

Under the Lloyd's broker byelaw (No 7 of 2004) the suitability criteria for accredited Lloyd's brokers includes complying with all laws, rules and regulatory requirements wherever it is established and wherever it conducts or will conduct business. Lloyd's expects all accredited Lloyd's brokers to have adequate systems and controls to manage such risks in order to meet their own regulatory responsibilities as FSA (or overseas) authorised firms. Additionally all Lloyd's brokers acting as coverholders, must sign up to "Lloyd's Coverholder's Undertaking", which, among other provisions, states:

"We will always comply with all relevant local insurance, fiscal and taxation laws, regulations and requirements of the jurisdiction in which we are domiciled, or in which we trade, provide services or do business, or in any other jurisdiction as required. This will include maintaining any necessary local licences, permits or other authorisations.

"If we cease or fail to comply with any relevant laws, regulations or requirements, or cease or fail for whatever reason to maintain any necessary local or required licences, permits or other authorisations, we will immediately take all appropriate action and notify Lloyd's, our sponsor (the Lloyd's broker or managing agent that supported our application to be an approved coverholder) and the Lloyd's managing agent of the lead syndicate that delegated its authority to us under a binding authority."

Managing agents, Lloyd's brokers and coverholders all have responsibilities for ensuring that business written under binding authorities is handled in accordance with local legal and regulatory requirements. Notwithstanding a coverholder's registration by Lloyd's, these responsibilities include ensuring that the coverholder is authorised to handle business and may export it to Lloyd's.

Failure by a coverholder, including a Lloyd's broker, to ensure that it complies at all times with the laws, rules and regulatory requirements imposed in various territories could lead to removal by Lloyd's of coverholder authorisation or Lloyd's broker accreditation and/or restrictions on a syndicate's underwriting activities. The removal of the worldwide affidavit does not affect this fundamental responsibility.

Whereas the title of the previous market bulletin implied that it applied only to non-marine binding authorities, a coverholder's compliance responsibility applies to all binding authorities irrespective of the class of business.

Detailed information on Lloyd's trading rights is found on www.loyds.com/worldwide . Select the appropriate country from the Lloyd's trading status box (located on the right hand side of the web page) and this will take you to the Quick Reference Guide for the country selected. More detailed information may then be obtained for certain countries by selecting 'Manual' from the menu on the left hand side of the screen. You will be asked to input a user name and password. Please contact the Worldwide Market Services (contact details at the end of this bulletin) to obtain this information.

Coverholder territorial approval

Following the recent changes to Lloyd's system of coverholder approval, and taking into account a steady increase in the numbers of coverholders proposing to write cross-border business, Lloyd's has reviewed its arrangements for granting coverholders approval in particular territories.

Appendix 1 sets out the requirements that Lloyd's will apply to coverholder territorial approvals going forward. Much of what is described is already in place. However, as it does include new material, Lloyd's has instructed Xchanging to apply the appendix 1 requirements in their entirety to binding authority arrangements incepting on or after 1 October 2005. This will give underwriters and brokers time to get used to these arrangements. For binding authorities incepting before 1 October 2005, Xchanging will continue to act in accordance with their current instructions, which require them to

check non-marine binding authorities to ensure that the coverholder is approved for all territories in which insureds are located.

These requirements are intended to ensure that, wherever coverholders are conducting business on behalf of Lloyd's underwriters, they will do so in accordance with local regulatory and legal provisions and with the arrangements that Lloyd's has in place to safeguard its licensed positions.

When determining the need for a coverholder territorial approval it is helpful to have a consistent approach to deciding the location of a risk or insured. Appendix 2 therefore contains guidance on these points and their documentation in LMP binding authority schedules.

Summary of significant changes

- Withdrawal with immediate effect of the requirement for a Lloyd's broker to give a "worldwide affidavit" when they are granted a worldwide binding authority.
- A consistent and co-ordinated approach to the requirements for coverholder territorial approval and for the presentation of information about locations of risk. From 1 October 2005, Xchanging checks will be in place to ensure that the following tie up:
 - (i) The territories for which a coverholder is approved – see appendix 1.
 - (ii) The territories entered on Lloyd's Binding Authority Registration System ("BARS") as those from which business under a binding authority will be accepted – see appendix 2.
 - (iii) The territories entered on a binding authority slip schedule under "risks located in" and "insureds domiciled in" (and equivalent sub-sections) – see appendix 2.

In the case of (ii) and (iii), determination of the territories to be entered should take account of applicable local legal definitions of the location of a risk. For binding authorities incepting on or after 1 October 2005, Xchanging will check the details entered on the binding authority schedule against the details recorded on BARS for the territories from which business is sourced. They will query any document where these do not match up.

- For binding authorities incepting on or after 1 October 2005, a reference to "the US" in a binding authority schedule under "risks located in" or "insureds domiciled in" will be deemed to mean the US in its entirety, including Illinois, Kentucky and the USVI. At present it can be interpreted as excluding Illinois, Kentucky and the USVI. If it is intended to exclude Illinois, Kentucky and the USVI they must be specifically excluded: i.e. "the US, excluding Illinois, Kentucky and the USVI" (see appendix 2 for further details).
- For business incepting on or after 1 October 2005, the same requirement to use approved or registered OMC's will apply to business handled by Lloyd's brokers under binding authorities as currently applies to the business that they handle on an open market basis (see appendix 3 for further details).

