coverage is contested, for the brokers themselves.

We act for insurance brokers and their clients in pursuing the “difficult” claims in the international insurance and reinsurance market. In doing so, we act as a form of “claims counsel” to support the claims process. This results in a saving of time and can increase the amount recovered. Whether retained by the broker or the insured or reinsured themselves, the presentation of a claim on the basis of an accurate legal analysis of coverage can enhance the reputation of our client generally within the market.

Many underwriters, producing brokers and insureds have had the experience of an inadequate service in the handling of accounts. We are experienced in working with brokers to resolve such difficulties, promptly, efficiently and cost-effectively.

We are also experienced in dealing with the “failing” broker, protecting premium and claims funds and, if necessary, petitioning for the appointment of a liquidator.

### Contentious

- Advising in cases where the broker is alleged to have misrepresented or failed to disclose a material matter
- Defending allegations of professional negligence in the placement of insurance and reinsurance, or collection of a claim
- Advising coverholders and their principals in relation to disputes over the terms of binders
- Advising insurers or insureds in cases where the authority of a coverholder to issue insurance is disputed by the insurer
- Advising the alleged insurer or victims of a fraudulent coverholder
- Assisting brokers on alternative arrangements for risk management, after a placement has failed
- Advising on insurances which may be caught by sanctions
- Advising where the broker is alleged to have made a secret profit or is otherwise in breach of its fiduciary duties to the client
- Advising on commission sharing agreements and disputes arising when accounts are transferred from one broker to another
- Advising on non-disclosure agreements (intended to cover non-use of information obtained in the course of negotiations)
- Assisting in the resolution of disputes arising from accounting with insurance intermediaries, and insolvency issues
- Advising reinsurers in relation to a dispute as to whether an agent had authority to bind the marine reinsurance contract concerned and the effects of breach of that authority
- Advising a principal against an overseas aviation underwriting agent involving preferential cessions of risk to a competing principal
- Assisting brokers and their clients in relation to coverage disputes relating to:-
  - financial institution claims where underwriters decline to indemnify, or reserve their rights
  - the meaning and effect of computer crime insurance and the “internet banking clause”
  - property damage and business interruption
  - property damage political violence and terrorism claims
  - liability insurance
  - fine art and jewellery
  - the aggregation of loss for the purpose of claiming on an excess of loss policy
  - late notification

## Non-Contentious

- Advising a reinsurance underwriting agent on the wording of a guarantee relating to its Lloyd's binding authority agreement
- Drafting run-off management agreements for a third party run-off manager
- Advising on agreements for a run-off manager relating to a pool of companies, to take account of frontings and reinsurances to close
- Advising on a referral of a Lloyd's Names agency transaction to the Competition Commission (now the Competition & Markets Authority).
- Representing a run-off manager and pool members in devising a scheme for the allocation between pool members of pool funds held in the accounts of their insolvent pool management agent.

## Transactional

- Advising on the sale of UK broker by its overseas owner
- Advising on the reorganisation of a holding company's loans in relation to the proposed disposition of its insurance broking subsidiary
- Advising on the sale of French broker by English holding company (working alongside our French **Insuralex** member)

## Regulatory

- Acting for a London Market broker in obtaining authorisation as a Lloyd's broker
- Advising individuals in relation to issues of Lloyd's broking accreditation
- Advising as to the appropriate treatment of funds in a non-statutory trust account following the transfer of a broking portfolio

## Key Contacts



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