CODE OF PRACTICE – DELEGATED UNDERWRITING

OCTOBER 2013
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This Code applies with effect from September 2013 and updates and replaces the Code issued in February 2012.

The Code provides an introduction to delegated underwriting in the Lloyd’s market and sets out practical guidance as to Lloyd’s expectations of Managing Agents in assessing new Coverholders, managing binding authority contracts and renewing such contracts. Guidance is also provided on delegated claims handling and Coverholder run-off procedures.

Where applicable, the Code highlights other relevant Lloyd’s requirements relating to delegated underwriting. It is nevertheless important that in addition to this Code that Managing Agents continue to refer to those requirements, which can primarily be found in the Intermediaries Byelaw, Chapter 2 of the Underwriting Requirements (Requirements made under the Intermediaries Byelaw) and in the Minimum Standards for Underwriting Management (Delegated Authority).*

In addition Managing Agents need to have regard to relevant FCA/PRA requirements and guidance for outsourcing, including the provisions at SYSC 3.2, SYSC 8 and SYSC 13.

The Code has been drafted having regard to the applicable regulatory rules and is intended to support compliance with those rules as they apply at the date of this Code. Nevertheless, it remains the obligation of Managing Agents and Coverholders at all times to ensure that they are aware of and comply with any regulatory rules to which they are subject.

The Code is made pursuant to paragraph 31 of the Underwriting Byelaw.

*All Lloyd’s requirements are available on www.lloyds.com.
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PART 1 - INTRODUCTION TO DELEGATED UNDERWRITING

1.1 Introduction

1.1.1 What is “Delegated Underwriting”? Delegated underwriting refers to an arrangement under which a Managing Agent of a syndicate delegates its authority to a company or partnership to enter into contracts of insurance on behalf of the syndicate.

1.1.2 How can a Managing Agent delegate underwriting authority? Paragraph 1 of the Intermediaries Byelaw provides the complete list of ways that a Managing Agent is permitted to delegate its authority to enter into contracts of insurance. These are set out in Table 1.1.2.

Table 1.1.2

| (a)      | to a director or employee of the Managing Agent or, with the consent of the Franchise Board, to any other individual engaged to provide services to the Managing Agent; |
| (b)      | to another Managing Agent or authorised insurance company in accordance with the terms of a line slip; |
| (c)      | to another Managing Agent in accordance with the terms of a registered binding authority or a restricted binding authority. (Note: This includes agreements made under a consortium arrangement); |
| (d)      | to an approved Coverholder in accordance with the terms of a registered binding authority or a restricted binding authority. (Note: this includes to a “service company Coverholder”); |
| (e)      | to a restricted Coverholder in accordance with the terms of a restricted binding authority; |
| (f)      | to the Society, or a representative or agent of the Society; or |
| (g)      | in accordance with any other of the requirements of the Council. |

The most common method is to delegate authority to a “Coverholder” under the term of a binding authority contract. However, other forms of delegation are also addressed in this Code.

What is a Coverholder? “Coverholder” means a company or partnership authorised by a Managing Agent to enter into a contract or contracts of insurance to be underwritten by the members of a syndicate managed by it in accordance with the terms of a binding authority. (See the Definitions Byelaw)
What is a binding authority?

A “binding authority” is an agreement between a Managing Agent and a Coverholder under which the Managing Agent delegates its authority to enter into a contract or contracts of insurance to be underwritten by the members of a syndicate managed by it to the Coverholder in accordance with the terms of the agreement. (See the Definitions Byelaw)

A binding authority agreement can also be used to give a Coverholder the authority to issue insurance documents on behalf of Lloyd’s syndicates. Insurance documents include certificates of insurance, temporary cover notes and other documents acting as evidence of contracts of insurance. (Note that paragraph 2 of the Intermediaries Byelaw provides the complete list of parties to whom authority can be given to issue documents evidencing contracts of insurance.)

The binding authority agreement will also set out the Coverholder’s other responsibilities, such as handling insurance monies or agreeing claims.

1.2 The different types of Coverholders

There are two types of Coverholder at Lloyd’s namely “Approved Coverholders” and “Restricted Coverholders”.

In addition, some Approved Coverholders may also be classified as “Service Company Coverholders”.

Lloyd’s rules provide for the type of binding authority that each of these types of Coverholder may be granted.

Each of these types of Coverholder arrangements are discussed below.

1.2.1 Approved Coverholders

An approved Coverholder:

- may be domiciled (permanently based) in any country where local regulations permit;
- must be approved by Lloyd’s; and
- may be authorised to enter into contracts of insurance and to issue insurance documentation under a registered binding authority. That binding authority must be registered on the Lloyd’s binding authority registration website (the BAR).

In certain cases some approved Coverholders may be classified by Lloyd’s as a “service company Coverholder”. Further information regarding the definition and the requirements applicable to service company Coverholders is provided in the Service Company Code of Practice.

1.2.2 Restricted Coverholders

A restricted Coverholder is any company or partnership whose name has been entered in the register of restricted Coverholders1.

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1 Definitions Byelaw
To be a restricted Coverholder it must:

- be either a company whose registered office is in the United Kingdom, or is a partnership based in the United Kingdom
- only have delegated authority under the terms of a “restricted binding authority” (described below)
- have the Financial Conduct Authority’s permission to act as an insurance intermediary. (This permission may be either as an authorised company or as an appointed representative)
- enter into a contract directly with the insured or issue the insurance documents to the insured. This does not prevent a restricted Coverholder from using an ‘introducer’ (including a producing broker) to refer business to them or to send on insurance documents on their behalf. But if the Coverholder is managing other Coverholders (for instance where it is acting as a “master Coverholder”) then it should be fully approved and should not be a restricted Coverholder.

What is a restricted binding authority?

A restricted binding authority is one which meets the following three criteria:

1. it prescribes the terms and conditions to be included in each contract of insurance to be entered into by the Coverholder under the binding authority;

2. it contains comprehensive arrangements for the determination of the premium to be charged in respect of each contract of insurance to be entered into under the binding authority. These arrangements must not give the Coverholder any material discretion in calculating the premium or making any adjustment to it. Lloyd’s considers that any discretion above minimal rounding up of premiums or rates as being material and should not be permitted by a restricted Coverholder. Managing Agents should refer to Lloyd’s if in doubt.

In practice, there are two main ways to make sure a restricted Coverholder cannot exercise any discretion when calculating premiums. These are either:

- to give the restricted Coverholder a rating schedule, basis or guide; or
- to require the restricted Coverholder to refer each proposed contract of insurance to the Managing Agent so that it can set the premium to be charged. (This is sometimes called a ‘prior submit’ arrangement.) The referral can be made via electronic means such as an internet referral arrangement.

3. it only authorises the Coverholder to enter into contracts of insurance where:
   
   (a) the contract is concluded in the United Kingdom and the insured has his habitual residence in the UK, or in the case of a company is registered in the UK; and
   
   (b) where
   
   i) the property to be insured under the contract is situated in the United Kingdom; or

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2 Underwriting Requirements, Chapter 2, paragraph 9

3 Definitions Byelaw
ii) the property to be insured is a motor vehicle which is registered in the United Kingdom; or
iii) the risk to be insured is a travel or holiday risk and the contract is for a duration of 4 months or less;
iv) the risk to be insured is a “liability risk”.

To assist the market to identify the classes of business which may be written by a restricted Coverholder, the following classes and risk codes are intended to provide guidance:

**Risk Classes and Risk Codes Permitted**

- Property (D&F) (B4,B5,HP)
- UK Terrorism (BD)
- Non Marine General Liability (NA, NC)
- Employers Liability (W3)
- UK Motor (M2, M3, M4, M5, M6)
- Travel (KT) – but only for periods of insurance less than 4 months.

Binding authority agreements that permit restricted Coverholders to underwrite material liability risks should be referred to the Delegated Authorities team before they are agreed with the restricted Coverholder.

If a Coverholder meets the criteria to be a restricted Coverholder, it will not need Lloyd’s approval and the restricted binding authority does not need to be registered on the Lloyd’s binding authority registration website (the BAR).

However, the restricted Coverholder’s details must be recorded on the register of restricted Coverholders. A Managing Agent must keep complete and up-to-date records of all restricted Coverholders to which it has delegated authority.

### 1.2.3 Service Company Coverholders

A ‘service company Coverholder’ (referred to below as a “service company”) is an approved Coverholder which Lloyd’s has agreed can be classified as a “service company” by reason of it being a wholly owned subsidiary of either a Managing Agent or of a Managing Agent’s holding company. A service company Coverholder is usually only authorised to enter into contracts of (re)insurance for its associated syndicate and/or associated insurance companies/

- The advantage to being classified as a “service company” is the ability for the Managing Agent to use the LMA 3078 wording which allows the service company to sub-delegate its authority to other approved Coverholders. Ultimately it is a matter for the Managing Agent whether they wish to use that wording and permit sub-delegation by service company Coverholders.

- Service company binding authorities are required to be declared to Lloyd’s by registration on the Binding Authority Registration system

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4 “liability risk” is defined as meaning a risk where an insured is liable to a third party as a result of or caused by any act, error, omission, representation or statement by the insured. (see Definitions Byelaw)
(BAR). Access to BAR is available to all Managing Agents through their Devolved Administrator.

- Where a service company is permitted to sub-delegate to other approved Coverholders those binding authorities should be registered on the same binding authority registration as the service company which has delegated the authority with route to underwriter noted as via the service company. (Note – the only Coverholders who may be permitted to sub-delegate are service companies).

- In order for the Managing Agent to register the binding authority on BAR without the service of a Lloyd’s broker the following are required:
  - A direct deal Managing Agent (DDMA) relationship with the service company, which is requested through Atlas
  - A central settlement number (CSN) which is effectively a broker code held by a Managing Agent, which is arranged in conjunction with DAT and Xchanging.

A separate Code has been prepared by Lloyd’s regarding Service Company Coverholders.

1.2.4 Hub / Master Coverholders (“Master Binders”)

Some Coverholder arrangements are called “hub” or “master” Coverholder arrangements. This describes the position where an approved Coverholder (the “hub” or “master”) oversees other Coverholders. The specific role and authority of the master Coverholder should be specified within their binding authority contract. All Coverholders involved must be approved.

Managing Agents must always have a direct contractual relationship with each Coverholder to which they grant a binding authority (other than if the hub/master Coverholder is a Service Company Coverholder in which case it can be permitted to directly appoint its sub-Coverholders).

Each binding authority contract must also be registered on the Binding Authority Website.

This direct contractual relationship will typically be achieved either

- by using an “off-slip” binding authority contract to the master binding authority for each sub-Coverholder. Each binding authority off-slip must comply with the Intermediaries Byelaw and be prepared on a binding authority MRC (Market Reform Contract) Slip with a relevant wording. Under such an arrangement, underwriters enter directly into the contract of delegation with the additional Coverholders; or

- by creating a single tri-partite agreement as between Underwriters, the master Coverholder and the sub-Coverholder that sets out the role and responsibilities of each party. Lloyd’s recommends that a bespoke binding authority wording should be created for such arrangements because the model agreements were created to be used only for single Coverholder arrangements.

The MRC Slip requirements for binding authorities apply to the master contract itself, but they do not apply to all binding authorities issued under the master contract due to the bespoke nature. However, they should follow them as much as possible.
1.3 Line slips

A "line slip"\(^5\) is an agreement where a Managing Agent delegates its authority to enter into contracts of insurance to be underwritten by the members of a syndicate managed by it to another Managing Agent or authorised insurance company in respect of business introduced by a Lloyd’s broker named in the agreement. It should not give any delegated authority to the broker and should take the form of a market reform line slip.

A line slip will usually apply to specific types of business. Once the authorised Managing Agent or insurance company has entered into a contract of insurance with the insured, the evidence of the insurance will normally be issued by means of a MRC (Market Reform Contract) line slip declaration. The line slip may also allow the authorised Managing Agent or insurance company to agree claims.

Authorised Managing Agents and insurance companies do not need approval from Lloyd’s to operate a line slip. However, if any delegation of authority is given to the broker this will have to be approved as a Coverholder arrangement.

Types of Lineslip

Lineslips are written on either a “non-bulking” or a “bulking” basis and the differences are important in terms of the method of processing. In both instances every risk is agreed by the agreement parties.

Bulking lineslips

Under this type of arrangement:

- risks are grouped and processed via Xchanging as bulk transactions, which has cost benefits
- A Market Reform Contract (Lineslip) contract is formed – see MRC (Lineslip) Implementation Guide, March 2008
- this includes a Unique Market Reference (UMR)
- the broker prepares bordereaux in accordance with the lineslip terms and conditions
- premium bordereaux intervals will be specified
- insurer contract documentation may either be a copy of the MRC slip or an insurance policy (latter will be signed by XIS or underwriters)

Non-bulking lineslips

Under this type of arrangement:

- individual risks are processed separately by the broker, as if they were “open market”
- the Market Reform Lineslip is used – declarations off lineslips follow the Market Reform Contract Open Market (June 2007) guidelines
- the MRC (Lineslip Declarations) Implementation Guide provides further information
- the UMR and LPSO Signing Number and Date for the lineslip must be clearly shown on the declarations off the lineslip

\(^5\) Definitions Byelaw
• a declaration off the lineslip should not contain Open Market lines unless expressly permitted by the lineslip
• no bordereaux are normally produced
• premium payment terms are specified for each declaration

Management of Lineslips – Oversight Standards by the Managing Agent

Lloyd’s requires each lineslip written to be reviewed and authorised by the appropriate personnel within the Managing Agent prior to inception and renewal, and for the facility to be monitored carefully thereafter.

We would expect Managing Agent internal audit processes and performance reporting to include lineslip business.

Follow markets – information levels

Follow markets on non-bulking lineslips should receive information regarding risks bound as per the clauses within the lineslip contract. This matter is addressed in the Code of Practice for Delegated Underwriting (see Table 5.2 E). We would expect follow markets to ensure that the contract is set up to provide them with all necessary information, including reports, suitably quantified in an appropriate way for the class of business concerned.

1.4 Consortium arrangements

A consortium is a contractual arrangement under which one or more Managing Agents delegate(s) authority to another Lloyd’s Managing Agent (the Consortium Leader) to enter into contracts of insurance on their behalf. A consortium will underwrite and bind specified classes of business produced from more than one Lloyd’s broker (which is the main difference to a line slip). This form of delegation is permitted in accordance with paragraph 1(c) of the Intermediaries Byelaw.

A consortium must be registered each year at 01/01 with Xchanging, who will at its formation provide it with a consortium agreement number which is used to identify the consortium to the market and under which premiums and claims are processed.

If a consortium delegates authority to a company or partnership other than a Managing Agent to manage the consortium (such as a Third Party) then that company or partnership will need to be approved as a Coverholder by Lloyd’s and should not be classed as a consortium. The wording will need to be checked and signed by Xchanging and the Binding Authority will have to be registered on BARs.

General Procedure to Establish a Consortium

It is for individual Managing Agents to make the arrangements should they wish to establish a consortium. In setting up such an arrangement a written agreement should be drawn up between the participating underwriters (the Consortium Agreement). This agreement will specify the terms under which the consortium will operate.
Each consortium should have an underwriter (or underwriters) authorised to accept business on behalf of the group.

As stated, Consortium underwriters are able to bind risks, subject to the authority expressed within the agreement. Binding of a risk is normally evidenced by the leader putting the consortium stamp and a signature on the broker slip. The broker then issues an MRC slip to the insured.

Under a consortium arrangement risks are bound using identical security and shares on each and every risk. A consortium should not therefore be considered if Managing Agents wish to vary the line they take on individual risks presented.

Every consortium contract expires on 31/12 annually. The consortium number would need to be changed if the consortium syndicate participation changes at all from one calendar year to the next. Otherwise details remain the same.

The security used and the lines committed cannot vary during the period of the agreement. Premiums are processed by XIS using the consortium stamp and number reference, the purpose of which is to allocate premiums on a predetermined basis on each risk bound.

1.5 The legal position of the parties involved in an arrangement to delegate authority

It is important to understand all relevant parties’ legal obligations in an arrangement to delegate Managing Agent’s authority. The following section provides a simple overview under English law. However, the relationship between the relevant parties will depend on the individual circumstances of the contract of delegation.

For all Lloyd’s business, risks are insured by Lloyd’s members who provide the supporting underwriting capital. Members can either be individuals (often known as ‘Names’) or corporate entities.

Members of Lloyd’s underwrite insurance by forming groups of members known as ‘syndicates’. Syndicates operate as independent business units within the Lloyd’s market and are managed by Managing Agents. Syndicates are formed for one year and are re-formed each year. Managing Agents have authority to accept risks on behalf of the members of the syndicate and appoint the underwriting team. Each member of Lloyd’s gives this authority under a standard agency agreement.

If a Managing Agent delegates authority to a Coverholder, the general principle is that the Coverholder acts as the agent of that Managing Agent, rather than the policyholder’s agent. So when a Coverholder, acting under the terms of a binding authority, enters into contracts of insurance to be underwritten by members of a Lloyd’s syndicate, or issues insurance documents, they are acting as an agent of the Managing Agent participating on the binding authority.

The Coverholder may also act as an agent to collect premiums or handle claims. The Coverholder’s authority will be set out in a contract of delegation called a binding authority.

