MANAGING AGENT'S CODE OF PRACTICE FOR DELEGATED UNDERWRITING

FEBRUARY 2006
IMPORTANT NOTE

This code of practice is provided for the purposes as set out on page 11, 'What is the purpose of this code of practice?'. However, it is not a substitute for the Delegated Underwriting Byelaw or the relevant sections of the Underwriting Requirements. This code of practice comes into force on 1 March 2004. The following no longer apply from that date.

Code for Managing Agents:

• Managing and Controlling Binding Authority Arrangements
• UK Personal Lines

Business Conduct and Other Guidance:

• Service Companies
• Consortium Underwriting Arrangements
• Line Slips and Open Cargo Covers
• Managing Agent Controls Over Syndicates Dealing Directly with Coverholders

July 2004
## CONTENTS

**Introduction**  
What is ‘delegated underwriting’?  
What is a coverholder?  
What is a binding authority?  
What are the different types of coverholder and binding authorities?  
What are approved coverholders and registered binding authorities?  
What are restricted coverholders and restricted binding authorities?  
Are there other ways of delegating authority?  
Other arrangements which are not delegated underwriting  
What is the legal position of the parties involved in an arrangement to delegate authority?  

**Applying this code of practice**  
What is the purpose of this code of practice?  
What does Lloyd’s expect of managing agents?  

**Assessing new coverholders**  
Main considerations  
Coverholder suitability  
Underwriting plan  
Licensing issues  
Binding authorities arranged with the involvement of a Lloyd’s broker  
Binding authorities arranged without the involvement of a Lloyd’s broker  

**Producing the contract of delegation**  
Contractual certainty  
The role of Xchanging in contracts of delegation  
Model contracts of delegation  

**Main provisions of a contract of delegation**  
Prudent underwriting  
Authorised people  
Duration  
Contracts of insurance  
Selling arrangements  
Renewing contracts of insurance  
Limits on premium incomes  
Collecting premiums  
Insurance monies  
Insurance documents
Handling claims 21
Agreeing claims 21
Claims funds 21
Reporting responsibilities 22
Sub-contracted claims handling 22
Complaints 23
Lawful instructions 23
Cancellation 23
Using Lloyd’s name 24
Inspection and ownership of records 24
Jurisdiction and choice of law 24

**Monitoring contracts of delegation** 25
Monitoring 25
Reporting 25
Visits and audits 25
Renewing contracts of delegation 26
Serious irregularities 27
Record keeping 27

**Cancelling or not renewing contracts of delegation** 28
Non-renewal 28
Cancellation 28
Transferring run-off responsibilities from a coverholder 30

Appendix 1: Criteria for coverholder suitability 31
Appendix 2: Requirements for contracts of delegation 33
Appendix 3: Joint certificates 35
Appendix 4: Managing agents dealing directly with coverholders 36
Appendix 5: Delegated underwriting – risks and controls 38
INTRODUCTION

What is ‘delegated underwriting’?
Delegated underwriting is an arrangement under which you, as managing agent, delegate your authority to another company or partnership (known as a ‘coverholder’) to enter into contracts of insurance on behalf of a Lloyd’s syndicate you manage.

What is a coverholder?
A coverholder is a company or partnership authorised to enter into a contract of insurance that will be underwritten by Lloyd’s syndicates under the terms of a binding authority.
A coverholder may also have 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.

What is a binding authority?
A binding authority is an agreement under which you delegate your authority to enter into contracts of insurance to a coverholder.
You may also use a binding authority to delegate authority to issue insurance documents. The binding authority will set out the coverholder’s other responsibilities, including any authority to collect premiums or to agree claims.

What are the different types of coverholder and binding authorities?
There are two types of coverholder at Lloyd’s.
• Approved coverholders will be authorised to enter into contracts of insurance under ‘registered’ binding authorities.
• Restricted coverholders will be authorised to enter into contracts of insurance under ‘restricted’ binding authorities.

What are approved coverholders and registered binding authorities?

a. An approved coverholder:
• may be domiciled (permanently based) anywhere in the world;
• must be approved by Lloyd’s; and
• is usually authorised to enter into contracts of insurance under a registered binding authority.

b. A registered binding authority is an agreement under which you delegate your authority to an approved coverholder to enter into contracts of insurance on behalf of a Lloyd’s syndicate you manage. The registered binding authority will set out the scope and extent of the approved coverholder’s authority. You may also delegate authority to the approved coverholder to issue insurance documents as evidence of the contracts of insurance entered into.

What are restricted coverholders and restricted binding authorities?

a. A restricted coverholder:
• must be either a company whose registered office is in the UK or a partnership based in the UK; and
• can be authorised only under a restricted binding authority.

From 14 January 2005, restricted coverholders must have the Financial Services Authority’s permission to act as an insurance intermediary. This permission may be either as an authorised company or as an appointed representative.

b. A definition of a restricted binding authority is given in the definitions byelaw. Basically a restricted binding authority is one which does the following.
• Prescribes the terms and conditions to be included in each contract of insurance to be entered into by the coverholder under the binding authority.
• Contains comprehensive arrangements for the agreement of the premium to be charged for each contract of insurance to be entered into under the binding authority. Those arrangements must not give the coverholder or any third party any significant discretion in calculating the premium or making any adjustment to it.
• Only authorises the coverholder to enter into contracts of insurance where:
  o the contract will be concluded in the United Kingdom and the property to be insured is a motor vehicle which is registered in the United Kingdom; or
  o the risk to be insured is a travel or holiday risk and the contract is for a duration of 4 months or less; or
  o the risk to be insured is a liability risk.

c. In practice, there are two main ways to make sure a restricted coverholder cannot exercise any discretion when calculating premiums. These are:
• to give the restricted coverholder a rating schedule, basis or guide; or
• to require the restricted coverholder to send each proposed contract of insurance to you so that you can set the premium to be charged. (This is sometimes called a ‘prior submit’ arrangement.)
d. A restricted coverholder must 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’ to refer business to them or to send on insurance documents on their behalf.

