
A New Approach to Third Party Oversight

Consultation – Summary of Responses

17 May 2019

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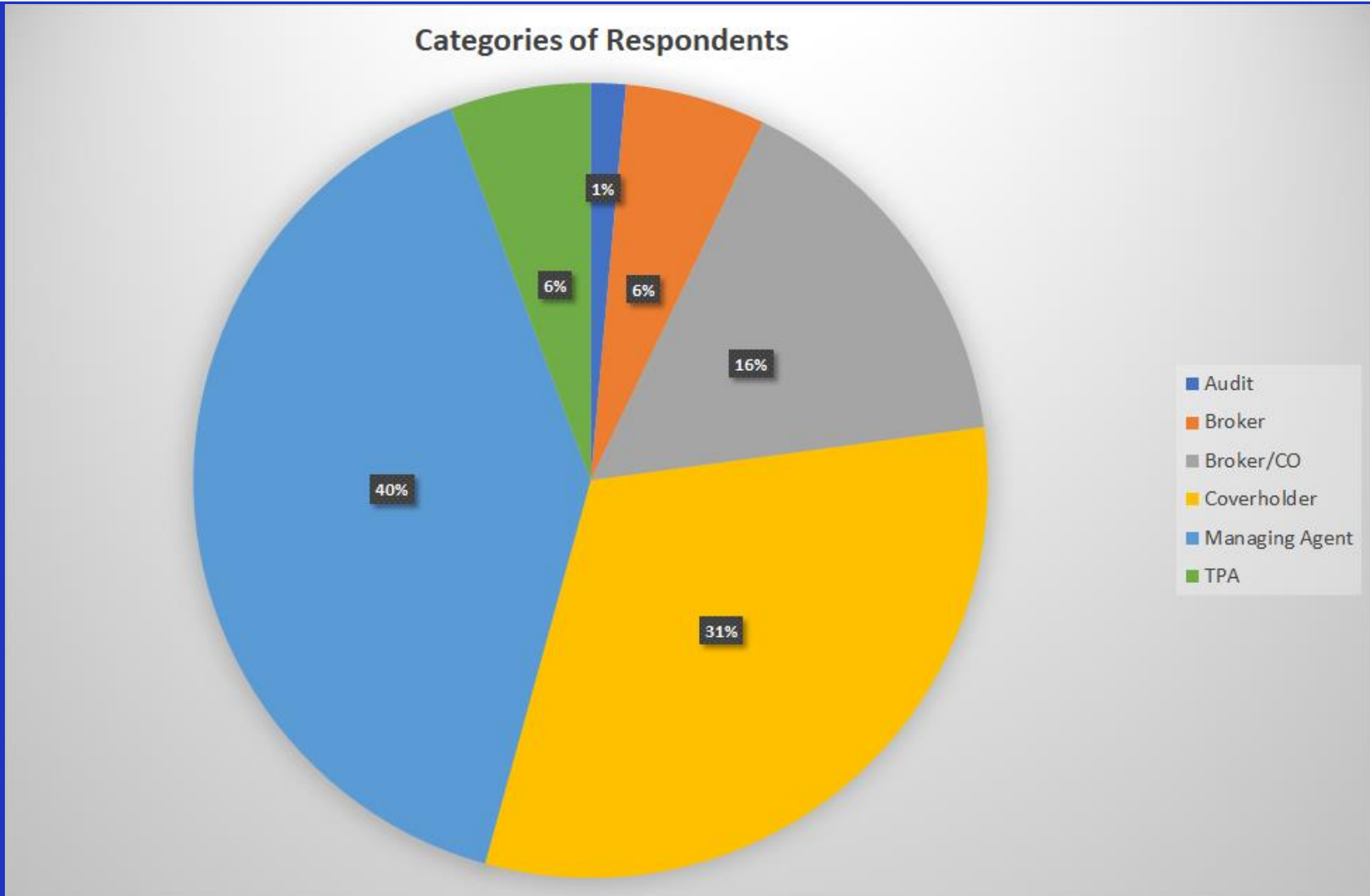
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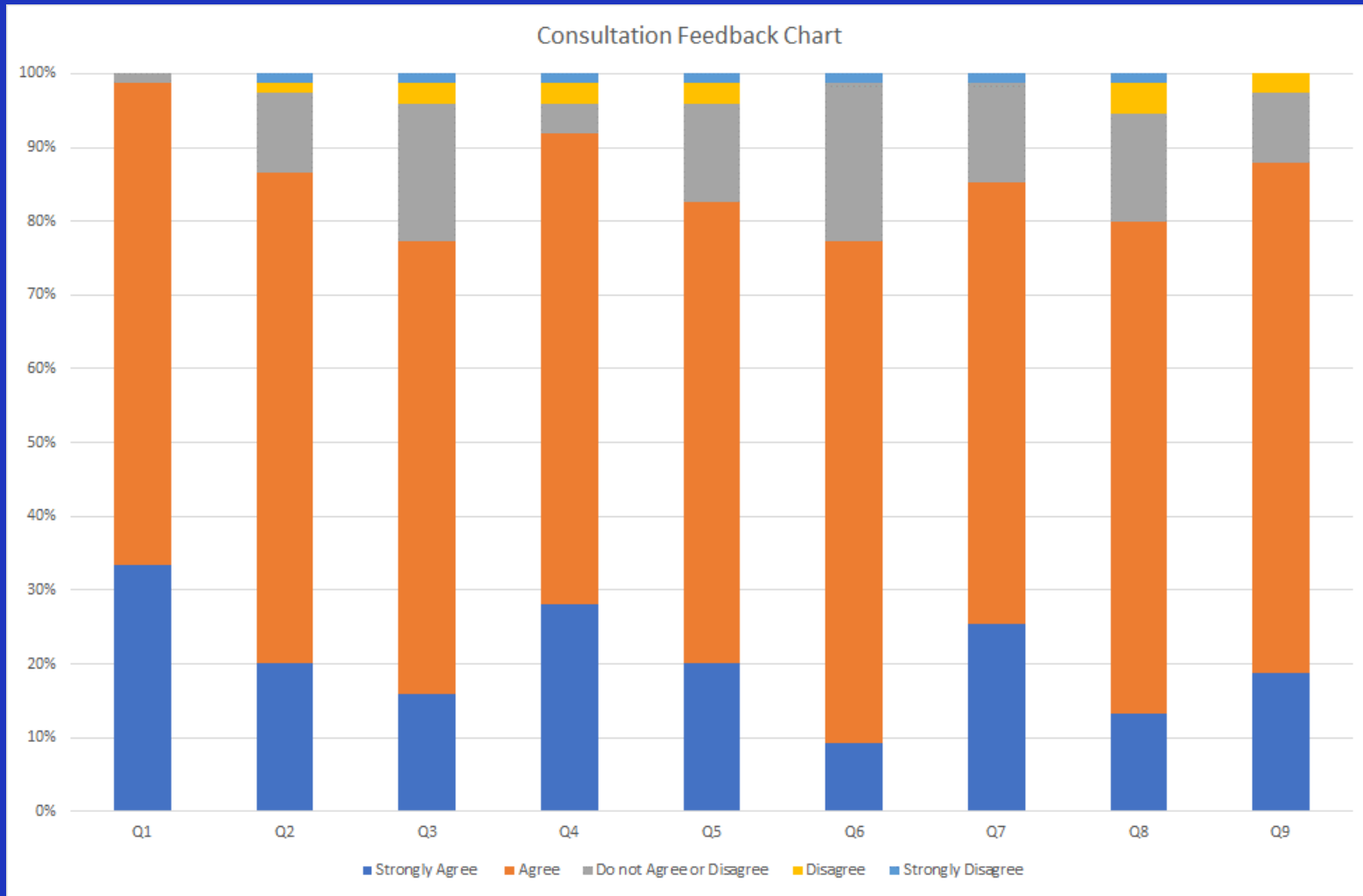
Market Feedback - Key Messages