In the context of binding authorities, a Lloyd’s broker usually acts as the agent of the Coverholder and also acts as the point of contact between the
Managing Agent and the Coverholder. However, in certain circumstances, a Lloyd's broker can also be appointed to act as a Coverholder and enter into contracts of insurance with policyholders on the Managing Agent’s behalf.

When a Lloyd’s broker is acting as a Coverholder on behalf of a Managing Agent, it will be acting as an agent of that Lloyd’s Managing Agent. When a Lloyd’s broker acts as a Coverholder, there is a potential conflict of interest between its duties to that Managing Agent and to policyholders. In such circumstances, it is vital for the lead Managing Agent to make sure the Lloyd’s broker manages this conflict of interest properly.

There are some countries that prohibit brokers from being a Coverholder (for example Spain). Please refer to Crystal for further information on this issue.

1.6 Other arrangements which are not “delegated underwriting”

There are three other types of contract a Lloyd’s Managing Agent may enter into with third parties; marine open cargo covers, master policies and group schemes. Although the contracts do not involve delegating authority, they nevertheless have similar features and, in the past, they have been confused with delegated underwriting arrangements. In addition, there may be issues as to whether the selling of insurance policies over the internet may involve delegated underwriting.

1.6.1 Marine Open Cargo Covers

A marine open cargo cover is an arrangement under which a Lloyd’s syndicate (or syndicates) provides the insured with a general grant of marine cargo insurance relevant to their business activities. (The Marine Insurance Act 1906 refers to the term “assured”. However, the term “insured” is used throughout this section and has the same meaning.) That insurance covers the insured’s own property, or property which the insured has had, or is expected to gain, an insurable interest in. (An insurable interest is defined as an interest which, under the law of England and Wales, would exist if the insured were domiciled or present in England or Wales.) Typically, the insured makes separate declarations under the marine open cargo cover during the year, using agreed rates, terms and conditions.

The term marine cargo open cover includes insurance contracts issued to freight forwarders, shipping agents, carriers or other parties acting on behalf of their principals or as bailees. (A bailee is the party the insured has entrusted the goods to and has instructed to arrange marine cargo insurance.)

If a Lloyd’s Managing Agent grants a marine open cargo cover, it must make sure it knows about and complies with local licensing and regulatory requirements. The insured does not need approval from Lloyd's to operate a marine open cargo cover as defined above. To avoid any doubt, if the arrangement is not for the insured’s own property, or property in which the insured has had, or is expected to gain, an insurable interest, Lloyd’s views that arrangement as a binding authority.

Crystal is an online tool which provides the user with up to date key global trading information with respect to Lloyd’s.
1.6.2 Master Policies and Group Schemes

A master or group policy is an insurance policy issued to a master or group policyholder (the “policyholder”) who purchases the insurance to provide the benefit of insurance coverage for others, usually individuals (the “covered parties”). The individuals who are covered parties, however, are not parties to the insurance contract.

Although the terms master policies and group policies are used by different parts of the market for present purposes these terms are interchangeable.

Where the master/group policy permits the policyholder post-inception to declare additional covered parties to the policy, which underwriters are bound to accept, then Lloyd’s is satisfied that this type of arrangement does not require Coverholder approval. Nevertheless, a master/group policy arrangement does have some similarities to delegated underwriting. Lloyd’s therefore expects Managing Agents to manage the associated risks and comply with the requirements set out in Appendix 1.

It is important that Managing Agents do not use master/group policies inappropriately as a mechanism for avoiding Lloyd’s delegated underwriting requirements and accordingly the use of master/group policies by Managing Agents will be kept under review.

Master/group policies can also raise difficult regulatory and licensing issues in some jurisdictions (in particular the USA and Australia). Where these arise it is important that they are properly addressed. Appendix 1 provides relevant guidance and further information is also available on Crystal or by contacting Lloyd’s International Trading Assistance (LITA) at LITA@lloyds.com. For additional guidance in relation to the USA see also Market Bulletin Y4535.

Where the Managing Agent cannot comply with the requirements set out in Appendix 1, the arrangement must not be written as a master/group policy without the agreement of the Delegated Authorities Team. In these cases, it may be appropriate to write the scheme under a binding authority agreement through an approved Coverholder.

Managing Agents should note that while master/group policies are common arrangements, the legal principles which apply to them in the United Kingdom and in other countries remain uncertain and under-developed. The correct legal analysis of such arrangements may also differ in different jurisdictions and suitable local legal advice may be required. Managing Agents should consult Crystal for advice on any local regulatory requirements.

1.7 Electronic trading

It is common practice for insurance policies to be sold over the internet direct to policyholders. These risks will often be bound online and the policy may either be issued directly from the website on placement or will be sent after the risk has been bound. There are also electronic trading systems which allow brokers and underwriters to trade in a virtual environment.

Lloyd’s fully supports the use of electronic trading. Because, however, third party providers are often involved in providing the electronic trading facility and the insurance contracts may be bound online, issues of delegation and sub-delegation can arise. Managing Agents who are planning to sell insurance through the internet therefore need to consider the points below.
This section also gives some guidance on Lloyd’s approach to certain cases which typically arise in this area.

Issues of delegation typically arise where the Managing Agent appoints a third party internet based business to sell a syndicate’s policies online. Where the third party can bind the insurance online or where the third party is authorised to issue the certificates on behalf of the Managing Agent then the third party company needs to be approved as a Coverholder (or a restricted Coverholder). For these purposes it is irrelevant whether the third party has any underwriting discretion or that the process of selling policies and issuing certificates is wholly automated or that the Managing Agent has the ability to log on to the third party provider’s systems to change or stop the underwriting. Provided that policies can be bound through the online facility or certificates can be issued on the systems of the third party provider Lloyd’s considers this to be delegated underwriting and compliance with Lloyd’s Coverholder requirements is required.

Where the business is already being written through a Coverholder and the Coverholder wishes to sell policies through a third party website in a similar manner to that described above, issues of sub-delegation can arise, which is not permitted by Lloyd’s. In these cases a tri-partite Coverholder arrangement may be appropriate and the Managing Agent should contact the Delegated Authorities Team at Lloyd’s to discuss the available options.

Note that in general no issues of delegation arise in the case of “aggregator” sites. Generally these sites allow prospective policyholders to input basic placing information and the site then provides a list of relevant policies that can be obtained. The “aggregator” site, however, will not itself bind the risk but will “bounce” visitors to the website of the selected insurer for binding. As in this case the policy will be bound on the Managing Agent’s or Coverholder’s own site the aggregator site is not carrying out any delegated underwriting. However, if the site does bind the policy or issue certificates, even if it uses rates and terms provided by the Managing Agent then there is delegated underwriting and Coverholder approval is required as set out above.

More difficult cases can arise where the third party site is merely providing an interface (perhaps for branding purposes) or an IT outsource solution for the operating of the Managing Agents’ or Coverholder’s online binding facility. Generally, Lloyd’s will look at who has physical control of the IT system that is responsible for binding the risk. If the third party is merely providing a branded front for the Managing Agent/Coverholder’s own systems which are under the control of the Managing Agent/Coverholder then it will not be necessary to have Coverholder approval. But where the third party has control over the system then Coverholder approval may be required.

Certain providers also now operate systems which act as trading platforms between underwriters and brokers. On these systems the third party merely acts as an IT “utility” for the parties who will see themselves as dealing with their counterpart insurer/broker rather than with the third party provider. The arrangement in this case is similar to where the parties deal by telephone or email where the telephone /email merely acts as a facility for the brokers and underwriters to communicate. In these cases, no Coverholder approval is required. Managing Agents should, however, speak to the Delegated Authorities Team before trading through these systems.
PART 2 - THE STANDARDS LLOYD’S EXPECTS OF MANAGING AGENTS: OVERVIEW

2.1 Lloyd’s standards

As part of Lloyd’s Performance Framework of Minimum Standards, Lloyd’s has issued Minimum Standards for Delegated Underwriting. These Minimum Standards, which sit within the Minimum Standards for Underwriting Management, provide that a Managing Agent must have effective systems and controls wherever underwriting authority has been delegated to another entity.

This Code provides additional guidance to Managing Agents as to Lloyd’s expectations for how Managing Agents will meet the Delegated Underwriting Minimum Standards through the prudent control of their delegated underwriting arrangements.

Where binding authorities are written on a subscription basis then, although all the participating Managing Agents will need to ensure the Minimum Standards for Delegated Underwriting are met, it is expected that the primary obligation will be on the Managing Agent of the lead syndicate. In particular, it is likely that the Managing Agent of the lead syndicate will have the main responsibility for assessing the Coverholder, setting up the contract of delegation, setting any limits on the Coverholder’s authority and monitoring the contract of delegation. Throughout this part of the guidance, these Managing Agents are referred to as ‘Managing Agents of the lead syndicate’.

Following Managing Agents are expected to conduct appropriate due diligence and ongoing monitoring of all Coverholders with whom they have a relationship in line with their delegated underwriting strategy.

2.2 What are the Minimum Standards?

The Principle applied in the Minimum Standards for Delegated Authorities is that Managing Agents will have “effective systems and controls wherever underwriting authority has been delegated to another entity.” Effective systems and controls have the following features:

- The Managing Agent has a clear strategy for writing and managing delegated underwriting as part of its overall business plan.

- The Managing Agent carries out thorough due diligence of Coverholders to which it proposes to delegate authority at inception, renewal and throughout the life of the contract.

- The Managing Agent ensures that it has binding authorities in place with each Coverholder to which it delegates authority clearly defining the conditions, scope and limits of that authority and which comply with Contract Certainty requirements, including the requirement to demonstrate regularly that insurance documents have been issued within required timescales.
• The Managing Agent proactively manages delegated underwriting contracts once incepted to ensure compliance with contract conditions.

Each of these standards will be considered in more detail in the following sections of the Code below.

Please also note that Lloyd’s Claims Management Principles and Minimum Standards require disciplined procurement and pro-active management procedures in the selection and use of third parties to whom claims handling authority is delegated.
3.1 Introduction

It is expected that Managing Agents will have a written policy and procedures, agreed at Board level, for managing delegated underwriting contracts. The policy and procedures should be applied consistently to all syndicates managed by the Managing Agent and regularly reviewed and updated.

The competencies needed for managing delegated underwriting arrangements are different to those needed for other methods of acceptance.

Managing Agents will need to satisfy themselves that they have the control and resources (both systems and individuals with suitable experience and skills) to enter into and manage delegated underwriting arrangements effectively, taking into account:

- the number of Coverholders
- the number of contracts which a syndicate leads or follows
- the extent of delegation
- the volume of income
- the classes of business
- the level of exposure (e.g. catastrophe exposure)
- the geographical distribution
- capabilities of current IT/systems especially as regards bordereaux management and exception reporting

3.2 What should be included in the strategy?

The strategy needs to take account of the impact of the outsourcing arrangements to Coverholders on the Managing Agent's business and the reporting and monitoring arrangements to be implemented.

As a guide, it should include:

**An executive summary**

An overview of what the Managing Agent's current position is on Coverholders and Binding Authorities plus an outline of the objectives for the year ahead.

**Business rationale**

An explanation as to why the Managing Agent wishes to delegate authority to Coverholders. This may include an analysis of:

- the expected gain from delegating authority to Coverholders
- current and projected Market conditions
- territorial considerations
- consistency with the SBF
• how such arrangements would fit with the Managing Agent’s organisation and reporting structure; business strategy; overall risk profile; and ability to meet its regulatory obligations

Roadmap

This may include information on:
• resourcing (both systems and individuals)
• how suitable Coverholders will be identified
• the extent of delegation
• how claims will be handled
• pre-approval due diligence
• an overall process framework specifying the procedures for ensuring that effective due diligence is carried out and evidenced by all involved at inception and renewal of contracts, as well as throughout the year when monitoring that reporting is in line with contract conditions.

Underwriting

This section may include an analysis of:
• projected Underwriting results from Delegated Authorities for the next 3-5 years including a split by:
  • classes of business to be written
  • geographical distribution
• number of Coverholders that the Managing Agent leads Binding Authority contracts with.
• number of contracts which the Syndicate leads or follows
• level of catastrophe exposure
• ongoing management
• lead or follow

In summary, therefore, the plan should reflect the strategy to be adopted when leading or when following a contract of delegation.
PART 4 - LLOYD’S STANDARD - DUE DILIGENCE OF COVERHOLDERS

4.1 Introduction

For Coverholders that require Lloyd’s approval the sponsoring lead Managing Agent will need to take into account the information required to be provided in the Lloyd’s Coverholder application form when it conducts its own due diligence. But in all cases Managing Agents should also have regard to the suitability requirements that Lloyd’s applies and which are set out below. Managing Agents must be able to provide evidence of their due diligence and ensure appropriate and current documentation is uploaded to Atlas.

An appropriate level of due diligence is important not only at inception but also at renewal of binding authorities.

Where Managing Agents wish to lead a new binding authority with an existing Lloyd’s approved Coverholder they are expected to undertake their own due diligence of that Coverholder to ensure it is suitable.

This section highlights some of the important areas that should be considered when assessing a new Coverholder.

4.2 The internal assessment process

Managing Agents should identify which personnel are authorised to take the final decision with regard to entering into a new Coverholder relationship or binding authority, following completion of all the procedures to assess and evidence the financial, compliance and underwriting capabilities of the Coverholder. The decision to proceed with a new Coverholder relationship or binding authority arrangement should normally be taken by a formal quorum of authorised individuals or a meeting of a delegated underwriting committee.

Internal approval of a new Coverholder should be given at Board Level or as a minimum by two Directors, one of whom would normally be Director of Underwriting, the CEO or the Chair of the Delegated Underwriting Committee (if there is one). At least one of these persons should be independent of the person responsible for introducing the Coverholder to the Managing Agent. The sign off should either be cross functional or have evidence that cross functional due diligence has been carried out.

The Managing Agent’s internal assessment process will involve individuals with distinct roles to play, and it should be clear who is responsible for each. Managing Agents should clearly identify:

- The individuals (normally authorised underwriters) responsible for introducing/identifying the Coverholder and providing the business rationale for granting a binding authority.
- The individuals responsible for initiating and controlling the due diligence process in preparation for internal approval and subsequent submission to Lloyd’s via Atlas, including the preparation of a full Letter of Support (see Part 10.2). This would normally be the Delegated Underwriting team or the Compliance Officer.
Board reporting pertaining to new Coverholders should be timely and accurate.

### 4.3 Matters to consider when assessing a new Coverholder

#### Suitability Criteria

The internal review process performed by each lead Managing Agent should aim to cover, as a minimum, the suitability criteria that Lloyd’s applies when determining whether to approve a Coverholder\(^7\). These are set out in the table below:

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<th>Table 4.3</th>
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<td>(a) whether the applicant is a competent, proficient and capable organisation and in considering that the Franchise Board may have regard to the following matters:</td>
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<td>(i) the applicant’s compliance with appropriate principles of good corporate governance;</td>
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<td>(ii) the applicant’s membership of any body or organisation that the Franchise Board considers to be necessary or desirable;</td>
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<td>(iii) the quality and adequacy of the applicant’s human resources, including:</td>
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<td>(i) the competence, reputation, character and suitability of the applicant’s directors, officers and staff; and</td>
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<td>(ii) the knowledge and experience of the applicant’s directors, officers and staff of the conduct and regulation of insurance business in the Lloyd’s insurance market and in any other relevant jurisdiction;</td>
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<td>(iv) the quality and adequacy of the applicant’s other resources including the quality and adequacy of the applicant’s:</td>
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<td>(i) systems, procedures, protocols and arrangements for the conduct of its business;</td>
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<td>(ii) resources to comply with appropriate service standards for its customers;</td>
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<td>(iii) resources to comply with such principles and standards for the conduct or administration of insurance business in the Lloyd’s insurance market as the Franchise Board may from time to time prescribe, recognise or endorse; and</td>
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<tr>
<td>(iv) resources and systems for underwriting administration and for the administration and agreement of claims;</td>
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<td>(v) the quality and adequacy of the applicant’s controls and procedures to manage its business including:</td>
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<tr>
<td>(v) the applicant’s arrangements for identifying, resolving or managing conflicts of interest; and</td>
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<tr>
<td>(vi) the quality and adequacy of the applicant’s controls and procedures for the management of underwriting risk and for the management of the administration and agreement of claims;</td>
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<td>(vi) the nature of the applicant’s business including its past, present</td>
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\(^7\) Underwriting Requirements, Chapter 2, paragraph 6
and forecast underwriting performance;
(b) whether the applicant is of appropriate reputation and standing;
(c) whether any person who controls the applicant or who is connected or
associated with the applicant is of appropriate reputation and
standing;
(d) whether the applicant has adequate capital and financial resources;
(e) whether the applicant has adequate professional indemnity insurance;
(f) whether the applicant is capable and willing to comply with the terms
of any undertaking given by it to the Franchise Board; and
(g) whether the applicant possesses all the licences, approvals or
authorisations in order to act as an approved Coverholder wherever it
will conduct insurance business in that capacity.

