

FROM: Matthew Chandler
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REFERENCE: Y3251
SUBJECT: NEW LLOYD'S BYELAWS AND REQUIREMENTS
SUBJECT AREA(S): New Delegated Underwriting Byelaw and Overseas Underwriting Byelaw.
Revised Definitions Byelaw.
London Market Principles ("LMP") slips
ATTACHMENTS: Appendix 1 – Delegated Underwriting Byelaw
Appendix 2 – Consolidated version of the Underwriting Requirements
Appendix 3 – Managing Agents' Code of Practice for Delegated Underwriting
Appendix 4 – Transitional Arrangements
Appendix 5 - Overseas Underwriting Byelaw
Appendix 6 - Definitions Byelaw
ACTION POINTS: **To note new byelaws and procedures**
DEADLINE: **Delegated Underwriting Byelaw – effective from 1 March 2004**
Overseas Underwriting Byelaw – effective 1 March 2004
LMP slips – effective 2 January 2004
Revised Definitions Byelaw – effective 1 March 2004

Following extensive consultation with the Lloyd's Market Association ("LMA"), the London Market Insurance Brokers' Committee ("LMBC") and other relevant parties, and on the recommendation of the Franchise Board, the Council has made the Delegated Underwriting Byelaw and a revised Definitions Byelaw. Council has also made the Overseas Underwriting Byelaw.

In addition, detailed Underwriting Requirements relating to delegated and overseas underwriting and the use of the London Market Principles ("LMP") BRAT slip have also been made.

Delegated Underwriting Byelaw

On 20 October 2003, Lloyd's published its proposals for a new approach to delegated underwriting arrangements at Lloyd's and invited comments from the market on the proposals contained in that bulletin. The proposals outlined in that bulletin had the support of the LMA and LMBC.

The consultation period closed on 14 November 2003. Lloyd's received thirty-one written responses to the consultation (seventeen from managing agents, ten from Lloyd's brokers and four from other interested parties). Whilst a number of respondents sought clarification on certain practical implications of the new arrangements, there was very wide support for the proposals. As a result, in order to improve clarity, Lloyd's has made only technical and some stylistic changes to the Delegated Underwriting Byelaw and the other documents that were consulted on.

The Franchise Board approved the introduction of the proposals and recommended that the new Delegated Underwriting Byelaw should be made by Council. Accordingly, the following have now been made –

- the Delegated Underwriting Byelaw (**appendix 1**);
- chapter 2 to the Underwriting Requirements. This contains the detailed requirements relating to delegated underwriting. A consolidated version of the Underwriting Requirements, including Chapter 2 is included as an appendix (**appendix 2**); and
- the Managing Agents' Code of Practice for Delegated Underwriting (**appendix 3**).

The delegated underwriting arrangements come into force on 1 March 2004.

In order to ensure that the implementation of the new arrangements is carried out in an orderly manner, Lloyd's has issued transitional arrangements (**appendix 4**). This updates the transitional arrangements issued in the 20 October 2003 bulletin.

The new arrangements also include a new application form for coverholder approval as well as handbooks for use by coverholders and by managing agents and Lloyd's brokers. These will be available on the Coverholders Department's pages of the lloyds.com website from 1 March 2004. All applications received by the Coverholders Department from 5 April 2004 must be completed on the new application form. Until 5 April 2004 applications made on the old application form (CD1) will still be accepted; however it is likely that additional information will be required and if at all possible the new form should be used.

The introduction of the new byelaw and the accompanying changes to the delegated underwriting requirements represent a major modernisation of Lloyd's processes and will enhance risk management of delegated underwriting at Lloyd's.

Overseas Underwriting Byelaw

Lloyd's has also reviewed the arrangements for overseas underwriting. It is important that Lloyd's requirements to ensure that members and managing agents comply with local regulatory requirements are clear and comprehensive.

Accordingly, on the recommendation of the Franchise Board, the Council has made the Overseas Underwriting Byelaw to deal (in one place) with all overseas underwriting issues and permits the Franchise Board to make all relevant requirements regarding overseas underwriting (**appendix 5**)

The Overseas Underwriting Byelaw comes into force with immediate effect.