Further information

If you have any queries about Lloyd's business outside the UK or the removal of the "worldwide affidavit" requirement please contact:

Lloyd's Worldwide Market Services
Tel: 020 7327 6677
Email: market.services@lloyds.com
Box 190b, Gallery 1

If you need to change the territorial approval of a coverholder please visit the page on www.lloyds.com entitled "Changing an approved coverholder's details". It is accessible through this link: www.lloyds.com/coverholderchanges. If you have any further questions contact:

Coverholders department
Tel: 020 7327 6275
Email: coverholders@lloyds.com

This bulletin has been sent to active underwriters and the compliance officers of managing agents and Lloyd's brokers.

Julian James
Director
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Coverholder territorial approval

This appendix sets out Lloyd's existing approach to territorial approval. It includes more detailed definitions than have been provided before. To ensure the market is fully prepared for this approach, Xchanging will apply these requirements in detail to binding authorities incepting on or after 1 October 2005. These requirements do not affect territorial approvals already granted to existing coverholders, which remain as they are now.

The requirement for territorial approval

All Lloyd's coverholders (other than restricted coverholders) require Lloyd's approval, including Lloyd's brokers who act as Lloyd's coverholders. A "standard" approval permits a coverholder to carry on business on behalf of Lloyd's underwriters in the coverholder's own territory. Additionally Lloyd's grants specific approval on a territory¹ basis for each territory where Lloyd's is licensed.

It is sometimes intended that the coverholder should carry on business in territories other than the one in which they are located. They cannot do this unless they have the appropriate Lloyd's territorial approval. The basis on which such approvals are granted is set out below. The countries and territories where Lloyd's is licensed are listed on Lloyd's website at: www.lloyds.com/licences and in appendix 4 to this bulletin. Note that in the US, Lloyd's has four separate territorial approvals: Illinois, Kentucky, the US Virgin Islands and "the US (other than Kentucky, Illinois and the USVI)"

- **Existing Lloyd's brokers (including provisionally accredited Lloyd's brokers approved before 1 March 2004)** – are approved for all Lloyd's licensed territories and unlicensed territories. Under the "grandfathering process" this approval includes the branch offices of a Lloyd's broker acting as a coverholder. However, subsidiary or associated companies² of a Lloyd's broker require separate coverholder approval. *The conduct of business from unlicensed territories must be in accordance with local legal and regulatory requirements.*
- **New provisionally accredited Lloyd's brokers³** – provisionally accredited Lloyd's brokers approved after 1 March 2004 do not have the automatic coverholder approval for licensed territories mentioned above. If they want to act as coverholders, their territorial approval will be looked at on a case-by-case basis, as for other coverholders.
- **All other coverholders (including managing agent service companies) -**
 - May apply for approval to hold binding authorities to accept direct **marine cargo** insurance and all classes of **reinsurance** from all territories. This approval includes all territories in which Lloyd's has a licence or other form of authorisation to write either direct insurance or reinsurance as well as those in which Lloyd's is not licensed.
 - Require territorial approval to hold a binding authority for direct (non-reinsurance) non-marine, aviation, motor, life and marine (other than marine cargo) insurance from territories where Lloyd's is licensed.
 - May apply for territorial approval to hold a binding authority for direct (non-reinsurance) non-marine, aviation, motor, life and marine (other than marine cargo) insurance from the countries where Lloyd's is not licensed. Lloyd's grants a single collective approval, covering all non-licensed territories.

¹ "Territory" means a jurisdiction granting licences to insurers. It therefore includes the US Virgin Islands and the US states of Illinois and Kentucky, where Lloyd's is licensed.

² Here, "subsidiary" is used to mean a company in which an accredited Lloyd's broker owns more than half the equity share capital and "associated company" to mean a company with an ownership link to a Lloyd's broker – for example, because another company owns an interest in the Lloyd's broker and in the other company.

³ A "provisionally accredited Lloyd's broker" is a newly accredited Lloyd's broker.

Underwriters may not grant permission for a coverholder to write business from countries where approval has not first been sought and granted from Lloyd’s Coverholders Department in line with these requirements. If a coverholder accepts business from a territory in which Lloyd’s does not have a licence or local authorisation, the managing agent(s), Lloyd’s broker and coverholder must all ensure that the business is written in accordance with local legal and regulatory requirements. Such insurances may only be written where there are exemptions or other routes which allow “non-admitted insurance” to be carried on.

Obtaining territorial approval

Territorial approval is given by Lloyd’s coverholders department (see the covering bulletin for contact details). It may be granted when a coverholder is initially approved, if the application makes it clear that this is required or it may be requested subsequently.

The process for varying the conditions of a coverholder’s approval to include additional territories, and the information that Lloyd’s requires, are set out on Lloyd’s website on the page headed “changing an approved coverholder’s details”. Click here: www.lloyds.com/coverholderchanges.

Territorial approval of coverholders in the US, Canada and the European Economic Area (“EEA”)

Binding authority business	Lloyd’s coverholder approval required	Standard territorial conditions
1. The US		
Licensed insurance ⁴ from Kentucky and the US Virgin Islands (“USVI”) (<i>Lloyd’s underwriters cannot write surplus lines in Kentucky or the USVI</i>).	Coverholder requires separate territorial approval for Kentucky and for the USVI before writing business in or from either place.	Coverholder must: <ul style="list-style-type: none"> - be a licensed insurance producer in the state or territory concerned; - complete the appropriate Lloyd’s coverholder undertaking or undertaking addendum.
Licensed and surplus lines insurance from Illinois (a single authorisation is granted to cover all kinds of direct insurance business in Illinois).	Coverholder requires approval for Illinois before writing business in or from Illinois.	Coverholder must: <ul style="list-style-type: none"> - be licensed in Illinois as a surplus lines producer; - complete Lloyd’s Illinois coverholder undertaking.
Surplus lines insurance from US states and territories other than Illinois (and excluding Kentucky and USVI).	Coverholder requires US approval. Lloyd’s grants a single collective approval to conduct surplus lines insurance from all US states and territories other than Illinois, Kentucky and USVI.	Coverholder must: <ul style="list-style-type: none"> - be a licensed surplus lines producer (or broker) in its home state; - <i>if it proposes to accept business from other states</i>, either be a licensed “out of state” surplus lines producer in those states or undertake to accept business only from intermediaries who are licensed surplus lines producers in those states.