Particular attention should be paid to the following areas:

**The quality and adequacy of the underwriting function**

This includes:

- the extent of the Coverholder’s knowledge and experience in each type
  and class of business for which they will be given authority to enter into
  contracts of insurance and issue insurance documents.
- the quality and adequacy of the Coverholder’s control over
  underwriting, particularly if a number of people are authorised to enter
  into contracts of insurance or issue insurance documents.
- the limits of the Coverholder’s authority. If a new Coverholder is given
  full underwriting authority, their activities will need to be closely
  monitored because they may have responsibility not only for accepting
  risks, but also for setting premiums. Even when a Coverholder uses
  pre-determined rates, terms and conditions, close attention will still
  need to be paid to the risks the Coverholder accepts.

**The quality and adequacy of the Coverholder's ability to operate
a binding authority**

This may include:

- the Coverholder's prior experience, if any, of writing business under a
  binding authority
- how competent the Coverholder’s management is and how they
  propose to manage the binding authority. This will include their ability to
  monitor premium income and aggregate exposure limits (where
  appropriate).
- whether the Coverholder's IT and accounting systems can record and
  process insurance transactions and produce necessary reports and
  documents, including reports to local regulators.
- the quality and experience of the Coverholder’s staff.
- the strength of the Coverholder’s financial management, including
  credit control.
- the Coverholder’s other business activities and the extent to which they
  might divert the Coverholder’s attention from the binding authority.
- the Coverholder's understanding of Lloyd’s and the Lloyd’s market.
The quality and adequacy of the claims handling function

The Coverholder’s claims capabilities and procedures should be appropriate for the size and complexity of the Coverholder’s business operation, the nature and extent of any claims authority granted, the nature of the business written and the jurisdiction in question, amongst other factors. However, a Managing Agent may wish to consider whether the Coverholder has appropriate:

- Management and other controls relating to claims funds where applicable.
- Staffing levels to cope with anticipated claims activity including average case load per handler.
- Management and other controls to monitor staff claims workload.
- Experience levels and qualifications for the personnel involved in claims handling, copies of relevant licences/certificates or regulatory authorisation and appropriate personnel management.
- Procedures for the handling of claims in compliance with any applicable laws and regulations, and in accordance with the Managing Agent’s expectations.
- Management and other controls relating to claims agreements authority levels and reporting where applicable.
- Conflicts management procedures.
- Maintenance and retention of records.
- Procedures for the handling and reporting of complaints.
- Litigation management procedures and controls.
- Procedures for the timely settlement of valid claims.
- Procedures for the timely establishment and reporting of accurate claim reserves.
- Management of third party experts, e.g., adjusters, defence counsel, etc.
- Communication within the Coverholder and with the managing agency relating to claims issues, complaints, etc.
- Catastrophe claims handling plan in place, where appropriate.
- Adequate E&O/fidelity insurance where applicable.

Managing Agents should be mindful of their obligations under the Lloyd’s Claims Principles and Minimum Standards and the Lloyd’s Intermediaries Byelaw when assessing the adequacy of delegated claims handling authority.

Where a Managing Agent intends to appoint a third party administrator (TPA) to deal with claims the Managing Agent should ensure that it considers the appropriate suitability criteria established by Lloyd’s. See Part 8.

The quality and adequacy of the Coverholder’s business plan

A new Coverholder will need to prepare a business/underwriting plan for the proposed binding authority. The content of the plan should be agreed with the lead Managing Agent and provide a detailed description of the Coverholder’s proposals specific to the business to be written under the binder.
The Coverholder’s plan should be reviewed as part of the internal due diligence process. It should be reflected also in the Letter of Support provided to Lloyd’s by the Managing Agent. The following aspects should be included:

- an explanation of where the business comes from, where it is currently written and why it is moving to Lloyd’s (including possible declinature to renew by previous carrier)
- target and historic profitability statistics
- details of any other contracts of delegation they manage.
- an analysis of the market place (including opportunities for and threats to successful underwriting).
- the basis for selecting risks.
- the basis for pricing (where appropriate).
- details of how the binding authority will fit with the Coverholder’s other areas of business.

The Coverholder’s reputation and standing

The main points to consider when assessing whether or not a Coverholder has an appropriate reputation and standing include the following:

- regulatory status and current licences.
- membership of recognised professional bodies.
- standing in the insurance industry.
- association with any problems or disputes (for example, with other Lloyd’s Managing Agents, other insurers or regulators).
- other types and classes of business they handle.
- binding authorities they have with other insurers and the Coverholder’s performance under them.
- details of current owners or shareholders.
- any potential conflicts of interest they may have.

The Coverholder’s financial standing

The lead Managing Agent must conduct a thorough financial analysis of any potential Coverholder. This will include a review of the following:

- a review of at least three years Balance Sheet data and an assessment of working capital, retained earnings and the potential impact of any loans (including repayment terms).
- A review of at least three years Profit & Loss statements, specifically trends in terms of revenues, costs/expenses and profit before tax
- the Coverholder’s involvement in any current litigation or any significant contingent liabilities which may affect their ability to continue to operate (for example, a claim on their errors and omissions insurance).
- the adequacy of the Coverholder’s errors and omissions or professional indemnity insurance.

Lloyd’s expects Managing Agents to perform the financial due diligence on an overall financial standing basis as well as a simple credit control basis.

If the Coverholder is a start-up operation then Lloyd’s will expect to be provided with a forecast Profit and Loss account covering at least the next three years. An opening Balance Sheet should also be provided for review by the Managing Agent and Lloyd’s. The Managing Agent should be
satisfied that there is adequate provision for cash flow to maintain the start-up.
The Managing Agent should document the finding of their financial due diligence and provide that to Lloyd’s in support of the application.

Note that where Lloyd’s is not satisfied that the Coverholder has adequate financial resources it may require that the Coverholder obtains additional capital which must be held for an agreed period of time. In certain cases, Lloyd’s may agree to the provision of a parental guarantee of the Coverholder’s obligations or a letter of credit from a suitable bank.

**Financial crime**

The Coverholder needs to demonstrate adequate processes to manage the risk of financial crime. For more information see Appendix 3 and the Anti-Money Laundering and International Sanctions guidance for Coverholders.

**The Coverholder’s regulatory or licensed status**

Any failure by a Coverholder to comply with local regulatory, licensing or tax requirements in a jurisdiction may well have adverse consequences for the entire Lloyd’s market in that territory. It is therefore essential that particular attention is paid to licensing requirements when delegating authority to a Coverholder.

A lead Managing Agent must take reasonable steps to make sure that it and the Coverholder are aware of and implement all relevant insurance, financial and taxation laws and regulations in the jurisdiction where the Coverholder is domiciled, trades, provides services or does business under the binding authority. If Lloyd’s has a local representative in the relevant territory, the Managing Agent or the Lloyd’s broker should discuss the proposed binding authority with them as early as possible in the process. The local representative has an important part to play in the final decision made by Lloyd’s regarding the approval of a new Coverholder. (see “The Role of the Lloyd’s Representative”)

Lloyd’s approval is needed for a proposed Coverholder, even where it is an Appointed Representative of a Lloyd’s Managing Agent, Lloyd’s broker or an existing approved Coverholder.

Furthermore a Managing Agent should not assume that because a Coverholder is either a regulated firm or is associated with the Managing Agent (i.e. as its Appointed Representative), that a binding authority with such a Coverholder implies a reduction in operational risk.

**The Coverholder’s E&O coverage**

The Requirements made under the Intermediaries Byelaw, paragraph 6(e) (Chapter 2 of the Underwriting Requirements) state that the Coverholder should have “adequate professional indemnity insurance”. The question of what is “adequate” relates to (a) the scope of the policy, (b) the limits provided and (c) the security of the provider.

In terms of scope of cover, Lloyd’s requires evidence that the policy is in force at the time approval is granted and that it specifically includes activity as a Lloyd’s Coverholder (or refers to “underwriting” or “MGA” etc). The Lloyd’s Delegated Authorities team may require sight of a copy of the full
policy wording/endorsements to ensure this is the case and that no exclusions apply or confirmation from the carrier. At the same time it is the role of the sponsoring Managing Agent to satisfy itself that this is the case before an application is submitted to Lloyd’s (and that coverage is renewed on a satisfactory basis). There should be documented evidence on file of how adequacy is determined.

With regards to policy limit the adequacy should be determined initially by the Managing Agent taking into account a number of factors including the size of the Coverholder’s operations, the Coverholder’s historic claims experience under its E&O coverage, any assessments produced in recent audit reports and the competence and experience of key personnel. Lloyd’s does not require a Coverholder to purchase professional indemnity limits that match high binding authority contract limits but this should also be a consideration when assessing the adequacy of the professional indemnity limits purchased. As a rule Lloyd’s would expect minimum coverage of the equivalent of GBP1m per event. Please be aware that in certain territories, including the EEA, rules exist regarding minimum limits.

Coverholders with several Lloyd’s binders or facilities with non-Lloyd’s markets present a higher risk of limit erosion and therefore there should be a minimum aggregate limit of twice the per risk limit.

Lloyd’s would expect the due diligence of applicants with high professional indemnity deductibles to include research into the reason for this and an assessment of its ability to cover the monetary amount out of cash reserves or realisable assets.

When adding an additional class of business Managing Agents should satisfy themselves that the professional indemnity limit remains adequate for the increased binder limit.

Lloyd’s expects the E&O insurer to carry an “A” rating.

4.4 Following Managing Agents

Managing Agents considering a following role on a binding authority with a new Coverholder need to satisfy themselves that effective due diligence has been undertaken and must make their own decision as to the suitability of the Coverholder.

Lloyd’s expects Managing Agents to:

- determine and articulate within their Delegated Authority procedures a policy regarding the extent of due diligence that they will carry out themselves in respect of follow business. This may take into account, for example, class of business, extent of delegation (underwriting and claims) and premium income
- evidence that this due diligence has been carried out, and signed off appropriately, for audit trail purposes

4.5 Use of Lloyd’s broker

Managing Agents should ensure that, where the binding authority is arranged by a Lloyd’s broker, they are satisfied that the Lloyd’s broker has the necessary resources to administer and service the binding authority effectively. Consideration should be given to the following:

- their experience of operating and administering binding authorities
• their knowledge and experience in the jurisdictions where the Coverholder will operate
• their ability to administer and service the binding authority.

4.6 Managing Agents dealing direct

Where a binding authority is not arranged through a Lloyd's broker then Managing Agents require prior Lloyd's approval to "deal direct". Managing Agents should ensure that they have the controls and resources to carry out all aspects of administering a binding authority that would normally be handled by the Lloyd's broker, including:
• document production
• premium and claims handling (including payment of local taxes)

More detailed guidance on this area is given in Appendix 2.

4.7 Restricted Coverholders

Managing Agents are required by Lloyd's to carry out effective due diligence on restricted Coverholders. The due diligence for restricted Coverholders should be consistent with the due diligence undertaken for approved Coverholders although regard should be had to the nature and scope of the specific contract of delegation.

Managing Agents should articulate within their Delegated Authority procedures a policy regarding the due diligence that they will carry out in respect of restricted Coverholders.
PART 5 - LLOYD’S STANDARD – CLEAR, CONSIDERED AND COMPLETE BINDING AUTHORITIES

5.1 Introduction

Managing Agents should ensure that there is a contract certain binding authority contract in place prior to inception of the arrangement. In order to achieve this, Managing Agents should consult and comply with the relevant provisions included at paragraphs 10 to 12 of chapter 2 of the Underwriting Requirements of the Intermediaries Byelaw.

In addition regard should be had to guidance contained in -

Crystal
The binding authority Pre Bind Quality Assurance Tool (“PBQA”)
Lloyd’s and LMA model wordings and associated guidance

Managing Agents of lead syndicates should ensure that contracts have been agreed, signed and dated by all parties (including the Coverholders to whom authority is delegated) prior to inception of the contract.

Managing Agents should ensure that where there is a series of wholesale or retail producers in the chain who will bind insurances and/or issue documents, they have a direct contract with each party in the chain in accordance with the Intermediaries Byelaw.

The binding authority must also be at least 100% subscribed by insurers and be registered with Lloyd’s by the Lloyd’s broker or the lead Managing Agent on the Lloyd’s binding authority registration website (“BAR”)

5.2 Lloyd’s requirements for the content of contracts of delegation

All binding authorities (other than for motor business)

Every registered and restricted binding authority (other than a restricted binding authority that authorises a Coverholder to enter into a contract of insurance where the contract is in respect of motor business) shall contain the following information, provisions and terms and comply with the following conditions and requirements:

Table 5.2 A

(a) an agreement number by which the binding authority can be identified;
(b) the name and address of each Coverholder which is a party to the binding authority;
(c) the name and address of each Lloyd’s broker which is a party to the
(d) the syndicate or syndicates on whose behalf each Managing Agent is delegating authority to enter into contracts of insurance (the “syndicates”);
(e) the period of the binding authority which shall be no greater than 18 months from the date of inception of the binding authority in total;
(f) the name of the Coverholder’s director or partner who is directly responsible, on behalf of the Coverholder, for the overall operation and control of the binding authority;
(g) the names of the Coverholder’s directors, partners or employees who will have authority to enter into contracts of insurance under the binding authority;
(h) the names of the Coverholder’s directors, partners or employees (if any) who will have authority to issue documents evidencing contracts of insurance under the binding authority;
(i) the name of any person who will have authority to agree claims made on contracts of insurance entered into by the Coverholder under the binding authority;
(j) a list of the terms and conditions which must be incorporated in contracts of insurance entered into under the binding authority including -
   (i) relevant wordings, exclusions and limitations;
   (ii) the maximum period of cover;
   (iii) the limits of liability; and
   (iv) any applicable territorial wordings or general cover conditions as prescribed or endorsed by the Franchise Board;
   (v) the law and jurisdiction applicable to the contract of insurance
(k) the maximum aggregate premium income limit in respect of all contracts of insurance that the Coverholder may enter into under the binding authority;
(l) the maximum limits of liability in respect of contracts of insurance that the Coverholder may enter into under the binding authority;
(m) the territorial limitations on the Coverholder’s authority under the binding authority;
(n) provisions requiring the Coverholder to report in respect of all premiums, paid claims, outstanding claims and expenses in respect of contracts of insurance entered into by class or category by the Coverholder under the binding authority;
(o) provisions setting out how and when the payment and settlement of monies due from each of the parties to the binding authority should be made;
(p) provisions for the cancellation and termination of the binding authority including provisions that enable the binding authority to be terminated upon the Franchise Board giving such direction or order to the Managing Agent or Coverholder;
(q) provisions relating to the ongoing obligations of the Coverholder in the event that the binding authority expires or is terminated or cancelled for any reason; and
(r) provisions setting out the jurisdiction and governing law for the settlement of disputes arising from the binding authority.

8 Requirements made under the Intermediaries Byelaw, Paragraph 10
All registered binding authorities

In addition, every registered binding authority must also contain (in addition to the information referred to in table 5.2 A above)

**Table 5.2 B**

| (a) | a precise description of the nature or classification of the contracts of insurance that the approved Coverholder will be authorised to enter into under the registered binding authority and any relevant exclusions and limitations; |
| (b) | the manner or basis for the calculation of premiums, discounts, commissions, brokerages, fees, charges and expenses. |

All restricted binding authorities (other than for motor business)

Every restricted binding authority must also contain (in addition to the information referred to in table 5.2 A above)

**Table 5.2 C**

| (a) | provisions to require the restricted Coverholder to produce to the Franchise Board any information, documents, books, records and other materials which, in the opinion of the Franchise Board relate or purport to relate to the operation of the restricted binding authority and to give to the Franchise Board or its agent or general representative all reasonable facilities in its premises for the purpose of examining such materials. |

Restricted binding authorities (for motor business)

There are separate requirements for restricted binding authorities that relate to motor business. In that case the agreements (often called “agency agreements”) must contain:

**Table 5.2 D**

| (a) | an agreement number or other method of identification by which the binding authority can be identified; |
| (b) | the name and address of each Coverholder which is a party to the binding authority; |
| (c) | the syndicate or syndicates (either by syndicate number or by any trading name by which the syndicate is known) on whose behalf each Managing Agent is delegating authority to enter into contracts of insurance (the “syndicates”); |
| (d) | provisions that require the Coverholder to enter into contracts of insurance in a form, and containing such terms and conditions, as prescribed or provided by the Managing Agent. |
| (e) | provisions requiring the Coverholder to report in respect of all |

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9 Requirements made under the Intermediaries Byelaw, Paragraph 11
10 Requirements made under the Intermediaries Byelaw, Paragraph 12
premiums, paid claims, outstanding claims and expenses in respect of contracts of insurance entered into by class or category by the Coverholder under the binding authority;

(f) provisions setting out how and when the payment and settlement of monies due from each of the parties to the binding authority should be made;

(g) provisions for the cancellation and termination of the binding authority including provisions that enable the binding authority to be terminated by the Managing Agent for any reason or to enable the binding authority to be terminated upon the Franchise Board giving such direction or order to the Managing Agent or Coverholder;

(h) provisions relating to the ongoing obligations of the Coverholder in the event that the binding authority expires or is terminated or cancelled for any reason; and

(i) provisions setting out the jurisdiction and governing law for the settlement of disputes arising from the binding authority.\(^{11}\)

### Line slips

In the case of contracts of delegation that are line slips, the lineslip agreement must contain:

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\(^{11}\) Requirements made under the Intermediaries Byelaw, Paragraph 10A
(l) provisions setting out the jurisdiction and governing law for the settlement of disputes arising from the line slip;
(m) a precise description of the nature or classification of the contracts of insurance that the slip leader will be authorised to enter into under the line slip and any relevant exclusions and limitations;
(n) the manner or basis for the calculation of premiums, discounts, commissions, brokerages, fees, charges and expenses.\(^{12}\)