In addition, requirements relating to Lloyd's Japan and Canadian business have been made under this byelaw and are included at Chapter 3 of the Underwriting Requirements (**appendix 2**).

London Market Principles ("LMP") slip

With effect from 2 January 2004, the Franchise Board has required all slips used in the Lloyd's market, subject to certain specific exceptions noted below, to be LMP BRAT slips, completed in accordance with the LMP BRAT slip standards. This requirement was imposed, following wide consultation with the market, in order to:

- ensure clarity and completeness of contractual terms;
- assist in slip administration and help ensure that the slips comply with fiscal and regulatory requirements; and
- facilitate the accurate production of insurance documentation and thereby deliver benefits to brokers, underwriters and policyholders.

The requirement to use LMP BRAT slips **does not apply** to:

- binding authorities and line slips (work is being undertaken to determine how the LMP Principles can be applied to binding authorities with the aim of producing an LMP binding authority slip in due course); or
- slips where the insured or a non-Lloyd's insurance intermediary requires the use of a non-LMP BRAT slip; or
- slips which relate to motor, personal lines or term life insurance business and which are not processed by XIS.

The consolidated version of the Underwriting Requirements (**appendix 2**) therefore also includes this new requirement in Chapter 1. There have been no further changes to Chapter 1.

Consolidation of byelaws and requirements

The implementation of the new byelaws continues the process, which commenced with the new Underwriting Byelaw, to consolidate and simplify a number of Lloyd's existing byelaws and requirements. The implementation of the Delegated Underwriting and Overseas Underwriting Byelaws has enabled seven existing byelaws and regulations to be revoked. Additionally, the new managing agents' code of practice for delegated underwriting replaces two existing codes of practice and four pieces of business conduct guidance from the Code Handbook.

Implementing these two new byelaws has also required certain new definitions to be included in the Definitions Byelaw. Accordingly, Council has made a revised Definitions Byelaw (**appendix 6**).

Queries

Any queries relating to this bulletin in respect of delegated underwriting should be referred to: -

- Matthew Chandler, Head of Admissions on 020 7327 5743 or matthew.chandler@lloyds.com
- John Thompson, Manager, Coverholders Department on 020 7327 6164 or john.f.thompson@lloyds.com
- Steve Draper, Assistant Manager, Coverholders Department on 020 7327 6064 or steve.e.draper@lloyds.com

Any queries relating to the Overseas Underwriting Byelaw and Requirements should be referred to: -

- Worldwide Market Services on 020 7327 6677 or market.services@lloyds.com

Any queries relating to the LMP slip should be referred to: -

- LMP Programme Office on 020 7327 5220 or imp@lmpoffice.com

This bulletin has been sent to all underwriting agents, approved run-off companies, Lloyd's brokers, Lloyd's market associations and recognised accountants.

Matthew Chandler
Head of Admissions

DELEGATED UNDERWRITING BYELAW

Purpose:

The purpose of this Byelaw is to -

1. permit the acceptance of business at Lloyd's through *coverholders*;
2. specify to whom a *managing agent* may delegate its authority to underwrite contracts of insurance and issue insurance documentation;
3. state which type of *coverholder* must be approved by the *Franchise Board*;
4. provide for the registration of all *approved* and *restricted coverholders*;
5. provide for the registration of certain *binding authorities*; and
6. provide for the *Franchise Board* to prescribe conditions and requirements relating to insurance documentation issued by *coverholders*.

The Byelaw also revokes –

1. The Binding Authorities Byelaw (No. 9 of 1990);
2. The Binding Authorities Regulation (No. 5 of 1990);
3. The Binding Authorities Registration Scheme (4 October 1990); and
4. The Approval of Correspondents Regulation (No. 4 of 1990).

Words and terms shown in italics have the meaning set out in the Definitions Byelaw.