⁴ “Licensed insurance” means insurance carried on under the terms of a licence granted by a US state’s or territory’s Insurance supervisory authority. It is otherwise referred to as “admitted” or “authorised” insurance. It does not include surplus lines insurance

Binding authority business	Lloyd's coverholder approval required	Standard territorial conditions
Reinsurance from US states and territories	Existing coverholders do not require explicit approval to handle reinsurance from the US. If a new coverholder proposes to handle US reinsurance, it must make this clear in its application.	Lloyd's may require the coverholder to be a licensed reinsurance intermediary in its home state
Non-US coverholder who is not a Lloyd's broker seeking to carry on US business under a binding authority	Coverholder requires "standard" approval for its own country and extension to the US	Lloyd's expects coverholders carrying on business in the US to have the appropriate state licensed intermediary status. It is not normally possible for a non-US intermediary to become licensed in a US state. If a non-US coverholder wants its Lloyd's approval extended to include direct insurance business from the US, Lloyd's considers the application carefully and, if it gives approval, makes it a condition that US business will be accepted only via local US intermediaries who possess the appropriate state licences for the business being handled. The non-US coverholder needs to show that it has adequate competence and professionalism and a sufficiently robust compliance culture, to give confidence that this condition will be met.
Lloyd's Broker seeking to carry on US business under a binding authority that it holds.	See page 4. Existing Lloyd's brokers do not require a specific US extension; Lloyd's brokers provisionally accredited after 1 March 2004 do.	All US business must be accepted via local US intermediaries who possess the appropriate state licences for the business being handled ⁵ .
2. Canada		
Canadian coverholder seeking to carry on Canadian business under a binding authority.	Coverholder requires "standard" approval for Canada	Coverholder must be licensed in the provinces and territories in which it will be doing business
Non-Canadian coverholder seeking to carry on Canadian business under a binding authority	Coverholder requires "standard" approval for its own country and extension to Canada	Coverholder must accept Canadian business only from brokers who are licensed in the provinces and territories from which they will be sub-producing business.

⁵ Illinois and Kentucky direct insurance business must be accepted via intermediaries with Lloyd's OMC status.

Binding authority business	Lloyd's coverholder approval required	Standard territorial conditions
Lloyd's Broker seeking to carry on Canadian business under a binding authority that it holds.	See page 4. Existing Lloyd's brokers do not require a specific Canadian extension; Lloyd's brokers provisionally accredited after 1 March 2004 do.	Lloyd's Broker must only accept Canadian Business from brokers who are: <ul style="list-style-type: none"> - licensed in the provinces and territories from which they will be sub-producing business; - registered by Lloyd's as open market correspondents (see appendix 3).
3. The European Union		
1. Coverholder in an EEA Member State that has implemented the Directive	Coverholder requires "standard" approval – for its own country.	Coverholder must be registered as an intermediary by its local regulator.
2. Coverholder in an EEA Member State that has not implemented the Directive	Coverholder requires "standard" approval – for its own country.	Coverholder must be registered as an intermediary with its local regulator, unless Member State does not have a system of intermediary registration in place.
3. Coverholder in 1. above doing cross-border business from another EEA Member State	Coverholder requires an extension to its approval for every other EEA Member State from which business is obtained.	Coverholder must have notified its local regulator of its intention to carry on "services" business from another EEA Member State.
4. Coverholder in 2. above doing cross-border business from another EEA Member State.	Coverholder requires an extension to its approval for every other EEA Member State from which business is obtained.	Coverholder must demonstrate either that it possesses the regulatory status to do business from another Member State or that it does not need such regulatory status. This is particularly important if the other Member State has implemented the Directive.
5. Coverholder in 1. above doing establishment business in another EEA Member State.	Coverholder's approval requires extension to the EEA Member State in which the branch or establishment concerned is situated.	Coverholder must have notified its local regulator of its intention to carry on "establishment" business in another EEA Member State.
6. Coverholder from outside the EEA doing cross-border business in an EEA Member State	Coverholder's approval requires extension to each EEA Member State from which business is obtained.	The laws of the EEA Member State must permit a non-EEA intermediary to do business in its market – otherwise the extension will not be granted. Local legal requirements must be complied with.

Binding authority business	Lloyd's coverholder approval required	Standard territorial conditions
Lloyd's Broker seeking to carry on business from another EU member state under a binding authority that it holds.	See page 4. Existing Lloyd's brokers do not require a specific extension to other EU member states; Lloyd's brokers provisionally accredited after 1 March 2004 do.	Lloyd's brokers must comply with the requirements set out above, from 1 to 6, depending on where they are based and the way in which they are carrying on business. A local intermediary with whom they do business may need registration by Lloyd's as an open market correspondent.