To avoid any doubt, if a coverholder does not deal directly with the insured it is not a restricted coverholder and so must be approved by Lloyd’s.

If a coverholder meets the criteria to be a restricted coverholder, it will not need Lloyd’s approval. However, you must record its details on the register of restricted coverholders. You should keep complete and up-to-date records of all restricted coverholders you have delegated authority to. (Lloyd’s does not register restricted binding authorities.)

Are there other ways of delegating authority?

Paragraph 1 of the Delegated Underwriting Byelaw sets out other ways by which you can delegate your authority to enter into contracts of insurance. The main method, apart from under a binding authority, is to delegate authority under a lineslip.

A lineslip is an arrangement where you delegate authority to another managing agent, or to an authorised insurance company (for business introduced by a named Lloyd’s broker).

A lineslip 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 relevant Lloyd’s broker will issue evidence of the insurance (for example, a cover note supported by a full policy or slip policy). The lineslip 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 lineslip.

There are two other main ways you can delegate your authority – consortiums and services companies. Under these arrangements, the bodies’ authority is delegated to, are treated by Lloyd’s as coverholders.

Consortiums

A consortium is an arrangement where you delegate authority to another Lloyd’s managing agent to enter into contracts of insurance on your behalf. A consortium will usually operate in specified classes of business produced from more than one source (which is the main difference to a lineslip).

Consortiums have to be registered with Lloyd’s each year. Aside from this, managing agents do not need approval from Lloyd’s to operate a consortium where a managing agent acts as coverholder.

If a consortium delegates authority to a company or partnership other than a managing agent, that company or partnership will need to be approved as a coverholder by Lloyd’s.

Service companies

A service company is a company within the same group as, or owned by, the Lloyd’s managing agent to whom the managing agent delegates authority to enter into contracts of insurance or to issue insurance documents as evidence of contracts of insurance.

All service companies must be approved as coverholders by Lloyd’s.
Other arrangements which are not delegated underwriting

There are three other types of contract you may enter into with third parties. 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.

**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 you grant a marine open cargo cover you must make sure you know about and comply 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.

**Group policies**

A group policy is a single insurance policy issued to a company or group which is the policyholder, but not the insured. Insurance is compulsory for all members or employees (if the company or group is an employer) belonging to that company or group while they remain members or employees. Premiums are paid on a group basis (not a member or employee basis). Under a group policy a single underwriting decision is made for the whole policy and all terms and conditions are set in advance. The offer of insurance is made to the entire group at the start of cover (inception) and to new members or employees when they join the company or group. There is no variation in the cover given to any individual employee or member, and no discretion as to which employees or members are insured.

In those US territories where Lloyd's operates under a ‘surplus lines’ licence, insurance cover under a group policy must not be compulsory for all members or employees and must be offered separately to each member or employee of the group. A separate premium must be identified. Each member or employee has the right to accept or decline the offer of insurance.

Under a group policy, a single policy which constitutes the insuring document is issued to the policyholder (that is, the company or group). Members or employees of the group are given details of the cover as evidence of the insurance. Any documents given to members and employees must state clearly that it is not a policy of insurance, merely evidence of cover granted to the company or group.

If you issue group policies, you must make sure you know about and comply with local licensing and regulatory requirements.

Lloyd’s does not consider group policies to be binding authorities and policyholders are not considered to be coverholders. Group policies do not need Lloyd’s approval except in the United States, where group policies and other forms of mass merchandising programme cannot be bound
by a coverholder or underwritten at Lloyd’s without first consulting with Lloyd’s US General Counsel.

**Master policies**

A master policy is a contract of insurance issued to an association, organisation or club so that they can grant insurance cover to its individual members. These entities issue their members with a document (known as an evidence of cover) which sets out full details of the insurance or includes a full copy of the policy wording. In the USA, a full copy of the policy wording must be provided to each individual member. These documents must state that the only insuring document is the master policy held by the association, organisation or club and that the individual member has the right to inspect the master policy at that entity’s offices.

If you issue master policies you must make sure you know about and comply with local licensing and regulatory requirements.

Lloyd’s does not consider master policies to be binding authorities, and the relevant associations, organisations or clubs are not considered to be coverholders. Master policies do not need Lloyd’s approval except in:

- the United States, where master policies and other forms of mass merchandising programme cannot be bound by a coverholder or underwritten at Lloyd’s without first consulting with Lloyd’s US General Counsel; and
- Australia, where master policies cannot be underwritten at Lloyd’s without approval from the Lloyd’s General Representative in Australia.

Examples of business which must not be accepted under master policies include, but are not limited to, extended warranties, guarantees and travel insurance, as well as arrangements where a manufacturer or supplier provides free insurance with its product or service.

**What is the legal position of the parties involved in an arrangement to delegate authority?**

It is important that you understand all relevant parties’ legal obligations in an arrangement to delegate your authority. So 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 you delegate your authority to a coverholder, the general principle is that the coverholder acts as your agent, rather than the policyholder’s agent. So when a coverholder, acting under the terms of a binding authority with you, enters into contracts of insurance to be underwritten by members of a Lloyd’s syndicate, or issues insurance documents, they are acting as your agent.
The coverholder may also act as your agent to collect premiums or handle claims. You will set out the coverholder's authority in a contract of delegation.

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 you 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 your behalf. When a Lloyd’s broker is acting as a coverholder on your behalf, it will be acting as your agent. When a Lloyd’s broker acts as a coverholder, there is a potential conflict of interest between its duties to you (as managing agent) and to policyholders. In such circumstances, it is vital for you to make sure the Lloyd’s broker manages this conflict of interest properly.
APPLYING THIS CODE OF PRACTICE

What is the purpose of this code of practice?
This code highlights the main risks associated with delegating authority and gives you practical guidance to help you manage those risks.