This Byelaw was made by the *Council* on 4 February 2004 in exercise of its powers under section 6(2) and 8(3) of, and paragraphs (19), (21), (24), (37) and (41) of Schedule 2 to, Lloyd's Act 1982 and may be referred to as the Delegated Underwriting Byelaw (No. 1 of 2004).

The headings and these notes are for guidance only and do not form part of the Delegated Underwriting Byelaw.

Contents

Part A	Delegation of authority
	Delegation of authority to enter into contracts of insurance
	Delegation of authority to issue insurance documentation
Part B	Registers of coverholders and registered binding authorities
Part C	Approved coverholders
	Applications for approval
	Approval
	Directions, conditions and requirements
	Review of approval
	Revocation of approval
Part D	Restricted coverholders
	Candidates
	Registration
	Power to require restricted coverholder to seek approval
	Revocation of registration
Part E	Binding authorities
	Requirements relating to binding authorities
	Registration of binding authorities
Part F	Requirements for insurance documentation
Part G	Third party administrators
Part H	Suspension
Part I	Miscellaneous and transitional arrangements
	Acceptance of business
	The Franchise Board

Managing agent's obligations

Publication

Revocations

Transitional and miscellaneous arrangements

Supplementary directions, conditions and requirements

Commencement

Part A – Delegation of authority

Delegation of authority to enter into contracts of insurance

1. A *managing agent* shall not delegate its authority to enter into contracts of insurance to be underwritten by the *members* of a *syndicate* managed by it to any person other than –
 - (a) to a director or employee of the *managing agent* or, with the consent of the *Franchise Board*, to any other individual engaged to provide services to the *managing agent*;
 - (b) to another *managing agent* or authorised insurance company in accordance with the terms of a *line slip*;
 - (c) to another *managing agent* in accordance with the terms of a *registered binding authority* or a *restricted binding authority*;
 - (d) to an *approved coverholder* in accordance with the terms of a *registered binding authority* or a *restricted binding authority*;
 - (e) to a *restricted coverholder* in accordance with the terms of a *restricted binding authority*;
 - (f) to the *Society*, or a representative or agent of the *Society*; or
 - (g) in accordance with any other of the *requirements of the Council*.

2. Any person, other than the *Society* or a *managing agent*, with authority to enter into contracts of insurance to be underwritten by *members* of a *syndicate* shall not sub-delegate that authority other than to a director, partner or employee of that person in accordance with the terms of the *binding authority* or *line slip* in question.

Delegation of authority to issue insurance documentation

3. A *managing agent* shall not delegate its authority to issue documents evidencing contracts of insurance underwritten by the *members* of a *syndicate* managed by it to any person other than to –
 - (a) the *LPSO*;
 - (b) a director or employee of the *managing agent* or, with the consent of the *Franchise Board*, to any other individual engaged to provide services to the *managing agent*;
 - (c) another *managing agent* or an authorised insurance company in accordance with the terms of a *line slip*;

- (d) another *managing agent* in accordance with the terms of a *registered binding authority* or a *restricted binding authority*;
 - (e) an *approved coverholder* in accordance with the terms of a *registered binding authority* or a *restricted binding authority*;
 - (f) a *restricted coverholder* in accordance with the terms of a *restricted binding authority*;
 - (g) the *Society*, including for the purpose of issuing or otherwise making available marine insurance certificates in accordance with the Marine Insurance Certificates Byelaw (No. 3 of 2002), or a representative or agent of the *Society*; or
 - (h) to such other persons as the *Franchise Board* may permit.
4. Any person, other than the *Society*, *LPSO* or a *managing agent*, with authority to issue documents evidencing contracts of insurance underwritten on behalf of the *members of a syndicate* shall not sub-delegate that authority other than to a director, partner or employee of that person in accordance with the terms of the *binding authority* or *line slip* in question.

Part B – Registers of coverholders and registered binding authorities

5. The *Franchise Board* shall establish and maintain registers of –
 - (a) *approved coverholders*;
 - (b) *restricted coverholders*; and
 - (c) *registered binding authorities*.
6. The registers shall be in such form and contain such information as the *Franchise Board* may prescribe.
7. The *Franchise Board* may prescribe which persons or categories or classes of person may inspect all or any part of each register referred to in paragraph 5.