Territorial approval of coverholders: further considerations

1. The US

Underwriters should note the following Lloyd's bulletins that are relevant to US business carried on under binding authorities:

- **Regulatory Bulletin 064/2000 "US General Cover Conditions", issued 28 July 2000.** This bulletin states that the Council of Lloyd's has prescribed use of the US General Cover Conditions. They must therefore be incorporated into all US binding authority agreements incepting or renewing on or after 1 September 2000 and Xchanging will not sign a US binding authority that does not incorporate this document. Underwriters must ensure that the US General Cover Conditions are complied with. The bulletin is accessible through this link: [Regulatory Bulletin July 2000.pdf](#).
- **Regulatory Bulletin 015/2002 "US Regulatory Requirements", issued 26 April 2002.** This bulletin reiterated Lloyd's requirements for the classification of US placements, including placements under binding authorities. The documentation of US risks written under binding authorities should comply with this bulletin. It is accessible through this link: [Regulatory Bulletin April 2002.pdf](#)
- **Market Bulletin Y2967 "US Surplus Lines – Surplus Lines Brokers", issued 9 January 2003.** This bulletin reminds underwriters that they are responsible for ensuring that every US surplus lines risk they write (including those accepted under binding authority) is placed via a broker who possesses a current US state surplus lines license. It is accessible through this link: [Market Bulletin Jan 2003.pdf](#)
- **Market Bulletin Y3587 "US surplus lines insurance", issued 7 July 2005.** This bulletin provides details of requirements for transacting US surplus lines insurance. It is accessible through this link: [Market Bulletin July 2005.pdf](#)

2. Canada

All coverholders carrying on business from Canada, whether or not they based in Canada, must sign the Canadian addendum to Lloyd's coverholders' undertaking.

3. The European Economic Area ("EEA")

Lloyd's authorisations: Lloyd's authorisations to carry on business in other EEA member states are "EEA Passport Rights", exercised under Schedule 3 of the Financial Services and Markets Act 2000 ("FSMA"), in accordance with the EU's Insurance Directives. Authorisations may be:

- “Establishment” - authorises Lloyd’s to carry on insurance business in the member state concerned. A Lloyd’s managing agent may grant a “full” binding authority to a coverholder in an EEA state where Lloyd’s has this authorisation.
- “Services” - authorises Lloyd’s to carry on insurance business on a cross-border basis from the member state concerned. Coverholders in EEA member states where Lloyd’s has services authorisation only are restricted to holding “prior submit” binding authorities. Their Lloyd’s coverholder authorisations are therefore subject to the following condition:

The terms of any binding authority contract must include terms that require you to refer each proposed contract of insurance to the managing agent so that it may confirm whether or not you may enter into the contract of insurance on the terms of the proposed.

Appendix 4 includes summary details of Lloyd’s authorisations in EEA member states.

The Insurance Mediation Directive (2002/65/EC) (“the Directive”): should have been implemented by EEA Member States before 15 January 2005, although many Member States have not met this deadline. The current status of implementation is:

Directive implemented	Directive not yet implemented⁶	
Austria	Belgium	Cyprus
Czech Republic	Estonia	Finland
Denmark	France	Germany
Hungary	Greece	Italy
Ireland	Latvia	Luxembourg
Lithuania	Netherlands	Poland
Malta	Portugal	Slovakia
United Kingdom	Slovenia	Spain
	Sweden	Iceland
	Liechtenstein	Norway

Nevertheless, the Directive sets the framework for insurance intermediary regulation within the EEA and intermediaries in Member States (such as the UK) that have implemented the Directive can use Directive procedures to obtain authorisation to carry on business in other Member States.

The Directive and local intermediary registration: Lloyd’s underwriters should not do business with unregistered insurance intermediaries in the EEA, including coverholders, unless they fall under a specified exemption (on which see below). If the Member State concerned has not implemented the Directive, then it will normally have a pre-existing system of insurance intermediary registration and where this is the case a coverholder should have the appropriate registration. An application for Lloyd’s approval of a coverholder in an EEA Member State should therefore include details of the applicant’s local intermediary registration

This reflects the following provisions in the Directive’s Article 3:

3(1) Insurance and reinsurance intermediaries shall be registered with a competent authority as defined in Article 7(2), in their home Member State.

3(6) Member States shall ensure that insurance undertakings use the insurance and reinsurance mediation services only of registered insurance and reinsurance intermediaries and of the persons referred to in Article 1(2)⁷.

⁶ As at the date of this bulletin. These Member States are expected to implement the Directive within a few months.

⁷ Article 1(2) contains an exemption essentially applying to defined lines of small premium business, where the intermediary’s principle professional activity is not insurance mediation.

EEA coverholders carrying on business in and from other EEA Member States: The position in the table on pages 8 and 9 reflects Article 3(5) of the Directive:

Registered insurance and reinsurance intermediaries shall be allowed to take up and pursue the activity of insurance and reinsurance mediation in the Community by means of both freedom of establishment and freedom to provide services.

An intermediary in a Member State that has implemented the Directive therefore has the right to carry on business in other Member States (including Member States that have not implemented the Directive) on a cross border or freedom of services basis, or on an establishment basis through a branch in that other Member State. Before exercising these rights for the first time, the intermediary must inform its local regulator what it proposes to do (Article 6). It can start accepting business from or in the Member State concerned one month after the date of giving this notification. The other Member State may publish “general good” conditions with which the intermediary must comply when transacting business there.