The code covers:

- assessing new coverholders;
- producing the contract to delegate authority (contracts of delegation);
- the main provisions that will be in the contract of delegation;
- monitoring contracts of delegation; and
- cancelling or not renewing contracts of delegation.

The code applies to all arrangements where you delegate authority to enter into contracts of insurance. It also covers arrangements delegating authority to issue insurance documents.

The code is aimed mainly at managing agents whose syndicates lead binding authorities. Throughout this code, these managing agents are referred to as ‘managing agents of the lead syndicate’. The lead syndicate has 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. Similarly, managing agents whose syndicates provide following support on binding authorities are referred to as ‘managing agents of following syndicates’. Following syndicates agree to underwrite a proportion of the contract of delegation in support of a lead syndicate.

What does Lloyd’s expect of managing agents?
As a managing agent, you set the underwriting policy of the syndicate (or syndicates) you manage. If you delegate authority to enter into contracts of insurance, you are responsible for setting both the strategy and the control environment your underwriting staff are expected to operate in.

Lloyd’s expects you to have clear, written procedures for delegating authority for each of the syndicates you manage. These procedures should be agreed by the board, consistently followed by all syndicates you manage and be reviewed regularly.

The competencies you need to lead a delegated underwriting arrangement are different to those you need for underwriting. So it is important that you are satisfied that you have the resources (both people and systems) needed to lead delegated underwriting arrangements and to successfully manage such contracts. This will usually be reflected in the underwriting authorities you give to individual underwriters on the syndicates you manage.

If you are the managing agent of the lead syndicate delegating authority to a coverholder under a binding authority, Lloyd’s expects you to assess the coverholder, set up the contract of delegation, set any limits on the coverholder’s authority, and monitor the contract of delegation.

If you are the managing agent of a following syndicate, you should feel free to ask the managing agent of the lead syndicate or Lloyd’s broker for any extra information you need. If authority has
been delegated to a coverholder under a binding authority, all managing agents of following syndicates on the relevant binding authority must consider:

- whether the managing agent of the lead syndicate has sufficient experience in the class of business to lead the binding authority;
- the experience of the Lloyd’s broker and the coverholder;
- the type and class of the proposed business and whether the terms and conditions of the contract of delegation are suitable and adequate; and
- the arrangements for monitoring binding authorities entered into during the year.
ASSESSING NEW COVERHOLDERS

Main considerations

It is vital that managing agents of lead syndicates thoroughly assess new coverholders. If you are a managing agent of a lead syndicate, this section highlights some of the important areas that you should consider when assessing a new coverholder.

Assessing a new coverholder will normally include visiting their offices and meeting relevant staff. It may also involve hiring coverholder review specialists to carry out an audit of the new coverholder.

To help managing agents of lead syndicates assess new coverholders, Lloyd’s has developed a Coverholder Application Form which can be used to gather important information. This form contains most of the information you and managing agents of following syndicates should need. The Lloyd’s broker will usually co-ordinate the filling in of this form. Also, in a number of territories around the world Lloyd’s has offices that can give you local information about new coverholders.

Once you and the Lloyd’s broker are satisfied that the new coverholder is suitable, the filled-in Coverholder Application Form should be sent to the Lloyd’s Coverholders Department for consideration and approval.

If you want to lead a binding authority to a coverholder which has already been approved and is already operating a binding authority with another managing agent, it is important that you also thoroughly reassess the coverholder, from the perspective of the new binding authority contract to be granted.

Coverholder suitability

When assessing whether a coverholder is suitable you should always consider the criteria for coverholder suitability as set out at paragraph 6 of Chapter 2 of the Underwriting Requirements. These criteria are also set out in appendix 1. Below is guidance on specific areas that you should consider when assessing a coverholder’s suitability.

People authorised to enter into contracts of insurance and agree claims

The main considerations when assessing the coverholder’s suitability include the following:

- The quality and adequacy of the coverholder’s underwriting function, including 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, you will need to monitor closely their activities 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, you will still need to pay close attention to the risks the coverholder accepts.
- If only one named person can accept risks or agree claims, you will need to consider what alternative procedures will be used if that person is not available, for any reason.
The quality and adequacy of the coverholder’s claims function, including the resources dedicated to handling claims and their knowledge and experience.

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.

- Their regulatory status and current licences.
- Their membership of recognised professional bodies.
- Their standing in the insurance industry.
- Their 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.
- Their current owners or shareholders.
- Any potential conflicts of interest the coverholder may have.

The coverholder’s ability to operate a binding authority
The main points to consider when assessing whether a coverholder is capable of operating a binding authority include the following.

- 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 adequacy of the coverholder’s human resources (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 coverholder’s financial standing
The main points to consider when assessing the financial standing of the coverholder include the following.

- The coverholder’s assets and liabilities, as well as how profitable they are.
- 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.
Underwriting plan

It is good practice to ask a new coverholder to prepare an underwriting plan for the proposed binding authority. You should specify the precise content of the plan. The plan allows you to monitor the coverholder’s performance during the contract and gives you a better overall understanding of the coverholder’s proposals.

The coverholder’s underwriting plan should include the following.

- Where their business comes from.
- Their target profitability and historic profitability, including the reasons for any previous insurer declining to renew.
- Details of other contracts of delegation they manage.
- An analysis of the market place (including opportunities for and threats to successful underwriting).
- Their basis for selecting risks.
- Their basis for pricing (where appropriate).
- Information about their performance against monthly targets.
- Details of how the binding authority will fit with the coverholder’s other areas of business.

The aim of the Lloyd’s Franchise is to produce consistent profits over the insurance cycle. You will need to use suitable tools (for example, profit commission) to focus the coverholder on underwriting profit.
Licensing issues

Within a jurisdiction, Lloyd’s is normally authorised to operate as a single entity, with a single collective licence. Any failing by a coverholder in that jurisdiction could have adverse consequences for the entire Lloyd’s market in that jurisdiction. So it is essential that you pay particular attention to licensing requirements when delegating your authority to a coverholder.