1. Overall strong support for all the proposals
2. High levels of support across all constituencies
3. Agreement that risk based approach will result in benefits for market participants
4. Respondents have asked for further clarification on the risk factors Lloyd's will be applying
5. Respondents believe careful consideration needs to be given to the criteria to be adopted for permitted 'distributor' appointments and sub-delegation.

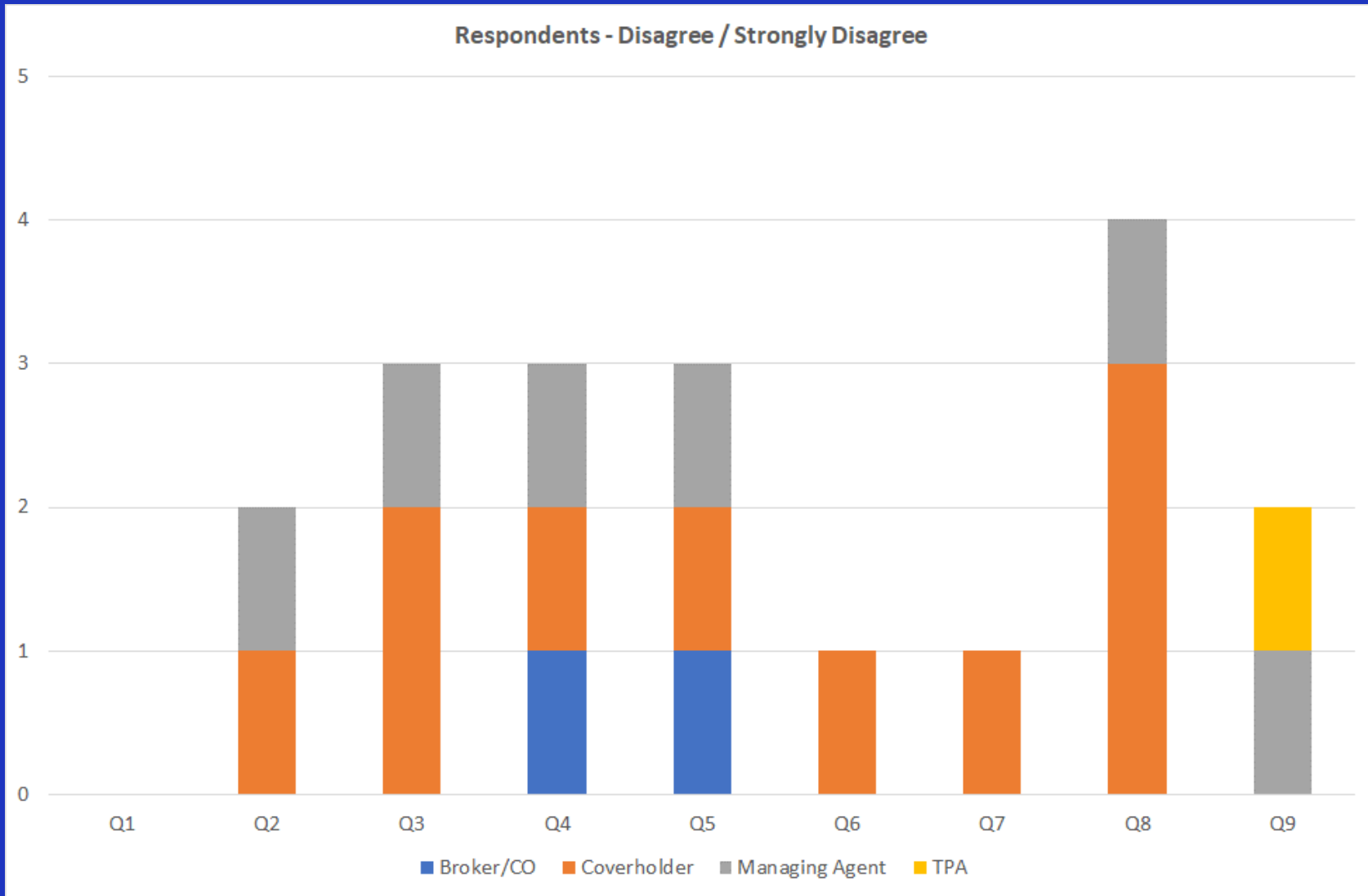
Who responded to the consultation – 77 responses



Strong support for our proposals where we asked for your feedback



Very few expressed disagreement



Consultation 1 - Do you agree that Lloyd's should adopt a risk-based approach to third party oversight based on the operating principles we set out in Section 3 of our Consultation Document?

Percentage of respondents who agreed or strongly agreed: 99%

- Respondents overall agreed that the approach we are proposing will offer a balance between ensuring there is robust oversight and reducing the administrative burden that applications can involve.

Consultation 2 - Do you agree with the proposal that Lloyd's adopt a differentiated approach to coverholder applications and oversight based on the risk factors identified? See section 4 of our Consultation Document.