An intermediary in a Member State that has not implemented the Directive does not have rights under the Directive to carry on business in and from other EEA Member States, although there may be pre-existing regulatory arrangements permitting it to do so. In the case of an intermediary in a Member State that has not implemented the Directive proposing to carry on business from the UK, the FSA’s instructions are:

“If the intermediary's head office is in an EEA state that will not implement the IMD on time, we cannot accept a passporting notification from it. We will only be able to do this once the directive has been implemented and the intermediary is registered in accordance with it. In such a case, the firm could consider exercising Treaty rights under Schedule 4 to the FSMA. If it is unable to do this, it could consider applying for Part IV permission or becoming the appointed representative of an authorised firm. We cannot give an exemption in this situation because the FSMA does not allow the carrying on of regulated activities in the UK by a firm that is not authorised by us unless it is exempt from authorisation or qualifies for authorisation under Schedules 3 or 4 of the FSMA (EEA Passport Rights and Treaty Rights).” [“FSMA” stands for the Financial Services and Markets Act 2000]

Further guidance on “passporting” is provided by the FSA at: www.fsa.gov.uk/FAQs

Coverholders outside the EEA proposing to carry on business in the EEA: The position in box 6 of the table on page 8 reflects the Directive’s Article 1.3:

“This Directive shall not affect a Member State’s law in respect of insurance mediation business pursued by insurance and reinsurance intermediaries established in a third country and operating on its territory under the principle of freedom to provide services, provided that equal treatment is guaranteed to all persons carrying out insurance mediation activities on that market.”

In other words the Directive does not give intermediaries in non-Member States rights to carry on business in the EEA, but a Member State may permit such intermediaries to carry on business in their own market on a cross-border basis. The position of Member States on this point varies: some permit non-EEA intermediaries to carry on business in their local market and some do not.

Gibraltar: is a territory within the EEA for which the UK is responsible. The UK and Gibraltar have special arrangements under the Gibraltar Order, which has been extended to include insurance intermediaries. A coverholder proposing to accept business from Gibraltar requires Lloyd’s to extend its approval to include Gibraltar. Lloyd’s will treat it in the same way as a request for an extension of approval for an EEA member state.

4. Territories outside the US, the EEA and Canada

Territorial approval in territories outside the US, the EEA and Canada is granted by Lloyd's in a similar way to the approach for these territories. The important issue is that the business will be sold, accepted and otherwise carried on in accordance with all applicable laws and regulations and that all the entities involved in the distribution chain have the appropriate licences or other regulatory approvals.

In some territories there are particular restrictions on binding authority business, or matters of which those doing such business should be aware. These are set out in detail on the appropriate pages of www.lloyds.com. They include the following:

- **Australia:** The carrying on of insurance business in and from Australia by coverholders, from offices located inside and outside Australia, is regulated by a number of local laws and regulations. These are outlined in Lloyd's Australian Manual, available at this address: [www.lloyds.com/Australian manual](http://www.lloyds.com/Australian_manual) (this document is password protected: the password is available to authorised firms from Lloyd's Worldwide Market Services: contact details are in the covering bulletin).

Any coverholder proposing to underwrite business from Australia must therefore be aware of all the regulations for placing insurance with Lloyd's and must undertake to comply with all legal and fiscal obligations.

- **Israel:** An Israeli coverholder must be licensed by the Commissioner of Insurance in Israel for the particular classes which they propose to transact on Lloyd's underwriters' behalf. They must also deposit with the Commissioner of Insurance a deposit of NIS 150,000 (c. £20,000). This amount is maintained at the Bank of Israel by the coverholder on behalf of the Commissioner of Insurance.

Worldwide Markets recommends that any coverholder approval for an Israeli coverholder automatically has a territorial scope (in terms of risks bound) of 'Israel and adjacent territories', unless narrower territorial scope is specifically requested. This is in line with the following definitions:

- A) "Israel" is the State of Israel as defined by the boundaries before the 1967 war;
- B) "Israel and adjacent territories" is the State of Israel as defined by the boundaries before the 1967 war, plus The Golan Heights, Gaza strip, and the West Bank (including East Jerusalem).

- **Singapore:** Lloyd's underwriters cannot appoint coverholders in Singapore. The only exceptions permitted to this rule are managing agent service companies operating within Lloyd's Asia.
- **South Africa:** All business from South Africa, including that written under binding authorities, must be recorded as South African for reporting and trust fund reserving purposes. If the business is produced by local brokers and is placed at Lloyd's either by a Lloyd's broker on an open market basis or under a binding authority held by a Lloyd's broker, those brokers must be approved by Lloyd's as open market correspondents and must be approved under the local Financial Advisory and Intermediary Services Act.
- **Switzerland:** Every piece of Swiss direct insurance business placed at Lloyd's must reach the Lloyd's underwriter through one of two routes:
 - If it is handled by a local insurance intermediary, that intermediary must be a Swiss broker who is approved both by Lloyd's and by the Swiss insurance regulatory authority, the FOPI ("Federal Office of Private Insurance"). The

approved Swiss broker may be either a coverholder (if it holds a binding authority) or an open market correspondent;

- Alternatively a UK-based Lloyd's broker may handle the business on a "direct assured" basis, either on an open market basis or under a binding authority that it holds. This should be the exception: business should normally come via Swiss brokers. It should be restricted to insureds with sufficient business background and knowledge of English.

A non-Swiss domiciled coverholder (other than a UK-based Lloyd's broker) cannot therefore be approved to underwrite Swiss business.

- **The Channel Islands and the Isle of Man:** The Channel Islands and the Isle of Man are in neither the EEA nor the UK. However, if Lloyd's approves a coverholder for the UK the approval is deemed to include the Channel Islands and the Isle of Man, unless they are specifically excluded.