You must take reasonable steps to make sure that the coverholder knows about all relevant insurance, financial and taxation laws and requirements 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, you or the Lloyd’s broker should discuss the proposed binding authority with them.

If a coverholder will operate in more than one territory where Lloyd’s is licensed, they need Lloyd’s approval for each territory they are intending to operate in. In territories where Lloyd’s does not hold a licence (as well as those territories where Lloyd’s is licensed), you will need to be satisfied that the coverholder will meet all relevant local regulatory requirements.

Binding authorities arranged with the involvement of a Lloyd’s broker

If you intend to enter into a binding authority that is arranged or brokered by a Lloyd’s broker, you should consider the Lloyd’s broker’s:

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

An experienced Lloyd’s broker will usually help you to assess a new coverholder. This help may involve visiting the coverholder, sharing their assessment and providing expert knowledge of the territory where the coverholder operates. However, you are ultimately responsible for assessing a new coverholder.

Binding authorities arranged without the involvement of a Lloyd’s broker

Although many managing agents will use a Lloyd’s broker to arrange or broker a binding authority, managing agents can deal directly with a coverholder and administer all forms of delegated underwriting, covering any type and class of business, without the involvement of a Lloyd’s broker.

If you are thinking about dealing directly with an existing coverholder which is currently brokered, arranged and administered by a Lloyd’s broker, you will need to consider carefully any legal risks which may arise from dealing direct.

If you wish to deal direct with a coverholder, you must tell Lloyd’s about this intention before entering into any contract of delegation. You will not need to tell Lloyd’s about any subsequent arrangements for direct dealing.

More detailed guidance on this area is given in appendix 4.
PRODUCING THE CONTRACT OF DELEGATION

The managing agent of the lead syndicate must make sure there is a contract of delegation in place for all delegated underwriting arrangements. If you are a lead managing agent, page 17, ‘Producing the contract of delegation’ and page 18, ‘Main provisions of a contract of delegation’ highlight some of the important areas you should consider.

Contractual certainty

The binding authority you and the coverholder enter into will set out both your and their obligations.

You and the coverholder must both be certain about the terms of the contract of delegation under which you are delegating authority to the coverholder. Before a coverholder is authorised to act on behalf of a managing agent of Lloyd’s syndicate (or syndicates), whether on new binding authorities or renewed ones, the managing agent of the lead syndicate must have received written confirmation from the coverholder agreeing to the terms and conditions of the binding authority. The binding authority cannot be registered at Lloyd’s until this confirmation has been received.

The need to be certain about the contract delegating authority extends to all third parties to which authority is sub-delegated (for example, other coverholders or claims administrators). If a coverholder’s authority will be sub-delegated to a third party, it is essential that you enter into a contract directly with the third party. This will make sure that you can exercise appropriate direct control over all aspects of the contract of delegation. If you expect a third party to play an immediate role under the contract you must be certain of and happy with the contract before you authorise the coverholder to operate the binding authority.

It is particularly important for you to define clearly all of a new coverholder’s responsibilities and for the coverholder to understand them fully. If the new coverholder is clear about their responsibilities and the way you intend the binding authority to operate, there is less room for misunderstanding.

The role of Xchanging in contracts of delegation

Historically, Xchanging has checked contracts of delegation. This review usually took place after the coverholder had been given authority to act. In future, 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. Also, Xchanging will not check contracts of delegation after they have been agreed between the coverholder and the managing agent of the lead syndicate. You are responsible for agreeing the contract with the coverholder before it comes into force. You can use any service provider (including Xchanging) to review the contract before you agree it with the coverholder.

Model contracts of delegation

The Lloyd’s Market Association (LMA) has developed a series of ‘model’ contracts of delegation. However you can, of course, agree different terms and conditions for contracts of delegation.
MAIN PROVISIONS OF A CONTRACT OF DELEGATION

The contract of delegation must include those provisions included at paragraph 10 of chapter 2 of the Underwriting Requirements. These provisions are also set out in appendix 2. This section provides guidance on specific areas you, as the managing agent of the lead syndicate, should consider when preparing a contract of delegation.

Prudent underwriting

The binding authority should require the coverholder to act always in a prudent and professional way with due care and skill.

Authorised people

You must make clear which of the coverholder’s staff have authority to enter into contracts of insurance. These individuals are usually named in the binding authority. In some lines of business (for example, personal lines where insurance is sold over the phone) it is not practical to name every member of staff with this authority. In these cases, the contract will need to identify a suitably senior and experienced officer of the coverholder who is responsible for the overall operation and control of the binding authority.

Duration

The contract of delegation will usually last for no more than 12 months and must never exceed 18 months in total. If a contract of delegation is allowed to last for more than 12 months, it will need to include a provision allowing you to review the contract after 12 months.

Contracts of insurance

You and the coverholder must both be clear which types and classes of insurance can be entered into under the binding authority. You will usually want specifically to exclude certain types and classes of business to reduce the potential for any misunderstanding by the coverholder.

The binding authority will also usually specify the following.

- Territories and locations of acceptable and excluded risks.
- Maximum limits of indemnity and minimum deductibles.
- Aggregate limits of exposure (if appropriate).
- The maximum term of contracts of insurance that the coverholder may enter into (which will usually be no more than 12 months).

If the coverholder uses a rating schedule, basis or guide, you will need to approve it before giving the coverholder authority. Also, the binding authority will need to set out clear procedures to amend, update or replace that schedule, basis or guide during the life of the contract of delegation.

You should also consider stating a maximum period for any quotations which may be issued and make sure that this is consistent with the cancellation provisions in the contract of delegation.
A contract of delegation will not usually authorise the coverholder to arrange specific reinsurance to protect Lloyd’s syndicates. However, in those exceptional cases where a coverholder is authorised to arrange reinsurance, you will need to approve the reinsurance before it is bought. Also, all managing agents of following syndicates should be given copies of reinsurance cover notes.