**Binding authorities which delegate claims authority**

Any agreement where the Managing Agent has delegated authority to determine claims arising under contracts of insurance to a Coverholder or third party administrator shall contain the following information, provisions and terms and comply with the following conditions and requirements:

**Table 5.2 F**

(a) an agreement number by which the agreement can be identified;
(b) the name and address of each party to the agreement including the syndicate or syndicates on whose behalf each Managing Agent is delegating authority to determine claims arising under contract of insurance;
(c) the functions, duties and responsibilities of the Coverholder or the third party administrator that are relevant to its authority to determine claims. This shall include –
   i. the level of the Coverholder’s or the third party administrator’s authority to determine claims (including the circumstances in which a claim shall be referred to the Managing Agent);
   ii. details of the Coverholder’s or the third party administrator’s responsibility to investigate claims and where appropriate appoint external experts (including the circumstances in which the decision to appoint an external expert shall be referred to the Managing Agent) and take steps to ensure claims are defended as appropriate and to seek to make any recoveries;
   iii. details of the Coverholder’s or the third party administrator’s responsibility to assess and review claim estimates;
   iv. details of any applicable service levels or standards (including service standards for dealing with complaints and enquiries) where those service levels or standards shall be consistent with any applicable Lloyd’s minimum standards;
(d) details of the manner by which any insurance monies are to be held, maintained and properly safeguarded;
(e) provisions requiring the Coverholder or the third party administrator or any of its directors or staff to meet any relevant professional competence standards;
(f) provisions requiring the Coverholder or the third party administrator to maintain records and documents in such manner and for such period as the Managing Agent may require or as may be required by any applicable legal or regulatory provision;
(g) provisions regarding the maintenance and security of confidential information;
(h) provisions requiring the Coverholder or the third party administrator to report to the Managing Agent in respect of paid claims, outstanding claims and expenses in such form and at such intervals as the Managing Agent may determine (taking into account any minimum standards the Franchise Board may from time to time make);

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\(^{12}\) Requirements made under the Intermediaries Byelaw, Paragraph 12A
(i) provisions requiring the Coverholder or the third party administrator to produce to the Managing Agent or to any auditor or agent appointed by the Managing Agent any information, documents, books, records and other materials which, in the opinion of the Managing Agent relate or purport to relate to the operation of the agreement and to co-operate with the Managing Agent, auditor or agent;

(j) provisions requiring the Coverholder or the third party administrator to produce to any relevant regulatory body any information, documents, books, records and other materials which in the opinion of the relevant regulatory body relate or purport to relate to the operation of the agreement;

(k) provisions requiring the Coverholder or the third party administrator to notify the Managing Agent of any –
   i. complaint or actual, pending or potential litigation;
   ii. circumstance or development that may materially impact upon its ability to perform its functions under the claims agreement effectively and in compliance with applicable laws and regulations;

(l) provisions for the cancellation and termination of the agreement;

(m) provisions relating to the ongoing obligations of the Coverholder or the registered third party administrator in the event that the agreement expires or is terminated or cancelled for any reason;

(n) provisions prohibiting the Coverholder or the third party administrator from subcontracting or assigning any of its rights, powers, functions or obligations under the agreement without the prior consent of the Managing Agent;

(o) the jurisdiction and governing law that relates to the operation of the agreement.

5.3 Other areas to consider/include

In addition to the above mandatory areas there are other matters which the Managing Agent should ensure are covered in the contract

Premium settlement

The Coverholder is usually responsible for collecting premiums on behalf of the Managing Agent. The binding authority contract must clearly set out the Coverholder’s responsibilities in terms of bordereaux format, reporting and settlement frequency.

Insurance monies

It is essential that the Coverholder understands that insurance monies are held on behalf of underwriters. Coverholders must hold that money in a separate insurance monies account. In many jurisdictions, that separate account must be a trust account. Even where this is not required, the use of trust accounts is strongly recommended. This is important to protect policyholders’ funds if the Coverholder became insolvent.

In addition, Managing Agents should endeavour to secure a “no set-off” letter from the bank at which the Coverholder’s premium account is held. Lloyd’s has worked with the LMA and LIIBA to produce a model letter wording for use by non-FCA regulated Coverholders.

13 Requirements made under the Intermediaries Byelaw, Paragraph 17B
FCA-regulated Coverholders already have a set of industry model bank letters (see Market Bulletin Y4332).

**Inspection and ownership of records**

The binding authority must require the Coverholder to keep complete records of all the business the Coverholder writes as well as claims reported under the binding authority. It should also make clear that Lloyd’s syndicates retain full title to, and ownership of, all of these records.

Managing Agents, their representatives and regulators must have the right at any time, without restriction or limitation, to inspect, audit and copy any records relating to contracts of insurance accepted by the Coverholder.

**Limits on premium incomes**

The binding authority must specify a limit on the gross annual premium income to be written under the contract. This is an important control and, used effectively, can prevent a Coverholder from writing more business than the Managing Agent wants. It is essential that the Managing Agent sets the limit at a realistic level. In some cases it may also be appropriate for the Managing Agent to specify a premium income limit by a sub-class of business or by Coverholder (for example, for multi-class or multi-Coverholder contracts with significant premium income limits).

The Managing Agent should also make sure the Coverholder tells it once the overall written premium income exceeds a set percentage of the overall gross annual premium limit stated in the binding authority (for example, 75% of the agreed gross premium limit). This gives an early warning of any potential overwriting on the contract.

If the binding authority contains a provision to allow a portfolio transfer at the end of the period, the Managing Agent should consider the premium income limit and aggregate exposures if the transfer does not take place.

**Internet selling (see also section 1.7)**

If the Coverholder is to permitted to bind contracts on-line then that must be clearly stated in the binding authority. Section 4.2 of the LMA model wording states that underwriters must agree in advance to any internet trading carried out by a Coverholder. If the Coverholder is intending to offer insurance over the internet, the Managing Agent will need to be satisfied that this is allowed locally. In this situation, the Managing Agent should have approved the relevant aspects of the Coverholder’s website before the Coverholder offers the insurance on their behalf. Such relevant aspects include:

- approval of the privacy site
- approval of site developers
- up to date service level agreements in place between the developer and the Coverholder
- regular site maintenance
Using Lloyd’s name

The contract of delegation must make it clear that when the Coverholder refers to ‘Lloyd’s’ in any publicity, letterheads, directories or advertising material they must follow the Lloyd’s brand guidelines.

Financial crime

The binding authority should include a clear clause setting out the Coverholder’s obligations to avoid the risk of financial crime and to avoid risk of breaching any applicable international sanctions or anti-money laundering requirements.

Guidance as to the form of that clause was provided in Lloyd’s bulletin Y4510 and the model LMA wording contains at Section 34 a financial crime clause.

Conflicts of interest

Conflict management is a matter of increasing regulatory importance and therefore the binding authority should have clear provisions to deal with the management of conflicts of interest. In particular the binding authority should provide that the Coverholder must have no conflicts of interest that may impair the Coverholder’s performance of duties under the agreement.

Confidentiality and data security

It is important that the binding authority sets out clear provisions to ensure that the Coverholder protects confidential information of the Managing Agents and of clients/policyholders.

Regard should also be had to information ownership rights

Business continuity

The binding authority should include a clear statement of the Coverholder’s obligations to maintain and implement an adequate business continuity and disaster recovery plan to ensure that the Coverholder can continue to perform its obligations under the agreement.

Termination provisions

The Managing Agent must carefully consider the provisions for terminating the contract of delegation. It will rely on these provisions if it needs to cancel the contract quickly and to make sure the Coverholder does not abuse the contract after notice of termination has been given.

The termination provisions should allow:

- the contract to be terminated immediately upon fraud or dishonesty or if Lloyd’s has directed that it is cancelled
- the Managing Agent to terminate the contract if the Coverholder’s ability to carry out its obligations under the binding authority are materially impaired
- the Managing Agent to terminate the contract, for any reason, after giving the agreed number of days’ notice
extra controls to be placed over the Coverholder during the notice period. For example, the contract of delegation may revert to a more restricted form of delegation (for example, where the Managing Agent of the lead syndicate has to agree each risk to be accepted).

- takeover and ownership of files and data.

Careful consideration should be given to setting the applicable notice period that the Coverholder can give to terminate the binding authority. It is important that any notice period that the Coverholder can give is long enough to allow the Managing Agent to find an alternative arrangement.

The binding authority should also set out the duties of the Coverholder once termination notice has been given (for example, returning insurance documents and providing access to underwriting and claims records).

A ‘suspension’ provision may also be included in the contract of delegation. This provision will allow the Managing Agent to stop the Coverholder from entering into contracts of insurance, issuing insurance documents or paying claims. The provision is likely to be of most use when serious irregularities are brought to the attention of the Managing Agent and will allow time for the matter to be investigated.

**Jurisdiction and choice of law**

The contract should include a clear statement of law and jurisdiction.

**5.4 Preparation of the contract – sources of information and assistance**

In preparing the contract of delegation regard should be had to the guidance issued by the London Market Group. Practical assistance can also be obtained from other sources as detailed below.

**The London Market Group template and guidance**

The London Market Group has issued a set of mandatory templates – Market Reform Contracts (MRCs) – that must be used when drafting the binding authority agreement.

New MRC templates were issued in September 2013. Guidance is available on how to use the templates covering the following:

- Definition of the Slip Headings
- Stamp / Line conditions
- Requirements for Contracts of Delegation
- Expert Fees Collection
- FCA Client Classification
- Unique Market Reference Guide.

These guidelines can be found at [www.marketreform.co.uk](http://www.marketreform.co.uk).

The binding authority guidelines were designed to align with the Contract Certainty Code of Practice guidance issued by the London Market Group (LMG).
LMA model wordings

The LMA has also issued model binding authority wordings and guidance notes to assist in the wording of the contract. The most recent versions of those wordings were issued in 2013 (LMA 3113, LMA 3114 and LMA 3115). The MRC slip templates are compatible with new model wordings. For further information on wordings please refer to www.the-lma.com or the LMA binding authority model agreements page under the Delegated Authorities section of Lloyds.com.

There is no requirement for Managing Agent’s to use the model wordings. However if a Managing Agent does use its own bespoke wording then:
- it must be compliant with the Intermediaries Byelaw; and
- the full wording will need to be submitted to Xchanging to ensure that it is compliant.

QA Tool

The Binding Authority Quality Assurance (BA QA) tool was launched in December 2004 to enhance the effectiveness and transparency of contract checking processes within the Lloyd’s market. It is a statement of Lloyd’s contract quality requirements for binding authority agreements.

The BA QA tool has been developed to cover binding authority business and is intended to provide experienced personnel with information to assess slips and wordings. It is a series of checks put in place which when followed will assist market participants in identifying Lloyd’s contract requirements.

The BA QA tool can be found by logging onto http://www.lloyds.com/qat_ba/BindingAuthority.aspx

The guidance to support this tool can be found by clicking here.

Using a Specialist Checker

Using a specialist checker for wordings will help ensure that you achieve contract certainty. This checker could be in-house as an individual, or as part of the Managing Agents’ in-house central binder team.

Managing Agents can also use an external specialist checker. Xchanging offer such a service. Although there is no requirement for you to use Xchanging Lloyd’s expects Managing Agents to take proactive steps to ensure that binding authority contracts are accurate and compliant.

5.5 Submission to Xchanging

Where processing via central settlement and/or the recording of reporting information is required, the binding authority contract should then be submitted to Xchanging. It is normally submitted by the Lloyd’s broker or Service Company Coverholder. Xchanging will not process a contract of delegation unless there is clear evidence that the Managing Agent and Coverholder have both agreed the contract of delegation before the Coverholder is authorised.
Xchanging technicians may raise technical queries post-bind on binding authority contracts using a sub-set of the BA QA Tool.

The Market Reform Contract (Binding Authority), including the schedule to the main wording, and syndicate numbers and signed lines will be required by Xchanging to enable them to carry out their post-bind quality assurance check and allocate an FDO (For Declaration Only) signing number.

For contracts which incorporate one of the model wordings, there is no requirement for the text of the wording to be provided to Xchanging. However if the Managing Agent (or the Lloyd’s broker) specifically wishes to have the full Binding Authority signed and embossed, then the full number of copies and the model wording will need to be submitted.

At a high level, Xchanging process binding authorities in a similar way to other types of business transacted at Lloyd’s. An initial LPAN is completed with all relevant details by the broker for the FDO signing of the binding authority itself, and subsequent LPAN/LCCF presentations are then made in the form of bulked submissions on a monthly, quarterly or as agreed basis in accordance with the binder contract. Xchanging will carry out checks with respect to premium and claims processing information (e.g. Risk Code) and necessary closing information (e.g. Lloyd’s Premium Advice Notices/Lloyd’s Claims Collection Form).
6.1 Introduction

Managing Agents, lead or follow, should monitor the performance of all Coverholders to whom they have delegated authority. To monitor performance, Managing Agents should specify which information the Coverholder is required to provide, and its frequency, within the binding authority.

6.2 Internal resources

A Managing Agent must retain the necessary expertise to supervise the Coverholder effectively and to manage the risks associated with the Coverholder. Therefore the Managing Agent must demonstrate that it has the necessary internal resources to monitor the contracts of delegation, for example through an in-house binder management team. This team will:

- have skills and experience suitable to manage the dimensions of the binder portfolio
- have a clear set of policies and procedures, defining roles and responsibilities and
- have a clear structure for management reporting.

In the absence of such a team binder management activities may be performed by an individual with an audit and Coverholder business background.

Resources should include an effective IT system commensurate with the number and complexity of the number of binders involved, especially the number of lead contracts.

Effective monitoring can be achieved through

- internal written procedures describing the processes, areas of responsibility and systems to be used in monitoring and renewing contracts
- procedures describing requirements and responsibilities as regards credit control monitoring
- a suite of exception reports to enable senior management to address key issues
- an effective annual Coverholder audit programme, and a systematic follow up of report recommendations
- establishing a formal committee which has responsibility to the managing agency Board to oversee delegated underwriting issues.
6.3 Reporting risks, premium and claims

Coverholders must report regularly to London on risks they have written, premium payments and claims. In some territories there is also a requirement for the coverholder to report to the local Lloyd’s office.

Lloyd’s has introduced standards for Coverholders to report:

• Core risk information and paid premium transactions
• Claims
• US property risk exposures (ACORD ER3001)

Background

The Reporting Standards have been mandatory for all new Coverholders since April 2011. These are intended to provide –

• A clear statement of the information Coverholders and TPAs need to provide for the whole of the Lloyd’s market

• The freedom and flexibility for Coverholders to use their own systems and technologies

• A reduction in re-keying information and the need for manual intervention

• More informed decision making

• Standard information flows

• A consistent list of requirements around which processes and systems can be designed

The standards state the minimum information Coverholders are required to report into the Lloyd’s market. The standards are intended for use for all classes of business in all territories. The standards include a series of mandatory fields which must always be reported; and a series of conditional fields which will be required in some circumstances, for example for certain classes and territories.

Brokers and Managing Agents are expected to help ensure that new Coverholders adopt the standards and that existing Coverholders gradually move towards using the standards.

Existing Coverholders who are not yet using the standards should be requested to review their current submissions to check that all mandatory information is included together with any relevant conditional fields.

Coverholders are expected to agree any planned changes with their brokers and syndicates and to gradually implement these.

It is not a requirement of the standards that the information be reported in a particular format or manner; however, Lloyd’s has provided spreadsheet templates which can be used for reporting. Lloyd’s has also worked with ACORD to create XML which can be used to meet these requirements.

Full details of Lloyd’s Coverholder Reporting Standards, including a full user guide, local office reporting requirements, spreadsheet templates and links
Compliance with the Binding Authority

Effective and regular reporting by the Coverholder is key to enabling the Managing Agent to monitor compliance with the binding authority agreement, including:

- premium income against the GPI limit on the binding authority
- aggregate exposure reports, providing information to monitor the risks in a particular territory or zone
- compliance with limits and conditions
- ensuring the Coverholder is only writing business in the territories for which it is approved
- the Coverholder or TPA’s handling of claims which might include:
  - accuracy of reserve recommendations
  - pursuit of recoveries (where appropriate)
  - timeliness of reporting, reserving, investigations and settlement of claims
  - frequency of claim review
  - selection, monitoring and management of third party experts
  - coverage analysis
  - quality of customer (i.e., policyholder) service
  - breaches of terms of delegation contract
- rating adequacy
- ‘earned to incurred’ reports, providing details of the Coverholder’s profitability.
- claims fund reports, providing details of all payments made to and from the claims fund.
- other reports to show the Coverholder is keeping to your required service standards.

Issues flagged during ongoing monitoring should be logged and reviewed on a regular basis to ensure that the points can be identified and prioritised. Managing Agents should resolve serious or repeat breaches as a matter of urgency and escalate them to a senior level.