Insurance intermediaries carrying on business in Guernsey⁸, Jersey and the Isle of Man require local registration. Although there are exemptions to these requirements, a coverholder transacting business from these territories should ensure that either it is registered, it fits into an applicable exemption or its activities in relation to insurance from the territory do not otherwise require registration. As these territories are outside the EEA, an intermediary in an EEA member state cannot apply to its own regulatory authority for authorisation to carry on insurance mediation in or from them on an establishment or a services basis.

Note on the definitions of territories

References to some countries include other territories, over which the main country has some form of sovereignty. These include the following:

France	Includes its overseas departments ("DOM's"): Guadelupe, la Guyane, Martinique, La Réunion, St Martin, St Barthélemy; its Territorial Collectivities : Mayotte, St Pierre et Miquelon; and its overseas territories ("TOM's"): French Polynesia, French Southern & Antarctic Lands, Wallis & Fortuna Islands and New Caledonia.
Italy	Includes Campoina D'Italia and Livigno.
Portugal	Includes Azores and Madeira.
Spain	Includes the Balearic and Canary Islands and those places in North Africa under Spanish sovereignty including Ceuta and Melilla.

⁸ The Bailiwick of Guernsey includes Alderney, Sark and Herm, as well as other islands.

Registration of binding authorities and LMP binding authority Schedules: locations of risks and insureds

Specific Lloyd's requirements mentioned apply in their entirety to binding authorities incepting on or after 1 October 2005, although some are already in force. References to non-Lloyd's laws and regulations describe existing provisions.

Registration of binding authorities

Registration of a placing draft of a binding authority on Lloyd's Binding Authority Registration (BAR) website requires entry of the territories from which the coverholder will accept business. This entry should agree with the territories for which a coverholder is approved (see appendix 1) and with those entered in the binding authority slip schedule (see below). In other words, the BAR entry should not include any territories for which the coverholder is not approved and should be the territories in which risks are located or insureds are domiciled. An appropriate change to the wording of the BAR web-site will be made in due course.

Completion of the binding authority schedule

The standard LMP binding authority slip schedule requires provision of details about the location of risks, the country of domicile of insureds and territorial limits, in the following sub-sections:

Form number	Form name	Information required
LMA 3002	US slip template	11.1 Risks located or insureds domiciled in: 11.2 Territorial limits:
LMA 3003	UK slip template	11.1 Risks located in: 11.2 Insureds domiciled in: 11.3 Territorial limits
LMA 3004	International slip template	11.1 Risks located in: 11.2 Insureds domiciled in: 11.3 Territorial limits
LMA 3005	Marine slip template	11.1 Territories in which insurances may be bound: 11.2 Maximum territorial limits of insurances bound:
LMA 3006	Canada slip template	13.1 Risks located or insureds domiciled in: 13.2 Territorial limits:

For every territory entered into the following sub-sections of a binding authority schedule: 11.1 (LMA 3002), 11.1 and 11.2 (LMA 3003), 11.1 and 11.2 (LMA 3004), 11.1 (LMA 3005) and 13.1 (LMA 3006):

1. The coverholder should have Lloyd's territorial approval; and
2. The BAR entry for the binding authority should match.

For binding authorities incepting on or after 1 October 2005, Xchanging will check the details entered under these sub-sections on the binding authority slip schedule against the details recorded on BARS

for the territories from which business is sourced. They will query any document where these do not match up.

Guidance for completing these sub-sections is set out below.

Risks located in: This should be determined in accordance with legal definitions of country or territory of risk applicable for local regulatory or fiscal reasons. In many cases these definitions are set out in Lloyd's territory Quick Reference Guides. You can access these through www.lloyds.com: select the appropriate territory from the drop-down box under the heading "Lloyd's Worldwide". Guidance for the US, Canada and the EEA is given below.

If no definition is available on Lloyds.com, risk location, for the purposes of completing the binding authority schedule, can be determined as follows:

- The territory in which the insured is domiciled; or
- In the case of the insurance of property that is either fixed, or is moveable, but will remain in the same territory for the duration of the insurance contract term, the territory in which the property is located.

Insureds domiciled in: This is the territory in which the insured, if a private individual, lives or, if the insured is a company or other body corporate, is established. It will often, but not always, be the same as the territory in which the risk is situated.

Territories in which insurances may be bound: This sub-section appears in the marine schedule (LMA 3005). It should be completed in the same way as sub-sections requiring the location of the risk and the insured's domicile.

Some slip schedules state a territory under "risks located in" or "insureds domiciled in", followed by the words "...or as agreed by underwriters". This phrase could lead to circumvention of the rules, as it implies that territorial limits can be extended without prior approval. Lloyd's has therefore instructed Xchanging that, with immediate effect, it should query any slips using the phrase "...or as agreed by underwriters" in these sections.

Territorial limits: This sub-section does not affect the regulatory or fiscal position of the insurance contracts entered into under a binding authority. The coverholder's territorial approval does not therefore have to match the geographical limits of the insurances or reinsurances bound as stated in this sub-section.

References to more than one territory

Lloyd's instructions to Xchanging on the completion of the sub-sections "Risks located in", "Insureds domiciled in" and "Territories in which insurances may be bound" are summarised in this section. They reflect a minimum level of schedule completion and underwriters may insist on a greater level of disclosure for their own control and underwriting purposes.

Use of "worldwide": The sub-sections may be completed with the word "worldwide" if:

- the binding authority is held by a Lloyd's broker accredited prior to 1 March 2004; or
- the binding authority is limited to reinsurance or marine cargo insurance only.