Percentage of respondents who agreed or strongly agreed: 87%

- Respondents consistently agreed with our proposal, but a number of responses focussed on how our risk-based approach would operate in practice and several responses asked for more information about Lloyd's expectations of parties if they are to benefit from the accelerated processes for lower risk applications. A strong message that came through (which we agree with) is that the approach to risk assessment by Lloyd's needs to be robust, fair and transparent and clearly communicated to the market. Feedback on the way in which Lloyd's proposes to assess the risk rating of applications also included the following:
 - Some comments expressed a concern that having some managing agents rated as strong and others standard could lead to a two-tier market with the managing agents rated as standard potentially being selected against.
 - Respondents also questioned if the risk-based approach will benefit managing agents who are rated as standard and similarly, a concern was expressed that a coverholder who was lower risk may see limited benefits if the managing agent was rated as standard.
 - One broker was concerned that it may find business which is subject to less oversight suddenly become subject to greater checks if a managing agent's rating changes from strong to standard. (Cont ...)

Consultation 2 (... Cont.) - Do you agree with the proposal that Lloyd's adopt a differentiated approach to coverholder applications and oversight based on the risk factors identified? See section 4 of our Consultation Document.

(... Cont.)

- Two respondents suggested that some risk factors which Lloyd's is proposing to take into account, like profit commission are often only agreed post approval, so in practice it will not be possible to provide the information Lloyd's is looking for to assess the risk.
- In response, we believe that the criteria we will apply will be appropriate for the risks in question and therefore applicants can have confidence that the level of review their applications receive will be appropriate. Overall, we anticipate everyone will see some benefit from our risk-based approach and the benefits will not be limited to certain parts of the market. At the same time, it is clear that there are still some questions about how our arrangements will work in practice and we agree that we need to communicate our approach clearly to provide confidence that it is robust and transparent. We will continue to engage with the market associations on this. We anticipate that this is an area that is likely to evolve with experience as the market becomes familiar with the processes we operate and as we collect better data.

Consultation 3 - Do you agree with Lloyd's views on oversight and the practical benefits associated with these proposals for coverholders? Do you believe the benefits identified will make a positive difference to your firm? See section 4 of our Consultation Document.

Percentage of respondents who agreed or strongly agreed: 77%

- There was general agreement in the responses that the new approach will bring benefits although some respondents thought it may be less impactful for their particular book of business and others wanted to reserve judgement until they saw the new arrangement operate in practice. One respondent highlighted the ability of followers to access the information on the system as likely to be a particular benefit of the new system.
- A number of respondents said that, while the new arrangements will bring benefits there needs to be continued efforts to streamline all elements of operating within the Lloyd's market.

Consultation 4 - Do you agree that Lloyd's oversight arrangements, including the requirement for the approval of firms, should be extended to include delegated claims handling? See section 5 of our Consultation Document

Percentage of respondents who agreed or strongly agreed: 92%:

- With only a few exceptions, respondents were consistent in supporting Lloyd's approval of delegated claims administrators and a number of respondents welcomed the alignment of approach with delegated underwriting, which it was thought would support improved standards. However, some respondents noted that the risks which claims handling raises are different to underwriting and that needs to be recognised in the criteria Lloyd's applies. We agree with that.
- One point that was raised by respondents was the question of how much due diligence of their own managing agents should be expected to do in view of Lloyd's approval process. Some thought it was important that there should not be a double due diligence which would create additional burden for the delegated claims administrators while one managing agent was concerned that they did not want to lose control of their own approval process. Another managing agent saw this as an opportunity to consolidate Lloyd's due diligence requirements with their own. Our expectation is that the centralization of approval by Lloyd's will reduce the burden on delegated claims administrators by removing duplication but this does not remove the need for managing agents to carry out their own due diligence.

Consultation 5 - Do you agree with our proposal that Lloyd's adopt a differentiated approach to TPA applications and oversight based on the risk factors identified? See section 5 of our Consultation Document

Percentage of respondents who agreed or strongly agreed: 83%

- Overall, respondents supported the approach being proposed by us although some wanted to see how it operates in practice. A few respondents provided feedback on the risk rating criteria and we will continue to engage with the market associations to explain our approach.

Consultation 6 - Do you agree with our views on oversight and the practical benefits associated with these proposals for TPAs? Do you believe the benefits identified will make a positive difference to your firm? See section 5 of our Consultation Document

Percentage of respondents who agreed or strongly agreed: 77%

- While respondents responded in the positive, comments emphasised that achieving the benefits will depend on how the new processes are implemented, which we accept. It was noted that having the information relating to the delegated claims administrators held centrally will make it more efficient for managing agents, particularly where they are followers.