Credit Control

The Managing Agent will need to monitor the performance of the Coverholder with respect to meeting terms of trade and collection of premiums. This may take the form of:

- reviewing an aged debt report on a regular basis
- exception reporting showing cases where terms of trade were exceeded and by how much, per risk written, class of business and territory
- reviewing an unallocated cash report on a regular basis (although this can also be covered as part of the audit conducted).
- reviewing reinsurance recoveries (where appropriate)

It is essential that the Coverholder understands that insurance monies are held on behalf of underwriters in a separate insurance monies account. Many jurisdictions require that this separate account must be a trust
account. Even where this is not required, the use of trust accounts is strongly recommended. This is important to protect policyholders’ funds if the Coverholder became insolvent.

**Underwriting Performance Reviews**

This will encompass the above and should:

- be conducted at binder, Coverholder and class of business levels
- include a review of the reserves, reinsurance purchased and IBNR
- provide any analysis as conducted by the actuarial teams, usually at Managing Agent level.
- include an analysis of broker commissions (Lloyd’s and local)
- The ultimate aim is to monitor the Coverholder’s performance against service standards and assess profitability of the binding authority against plan and budget.

The outcome of such performance monitoring should be reported to the underwriting committee and board on a regular basis.

**6.4 Audits**

**Audit policy**

Managing Agents should develop, document and implement a policy which governs their approach to the use of independent (internal or external) audit of entities to which they delegate authority. This policy will normally address:

- the frequency of audits based on the Managing Agent’s risk assessment of the entity;
- the scope for review to be included in the terms of reference for the auditors;
- the identification of appropriately skilled auditors able to fulfil the terms of reference;
- the agreement, implementation and tracking of recommendations resulting from the audits

Visits and audits will need to be co-ordinated with the Lloyd’s broker and the Coverholder. Lloyd’s also encourages the co-ordination of audit activity between Managing Agents to minimise the disruption to Coverholders with more than one Lloyd’s market counterparty.

During the first year of a new binding authority, the Coverholder must be monitored extremely closely. The first year is usually higher risk because it will take time for Managing Agent and the Coverholder to work together effectively. For this reason, Lloyd’s strongly recommend that during this first year the Managing Agent visits the Coverholder and that the Coverholder will be audited by a Coverholder review specialist.
Risk indicators for developing the in-house audit policy

Each Managing Agent will have a set of key indicators to consider when developing their audit policy. Such risk indicators to consider may include, but is not limited to, the following:

- Coverholder estimated premium income in that particular reporting period
- level of authority granted under the binder
- Coverholder change in circumstances such as change of ownership, management, territory
- the number of binding authority contracts that the Coverholder manages
- the classes of business written under binding authority contracts.
- the territories the Coverholder is conducting business in
- value of outstanding claims
- loss ratio
- level of complaints received

An assessment of these key indicators will enable the Managing Agent to ascertain the frequency with which the Coverholder (or TPA) should be audited.

Auditors

Coverholder audits will normally be conducted by review specialists. Whether these specialists are employed by the Managing Agent or are third parties retained on a case by case basis, the same standards of conduct apply.

The Managing Agent’s audit policy will include a selection process for auditors based on:

- Coverholder’s audit experience (including a consideration of local and Lloyd’s knowledge).
- market standards
- auditor availability in the territory concerned
- whether the auditor’s skills and experience match the audit scope
- price

Whether audits are conducted by internal or external staff there should be a clear rotation policy in place, ensuring the same individual does not audit the same Coverholder too many times in succession. Ideally no more than 3 consecutive audits should be conducted by the same individual.

Audit Scope

An appropriate audit scope will be determined by the Managing Agent for each Coverholder audit they arrange, which will be communicated to the auditor in advance of the audit as part of the terms of reference.

Lloyd’s strongly recommends that the Lloyd’s Standard scope be used as a basis although individual circumstances may require a bespoke audit scope to be prepared.

Consideration should be given to the areas to be covered such as:

- Underwriting
• Claims (if authority has been delegated)
• Aggregate, risk and premium bordereaux analysis
• Documentation
• Accounting and general finance
• Accounting transactions
• Compliance and governance
• IT and data security
• Management oversight
• Review of previous recommendations

Report and Follow-up Process

Upon completion of the audits the auditor should document their findings and any recommendations in a formal report to the Managing Agent. The report should be reviewed by appropriate personnel at the Managing Agent and the recommendations agreed before they are communicated to the Coverholder.

When a recommendation made by an auditor is not considered necessary by the Managing Agent, a note confirming the decision not to follow up on the recommendation should be kept on file.

There should be an effective tracking and follow-up process to ensure recommendations made as a result of the audit are recorded and implemented to the Managing Agent's satisfaction; including a clear process for escalation when a recommendation is contentious or the resolution of audit recommendations is problematic.

The Following Market

Where a Coverholder manages a binding authority that is shared by more than one Managing Agent it is the lead agent’s responsibility to arrange audits. However the cost of those audits is usually shared across all participants on a pro-rata basis. As such the audit report should be made available to the following market; usually via the broker involved. The following Managing Agents should also be kept informed of steps being taken to address issues identified during audits.

Coverholder audits may now be uploaded to the relevant Atlas record and viewed by parties with a registered interest in the Coverholder.

6.5 Financial Crime

Managing Agents have a responsibility to check compliance by Coverholders in respect of anti-money laundering legislation, international sanctions and the Bribery Act 2010. This does not devolve Coverholders of their own individual responsibilities under relevant legislation (both international and local).

Specific questions relating to these issues should be included as part of the Coverholder audit process. At a minimum Coverholders should be able to demonstrate procedures covering the following:
• Recognition and reporting of suspicious transactions/sanctions issues;
• Staff training and awareness; and
• Record keeping.

For further information on financial crime and Coverholders please see Appendix 3.

6.6 Problem case monitoring

Managing Agents must have a procedure in place for identifying and monitoring problem cases. Problem cases can arise where there are serious irregularities such as fraud or dishonesty.

These will need to be notified to Lloyd's and also reported to the Board of the Managing Agent as soon as possible. Guidance is given in Part 11 as to the specific issues of which Lloyd's would expect to be immediately notified, although if in doubt Managing Agents should report the matter.

However, less serious issues can arise with Coverholders, such as erratic reporting or premium settlement, or lack of progress on audit recommendations. Such matters should be identified via exception reports and escalated to an appropriate forum for resolution and monitoring.

Efficient Record Keeping

Managing Agents are expected to keep adequate records of all the binding authorities they lead. Some of the key records that the Managing Agents should keep or have access to include the following:

- a copy of the Lloyd's Coverholder Application Form.
- relevant up-to-date information relating to the:
  - Lloyd's broker (if any);
  - business proposed (for example, the underwriting plan); and
  - Coverholder.
- information relating to the contract of delegation such as:
  - any rating basis, schedule or guide;
  - details of certificate wording and extra clauses;
  - the format of insurance documents;
  - proposals and claims forms; and
  - slip copies and any endorsements.
- a copy of the current agreed contract of delegation, including any endorsements.
- a copy of the agreement with any TPA
- copies of relevant statistics, premiums and claims reports and any other relevant underwriting information.
- details of any complaints, potential litigation or other potential problems.
- copies of any Coverholder review specialist’s reports.
- copies of all visit reports.

Managing Agents of following syndicates should at least keep copies of the slip and any other information appropriate to them (for example, aggregate exposure reports.)
6.7 Conflicts of Interest

Coverholders write business on behalf of Lloyd’s Underwriters in a significant number of overseas territories where Lloyd’s has licences. They must therefore comply with any applicable local laws or regulatory requirements including any that relate to conflicts of interest. Nothing in this Code is intended in any way to alter the effect of any local law or regulations that apply to conflicts of interest.

In addition to local laws Coverholders also sign the Coverholder’s undertaking to Lloyd’s by which they undertake that they “will manage any conflicts of interest, between ourselves, our customers and Lloyd’s Managing Agents in a fair and open way.” Furthermore, assessment of a Coverholder’s conflicts arrangements is also already part of the model audit scope. Therefore Managing Agents may wish to consider whether, given the particular risk profile of a Coverholder, it needs to provide any further guidance to the Coverholder as to management of potential conflicts of interest beyond those as required by applicable local laws.

This section of the Code is therefore aimed at Managing Agents to help them consider (a) whether any additional guidance needs to be given to a Coverholder and (b) what areas that guidance could cover.

What is meant by “Conflict of interest”?

This will depend upon the laws and regulations that apply to the specific Coverholder. But a key concern for Lloyd’s will be any circumstance which may give rise (or could be perceived to give rise) to a conflict of interest which may pose a risk of damage to the interests of underwriters or a policyholder or which may compromise the objectivity of the Coverholder’s performance of its obligations.

6.7.1 All Coverholders

All Coverholders should be aware of the implications of conflicts of interest and in particular all Lloyd’s Coverholders should make sure that they are aware of any applicable laws or regulations that apply to them regarding conflicts of interest. This may include the laws and regulations of its “home” jurisdiction and also the laws and regulations in any other country the Coverholder does business.

The principal party responsible for monitoring compliance with any conflicts requirements is the relevant lead Lloyd’s Managing Agent. It will do this –

(a) by reviewing the Coverholder’s conflicts arrangements as part of the due diligence process in assessing whether to enter into a binding authority; and

(b) through Coverholder audits. All audits should therefore include whether the Coverholder understands local laws that apply to conflicts and also the suitability of any conflicts arrangements the Coverholder has implemented.
6.7.2 Does the Managing Agent need to give additional guidance?

Whether the Managing Agent needs to provide any additional guidance to a Coverholder will depend on the particular circumstances and risk profile of the Coverholder. Examples where it is more likely that the Managing Agent will want to consider giving additional guidance could include -

**Examples of actual conflicts**

(a) Where the Coverholder also has an interest in the outcome of a service provided to the policyholder or of a transaction carried out on behalf of Underwriters, which is distinct from the policyholder’s or Underwriters’ interest in that outcome.

(b) Where a Coverholder has a financial or other incentive to favour the interest of another insurer over the interests of Underwriters.

**Circumstances that could give rise to potential conflicts**

(c) Where a Coverholder is also a broker, in which case the possibility of a perceived conflict of interest arising is much greater. On the one hand, the Coverholder may have an interest as a broker in placing business on behalf of the policyholder and on the other hand the Coverholder may have a financial interest in binding the risk on behalf of Lloyd’s underwriters.

(d) Where the Coverholder also has claims settling authority as well as underwriting authority.

6.7.3 What might any additional guidance include?

This will depend on the specific circumstances of the Coverholder but examples could include -

**Establishing a “conflicts policy”**

The Coverholder may need to establish a written Conflicts of Interest policy with which all their directors, officers and employees should comply to ensure compliance with the relevant local laws and regulations and also with any additional requirements that Underwriters may require.

In preparing its conflicts policy the Coverholder might wish to consider -

(a) any circumstances which may give rise (or could be perceived to give rise) to a conflict of interest which may pose a risk of damage to the interests of underwriters or a policyholder;
(b) whether there are any circumstances which may cause any individual director, officer, manager or employee of the Coverholder to have any (or any perceived) conflict of interest; and

(c) what internal arrangements should be in place to ensure that conflicts do not arise and/or that any conflicts that may arise are properly identified and managed.

Such policies should be reviewed on a regular basis. They should be provided on request (or via a Coverholder audit) to the lead Lloyd's Managing Agent for its consideration.

**Conflict management arrangements**

If relevant given its specific circumstances Coverholders might need to put in place suitable organisational and administrative arrangements to manage conflicts of interest and ensure those arrangements apply to all key staff. The arrangements will depend upon the scale and complexity of the business and the nature of the binding authority (for example whether the binding authority provides for full rating discretion or is a prior submit binding authority). By way of example, the arrangements could include -

(a) Segregating management responsibility in the firm regarding its Coverholder and broking activities;

(b) Ensuring that the individuals with responsibility for binding risks should not normally have sole claims handling authority;

(c) Considering whether any additional disclosures should be made.

However, in respect of any conflicts guidance Lloyd's emphasises that the specific arrangements to be put in place for any particular Coverholder will depend upon that Coverholder’s circumstances, and before a Managing Agent provides any additional guidance it should first discuss that with the Coverholder to make sure that the proposed guidance is (a) proportionate and (b) is not in conflict with any applicable local laws.
PART 7 - INSURANCE DOCUMENTS

7.1 Introduction

The Managing Agent must be satisfied with the format and content of the insurance documents the Coverholder will issue under the binding authority and should hold this on file.

To satisfy the requirements of the Contract Certainty Code of Practice with regard to the timely delivery of insurance documents, Managing Agents should require each Coverholder to confirm that insurance documents have been issued within required timescales. The form and frequency of this return from Coverholders should reflect the Managing Agent’s assessment of risk, while ensuring that returns are received at least annually from each Coverholder.

7.2 Content of insurance documentation (see also Section 5)

Insurance documentation evidencing contracts of insurance issued by an approved Coverholder or by a restricted Coverholder must include the following information, provisions and terms:

Table 7.2

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<tr>
<td>(a)</td>
<td>the name and address of the Coverholder;</td>
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<td>(b)</td>
<td>all relevant terms and conditions that relate to the contract of insurance entered into by the Coverholder including:</td>
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<td></td>
<td>(i) relevant wordings, exclusions and limitations;</td>
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<td></td>
<td>(ii) the maximum period of cover; and</td>
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<td></td>
<td>(iii) the limits of liability.</td>
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<td>(c)</td>
<td>the amount of the premium and any other information relating to the cost of the contract of insurance that is required by applicable laws or requirements to be disclosed;</td>
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<tr>
<td>(d)</td>
<td>information about the procedures for handling claims arising under the contract of insurance and for the resolution of complaints;</td>
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<td>(e)</td>
<td>the law and jurisdiction applicable to the contract of insurance; and</td>
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<tr>
<td>(f)</td>
<td>any other provisions required under the laws or requirements of the jurisdiction in which the contract was concluded, where the insured is domiciled or of any other relevant jurisdiction and any other provisions as required by the relevant representative or agent of the Society.¹⁴</td>
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The Managing Agent must also ensure that every insurance document issued to a policyholder contains an appropriate several liability clause. This applies whether or not the binding authority is entered into by one or more syndicates and whether or not there is any non-Lloyd’s security on the binding authority.

¹⁴ Requirements made under the Intermediaries Byelaw, Paragraph 15
The certificate issued must have a consistent standardised referencing system whereby individual certificates can be traced back to a particular binding authority. This should normally be the UMR as per the binder. (See Bulletin Y4569).

In most territories there are requirements governing how the insurance should be sold to policyholders (for example, in the UK there is FCA and ABI guidance). It is essential that the Managing Agent is satisfied that the insurance to be sold by the Coverholder on underwriters' behalf complies with any local regulatory requirements.

7.3 Combined (“Joint”) Certificates

From time to time Lloyd's Managing Agents may wish to permit their Coverholders to issue “combined certificates” to policyholders (i.e. a single certificate that evidences a contract of insurance in which a proportion of the security is to be provided by insurers other than members of Lloyd's.) These are also often referred to as “joint certificates”.

Managing Agents should only permit combined certificates to be issued where they believe it to be appropriate and prudent so to do.

Lloyd's has certain rules regarding the use of such certificates to manage the associated risks. These are:

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<td>An approved Coverholder under a registered binding authority or restricted Coverholder under a restricted binding authority may only issue insurance documentation evidencing contracts of insurance in which a proportion of the risk is to be accepted by insurers other than members (a “joint certificate”) provided that:</td>
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<tr>
<td>(a) each Managing Agent that is a party to the binding authority has agreed to the issue of joint certificates;</td>
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<td>(b) the joint certificate includes all the details that are required to be included in insurance documentation evidencing contracts of insurance that are issued by an approved Coverholder under a registered binding authority or by a restricted Coverholder under a restricted binding authority;</td>
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<td>(c) the proportion or amount of risk accepted by Lloyd’s underwriters is expressly stated on the joint certificate and is specified separately from the proportion or amount of risk accepted by other insurers;</td>
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<td>(d) the joint certificate contains the following appropriate several liability statement in accordance with market bulletin (Binding Authorities US and non-US Combined (“joint”) certificates issued by Coverholders) dated 11 March 2008; and</td>
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<tr>
<td>(e) the issuance of joint certificates has been confirmed as an acceptable practice by the general representative in the country in which their issuance is required or, in the absence of such a general representative, by the Franchise Board, save that nothing in this paragraph shall permit a joint certificate to be issued in circumstances where that would contravene any relevant territorial general cover condition or would contravene any requirements of the jurisdiction in which the Coverholder is domiciled, or any other jurisdiction in which the Coverholder trades, provides services or does business.</td>
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</table>

15 Requirements made under the Intermediaries Byelaw, Paragraph 16
To assist Managing Agents manage the associated risks and meet Lloyd’s rules Lloyd’s issued Bulletin Y4133 that sets out the procedures to be followed for all combined certificates (including for the avoidance of doubt where the certificate relates to US business). Critically that bulletin sets out the relevant several liability clause to be used on combined certificates (which has also been issued by the LMA as LMA 5096).
PART 8 – CLAIMS HANDLING

8.1 Introduction

Managing Agents need to decide whether, and to what level of authority, a Coverholder will have permission to perform any claims function. Relevant factors may include the class of business, likely types of claims, Coverholder’s claims handling capabilities, claims management systems and anticipated claims volumes. Managing Agents should consider whether any of these services should be sub-contracted to a Third Party Administrator (TPA). In either case the Managing Agent should make sure the contract of delegation (whether a binding authority of a TPA Claims Agreement) clearly sets out the scope of the claims handling authority given to the Coverholder or TPA and any claims matters that are to be reserved for the Managing Agent.