For all other binding authorities these sub-sections must be completed to show the appropriate territories.

Licensed territories: Territories where Lloyd's is licensed or otherwise authorised for direct insurance must be separately listed in the sub sections. This is subject to the following:

- *Business from the US:* the sub-sections may:
 - List specific states; or
 - Refer to “the US”, if it is intended to accept business from all states and territories. In this case, the coverholder must have had its approval extended to include Illinois, Kentucky and the USVI; or
 - Refer to “the US, excluding Illinois, Kentucky and the USVI”. This is appropriate if the coverholder has not had its approval extended to Illinois, Kentucky and the USVI, and it is not intended that it should carry on licensed business (or surplus lines business from Illinois). A variation on this, referring to just one or two of the licensed territories, is acceptable, provided the coverholder has the appropriate territorial approval.

This is a change from the previous approach, under which US binders were deemed to exclude Illinois, Kentucky and the USVI unless explicitly included. For binding authorities incepting on or after 1 October 2005 a reference to the US will, for clarity, be deemed to mean the US in its entirety, including Illinois, Kentucky and the USVI.

- *Business from Europe:* the sub-sections may refer collectively to “the EU” or “the EEA”, provided the coverholder has territorial approval for all the member states of the appropriate organisation. They should not refer to “Europe”, as there is ambiguity over precisely which countries this includes.

Unlicensed territories: A collective reference to countries where Lloyd’s is not licensed or authorised is acceptable: for example “countries where Lloyd’s licensing arrangements do not apply”. The coverholder must have the appropriate territorial approval.

As noted in appendix 1, the arrangements for handling business from unlicensed territories must be in accordance with applicable laws and regulations. As the managing agent has responsibilities for ensuring that this is the case, it will need to ensure that the information provided to the underwriter in these circumstances is sufficient for the underwriter to be satisfied on this point.

Mid-term change in the legal location of a risk

The legal “location of a risk” insured under a binding authority may change mid-term, for example because a vessel or aircraft changes its registration. Lloyd’s has not instructed Xchanging to check whether the coverholder has its approval extended to include the “new” territory in the event of a mid-term change. However, such mid-term changes do give rise to new regulatory and fiscal obligations and so it is recommended that the possibility of such changes is taken into account when a binding authority schedule is prepared. Brokers should ensure that they provide Xchanging with sufficient information to determine what part, if any, of a bordereaux relates to a mid-term change.

Local legal definitions of where risks are located

US risks: When specifying where US risks are located, you should consider the following definitions:

Illinois:

- Immoveable property and moveable property at fixed locations is located in Illinois if it is physically located in Illinois.
- Moveable property not at fixed locations is located in Illinois if the insured is located there, unless separate specific location given, when that location will determine location of risk.
- Other risks (e.g. insurances of liability, accident and health and fidelity) are located in Illinois if the insured is located there. This means that a private individual’s domestic address or a company or other body corporate head office is in Illinois.

Kentucky:

- A risk is located in Kentucky if it is a property or a risk physically located in Kentucky.

USVI:

- A risk is located in the USVI if it is physically located in the USVI, or the insured is resident in the USVI.

Surplus lines insurance:

The state governing the placement of the risk is normally the state in which the insured is located. The contract must involve a surplus lines producer with a licence in that state. The schedule reference to “risks located in” for a US surplus lines binding authority should therefore reflect the location of insureds.

Nevertheless, regulatory requirements arise in other states. If, under a single contract, there are several insureds located in different states, each state has a separate interest in the contract and the contract must involve surplus lines brokers licensed in each state. If, under a single contract, there is a single insured, but risks located in different states, then most state surplus lines tax laws require licensed surplus lines brokers to remit premium tax to the state on the premium represented by the portion of the risk located or to be performed in the state. The contract may be placed through a single surplus lines broker licensed in the state in which the insured is located. That surplus lines broker will co-ordinate payment of premium tax in each state in which a risk exposure is located.

Canadian risks: The federal Insurance Companies Act defines a “policy in Canada” as:

“with respect to fire insurance, a policy on property in Canada, and with respect to any other class of insurance, a policy where the risks covered by the policy were ordinarily in Canada at the time the policy was issued.”

Note: the foregoing definitions apply to all Canadian Business, whether sourced through coverholders resident in Canada or not. In the latter case, the Canadian Business component of both premiums and claims must be identified as such in any reporting to Xchanging.

EEA risks: The definition that applies, for regulatory purposes, in the 25 Member States of the European Union⁹ and the 3 additional Member States of the EEA¹⁰ is set out in Article 2 of the Second Non-Life Directive (88/357/EEC):

“Member State where the risk is situated means:

- *the Member State in which the property is situated, where the insurance relates either to buildings or to buildings and their contents, in so far as the contents are covered by the same insurance policy,*
- *the Member State of registration, where the insurance relates to vehicles of any type, [Note that this applies to motor vehicles, aircraft, ships and boats]*
- *the Member State where the policyholder took out the policy in the case of policies of a duration of four months or less covering travel or holiday risks, whatever the class concerned,*
- *the Member State where the policyholder has his habitual residence or, if the policyholder is a legal person, the Member State where the latter's establishment, to which the contract relates, is situated, in all cases not explicitly covered by the foregoing indents;”*

⁹ Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, the UK

¹⁰ Iceland, Liechtenstein, Norway

For fiscal purposes (i.e. to determine whether local premium taxes or other fiscal charges must be charged), there is a significant difference: a risk is treated as located in a Member State if it is the contents of a building, irrespective of whether the building is insured under the same policy. So a work of art owned by a person habitually resident in France, but insured while on display in Italy will, for regulatory purposes be a French risk, but the policy is subject to Italian, not French, taxes and fiscal charges.