Special acceptance provisions are common on lineslips and also appear on some binding authorities. The provisions usually give the binding underwriter blanket authority to accept declarations outside the defined terms of the contract of delegation without referring them to the managing agents of following syndicates. It is vital that special acceptance provisions are clearly defined, otherwise the binding underwriter may have significantly extended authority that may expose the managing agents of following syndicates to business they had not intended to accept.

Selling arrangements

In most territories there are requirements governing how the insurance should be sold to policyholders (for example, in the UK there is FSA and ABI guidance). It is essential that you are satisfied that the insurance to be sold by the coverholder on your behalf complies with any local requirements.

Also, if the coverholder is intending to offer insurance over the internet, you will need to be satisfied that this is allowed locally. In this situation, you should have approved the relevant aspects of the coverholder’s website before the coverholder offers the insurance on your behalf.

Renewing contracts of insurance

Insurance laws in 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.

So you must make sure the coverholder handles the non-renewal of such contracts of insurance in line with local requirements. You must also consider the effect of such provisions if you have decided not to renew the binding authority. It is important that you give the Lloyd’s broker and coverholder sufficient notice of any decision not to renew the binding authority. This will give them a reasonable opportunity to find an alternative market and to handle the non-renewal of individual contracts of insurance correctly. If you do not give reasonable notice of your decision not to renew a binding authority, or make sure 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.

Limits on premium incomes

A contract of delegation must specify a limit on the gross income from premiums. This is an important control and, used effectively, can prevent a coverholder from writing more business than you want. It is essential that you set the limit at a realistic level. In some cases it may also be appropriate for you 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).
You should also make sure the coverholder tells you 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.

Lastly, if the contract of delegation contains a provision to allow a portfolio transfer at the end of the period, you should consider the premium income limit and aggregate exposures if the transfer does not take place.

Collecting premiums

In most binding authorities, the coverholder is responsible for collecting premiums on your behalf. It is essential that you clearly set out the coverholder’s responsibilities and set appropriate service standards in relation to collecting premiums.

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.

Insurance documents

You must be satisfied with the format and content of the insurance documents the coverholder will issue under the contract of delegation. Good-quality insurance documents reflect well on you and Lloyd’s. It is also essential that you clearly set out the coverholder’s responsibilities and set appropriate service standards relating to producing and issuing insurance documents.

In particular, you must make sure that the insurance documents comply with the provisions in paragraph 15 of chapter 2 of the Underwriting Requirements. These state that the documents acting as evidence, contracts of insurance must include the following.

- The name and address of the coverholder.
- All relevant terms and conditions that relate to the contract of insurance, including:
  - relevant wordings, exclusions and limitations;
  - the period or duration of cover; and
  - the limits of liability.
- The amount of the premium and any discount.
- Information about the procedures for handling claims under the contract of insurance and dealing with complaints.
- The law and jurisdiction that applies to the contract of insurance.
- Any other provisions required under the laws or requirements of the jurisdiction where the contract was drawn up and the insured is based, or of any other relevant jurisdiction and provisions required by the local Lloyd’s representative.
You must not authorise the coverholder to issue joint certificates, unless they comply with the requirements stated in paragraph 16 of chapter 2 of the Underwriting Requirements. These requirements are set out in appendix 3.

You must also make sure that each document acting as evidence of a contract of insurance issued by the coverholder contains a contract reference number. The reference number will allow everyone involved in the contract to identify the relevant binding authority under which the contract has been issued.

The insurance documents may be in a language other than English. In some countries this is obligatory. If insurance documents are prepared in a language other than English, you must make sure the insurance documents reflect your and the policyholder’s intentions. If you use a translation service, you will need to make sure that the translation service is competent and professional.

Handling claims

It is essential that claims under a contract of delegation are handled efficiently. A failure to handle claims effectively may cause policyholders to complain to Lloyd’s or local regulators. This may in turn significantly damage the reputations of you and Lloyd’s.

You must clearly specify the coverholder’s responsibilities, set appropriate service standards in relation to handling claims and identify a suitably senior and experienced officer of the coverholder to have overall responsibility for handling claims.

Agreeing claims

You may want to give a coverholder authority to agree claims arising from contracts of insurance entered into under the binding authority on your behalf.

If this is the case, the main considerations include the following.

- Setting that authority at limits which are appropriate to the type and class of business.
- The coverholder’s knowledge and experience of handling claims.
- The resources the coverholder dedicates to handling claims.
- Setting service standards for the coverholder.
- Setting out how recoveries or salvage will be handled (if appropriate).
- Making sure that if any claim might be denied, or be settled ex-gratia or without prejudice, it is referred back to you as soon as possible. It is essential that you handle such claims.

Claims funds

In some cases, you may wish to advance a sum of money to the coverholder to hold as a claims fund. This will allow coverholders to pay routine claims promptly. If a coverholder holds a claims fund, it must be held in a separate trust account in the name of the trustees of the relevant premium trust fund (unless Lloyd’s agrees otherwise). You will need to define the circumstances in which the coverholder can use the claims fund and specify the signatories to the claims fund account. You must choose the signatories for the account. Finally, you should make sure that the
contract of delegation sets out the arrangements for returning the claims fund to Lloyd’s syndicates when requested.

### Reporting responsibilities

The contract of delegation must require the coverholder to report by type or class, all premiums, paid claims, outstanding claims and expenses in respect of contracts of insurance it has entered into. The reporting provisions enable you to make sure the contract of delegation is performing as expected.

It is essential that you clearly define the coverholder’s responsibilities and set appropriate service standards in relation to reporting.

The reports you may use to monitor a binding authority include the following.

- Risk reports, providing details of all contracts of insurance entered into by the coverholder.
- Claims reports, providing details of all settled and advised claims.
- ‘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.
- Aggregate exposure reports, providing information to monitor the risks in a particular territory or zone.
- Other reports to show the coverholder is keeping to your required service standards.