If the Managing Agent decides to contract any claims handling services to a Coverholder or TPA, the Managing Agent is responsible for determining that the authorised party is competent to perform its responsibilities and that the terms of the claims handling contract are consistent with the contract of delegation.

Where a TPA is used the Managing Agent should be a party to a separate contract with the TPA outlining the procedures for the involvement of the respective parties.

8.2 Due diligence of TPAs

Where the Managing Agent decides to appoint a separate TPA to handle claims then the Managing Agent must assess the proposed TPA against the minimum suitability criteria contained within the Intermediaries Byelaw paragraph 36A(h) and the requirements paragraph 17A.

Table 8.2

The criteria to be applied by a Managing Agent in determining whether a firm is suitable to be appointed as a third party administrator are whether the firm:

(a) is a competent, proficient and capable organisation (taking into account the needs of the Managing Agent and of the members of its managed syndicate);
(b) has suitable resources for the determination of claims and for handling complaints including resources to ensure compliance with the terms of the claims agreement and any appropriate service standards;
(c) has suitable internal procedures and processes for the administration and agreement of claims (including procedures for the appointment of experts, complaints handling, litigation management and file retention) and that those are properly documented and made available to all relevant directors, officers and staff;
(d) has suitable systems and procedures to report to the Managing Agent in respect of its performance of its obligations under the claims agreement;
(e) is able on a timely basis to properly assess and review claim estimates;
(f) has suitable arrangements for identifying, resolving or managing conflicts of interest. This includes where the firm or any of its directors, officers or staff have or will have authority to enter into contracts of insurance or have or will have any financial interest in an entity that may give rise to circumstances that may constitute a conflict of interest;
(g) has suitable and effective risk management (including business continuity and succession plans), internal control and internal audit processes;
(h) has directors, officers and relevant staff of suitable competence, reputation and character;
(i) or any controller of the firm is of appropriate reputation and standing;
(j) has adequate professional indemnity insurance and whether there are any circumstances regarding the candidate’s professional indemnity insurance history that may be relevant to the candidate’s suitability;
(k) has adequate capital and financial resources;
(l) has suitable procedures in place to ensure that insurance monies (money relating to premiums, return premiums and claims) are properly safeguarded;
(m) the candidate maintains appropriate levels of data security and that it complies with any applicable data protection legislation; and
(n) possesses any necessary licences, approvals or authorisations in order to act as a third party administrator wherever it will conduct business in that capacity.\textsuperscript{16}

Lloyd’s will not be centrally assessing or approving potential TPAs against the above criteria. These are the minimum criteria, which Managing Agents should use when assessing potential TPAs. The criteria are consistent with market guidance that the LMA has already established for assessing new TPAs.

Managing Agents need to notify Lloyd’s of the identity of TPAs they intend appointing so that a central register of TPAs can be maintained as required under paragraph 36D of the byelaw.

Lloyd’s recognises that responsibility for assessing and approving a TPA rests with the relevant Managing Agent(s). Accordingly, on receiving notification of a TPA, Lloyd’s will proceed on the assumption that the Managing Agent has assessed each TPA notified to Lloyd’s and that the Managing Agent is satisfied that the TPA meets the “suitability criteria”.

Paragraph 36E of the Byelaw also requires Managing Agents to inform Lloyd’s if they believe that an existing TPA is no longer fit and proper or poses a reputational risk to Lloyd’s.

### 8.3 Terms of the claims agreement generally

The level of detail required in documents for the delegation of claims handling authority, whether to a TPA or a Coverholder, may vary depending on the nature and extent of the claims authority granted, the nature of the business written and the jurisdiction in question amongst other factors.

Requirements have been set to ensure that Managing Agents have clear, comprehensive and suitable written agreements delegating claims handling authority to Coverholders and TPAs, under byelaw paragraph 36H and requirements paragraph 17(b)(c). The claims agreement can be incorporated in the terms of a binding authority (for a Coverholder) or in a separate claims agreement (for a TPA).

\textsuperscript{16} Requirements made under the Intermediaries Byelaw, Paragraph 17A
Table 8.3

Every agreement delegating a Managing Agent’s authority to determine claims arising under contracts of insurance to a Coverholder or to third party administrator shall contain the following information, provisions and terms and comply with the following conditions and requirements –
(a) an agreement number by which the agreement can be identified;
(b) the name and address of each party to the agreement including the syndicate or syndicates on whose behalf each Managing Agent is delegating authority to determine claims arising under contract of insurance;
(c) the functions, duties and responsibilities of the Coverholder or the third party administrator that are relevant to its authority to determine claims. This shall include:
   i. the level of the Coverholder’s or the third party administrator’s authority to determine claims (including the circumstances in which a claim shall be referred to the Managing Agent);
   ii. details of the Coverholder’s or the third party administrator’s responsibility to investigate claims and where appropriate appoint external experts (including the circumstances in which the decision to appoint an external expert shall be referred to the Managing Agent) and take steps to ensure claims are defended as appropriate and to seek to make any recoveries;
   iii. details of the Coverholder’s or the third party administrator’s responsibility to assess and review claim estimates;
   iv. details of any applicable service levels or standards (including service standards for dealing with complaints and enquiries) where those service levels or standards shall be consistent with any applicable Lloyd’s minimum standards;
(d) details of the manner by which any insurance monies are to be held, maintained and properly safeguarded;
(e) provisions requiring the Coverholder or the third party administrator or any of its directors or staff to meet any relevant professional competence standards;
(f) provisions requiring the Coverholder or the third party administrator to maintain records and documents in such manner and for such period as the Managing Agent may require or as may be required by any applicable legal or regulatory provision;
(g) provisions regarding the maintenance and security of confidential information;
(h) provisions requiring the Coverholder or the third party administrator to report to the Managing Agent in respect of paid claims, outstanding claims and expenses in such form and at such intervals as the Managing Agent may determine (taking into account any minimum standards the Franchise Board may from time to time make);
(i) provisions requiring the Coverholder or the third party administrator to produce to the Managing Agent or to any auditor or agent appointed by the Managing Agent any information, documents, books, records and other materials which, in the opinion of the Managing Agent relate or purport to relate to the operation of the agreement and to co-operate with the Managing Agent, auditor or agent;
(j) provisions requiring the Coverholder or the third party administrator to produce to any relevant regulatory body any information, documents, books, records and other materials which in the opinion of the relevant regulatory body relate or purport to relate to the operation of the agreement;
(k) provisions requiring the Coverholder or the third party administrator to notify the Managing Agent of any –
   i. complaint or actual, pending or potential litigation;
   ii. circumstance or development that may materially impact upon its ability to perform its functions under the claims agreement effectively and in compliance with applicable laws and regulations;
(l) provisions for the cancellation and termination of the agreement;
(m) provisions relating to the ongoing obligations of the Coverholder or the
registered third party administrator in the event that the agreement expires or is terminated or cancelled for any reason;
(n) provisions prohibiting the Coverholder or the third party administrator from subcontracting or assigning any of its rights, powers, functions or obligations under the agreement without the prior consent of the Managing Agent;
(o) the jurisdiction and governing law that relates to the operation of the agreement.\textsuperscript{17}

It is likely to be particularly important that the Managing Agent consider including the following provisions, as appropriate:

- Clarity as to which claims are within the scope of the delegation of authority.
- Clarity as to those claims or claims matters that are referred to the Managing Agent for decision for any reason.
- A description of the responsibilities of the TPA/Coverholder as regards those claims that are within the scope of its authority including: the investigation of claims, coverage review, defence of the insured (where applicable), timely and accurate reserving, the appointment and management of appropriate experts where required, timely and proper claim payments (where applicable), responding to enquiries and complaints, investigating potential recoveries and reporting to the Managing Agent.
- Assurances that the TPA/Coverholder will comply with all applicable laws and regulations.
- Records management systems and controls, and ownership of, and access to, claims records.
- Provisions relating to the establishment, management and administration of loss funds (where applicable) and associated reporting.
- Provisions for audits and inspections of records by the Managing Agent or a regulator.
- A description of the fee and expenses structure (where applicable).
- E&O/Fidelity insurance limits (where applicable).
- Provisions dealing with matters such as non assignment and subcontracting.
- Termination provisions and provisions dealing with the orderly run-off of business post termination.
- Law, jurisdiction and dispute resolution provisions.

Various model wordings exist such as the LMA 9008 (TPA Agreement) which may assist Managing Agents in drafting appropriate documents for the delegation of claims authority.

8.4 Managing Agents’ Managerial Oversight of External Service Providers

All Managing Agents outsourcing claims authority are required to demonstrate adherence to Lloyd’s Claims Management Principles and Minimum Standards. In particular Principle 6 states that “disciplined procurement and pro-active management procedures should be employed in the selection and use of third parties.”

\textsuperscript{17} Requirements made under the Intermediaries Byelaw, Paragraph 17B
As such Managing Agents should ensure that effective processes and governance controls are in place at pre-placement, during the active life and the run off, of contracts as follows:

- **Pre-placement** – Managing Agents should have procedures in place documenting the decision making process undertaken for establishing the delegation of claims authority at the outset of agreeing a Binding Authority or Lineslip agreement, to include evidence of claims due diligence prior to contractual engagement.

- **Claims Reporting and Claims Management** – Managing Agents should clearly agree the scope, quality and timeliness of relevant bordereau presentations, procedures for the notification of claims outside of authority and Managing Agents management of these claims, in addition to their validation and oversight of claims bordereaux and reporting processes.

- **Monitoring Performance of the Contracts** – Managing Agents should have appropriate and sufficient processes, key performance indicators and controls in place to evaluate and report on the performance of the contracts where their delegated claims authority has been assigned to a third party and monitor such third party’s performance through service levels, where appropriate.

- **Auditing** – Managing Agents should have an audit framework in place to ensure sufficient oversight of entities with delegated claims authority. Such a framework should include maintenance of a contemporary audit schedule covering any third party with any open claims still remaining, controls over appointment of auditors, audit scopes and effective processes for follow up of recommendations and escalation and resolution of any matters of materiality.
PART 9 - NON-RENEWAL AND TERMINATION

9.1 Introduction

Managing Agents are expected to deal with non-renewal or termination of a delegated underwriting contract in an appropriate manner.

9.2 Non-renewal of binding authorities

When deciding whether or not to renew a contract of delegation, the Managing Agent should consider the following (in addition to underwriting assessments of the contract):

- the relevant licenses, permits, and errors and omissions insurance held by the Coverholder.
- the Coverholder’s financial standing.
- how the Coverholder has administered and operated the binding authority (including keeping to your service standards).
- significant changes to the Coverholder’s circumstances.
- other problems or potential issues (for example, arising from any audit or underwriting visits, complaints or potential litigation or regulatory issues).

If a binding authority is not renewed, it is essential that its run-off is closely monitored. Some of the considerations highlighted below for terminated binding authorities will also be relevant for binding authorities which have not been renewed.

Practical implication of non-renewal

Some jurisdictions regulate an insurer’s processes for renewing or not renewing an insurance contract. These regulations are particularly common for insurance bought by individual consumers rather than businesses. In such cases, an insurer proposing not to renew a contract of insurance may need to provide a notice of non-renewal in a particular form, giving a specified period of notice before the insurance will end. Failure to do so can mean the contract of insurance automatically renews on its previous terms and conditions.

The Coverholder must handle the non-renewal of such contracts of insurance in line with local law and requirements. The Managing Agent must also consider the effect of such provisions if it has decided not to renew the binding authority. It is important that the Lloyd’s broker and Coverholder are given sufficient notice of any decision not to renew the binding authority. This will give them a reasonable opportunity to handle the non-renewal of individual contracts of insurance correctly. If reasonable notice is not given of your decision not to renew a binding authority, or it is not ensured that the Coverholder handles non-renewal of contracts of insurance correctly, the syndicate underwriting the binding authority may be committed to renewing individual contracts of insurance.

In most binding authorities, the Coverholder is responsible for collecting premiums on behalf of the Managing Agent. It is essential that the Coverholder’s responsibilities and appropriate service standards are clearly set out in relation to collecting premiums.
9.3 Termination of the binding authority contract

The termination of a current binding authority is a significant event. A binding authority is usually only terminated mid-term if there are serious problems with the Coverholder (for example, not meeting licensing or regulatory requirements, issuing insurance documents without insurance cover or where there is fraud or dishonesty).

It is essential that the termination is handled effectively to avoid disproportionate amounts of management time being invested in resolving issues, such as operational and reputational risks for the Managing Agent involved and Lloyd’s. The binding authority will allow the Managing Agent to cancel the contract. If the Managing Agent does terminate a binding authority it must follow any notice requirements and any other relevant limitations or conditions specified in the contract of delegation.

Before giving notice

- The main considerations to bear in mind before giving notice of termination include the following: identifying who needs to be informed and when. This may include:
  - the relevant Lloyd’s broker
  - the Managing Agents of following syndicates
  - Lloyd’s
  - any Lloyd’s local representative
  - Coverholder review specialists
  - other Managing Agents with binding authorities to the Coverholder.
  - sub-contracted claims handlers

- identifying how the notice should be delivered to the Coverholder.
- preparing the notice. This is vital because it will set out precisely what the Coverholder is expected to do during the period of notice and once the notice has ended. Particular attention is needed to make sure the Coverholder is clear about how amendments to existing contracts of insurance and new contracts of insurance will be treated.
- identifying potential substitute Coverholder run-off providers. These should be identified at an early stage in case it is necessary to transfer the responsibility for run-off away from the Coverholder.
- identifying potential TUPE obligations
- considering whether it is necessary to put a representative of Managing Agents in the Coverholder’s offices to supervise the Coverholder during the notice period.
- identifying who to speak to at the Coverholder’s offices to explain the reasons for the cancellation and what will be happening. Wherever possible, the Managing Agent will want to keep a good working relationship with the Coverholder.
- requiring the Coverholder to return any unused insurance documents or other materials they have in connection with the binding authority and which might be used as evidence of insurance and which bear the name of, or refer to Lloyd’s. If the Coverholder prints certificates, the Managing Agent should tell them not to print any further certificates.
- establish who will carry out the handling of claims after the termination of the contract, having carried out all necessary due diligence and prepared the necessary contractual and process documentation if a new TPA is to be appointed.
Giving notice

Under the terms of the model binding authority working notice needs to be in writing and delivered to the Coverholder with a copy provided to the Lloyd’s broker (if there is one).

The Managing Agent must notify Lloyd’s if the termination is contentious.

If a TPA is to be appointed to handle the claims this must be after appropriate due diligence has been carried out and the terms of contract with the TPA agreed.

After giving notice

After the notice has been given, the Managing Agent should:

- closely monitor the contracts of insurance which the Coverholder enters into during the notice period and make sure the Coverholder does not enter into any contracts of insurance after the notice period ends.
- visit the Coverholder or send Coverholder review specialists to make sure the run-off is being handled effectively.
- ask for appropriate reports from the Coverholder in order to monitor the handling of the run-off (paying particular attention to claims handling and reporting of any difficulties or complaints).
- make sure the Coverholder has sufficient funds to pay claims.
- satisfy itself that the Coverholders financial position remains adequate.
- satisfy itself that the Coverholder has adequate human resources to handle the run-off.
- make sure the Managing Agent has access to all key documents relevant to the run-off (for example, claims files).

In some circumstances where a binding authority has been terminated or not renewed, it may not be possible or appropriate for the Coverholder to handle the run-off. This may be for a variety of reasons, but will be often connected to deterioration in the financial standing of the Coverholder.

If these problems cannot be solved quickly, the lead Managing Agent (usually with the Managing Agents of following syndicates and the Lloyd’s broker) will need to take steps to transfer the run-off responsibilities to another party.

If the run-off responsibilities are transferred to another party, the Managing Agent will need to make sure of the following:

- all relevant insurance and claims documents are transferred.
- a suitably experienced party is appointed to handle the run-off and has clearly defined responsibilities and service standards (see above for terms that should be included in a contract delegating claims handling services).
- the reputations of the Managing Agent and Lloyd’s are protected and any Lloyd’s representative or local regulator is properly briefed about the transfer.
PART 10 - LLOYD’S APPROVAL PROCESS

10.1 The Coverholder Application

Applications for approval as a Lloyd’s Coverholder are made via the online Atlas system.

Atlas is an online system that makes the process of managing Coverholders faster and more efficient, whilst raising standards. It is accessible by Managing Agents, Lloyd’s brokers, Coverholders and Lloyd’s.

Atlas is a secure web-based system that acts as an electronic filing and online application system for Coverholders. It allows users to complete:

- new Coverholder applications
- annual compliance questionnaire
- changes to company information and permissions

Atlas does not make any binding authority information available to users, (other than copies of binding authority contracts which have been uploaded to the relevant section of the Coverholder’s records) and cannot be used directly to enter into binding authorities. This is done by accessing the Binding Authority Registration website (“BARS”).

For further information on how to obtain access to Atlas, please see www.lloyds.com/Atlas

The Lloyd’s broker, if one is involved, will usually co-ordinate the applicant’s access to Atlas (a password is required from Lloyd’s) and the completion of application details and supporting documentation.