Consultation 7 - Do you agree with our proposal that the Intermediaries Byelaw be amended to give Lloyd's the discretion in appropriate cases (1) to permit delegation to firms that are not approved coverholders (at this time being 'distributors' or third party online platform providers), and (2) to permit sub-delegation? See section 6 of our Consultation Document

Percentage of respondents who agreed or strongly agreed: 85%

- While there is broad support for Lloyd's having greater flexibility, it is clear that different market participants had different views on this issue. While some respondents cautioned against allowing 'distributors' or sub-delegation, others expressed strong support and a strong view that Lloyd's current rules are too restrictive. Overall the consensus is that some change is overdue and the focus should be on how that is achieved. Respondents also thought the new rules would remove some of the current administrative burden of achieving the same result while complying with the current requirements (for example through the use of tri-partite binding authorities). Respondents also thought that creating more flexible rules would open new opportunities for Lloyd's.
- A number of respondents emphasised that these types of arrangement can have high risk features, including conduct risk, and so need to be carefully managed. Some respondents also highlighted that these arrangements are currently subject to heightened regulatory attention from the FCA.
- Our proposal to limit approval of distributors to the UK in the first instance was challenged by a few respondents who thought that we should allow distributors outside of the UK in appropriate circumstances. (Cont ...)

Consultation 7 (... Cont.) - Do you agree with our proposal that the Intermediaries Byelaw be amended to give Lloyd's the discretion in appropriate cases (1) to permit delegation to firms that are not approved coverholders (at this time being 'distributors' or third party online platform providers), and (2) to permit sub-delegation? See section 6 of our Consultation Document

(... Cont.)

- A few respondents expressed a concern that allowing distributors could cut across traditional coverholder business and undermine existing Lloyd's coverholders.
- There was general agreement that third party internet platforms for selling should be permitted. However, some respondents cautioned that the distinction with distributors are not always clear and they may raise similar conduct risk issues as other distributors.
- We continue to believe that our requirements need to be more flexible than they currently are and that the changes we are proposing at this stage are correct. However, it is clear that careful consideration is required to ensure we get the detailed criteria right when setting out exactly what is permitted and ensure that we address the risks associated with different distribution options. As we develop those further requirements, to be set out in the 'Code of Conduct – Delegated Authority', we will work closely with the market associations.

Consultation 8 - Do you agree with the controls set out in our proposals regarding the use of distributors and third party online platforms? See section 6 of our Consultation Document

Percentage of respondents who agreed or strongly agreed: 80%

- A number of respondents questioned the use of managing agent ratings to determine who can appoint distributors. Some respondents said Lloyd's should not link permission to write distributor business to Green minimum standard ratings, as this is self-certified. Instead, they advocated that each managing agent should be individually rated and approved.
- Respondents also commented that they believed more detail needed to be provided by Lloyd's on the controls it expects managing agents to exercise. This is something we will work with the market to provide.
- One respondent questioned whether limiting distributors to the products described would be unduly restrictive as in practice they thought it covers relatively few products.

Consultation 9 - Do you agree with our proposed approach (including the proposed controls) to permitting sub-delegation by coverholders? See section 6 of our Consultation Document

Percentage of respondents who agreed or strongly agreed: 88%

- There was broad support for allowing sub-delegation, but with a number of respondents emphasising the need to roll it out cautiously with appropriate controls in place, although there is a diversity of opinion of what that should mean. While some respondents agreed to the restriction on only allowing sub-delegation to other coverholders and distributors others did not agree. A number of respondents indicated that they would like more detail on the controls to be applied. As already indicated, we recognise that this is an area that requires further discussion with the market.

Question 10 - Do you have any other comments on the proposed other changes to be made to the Intermediaries Byelaw?

- In the comments there was strong support expressed from a number of respondents for the proposal to remove the need to identify in binding authorities all individuals with underwriting authority. Two respondents, however, cautioned against removing this control because it would reduce visibility on who are the individuals with underwriting authority. We think the concerns of respondents can be addressed in other ways other than requiring the individuals all to be listed in the binding authority and therefore we have adopted this change.
- Two responses expressed the view that Lloyd's should not look to extend registration of delegated authority arrangements to lineslips and consortia. However, on balance we continue to view this as an area where we need greater visibility and which will not impose an undue burden on the market.
- The LMA asked that the term Third Party Administrator is replaced with a term that is more reflective of the role played, specifically 'Delegated Claims Administrator' and we have adopted that suggestion.

LLOYD'S