SCAP: Best Practice Document for PI/FI Handlers

Overview

- SCAP stands for Single Claims Agreement Party and is a Lloyd's & Company market claims-handling initiative intended to speed up the claims-handling process on straight-forward, low value market claims
- 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.

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 and email address. 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 few if any coverage issues where the exposure to all insurers is never more than £250k 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.
- 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 a claim is factually complex-for example where the subject matter of the claim relates to complex financial instruments or complex areas of law
- Where the claim made (by a 3rd party against the policyholder or by the policyholder in relation to a first party eg BBB policy) 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 on a layer by layer basis 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
- 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 Insureds face a regulatory investigation by the FCA, SEC or similar institution
- Where the notification has attracted a significant amount of media interest
- An FI or PI CAT event (examples in the past LIBOR, MADOFF GRENFELL etc)
- 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

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

Direct reporting

- In practical terms it is very unlikely that direct reporting claims will fall within the scope of SCAP
- However, if it is the case, for example in relation to Excess layers, then those Excess layers should be invited to join the instruction for the purposes of receiving reports .
- Lloyds/Company Bureau participants should either upload those reports to the "coverage" tab in ECF or instruct the professional advisor to release the document on request

Checklist

- Does the policy incept 1 February 2018 or later?
- Does the policy contains 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 Lead), SCAPS (Lloyds), SCAPI (ILU) SCAPNB (Non Bureau)
- 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?

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.

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