The sponsoring Lloyd’s Broker should ensure that details are complete and correct, and will then submit the application online via Atlas to the sponsoring Managing Agent, who then carries out due diligence.

Managing Agents will have specific procedures for the due diligence process applicable to potential new Coverholders. Once this has been concluded to the Managing Agent’s satisfaction (and signed off by the Active Underwriter, or a nominated deputy) the application is then submitted to the Delegated Authority Team at Lloyd’s for its review.

The Lloyd’s service standard for a Coverholder application is 25 working days. However, this applies from the date that a fully complete application is received on Atlas, including full supporting documentation.

The DA team at Lloyd’s will return applications if key information is omitted, so it is important that the Coverholder as well as the other sponsors ensure that effective systems are in place to deliver complete applications to Lloyd’s in the first instance.
10.2 Information to support the Lloyd’s application

In order to expedite the Lloyd’s review process a detailed letter of support and key supporting documents collated as part of the Managing Agent’s internal review process must be submitted along with the Coverholder application details on Atlas. Mandatory requirements are described in the “Help” screens of Atlas and the Application Guidance notes on Lloyds.com.

The Letter of Support

This will be a detailed letter from the Underwriter who will be delegating authority and should summarise the following:

- the background & nature / length of the relationship (including whether the Managing Agent has written their business on open market or lineslip basis previously)
- the classes of business / risk codes proposed and corresponding E.P.I for each class
- rationale for the binding authority; from both the Managing Agent’s and the applicant’s perspectives
- how the rating of risks will be controlled
- on what basis authority will be delegated (full authority, pre-determined rates or prior submit)
- proposed binding authority sum insured/limits applicable
- market conditions and expected results
- the extent of any claims authority proposed, the parties involved in the claim chain and their roles/authorities, and how these parties will be audited
- outcome of any pre-approval underwriting and claims audit or visits (including audits carried out on behalf of other Managing Agents of the same Coverholder/claims administrator)
- whether the proposed insurance documents and bordereaux and any marketing/website material have been vetted / approved (bordereaux used by new Coverholders must comply with Lloyd’s reporting standards)
- any issues highlighted in the internal due diligence process and how these are being addressed

Other documents to submit

These may include, but are not limited to:
- mandatory attachments to the Lloyd’s Application Form
- applicant’s business plan for the business being sponsored
- where the authority granted is to be pre-determined rates, the rating proposals / limits to be issued to the Coverholder.
- prior years underwriting results and projected loss ratios
- details of the Managing Agent’s financial analysis
- trip reports - where individuals have visited the offices of the prospective Coverholder Lloyd’s would like to see the visit reports from each, whether it be by the underwriter, broker, appointed auditor, or other individual / group of individuals.
- a checklist / procedure sign off
10.3 The Lloyd’s Review Process

 Upon submission to Lloyd’s Delegated Authorities Department of a new application for Lloyd’s Coverholder status, Lloyd’s will assess the application to determine whether Lloyd’s is satisfied that the applicant meets the requirements of suitability (taking into account the Lloyd’s criteria as set out in table 4.3 above).

 Once a review has commenced Lloyd’s will inform the Lloyd’s broker and Managing Agent of any issues requiring clarification or of any significant concerns that may impact the suitability of the proposal. In certain circumstances, an application may be returned to the broker and Managing Agent for further information to be added. It is therefore important that Managing Agents check all applications for clarity and completeness before they are submitted to Lloyd’s.

 Once approved the Coverholder’s name and address will be added to the public register of Lloyd’s approved Coverholders.

 Lloyd’s aims to complete the review process within 5 weeks of the submission of a fully completed Coverholder application.

10.4 The Role of Lloyd’s International Representatives

 Lloyd’s ability to trade globally through our international licences is supported by a network of representatives around the world. These representatives are an invaluable resource and are able to give guidance relating to any regulatory or other issues in their territories relating to all business written, including delegated authorities. All applications for Coverholder approval are referred to the appropriate representative for their feedback. However, brokers, Managing Agents, or the Coverholder themselves are free to approach them for advice or information at any point in the application process.

 For a full list of Lloyd’s International Representative Offices please see the ‘Lloyd’s International Offices’ page.

 Information on Lloyd’s International trading can also be obtained from International Trading Advice on 020 73276677 or lita@lloyds.com.

 Additionally, ‘Crystal’ provides quick and easy access to key global trading information, including:

 - regulatory information
 - taxation information

 Brokers and Managing Agents are encouraged to check “Crystal” to ensure that proposed binding authority contracts meet local regulatory requirements.

10.5 Regional approval

 Coverholders are approved by Lloyd’s for the territory in which they are domiciled. A Coverholder proposing to do business in any country beyond its own domicile must first obtain Lloyd’s permission.

 When extending a Coverholder's approval, Lloyd’s considers the country required as part of a region which, once approved will permit the relevant
Managing Agents should they wish, to grant the Coverholder authority to enter into contracts of insurance for any or all countries in that region.

The regions are as follows:
- European Economic Area (EEA)
- Switzerland
- Australia
- Canada
- USA – all states and territories (including the USVI)
- The US Virgin Islands (admitted status)
- Other Licenced Territories
- Non-Licenced Territories

Specific information is required by Lloyd’s and its local offices in order to consider an extension. This particularly applies to Switzerland, Canada, the USVI and Australia. Information can be found in the relevant section of www.lloyds.com/the-market/i-am-a-delegated-authority/changing-coverholder-details. Consideration should be given to these requirements before submitting a new Coverholder application to Lloyd’s which involves these regions.

For further information please refer to Crystal or the relevant Lloyd’s Representative.

10.6 Coverholder Employees Working away from an Approved Office

Coverholders are increasingly able to quote and bind risks remotely (e.g. whilst at home) via the use of laptops and remote internet connections. This may be from a home address or other unapproved location.

Lloyd’s is of the view that this activity falls within the approval status of the Coverholder, subject to certain criteria being satisfied:

- The unapproved address is not advertised as a business workplace and it does not feature on any business correspondence
- The remote worker is and remains an employee of the approved Coverholder
- The IT systems being used are the same as and are linked to the approved office systems
- Compliance with the terms of the binding authority
- Documents are not signed or issued from the remote address

Issues may arise where a worker is based away from an approved office and is formally carrying out Coverholder activities with the agreement of their employer.

The risks that might occur are numerous and include - lack of supervision, use of unauthorised IT systems, issuing incorrect documents, lack of appropriate licence if resident in a different state/province, not included in PI coverage, non-compliance with reporting requirements including bordereaux and policyholders sending premiums to the unapproved address. In addition, care need to be given as to whether the location of the remote worked could be considered as an establishment for tax or regulatory purposes.
Managing Agents are expected to assess these risks before agreeing to authorise remote workers and satisfy themselves that the address should not be approved as a branch.

10.6.1 Lloyd’s approach and guidance

If an employee works from a remote unapproved address, rather than the approved Coverholder office, the employee should be recorded by the Managing Agent and Lloyd’s on Atlas as an “Authorised Remote Worker”.

Authorised remote workers should complete an “Authorised Remote Worker” declaration form which should be signed by both the Coverholder and Managing Agent and uploaded to Atlas. The term “Authorised Remote Worker” should be used in binding authority contracts to describe the employee concerned.

No Coverholder activity (even occasional) should be permitted UNLESS

- The IT system accessed is the same as and directly linked to the Coverholder office to enable supervision of activities such as quoting and binding
- Where the remote address is located in a different state/province/country to the Coverholder the Managing Agent has satisfied itself that there are no issues as far as the requisite licences are concerned on the part of either the Coverholder’s local regulator or the local regulator in the state/province/country of the remote address.

In addition the Managing Agent must be satisfied that:

- They have considered whether there are any regulatory or taxation implications as a result of agreeing to the remote worker. (It may be that in suitable cases the Managing Agent may need external independent advice)
- The individual has clear, agreed and understood levels of authority
- The Coverholder/employer has carried out a risk assessment and has implemented appropriate controls
- There is evidence of effective controls in place
- There is a clearly stated peer review process for the activities of all authorised remote workers
- The address is not an office which should be approved
- The PI insurance will cover the remote worker/remote address
- The arrangement is examined and tested as part of the internal audit programme
- The Managing Agent’s own audit programme will cover this aspect

There are key questions that should be considered before the arrangement is deemed acceptable by the Managing Agent. If the answer to any of these questions is “no” then Lloyd’s should be consulted before the arrangement is confirmed as appropriate.

- Is the individual an employee?
• Can you confirm that the employee does not undertake any roles from the remote location for which individual authority has not been given?
• Can you confirm that the employee is logging onto the same office system(s) as the approved Coverholder?
• Can you confirm that the employee does not handle or account for insurer monies from the remote location?

10.6.2 Atlas and Contract Actions

The procedures to be followed are;

Proposed new authorised remote worker or new Coverholder application – the “Authorised Remote Worker” declaration should be completed and signed by a director of the Coverholder and the Managing Agent and uploaded to Atlas.

Changes to existing authorised remote worker details/address – this should be endorsed at the time (if agreed/appropriate) by the Managing Agent and details updated on Atlas.

10.7 Branch Applications

A branch application should be made where an approved Coverholder wishes to operate from multiple locations. The branch should be part of the same legal entity as the existing Coverholder and as such have:

• the same legal name; and
• the same registered address.

This does not include subsidiary companies or sister companies within the same group which must submit a full Coverholder application.

Once a branch office is approved risks can be bound and documents issued from that location. The address can also be used on business documentation and advertising. This is different to a remote address, as discussed in 10.7, which cannot be featured on documentation and from which documents cannot be issued.

10.7.1 What to include in a branch application

From 2013 the branch application will be streamlined for those applications which meet the following criteria:

• The branch is in the same country/state/province as the approved Coverholder.
• The business will be written under existing EPI or is less than GBP 2m or equivalent.
• The classes of business and regions applied for are the same as the approved office is already approved to write.
• The branch will have the same level of underwriting authority and the same claims handling arrangements as the approved office.
- The branch will use the same systems and link into the approved office.
- The management policies, processes and procedures are the same as for the approved office and key staff are confirmed as being fit for purpose (key staff details including CVs must be uploaded on Atlas).
- The existing bank accounts of the approved office will be used or assurance is provided that the accounts are trust accounts and meet Lloyd’s standards.
- The MA can confirm that the branch is covered by an E&O policy that includes binding authority activities.

The streamlined process means applications which satisfy the above will receive approval within 48 hours subject to satisfactory checks on key staff and satisfactory responses from country representatives and underwriting performance where referral is still required. To pre-empt any issues arising from referral Managing Agents are strongly advised to liaise with the relevant Lloyd’s country representative and underwriting performance representative before submitting the application. Information on countries where referral will always be required is available on Lloyds.com.

Streamlined applications must still be submitted on Atlas using the branch application form. A specific decision paper will be made available to Managing Agents to be provided alongside the Atlas application which will support the accelerated process.

All other branch applications will continue to be made through Atlas using the branch application form. The salient information will mirror that outlined above for the streamlined process but because there will be significant differences between the approved office and the new branch it will take longer to review the application.

Where any of the details requested are the same as for an approved office please specify the Atlas PIN where the details can be found.
PART 11 – MANAGING AGENT NOTIFICATION OBLIGATION

Managing Agents are required to notify Lloyd’s of any serious concern or issue that arises in their dealings with Coverholders. A ‘serious concern or issue’ would be one which, if substantiated and uncorrected, would

a. result in the Compliance Officer or Underwriter of that Managing Agent deciding to cancel the contract or commence legal action against the Coverholder; or

b. otherwise indicate that the Coverholder may no longer be suitable to be approved.

Situations Lloyd’s would expect to be informed of include:

- The Coverholder has become insolvent/bankrupt
- The Coverholder (including any of its principal officers) may have committed a criminal offence or acted fraudulently
- The Coverholder has written outside the terms of the binder
- The Coverholder has operated outside its authority
- The Coverholder has failed to pass on funds received from policyholders
- The Coverholder’s behaviour has risked damage to Lloyd’s licences, Central Fund or reputation
- The Coverholder has breached branding guidelines
- The Coverholder’s systems may not be ‘fit for purpose’ (not sufficiently robust to efficiently administer or report on the business bound)

This list is not exhaustive and if in doubt the Managing Agent should notify Lloyd’s of the concern.

Lloyd’s will handle all notifications on a case by case basis.
APPENDIX 1: REQUIREMENTS FOR THE WRITING OF MASTER/GROUP POLICIES

Managing Agents should only write insurance schemes as master/group policies, where they comply with the following requirements. We expect that Managing Agents will regularly review master/group policies to ensure ongoing compliance with these requirements. The policy renewal date provides an opportunity to complete such reviews.

1. The covered parties must be individuals and must belong to a clearly identifiable and genuine group, for example by virtue of common employment, association, occupation or activity. This connection must arise other than by reason of the master/group policy. Customers whose only connection is that they purchased the same product from a vendor will not satisfy this requirement unless there is a genuine ongoing customer relationship (through the continuing provision of a non-insurance service) arising from that group of customers purchasing the product such that a clearly defined group can be identified.

Examples which would be considered a group: (1) An employer holding a master/group policy for the provision of employee group health policies. Therefore the employees are the covered parties. (2) A professional association holding a master/group policy providing liability insurance for the individual members (3) A bank holding a master/group policy providing travel insurance as a benefit for the current account customers of the bank.

Examples which would not be considered a group: (1) Individuals who have booked a holiday through the same travel agent are not part of the same group and cannot be declared to a travel insurance master/group policy issued to the travel agent. (2) A supermarket creates an association, members of which are entitled to special offers from the supermarket, including certain insurance products. As the association exists only to sell the insurance and other special offers a master/group policy arrangement is not appropriate in this case.

2. The policyholder must have a legitimate interest in providing cover for the defined group of members. Lloyd’s would not regard the ability of the policyholder to generate a fee, commission or other payment for providing cover to the members as being a sufficient “legitimate interest” for these purposes. The policyholder should not have as its principal purpose the procurement of insurance for its members. Implicit in this requirement is that the policyholder provides substantial non-insurance benefits to its members.

3. The policyholder may receive some form of remuneration as a result of administering the master/group policy. Ordinarily this will be limited to covering the administrative costs of the policyholder. However, where financial benefits do go beyond meeting expenses, the potential conflict of interest that arises for the policyholder must be considered. A way of addressing this would be full declaration of such benefits to its members but Managing Agents may manage this issue in other ways. Note that in some jurisdictions, policyholders may require approval to carry on regulated activities as an intermediary before they are able to receive remuneration. In these cases, Managing Agents should ensure that the policyholder has the necessary regulatory authorisations. See paragraph 8 below.
4. The policyholder should have no discretion as to who can be declared to the policy or as to the premium charged or terms of coverage, nor should they provide any advice regarding the insurance coverage. This, however, does not prevent the master/group policies providing different options to proposed covered parties who wish to obtain the benefit of the master/group policy. For example, a group health scheme may offer different options for family and individual cover with the rates varied according the package adopted. Similarly, the policyholder should not have any authority to deal with claims on behalf of underwriters.

5. The policyholder should not produce insurance documentation on behalf of underwriters. However, appropriate confirmation or details of the cover that has been purchased must be provided to the covered parties. Subject to any local licensing requirements, these details may be provided by the policyholder. Any such details provided to the covered parties must make clear that the only insuring document is the master/group policy document and that a copy of that document may be viewed at the request of the covered party. The agreement between the Managing Agent and the policyholder should clearly specify who is responsible for providing any such details to the covered parties. This includes any explanatory or promotional material.

In certain circumstances, policies that do not meet all the above requirements may still be written as master/group policies, however guidance must be sought from the Delegated Authorities Team.

**Regulatory and tax matters**

6. The type of cover provided to the covered parties must be permitted to be written under relevant local regulations. Managing Agents should have regard to the location of the covered parties as a relevant factor to consider in ensuring compliance. Where covered parties come from different jurisdictions more difficult questions can arise and where appropriate suitable legal advice should be obtained.

7. Local tax requirements must be satisfied. Managing Agents should refer to Crystal, or seek professional advice, to determine which are the relevant local tax requirements. Consideration should be given to the location(s) of the covered parties as well as the location of the policyholder.

8. The master/group policy must comply with local conduct of business requirements. Such requirements could include filing of wordings, approval of sales literature and complaints handling. Consideration should be given to the location of the policyholder as well as the location(s) of the covered parties. Managing Agents must take particular care as to whether the activities of the policyholder in administering the master/group policy constitute regulated intermediary activity in the relevant territories. If the activities of the policyholder could constitute a regulated activity, the Managing Agent should ensure that the policyholder has the necessary regulatory authorisations. Whether the policyholder is carrying on regulated activities will depend on the rules of the local territory and the activities that the policyholder will be required to perform to administer the master/group policy.

9. Managing Agents should take steps to ensure that any business underwritten or arranged by or under the master/group policy does
not result in coverage being arranged or any claim paid or benefit provided to or for any party that would expose the Managing Agent or underwriters to any sanction, prohibition or restriction under any applicable international trade or economic sanctions, laws or regulations.

10. Where the tax or regulatory rules of more than one jurisdiction may apply it is important that Managing Agents ensure that risks are coded appropriately to ensure there is compliance with Lloyd’s reporting and statutory tax requirements.