### Sub-contracted claims handling

Under some contracts of delegation, you may allow the coverholder to sub-contract responsibility for handling claims and performing certain administrative functions (other than entering into contracts of insurance or issuing insurance documents) to third parties. If this is the case, it is essential that:

- you are a party to the contract with the sub-contractor;
- the sub-contractor is competent to perform its responsibilities;
- the terms of the sub-contract are consistent with the contract of delegation;
- the sub-contractor’s responsibilities are clearly defined and there are appropriate service standards;
- the sub-contract gives managing agents and regulators rights to inspect and audit third parties; and
- the sub-contract specifies that complaints and potential litigation are immediately reported to you or to the coverholder.
COMPLAINTS

You will need to be satisfied with the coverholder’s procedures for handling complaints. Policyholder complaints represent a significant risk to the reputations of you and Lloyd’s. It is vital that under the contract of delegation, the coverholder must immediately tell you about any complaint, particularly any complaints that could be referred to any regulatory authority or give rise to litigation or proceedings against you or the coverholder.

In many countries there are legal and regulatory provisions governing the complaints procedures of insurers and those acting on their behalf. You must make sure that the complaints procedures comply with local legal and regulatory requirements.

If a complaint does result in legal action, this may start with a lawsuit being served on the coverholder. You must also make sure that the coverholder understands and is capable of dealing with a lawsuit.

LAWFUL INSTRUCTIONS

The contract of delegation should allow you to give the coverholder instructions (when appropriate) in the form of reasonable requests or requirements relating to the operation of, risks bound under or claims arising from the contract.

CANCELLATION

You must carefully consider the provisions for cancelling the contract of delegation. You will rely on these provisions if you need to cancel the contract quickly and to make sure the coverholder does not abuse the contract after you have given notice of cancellation.

The cancellation provisions should allow:

- the contract to be cancelled immediately upon fraud or dishonesty or if Lloyd’s has directed that it is cancelled;
- you to cancel the contract, for any reason, after giving 30 days’ notice (or longer if necessary under local requirements); and
- 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).

The contract of delegation should also set out the duties of the coverholder once you have given notice of cancellation (for example, returning insurance documents and providing access to underwriting and claims records).

You may also want to include a ‘suspension’ provision in the contract of delegation. This provision will allow you 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 your attention and will allow time for the matter to be investigated.
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 guidelines. These can be found on the website at www.lloyds.com/coverholder_branding.

Inspection and ownership of records
The binding authority must require the coverholder to keep complete records of all the business the coverholder will carry out on your behalf under the contract of delegation. 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.

Jurisdiction and choice of law
English law and English jurisdiction should apply to the contract of delegation, wherever possible.
MONITORING CONTRACTS OF DELEGATION

It is vital that you, as the managing agent of the lead syndicate, monitor contracts of delegation closely. You must also be satisfied that, where a syndicate you manage leads a contract of delegation, you have sufficient resources devoted to monitoring regularly the contract of delegation during the year and appropriate management information systems in place to monitor effectively the contract of delegation.

Monitoring

Effective monitoring can be achieved through a combination of reporting, visits and audits.

Reporting

Coverholders must report regularly on the activities delegated to them by you. Managing agents are increasingly using internet-based management and reporting systems to manage delegated underwriting arrangements. These make it much easier for you to enforce the limits of a coverholder’s authority and review the coverholder’s performance.

You will need to specify the reporting requirements, including the frequency of reports. This will depend on the specific contract of delegation.

Key considerations when setting the reporting requirements include the following.

• Profitability against plan and budget.
• The quantity and quality of business, including risk selection.
• Rating adequacy.
• Handling claims, reserves and salvage (where appropriate).
• Aggregate exposures (where appropriate).
• Performance in meeting terms of trade and collecting premiums.
• Reinsurance recoveries (where appropriate).
• The coverholder’s performance against your service standards.

During the first year of a new contract of delegation, you must monitor the coverholder extremely closely. The first year of any contract of delegation is higher risk because it will take time for you and the coverholder to work together effectively. For this reason, we strongly recommend that during this first year you visit the coverholder and that the coverholder is audited by a coverholder review specialist.

Visits and audits

You must develop a clear approach to both visits and coverholder audits. Used in combination, these monitoring tools allow you to satisfy yourselves that the coverholder’s activities are
effectively reviewed. Visits and audits will need to be co-ordinated with the Lloyd’s broker and the coverholder.

Key considerations in this area include the following.

- A clear overall approach for syndicate visits and audits of coverholders should be developed.
- The frequency of visits and audits should be based on the lead managing agent’s own risk assessment of the contract of delegation. In practice, binding authorities will normally be audited at regular intervals by coverholder review specialists.
- Visits should be performed by staff with adequate experience.
- Clear consideration should be given to the areas to be covered by any visit or audit. For example:
  - underwriting, rating and aggregate exposures (if appropriate);
  - claims and reserving;
  - management and financial standards;
  - reporting business information;
  - IT systems; and
  - licensing, taxes and compliance.

Audits performed by coverholder review specialists, the cost of which is shared by all managing agents of following syndicates, will need to be provided to the managing agents of following syndicates and the Lloyd’s broker in good time after they are completed. If you perform all the visits and audits, you will need to agree with the managing agents of following syndicates which reports will be made available to them.

Renewing contracts of delegation

When deciding whether or not to renew a contract of delegation, all managing agents should consider the following.

- How profitable the binding authority is (and has been in the past).
- The type, class, quantity and quality of business accepted under the binding authority in the previous year.
- Changes in market conditions and the binding authority’s potential profitability in the coming year.
- 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 or Lloyd’s broker’s circumstances.
- Other problems or potential issues (for example, arising from any audit or underwriting visits, complaints or potential litigation or regulatory issues).
Serious irregularities
You should have clearly defined procedures to follow when you find out about serious irregularities concerning a coverholder (such as fraud and dishonesty).
Lloyd’s and the managing agents of following syndicates should be told promptly about any serious irregularities.