EEA binding authority slip schedule sub-sections should be completed so that they record the territories in which risks will be located for both regulatory and fiscal purposes.

Lloyd's brokers' binding authorities and Open Market Correspondents ("OMC's")

Details of Lloyd's requirements and procedures for the approval and registration of OMC's are set out in Market Bulletin Y3600 "Changes to Lloyd's Open Market Correspondent Approval/ Registration Process", issued 22 July 2005, accessible through this link: www.bulletins/Y3600.pdf

For business incepting on or after 1 October 2005, the same requirement to use approved or registered OMC's will apply to business handled by Lloyd's brokers under binding authorities as currently applies to the business that they handle on an open market basis.

This requirement will apply to a Lloyd's broker that:

- Holds a binding authority permitting it to accept business from outside the UK;
- Accepts business from one of the territories where Lloyd's requires the use of approved or registered OMC's; and
- Receives the business via another intermediary.

An OMC is an insurance intermediary that does not have the status of a Lloyd's approved coverholder and that introduces business to a Lloyd's broker for placement at Lloyd's.

Xchanging practice has been to require all worldwide binding authorities where a worldwide affidavit applied to include a statement that "All business shall be routed via Lloyd's approved agents where applicable." For binding authorities incepting on or after 1 October 2005 this requirement is replaced by a requirement that worldwide binding authorities held by Lloyd's brokers should include a statement that "All business shall be routed via Lloyd's approved coverholders or open market correspondents where applicable".

OMC's require Lloyd's approval or registration in the following territories:

Belgium	Canada	France
Germany	Greece	Ireland
Israel	Italy	Monaco
Namibia	Netherlands	South Africa
Spain	Switzerland	The US Virgin Islands
Illinois	Kentucky	

For business incepting on or after 1 October 2005, OMC's also require Lloyd's registration in Cyprus, Malta and Portugal and the requirement in Illinois will include surplus lines as well as licensed insurance. *Page 12 of this bulletin lists territories included under France, Italy, Portugal and Spain.*

The requirement for open market correspondent approval or registration is applied in accordance with local legal requirements, to satisfy local regulatory expectations that Lloyd's will know the identity of the intermediaries with whom it is doing business and to ensure the operation of systems of data collection from intermediaries.

This applies to non-marine and aviation insurance and, for business incepting on or after 1 October 2005, to marine insurance. It applies to reinsurance as well as to direct insurance for business from Spain and South Africa only.

The requirement means that a Lloyd's broker's binding authority bordereau presented to Xchanging for signing should, for the territories where Lloyd's requires approval or registration of OMC's, show the name and address of the intermediary through whom business has come. Xchanging will check the intermediary and query if they are not an approved or registered OMC.

Lloyd's licensed territories

Lloyd's is authorised to underwrite insurance in the territories listed below. These authorisations relate to direct insurance, rather than reinsurance and they are subject to local laws and regulations. The authorisations do not always cover every class of insurance business: further details are available on www.lloyds.com.

Anguilla	Guernsey	Papua New Guinea
Antigua	Hong Kong	Poland (<i>services</i>)
Australia	Hungary (<i>services</i>)	Portugal (<i>services</i>)
Austria (<i>services</i>)	Iceland (<i>services</i>)	Singapore
Bahamas	Ireland (<i>est. & services</i>)	Slovakia (<i>services</i>)
Barbados	Isle of Man	Slovenia (<i>services</i>)
Belgium (<i>est. & services</i>)	Israel	South Africa
Belize	Italy (<i>est. & services</i>)	Spain (<i>est. & services</i>)
Bermuda	Jamaica	St Kitts & Nevis
British Virgin Islands	Japan ¹¹	St Lucia
Canada	Jersey	St Vincent
Cayman Islands	Latvia (<i>services</i>)	Sweden (<i>est. & services</i>)
Cyprus (<i>est. & services</i>)	Liechtenstein (<i>services</i>)	Switzerland
Czech Republic (<i>services</i>)	Lithuania (<i>services</i>)	Trinidad & Tobago
Denmark (<i>est. & services</i>)	Luxembourg (<i>services</i>)	UK
Dominica	Malawi	US (<i>surplus lines</i>)
Estonia (<i>services</i>)	Malta (<i>est. & services</i>)	US – Illinois (<i>licensed</i>)
Finland (<i>services</i>)	Mauritius	US – Kentucky (<i>licensed</i>)
France (<i>est. & services</i>)	Monaco	US Virgin Islands (<i>licensed</i>)
Germany (<i>est. & services</i>)	Namibia	Vanuatu
Gibraltar	Netherlands (<i>est. & services</i>)	Zimbabwe
Greece (<i>est. & services</i>)	New Zealand	
Grenada	Norway (<i>est. & services</i>)	

Notes

“Services” indicates an EEA member state where Lloyd's is authorised to carry on business on a services basis.

“Est. & services” indicates an EEA member state where Lloyd's is authorised to carry on business on an establishment and a services basis.

Lloyd's eligibility to underwrite US surplus lines insurance applies in all states other than Kentucky and in all US dependent territories other than the US Virgin Islands.

Page 12 of this bulletin includes a note on the territories included under France, Italy, Portugal and Spain.

¹¹ Through Lloyd's Japan Inc. only