**USA and Australia**

In two territories, additional requirements apply to the underwriting of master/group policy programmes. These are:

1. **The United States** – Because of the detailed rules that govern master policy/group scheme arrangements in the US, from 1 January 2012, ahead of the renewal of each scheme, Managing Agents are expected to conduct a review of all US master policies written by them to ensure that all legal, regulatory and tax requirements have been addressed before the policy incepts, as well as annually on renewal. It is expected that Managing Agents will be familiar with the requirements relating to master/group schemes and will review their compliance procedures to ensure that they have adequate controls in place for the underwriting of these policies. Managing Agents that intend to carry out the review of master policies/group schemes internally, without recourse to external legal advice, must be able to demonstrate an appropriate level of expertise. Managing Agents that do not have the necessary in-house expertise should ensure the programme is reviewed by external lawyers who are familiar with the applicable rules. The obligation to ensure that the master policy/group scheme complies with the relevant US requirements is a matter for Managing Agents. Managing Agents should avoid delegating this responsibility to the broker. Further information regarding master policies in the US can be found on Crystal. See also Market Bulletin Y4535.

Insurance underwritten to US Risk Purchasing Groups (RPG) / Risk Retention Groups (RRG) is permitted and these arrangements are governed by the US Federal Liability Risk Retention Act (1986). Guidance should be sought from a law firm with appropriate expertise where a RPG or RRG is being established. While some of the risk management principles outlined in this guidance may be applicable to RPGs / RRGs Managing Agents will be expected to comply the specific requirements set out in the federal legislation to the extent it conflicts with these principles. Lloyd’s Underwriters are admitted in Kentucky and Illinois and there may be special requirements as to insureds that reside in those states that are covered by master/group policies. Additional information may be obtained from Lloyd’s Kentucky, Inc. or Lloyd’s Illinois, Inc.

2. **Australia** - Master/group policies cannot be written at Lloyd’s without approval from the Lloyd’s general representative in Australia. This is to ensure that Australian master/group policies are constructed and issued in such a manner to be in compliance with all Australian regulatory and tax obligations. Underwriters should ensure that when placing their lines on such contracts that they have had sight of the letter of approval from the Lloyd’s general representative confirming that the contract of insurance is in order. Further
information and details of the information required by the general representative in Australia can be found on Crystal.

Recording and Monitoring Compliance

So that Lloyd’s is better able to monitor Managing Agent’s approach, Managing Agents should keep a record of all master/group policies written by a syndicate. Managing Agents must also be able to evidence that an appropriate and proportionate review of each master/group policy is carried out at suitable intervals to ensure compliance with the requirements set out above. For master policies/group schemes written in the US, Managing Agent reviews need to address expressly and demonstrate compliance with the particular regulatory and tax requirements that apply there.
APPENDIX 2: MANAGING AGENTS DEALING DIRECTLY WITH COVERHOLDERS

Managing Agents may appoint a Coverholder, and arrange and administer a binding authority covering any class of business, without the involvement of a Lloyd’s broker.

Main considerations

If a Managing Agent deals directly with a Coverholder without involving a Lloyd’s broker, it is important that the Managing Agent considers the following:

- Placing binding authorities with a following market.
- The documents that need to be produced.
- Who will be responsible for premiums and handling claims
- How adequate their written procedures are.

Placing binding authorities with a following market

If the members of a syndicate or syndicates the Managing Agent manages do not write all of the binding authority, the Managing Agent will be responsible for placing the remainder of the contract with a following market. In these circumstances, the Managing Agent will perform the role of a broker.

Managing Agents will need to able to demonstrate that they are capable of addressing the following:

- Making sure all relevant information is given to the following market.
- Keeping a record of the information given to the following market when the binding authority was placed (and keeping evidence of its agreement, where necessary).
- Keeping records about the operation of the binding authority (for example, changes to the terms of cover).
- Making sure any outstanding issues are fully resolved before the binding authority comes into force.

Managing Agents should also be aware that if a Lloyd’s broker is not involved, disputes or litigation could arise with the following market (for example, as a result of a mistake made by one of the Managing Agent’s staff or due to a potential misrepresentation). Managing Agents may consider it appropriate to buy errors and omissions insurance to cover these risks.

Producing documents

Managing Agents will be responsible for producing binding authority agreements and having them checked by Xchanging.

Managing Agents will also be responsible for making sure that satisfactory arrangements have been made for Coverholders to use Lloyd’s certificates.
Responsibility for premiums and claims

Managing Agents will need to be satisfied that they will be able to perform the functions normally carried out by a Lloyd’s broker. In particular, Managing Agents need to have regard to the following:

- They will be responsible for making sure that premiums and claims are processed to the following market.
- If the following market includes insurers who are not Lloyd’s syndicates, the Managing Agent will need to have set up appropriate procedures for processing and settling premiums and claims directly with those insurers.
- If the following market includes Lloyd’s syndicates, the Managing Agent will be responsible for providing claims details to Xchanging.
- Premium and claim bordereaux (that is, reports on all premiums, paid claims, outstanding claims and expenses) must be provided to Xchanging at least every three months (except for motor or personal lines business not processed through Xchanging). This also applies where the Managing Agent’s syndicate writes a binding authority 100% and does not use Xchanging to process the premiums and claims.
- Premium and claims bordereaux must contain sufficient information to be reported to regulatory and tax authorities.

Managing Agents will require a Central Settlement Number (“CSN”) – often called a Broker Number – to process premiums and claims written direct.

In order to obtain this, the Managing Agent should contact the Delegated Authority Team at Lloyd’s with details of the business and applicable controls:

1. Rationale for writing the business direct
2. Classes of business involved and domicile of Insureds
3. Premium volumes per class/region
4. Systems and resources (including expertise) responsible for managing this business

The Delegated Authority Team will review this information, and where appropriate may will recommend that the Managing Agent’s personnel receive training from XIS before approval is given. (Note that there is a fee payable for this training to Xchanging).

The Managing Agent and XIS normally liaise regarding the CSN number to be used and XIS will confirm this to Delegated Authority Team, who upload it to the Lloyd’s MED system so that it can be used in premium processing transactions.
APPENDIX 3: FINANCIAL CRIME

Managing Agents have a responsibility to ensure that Coverholders have proper and adequate systems and controls in place to ensure AML and international sanctions compliance and to ensure compliance by having specific questions relating to AML/international sanctions as part of the Coverholder audit process.

Anti-Money Laundering

Definition of Money Laundering

- “The process used by criminals to disguise the origin and ownership of the proceeds of their criminal activities in order to avoid prosecution, conviction and confiscation”.

General Anti-Money Laundering Obligations

In the UK, legislation covers most financial sectors which include:

- Criminal offences around engaging in money laundering and/or assisting others to launder the proceeds of crime;
- Disclosure/reporting requirements in respect of suspicious activities or transactions;
- Tipping off offences: ensuring that law enforcement is not hampered in its investigations by the subject of the suspicion becoming aware of the allegations.

Similar legislation with related requirements and offences will be in force within the jurisdiction that Coverholders operate in but the extent to which AML legislation applies to intermediaries varies.

Activities that might trigger suspicion are:

- Difficulty in obtaining information about, or doubts over the bone fide of, the policyholder or other parties involved;
- Transactions set up and then quickly cancelled for no identifiable reason;
- Transactions involving placements from, or the involvement of intermediaries, in different jurisdictions for no discernible purpose;
- Return premiums, overpayments or claim payments where a third party appears to benefit;
- Transactions where insurance does not appear to be the primary object or make no economic sense;
- Over inflated values (e.g. on jewellery/fine art).

This is not an exhaustive list and the Managing Agent which has delegated authority to the Coverholder may have other relevant examples to consider.

Expected minimum standards

Coverholders should adopt written procedures to cover the following:

- Recognition and reporting of suspicious transactions;
- Staff training and awareness; and
- Record keeping.
In order to devise a suitable policy, Coverholders should identify and record their own business risks by assessing:

- The risks posed by the products they offer;
- The channels through which business is conducted; and
- The countries in which business is done – when relevant i.e. where the cover is multi jurisdictional.

Coverholders should also review their internal money laundering procedures (as applicable) but particularly in relation to:

- The extent of operational changes and their money laundering impact, if any;
- Ensuring recommendations from any previous reviews are implemented;
- Reviewing the level of understanding of, and compliance with, training issued to staff.

Reporting

The following procedures should be regarded as a minimum standard for Coverholders:

- The appointment of a designated person within the company to receive, consider and report to the appropriate authorities any suspicions identified by company employees;
- Report any suspicions to the designated person in your company or the Managing Agents MLRO in London for consideration (subject to compliance with your jurisdiction legislation);
- Document the fact that this has been done;
- Ensure procedures in place for suspicions to be reported to a designated person to consider whether reports need to be made to local authorities and instructions issued to staff;
- Document any decisions made not to report suspicions.

International Sanctions

Background

Coverholders should be aware that for various reasons including the ongoing and increasing threat of terrorism, the scope of international sanctions is widening, with the consequent effect that the number of sanctions notices issued by governmental agencies in different jurisdictions in the last few years has increased dramatically.

Sanctions may, for example, be used to bring about a change in another country’s or individual’s activities or policies particularly if breaches of international law or human rights have occurred, or democracy is under threat. In the UK responsibility for the administration of sanctions falls to HM Treasury (“HMT”) whilst other countries will have similar arrangements e.g. The Office of Foreign Assets Control (“OFAC”) in the US.

There are different types of sanctions, which can be country specific and therefore include bans on financial transactions and trade or they can be targeted at specific entities and or individuals, otherwise known as SMART sanctions. Legal advice should be obtained on any transaction where there is a concern as to whether the transaction would breach sanctions.
All financial sanctions regimes regardless of jurisdiction have a criminal offence for making funds/financial services available to sanctions targets.

Who imposes sanctions?

There are a number of different bodies who impose sanctions, such as the United Nations ("UN") Security Council who decide and administers the sanctions regimes, which are binding on member states.

Countries that enforce UN sanctions can also impose their own unilateral sanctions which will be enforced by a specific body. For example OFAC, the US Department of Treasury administers and enforces financial and trade sanctions in the US. The US Treasury maintains jurisdiction over all US dollar transactions, and its aims are to ensure no sanctioned countries, entities or individuals engage improperly in US dollar denominated transactions. OFAC is extremely proactive and diligent in enforcing US policy and Coverholders do need to consider very carefully the impact of any US sanctions on their business activities.

The countries and regimes, currently subject to US sanctions are listed on US Treasury’s website under OFAC’s section.

What are the types of sanctions?

Financial
Financial sanctions include freezing the funds and/or assets of governments, entities or individuals or may mean that all financial transactions are banned in a particular region. Likewise, export credits or investment transactions may be restricted or not permitted in a certain country.

Trade
Sanctions against trading with a particular country may have a general application such as export/import bans. Alternatively, dealing in particular commodities from certain countries such as oil, timber, diamonds or arms may be embargoed.

Smart Sanctions
Smart sanctions are restrictions against individuals or entities rather than against countries and include financial and/or travel ban measures.

Terrorism
There are specific sanctions in place aimed at preventing terrorism. A UN resolution in 2001 became binding on all states to prevent acts of terrorism worldwide. The resolution denounces terrorism and requires member states to deny financial support for those involved in or supporting terrorism. Additionally, the resolution enforces the sharing of information about terrorists between governments.

Al-Qa’ida and Taliban sanction regime
There is a separate Al-Qa’ida and Taliban sanction regime, where individuals, associated individuals and entities are subject to separate specific measures imposed by the UN resolutions.

Diplomatic Sanctions
Diplomatic sanctions may be applied by one country against another (i.e. unilateral sanctions) and could include the expulsion of diplomats from a country, severing of diplomatic ties, suspension of official visits and less frequently, the boycotting of sports and/or cultural events.
**US narcotics regime**
The US has imposed sanctions against targets thought to be involved in drug trafficking due to evidence that groups such as Al-Q’aïda are using narcotic trafficking to fund terrorism. These sanctions prohibit US persons from dealing with them and list Specially Designated Nationals, i.e. individuals suspected of involvement in drug trafficking.

**How do sanctions impact on insurance?**

In general, sanctions (irrespective of jurisdiction) will impose inter alia the following duties/requirements:

- **Disclosure of knowledge or suspicion of a transaction**
  There are a number of statutory instruments (SI) which implement the relevant sanction. The specifics of the applicable offences are covered in each SI but in general terms “failure to disclose knowledge or suspicion” of a transaction involving a sanctioned person or entity constitutes an offence.

  Coverholders must therefore be aware of their reporting obligations and ensure compliance.

- **Making funds available**
  Making funds available to a person or entity that is the target of international sanctions will also be an offence. The specifics of the offence are set out under your country's relevant statutory instruments, but generally it is an offence to make funds, economic resources and financial services available, directly and indirectly, to any person listed under the sanctions regimes.

  Commercial entities have a duty to ensure that they are not making funds available to those persons sanctioned. Claims payments and return premiums could be a potential source of foreign currency for sanctioned persons, and so controls and checks should be in place to ensure that monies are not paid to targets on sanctions lists, bearing in mind that policyholders can become targets after a policy has incepted.

  Coverholders must make themselves aware of their obligations and ensure compliance.

**What are the penalties?**

Penalties for breaching sanctions generally involve a fine or in the most serious cases, imprisonment.

**What are the Coverholder responsibilities to ensure compliance with sanctions?**

Coverholders are expected to be aware of their obligations in respect of international sanctions and have adequate systems and controls in place to ensure compliance. Coverholders should expect audits undertaken by Managing Agents to include some focus on international sanctions compliance.

**Conclusion**

Managing Agents have responsibility for ensuring correct compliance by Coverholders in respect of AML legislation and International Sanctions. However, this does not devolve Coverholders of their own individual responsibilities under relevant legislation (both international and local).
Managing Agents and Coverholders should therefore work together for their mutual benefit to ensure that adequate systems and controls are in place to fulfill the requisite compliance standards in respect of the class of business undertaken and the Coverholders exposure to the applicable legislation. Additional information on the application of due diligence, including guidance on sanctions and Coverholder relationships, can be found in the Lloyd’s Sanctions Due Diligence Guidance.

**Bribery Act 2010**

As Lloyd’s market participants will be aware, regulatory expectations of the UK insurance industry to ensure appropriate anti-financial crime systems and controls are increasing, together with regulatory penalties for non-compliance, as seen in recent high profile actions by the FSA.

Financial crime by connected third parties is a particular risk that Managing Agents need to manage appropriately and, as recommended by the UK’s Ministry of Justice’s (“MoJ”) Guidance under the UK Bribery Act, one way of doing so is the use of anti-financial crime terms and conditions, with appropriate termination provisions, in contracts with third parties. Due to their relationship with Managing Agents, Coverholders can pose a potential financial crime risk as "associated persons" under the UK Bribery Act and therefore the recommendation by the MoJ has led to the development of a financial crime clause which is included in the 2013 model binding authority wordings LMA 3113, LMA 3114 and LMA 3115. A financial crime endorsement is also available for attachment to the model binding authority wordings, LMA 3018, 3019, LMA 3020, LMA 3021 and LMA 3024. It should be noted that due to the different paragraph numbering across the model binding authority wordings there are different versions of the endorsement for attachment to the non-marine and marine model binding authority wordings and “direct” versions for binding authority contracts where no broker is involved.

**Online Tutorials**

Lloyd’s has developed three on-line training modules to guide Coverholders through Lloyd's expectations on financial crime. The three modules are:

- Proceeds of Crime (including money laundering).
- Sanctions.
- Bribery.

The purpose of these modules is to clarify Lloyd’s expectations and encourage a consistent market approach to meeting these expectations. Underwriters and brokers are asked to ensure that the key personnel at Coverholders' offices complete these modules. Lloyd's will hold a list of all individuals that have completed the modules. This list will be made available to associated underwriters and brokers on request.
## Delegated Authorities

### AUTHORISED REMOTE WORKER DECLARATION

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<tr>
<td>Approved Coverholder Name:</td>
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<td>Approved Coverholder PIN:</td>
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<td>Address line 1:</td>
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### Declaration by a Director of the Coverholder

I confirm that the individual named above is deemed to be an Authorised Remote Worker and that we comply with the following subjectivities.

1. A sample of risks written by the Authorised Remote Worker is reviewed on at least a monthly basis
2. There is an appropriate system backup (BCP) linked to the main offices to ensure data is not lost should an unforeseen event occur
3. Hardcopy files retained in the remote location also have a mirror copy held in the coverholder’s office
4. Any work-related documents or files (whether electronic or hard copies) stored at the remote location are sufficiently secured and segregated from personal files to meet provincial/state/federal privacy legislation and any other relevant legislation
5. The Authorised Remote Worker uses corporate email accounts, rather than personal accounts at all times when acting in their capacity as an employee
6. The remote address is not advertised as a business workplace and does not feature on business correspondence.

We will notify Lloyd’s immediately should this cease to be the case.

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### Declaration by Managing Agent

We confirm that we have carried out appropriate due diligence in line with the guidance set out in the Delegated Authorities Code of Practice regarding the above named Authorised Remote Worker which includes consideration of any tax, regulatory and risk management issues. We also attach the necessary additional licence(s) for the remote worker or an explanation of why no additional licence(s) is required.

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If an employee works from an unapproved address rather than an approved coverholder office the employee should be recorded by the managing agent and Lloyd’s on Atlas as an “Authorised Remote Worker”.