Record keeping
You are expected to keep adequate records of all the contracts of delegation led by the syndicates you manage. Some of the key records that you should keep include the following.

• A copy of the Lloyd’s Coverholder Application Form.
• Relevant up-to-date information relating to the:
  o Lloyd's broker (if any);
  o business proposed (for example, the underwriting plan); and
  o coverholder.
• Information relating to the contract of delegation such as:
  o any rating basis, schedule or guide;
  o details of certificate wording and extra clauses;
  o the format of insurance documents;
  o proposals and claims forms; and
  o slip copies and any endorsements.
• A copy of the current agreed contract of delegation, including any endorsements.
• 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).
CANCELLING OR NOT RENEWING CONTRACTS OF DELEGATION

This section of the code sets out some of the main considerations for the managing agent of the lead syndicate when cancelling or not renewing a contract of delegation.

Non-renewal

There may be many reasons for you deciding not to renew a coverholder’s binding authority. These reasons may include the following.

- The coverholder not meeting its underwriting plan targets or operating the binding authority effectively.
- You withdrawing from a type or class of business or territory.
- Significant changes at the coverholder’s offices (for example, human resources or ownership).
- The syndicate you manage has or will become a ‘run-off’ syndicate (that is, one that no longer accepts new or renewal insurance business).

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

Cancellation

The cancellation of a binding authority is a significant event. You will usually only cancel a binding authority mid-term if there are serious problems with the coverholder (for example, not meeting licensing or regulatory requirements, issuing insurance documents without insurance cover, fraud, or dishonesty).

It is essential that you handle the cancellation effectively. Poorly handled cancellations of binding authority can take up disproportionate amounts of management time and may increase operational and reputational risks for you and Lloyd’s. The contract of delegation will allow you to cancel the contract. If you do cancel a binding authority you must follow any notice requirements and any other relevant limitations or conditions specified in the contract of delegation. Typically, a binding authority is cancelled by giving the coverholder written notice of cancellation which takes effect within the period stated in the binding authority.
Before giving notice

The main considerations you should bear in mind before giving notice of cancellation include the following.

- Identifying who needs to be informed and when. This may include (in no set order):
  - the managing agents of following syndicates;
  - the relevant Lloyd’s broker;
  - Lloyd’s;
  - any Lloyd’s local representative;
  - coverholder review specialists; and
  - other managing agents with binding authorities to the coverholder.

- Identifying who needs to be given notice. This will include all parties with underwriting authority under the contract of delegation and may extend to third parties (such as 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.

- 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, you 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, you should tell them not to print any further certificates.

Giving notice

You will need to be satisfied that the coverholder has received and fully understood the notice of cancellation. If a Lloyd’s broker is involved, the notice will usually be passed to the coverholder by the Lloyd’s broker. You must make sure that the Lloyd’s broker gets written confirmation, directly from the coverholder, to confirm they have received the notice. This confirmation can then be given to you. If the coverholder refuses to confirm that they have received the notice, you may need to take legal advice.
After giving notice

After the notice has been given, you should do the following.

- 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 yourself that the coverholder’s financial position remains adequate.
- Satisfy yourself that the coverholder has adequate human resources to handle the run-off.
- Make sure you have access to all key documents relevant to the run-off (for example, claims files).

Transferring run-off responsibilities from a coverholder

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

If these problems cannot be solved quickly, you (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, you 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.
- The reputations of you and Lloyd’s are protected and any Lloyd’s representative or local regulator is properly briefed about the transfer.
APPENDIX 1: CRITERIA FOR COVERHOLDER SUITABILITY

Paragraph 6 of chapter 2 of the Underwriting Requirements sets out the following criteria for coverholder suitability:

“In deciding whether an applicant is suitable to be an approved coverholder the Franchise Board shall have regard to the following criteria and all other relevant matters –

(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 –

(i) the applicant’s compliance with appropriate principles of good corporate governance;

(ii) the applicant’s membership of any body or organisation that the Franchise Board considers to be necessary or desirable;

(iii) the quality and adequacy of the applicant’s human resources including –

(i) the competence, reputation, character and suitability of the applicant’s directors, officers and staff; and

(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;

(iv) the quality and adequacy of the applicant’s other resources including the quality and adequacy of the applicant’s –

(i) systems, procedures, protocols and arrangements for the conduct of its business;

(ii) resources to comply with appropriate service standards for its customers;

(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

(vi) resources and systems for underwriting administration and for the administration and agreement of claims;

(v) the quality and adequacy of the applicant’s controls and procedures to manage its business including –

(i) the applicant’s arrangements for identifying, resolving or managing conflicts of interest; and

(ii) 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;

(vi) the nature of the applicant’s business including its past, present 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.”
APPENDIX 2: REQUIREMENTS FOR CONTRACTS OF DELEGATION

Paragraph 10 of chapter 2 of the Underwriting Requirements sets out the following requirements for contracts of delegation.

“Every registered and restricted binding authority shall contain the following information, provisions and terms and comply with the following conditions and requirements –

(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 binding authority or which arranged or brokered the binding authority;
(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;
(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 the binding authority shall be terminated upon the Franchise Board giving such direction or order to the managing agent or the 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."
APPENDIX 3: JOINT CERTIFICATES

A joint certificate is a certificate or other document that acts as evidence of insurance a coverholder has accepted under a contract of delegation, on behalf of a Lloyd's syndicate (or syndicates), where some of the insurance is also shown as being accepted by insurers which are not Lloyd's syndicates.

