

# The use of side agreements in LOF/SCOPIC



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Steamship Mutual has advised members that precautions need to be taken when side agreements are signed on Lloyd's Open Forms or SCOPIC.

Syndicate manager Ian Freeman said that Lloyd's Open Form (LOF) in its various guises had played a leading role in casualty emergency response contracts for more than a century. Since 1999 the supplementary SCOPIC (Special Compensation P&I Clubs) clause had been an integral part of LOF.



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Together the form and clause are managed by the Salvage Arbitration Branch of Lloyd's of London (SAB). This holds bi-annual meetings of the Lloyds Salvage Group and of the SCOPIC Committee with representatives from the International Salvage Union (ISU), the International Chamber of Shipping, property underwriters and the International Group of P&I Clubs.

Freeman noted that during the past year Lloyd's had become increasingly aware of the use of side-agreements (or pre-settlement agreements) which sought to provide an alternative means of calculating a salvage award earned under a LOF contract. Such agreements were primarily private arrangements between a property owner, its underwriters and the salvor and generally the P&I Club concerned might have no knowledge that a side agreement exists. Given their apparent increasing popularity, Lloyd's has invited parties when giving notice of a LOF contract to advise if a side-agreement exists and provide a copy. Lloyd's would then inform all parties to the salvage of the existence of the side agreement, but without divulging the details of the side-agreement.

Freeman said that, by addressing the mechanism through which a salvor earns an award under LOF and SCOPIC, a side agreement had the potential to impact on Club cover if there was any variation on how SCOPIC remuneration was calculated. Moreover, any variation on the means of calculation of the Article 13 award could potentially impact Club cover.

For these reasons, and as with any contract a member enters into that might have Club cover consequences, Steamship Mutual strongly recommended that a Member faced with a proposal to agree a side-agreement to LOF should seek the Club's advice and a review of the terms of the side-agreement first, thus ensuring that no inadvertent cover prejudice occurred.

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