

SCAP: Best Practice Document for Aviation Handlers

Overview

- The Single Claims Agreement Party (SCAP) framework is designed to provide a more effective process for determining and settling cross-market, non-complex claims in the London Market which have a value of £250,000 or below (or currency equivalent) to the slip for open market placements.
- It went live 1 February 2018 and only applies to claims attaching to policies incepting after that date (as opposed to solely claims notified after that date) if adopted in the contract.
- The Slip Leader is responsible for assessing if a claim should be handled under the SCAP arrangement both at notification and throughout the life cycle of the claim.

Market Communications (Best Practice)

- Leads should ask for details of the followers on first notice (or use the central mailbox) in the event of a complex or controversial claim. In this way they will know who to contact.
- At first notice, in the public comments for ECF/LIRMA handlers should always state their full name. This includes where the handler is acting as a SCAP follow and provides no substantive comment.
- For Non Bureau markets, handlers should ask brokers to forward their email in full including their contact details (not cut and paste the comments)

Claims generally considered in scope for SCAP

- Straightforward claims with no coverage issues where the exposure to all insurers across all risk codes is never more than £250k Bureau market share on a layer by layer basis (net of retention)
- For Excess layers-where it is clear the matter falls well within the underlying-it applies on a layer by layer basis so a claim could be complex on the Primary as the potential value exceeds GBP 250k but standard on the excess layers.
- A fund may be topped up under SCAP even if the amount exceeds the £250k threshold or equivalent as this is a financial accounting transaction rather than adjustment of a claim.
- A bordereau can be handled under SCAP if every claim is under the £250k threshold. Please note, however, that all claims arising from Binding Authorities are out of scope of SCAP. If there is a claim over the £250k threshold, this will need to be handled as an individual claim under the bureau's conventional London agreement model (i.e. Lloyd's Claims Scheme or IUA Agreement Practices).
- Precautionary notices to high excess layers, subject to the points below

Claims generally considered to be out of scope for SCAP

- Where coverage is complex and there is unlikely to be an easy or quick resolution
- Where the claim made or a circumstance notified is for a value of more than £250k on a layer by layer basis (net of retention)
- Where quantum is not clear and the Lead believes there is a likelihood that the claim and legal costs will exceed £250k across all risk codes net of retention

- Where a professional advisor indicates that the matter has potential of more than £250k on a layer by layer basis net of retention
- SCAP will not be suitable for adoption where the verticalised placement includes multiple slips and/or multiple sections with different carriers on each section.
- Potential or actual denial of coverage or other significant coverage issue including
 - Where there is a question about the number of excesses, limits year of account, block notices and/or claims aggregating
 - Where there is a dispute or uncertainty as to the applicability of a condition or exclusion
- Where a policyholder makes a regulatory complaint or issues proceedings against insurers. This includes threatened proceedings and regulatory complaints
- Where there is group litigation of any form against the policyholder (for example class actions, derivative actions, consumer actions) in any jurisdiction.
- Where policyholders face serious allegations of fraud, unjust enrichment, money laundering or other criminal or quasi criminal allegations. This includes investigations by the SFO and DOJ (or other similar organisation) as well as antitrust litigation
- Where the notification has attracted a significant amount of media interest
- Where it is an aggregate policy and underlying layers have been (or in the Lead's view is likely to be) exhausted by other claims
- Settlements made as ex gratia payments of any kind and commutation agreements are out of scope of SCAP.
- Any claim which is out of scope for ECF
- Any claim which receives a positive sanction check
- Any claim which requires Medicare reporting
- If there are pending dispute resolution proceedings between the (re)insured and insurers subscribing to the risk
- Claims seeking extra contractual damages (including punitive damages) or claims seeking damages in excess of policy limits should not be handled under SCAP
- Criminal proceedings against the (re)insured
- Notice or complaint from a regulatory body claiming improper handling of a claim
- Allegations of bad faith and/or potential breach of regulation
- Multiple, complex, class action or high value lawsuits against the (re)insured
- Serious injury and fatalities implicated by the claim (brain damage, loss of sight or hearing, loss of limb or permanent disability, paralysis, spinal cord damage, paraplegia, quadriplegia, second or third-degree burns, life-threatening internal injuries)
- Periodic payment orders/settlements
- Advanced and/or projected settlements

Professional advisors

- Where the Lead of a SCAP matter has appointed a professional advisor then they should either (a) communicate this in the public comments of an ECF/LIRMA entry b) advise the broker that they have done so and ask them to communicate this to the following insurers or c) communicate such appointment via central emails. Contact details of the advisor should be provided

Checklist

- Does the policy incept 1 February 2018 or later?
- Does the policy contain the SCAP Clause (the LMA 9150 Clause) and does that clause abide with the guidance at www.londonmarketgroup.co.uk/mrc
- Has the broker correctly identified you as Lead?
- Has the broker used the correct identifier in the Loss name:
 - SCAPL – LIRMA Slip Lead
 - SCAPI – ILU Slip Lead
 - SCAPS – Lloyds Slip Lead
 - SCAPNB – Non-Bureau Slip Lead
- Have you checked expiry date in case an urgent response is required to cascade the advice?
- Have you gone back to the broker confirming whether the matter is in or out of SCAP?
- Have you clearly instructed XCS of the Indemnity and fee reserve to hold?
- Have you run a sanction check? If a positive return is received you must request it be re-assigned out of scope for SCAP
- Do you need to report on Medicare? If yes, then you must request it be re-assigned out of scope for SCAP

Suggested email to broker from Lead advising out of scope of SCAP

Having considered the relevant parameters for a SCAP claim we do not consider that this matter is in scope due to its complexity and/or quantum/potential quantum.

SCAP Flow Chart