Paragraph 16 of chapter 2 of the Underwriting Requirements sets out the following requirements for joint certificates:

“An approved coverholder under a registered binding authority or restricted coverholder under a restricted binding authority may only issue insurance documents 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:

(a) each managing agent that is a party to the binding authority has agreed to the issue of joint certificates;
(b) the joint certificate includes all the details that are required to be included in insurance documents 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;
(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;
(d) the joint certificate contains the following statement -
   “The insurers named hereon bind themselves each for their own part and not one for another. Each insurer’s liability under this certificate shall not exceed the percentage or amount of the risk shown against that insurer’s name”; and
(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.”
APPENDIX 4: MANAGING AGENTS DEALING DIRECTLY WITH COVERHOLDERS

The Lloyd’s Brokers Byelaw (No.17 of 2000) includes the provision that managing agents will be able to 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 know the importance of 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 know 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 know 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 claim bordereaux must contain sufficient information to be reported to regulatory and tax authorities.

Managing agents wanting to have discussions with Xchanging should contact their Xchanging account manager.

**Adequacy of written procedures**

Managing agents will need to extend their written procedures for managing and controlling binding authorities to include provisions for dealing directly with coverholders.
## APPENDIX 5: DELEGATED UNDERWRITING – RISKS AND CONTROLS

<table>
<thead>
<tr>
<th>What could go wrong?</th>
<th>Possible risk prevention and detection controls</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Underwriting</strong></td>
<td></td>
</tr>
</tbody>
</table>
| 1. The coverholder operates outside its authority in relation to:  
  - limits of risk;  
  - type or class of business;  
  - territories traded in; and  
  - length of policy period. | The contract of delegation could clearly define the arrangements in each of these areas.  
A risk report could identify type and classes of business, insurance periods, risk limits and geographical territories.  
Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists.  
Reporting could identify premium by type and class of business and territory. |
| 2. The coverholder enters into contracts of insurance where rates are below those anticipated. | Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists.  
A risk report could identify the amounts insured and premiums for each risk. |
| 3. The coverholder generates too much or too little income under the contract of delegation. | The contract of delegation could clearly set a limit on the income from premiums.  
Reports to underwriters could identify premium income and compare the figures against those in the underwriting plan. |
| 4. The coverholder does not control sub-delegated authority to other coverholders. | The contract of delegation could clearly state the authority delegated to each other coverholder.  
A risk report could identify premiums by type of business for each other coverholder.  
Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists. |
| 5. The coverholder writes a different mix of business to that expected by underwriters in the underwriting plan. | The contract of delegation or underwriting plan could set out premium income by type or class of business.  
A report to underwriters could show how premium income compares to the underwriting plan. |
<table>
<thead>
<tr>
<th>What could go wrong?</th>
<th>Possible risk prevention and detection controls</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.  The coverholder accepts business produced by ‘bad’ brokers or producers.</td>
<td>A risk report could identify the business produced by each broker or producer. Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists. A report to underwriters could identify the premium income from main brokers.</td>
</tr>
<tr>
<td>7.  Risks are accepted by an underwriter who is not authorised under the contract of delegation.</td>
<td>The contract of delegation could state the authorised underwriters. Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists.</td>
</tr>
</tbody>
</table>

Reinsurance

1.  The coverholder buys inappropriate reinsurance.  

A risk report could identify all reinsurance bought. Copies of reinsurance cover notes could be provided to all underwriters.

Aggregate exposures

1.  The coverholder fails to maintain aggregate exposures.  

A report to underwriters could include aggregate exposures. Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists.

2.  The aggregate exposures are inaccurately maintained.  

Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists.

3.  The coverholder accepts a too-high exposure in a particular territory or in an area that makes underwriters overexposed to accumulation risk in a particular territory.  

The contract of delegation could specify a maximum aggregate exposure for each territory. A report to underwriters could include aggregate exposures.
<table>
<thead>
<tr>
<th>What could go wrong?</th>
<th>Possible risk prevention and detection controls</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Claims and reserves</strong></td>
<td></td>
</tr>
<tr>
<td>1. The coverholder agrees claims above their authority.</td>
<td>A report to underwriters could include details of all claims agreed and all other claims issues.</td>
</tr>
<tr>
<td></td>
<td>Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists.</td>
</tr>
<tr>
<td>2. Claims are settled ex-gratia or without prejudice without informing the underwriters.</td>
<td>The contract of delegation could specify the procedures to be followed when settling claims ex-gratia or without prejudice.</td>
</tr>
<tr>
<td></td>
<td>A report to underwriters could include details of all claims agreed and all other claims issues.</td>
</tr>
<tr>
<td></td>
<td>Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists.</td>
</tr>
<tr>
<td>3. Coverholder overpays claims, pays claims twice or does not use loss adjusters.</td>
<td>Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists.</td>
</tr>
<tr>
<td></td>
<td>A report to underwriters could include details of all claims agreed and all other claims issued.</td>
</tr>
<tr>
<td>4. Inaccurate or out-of-date reserves are held.</td>
<td>1. A report to underwriters could include specific details of all significant claims and reserves.</td>
</tr>
<tr>
<td><strong>Other</strong></td>
<td></td>
</tr>
<tr>
<td>1. Managing agents are not told about a complaint or potential litigation.</td>
<td>The contract of delegation could specify the procedures to be followed in the event of a complaint or potential litigation.</td>
</tr>
<tr>
<td></td>
<td>2. A report to underwriters could include details of any complaints or potential litigation.</td>
</tr>
<tr>
<td>2. There are concerns about the coverholder and the underwriters want to cancel or suspend the contract of delegation.</td>
<td>The contract of delegation could contain a cancellation clause.</td>
</tr>
<tr>
<td></td>
<td>The coverholder could be audited by the managing agent of the lead syndicate.</td>
</tr>
<tr>
<td>3. The coverholder enters into contracts of insurance or operates in a way which infringes Lloyd’s licence in a jurisdiction.</td>
<td>The contract of delegation could define types of business and licensing issues.</td>
</tr>
<tr>
<td></td>
<td>Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists.</td>
</tr>
</tbody>
</table>