Part C - Approved coverholders

Applications for approval

8. Any company or partnership that wishes to be approved as an *approved coverholder* (an “*applicant*”) may apply to the *Franchise Board*. Applications shall be made in accordance with such procedures and shall be accompanied by such documents and information as the *Franchise Board* may from time to time prescribe.
9. The *Franchise Board* may require an *applicant*, which is not a *Lloyd’s broker*, to be sponsored by a *Lloyd’s broker* or a *managing agent* (the “*sponsor*”).
10. At any time after receiving an application, the *Franchise Board* may, in connection with the consideration of the application, require –
 - (a) the *applicant*;
 - (b) any *sponsor*; or
 - (c) any *managing agent* which proposes to enter into a *binding authority* with the *applicant*,or any of the directors, partners and employees of any such person to –
 - (i) provide information, documents, books, records and other materials;
 - (ii) answer questions;
 - (iii) give undertakings or make declarations to the *Franchise Board*;
 - (iv) attend before the *Franchise Board* or any representative or agent of the *Society*;
 - (v) permit the *Franchise Board* or any representative or agent of the *Society* to attend at the *applicant’s* business premises to inspect, review or assess the *applicant’s* business operations, books and records and to pay or contribute to the costs of that inspection, review or assessment;
 - (vi) provide funds or other security (including, but not limited to letters of credit, charges or guarantees) for the settlement and payment of insurance transactions incurred by it.

Approval

11. The *Franchise Board* may consider applications for approval as an *approved coverholder* and grant or refuse any such approval. Upon granting any such approval the name of the *applicant* shall be entered into the register of *approved coverholders*.
12. The *Franchise Board* shall not approve an *applicant* as an *approved coverholder* unless the *applicant* has demonstrated to the *Franchise Board* that it is suitable to be an *approved coverholder*.
13. In deciding whether an *applicant* is suitable to be approved as an *approved coverholder* the *Franchise Board* shall have regard to such criteria as it may from time to time prescribe.
14. A person shall not hold itself out as being an *approved coverholder* unless its name appears in the register of *approved coverholders*.
15. The approval of a person as an *approved coverholder* may be –
 - (a) subject to that person entering into a *binding authority* to be registered in accordance with this Byelaw within such period as the *Franchise Board* may specify;
 - (b) subject to the provision of undertakings or declarations from such persons as the *Franchise Board* may require;
 - (c) for a specific or an indefinite period.

Directions, conditions and requirements

16. The *Franchise Board* may at any time give such directions to or impose such conditions or requirements on an *approved coverholder* (or any class or group thereof) as it thinks necessary or appropriate. A direction, condition or requirement given or imposed under this paragraph may include a direction, condition or requirement for the purposes of ensuring that the *approved coverholder* –
 - (a) is or will continue to be suitable to be an *approved coverholder*;
 - (b) will only act in that capacity in accordance with a *binding authority* which has such parties, or which was arranged or broked by such person or persons, as the *Franchise Board* may specify;
 - (c) will only act in that capacity in respect of certain classes or categories of insurance business as specified by the *Franchise Board*.

Review of approval

17. The *Franchise Board* may at any time conduct a review of an *approved coverholder's* approval under this Byelaw for the purpose of determining –
- (a) whether the *approved coverholder* continues to be suitable to be an *approved coverholder*;
 - (b) whether there are or may be any ground for exercising any power of the *Franchise Board*.
18. In connection with any review conducted by the *Franchise Board* under paragraph 17, the *Franchise Board* may require the *approved coverholder*, any *managing agent* which is or has been a party to a *binding authority* with the *approved coverholder* and any *Lloyd's broker* which arranged, broked or is a party to any such *binding authority* and any of their directors, partners or employees to –
- (a) provide information, documents, books, records and other materials;
 - (b) answer questions;
 - (c) attend before the *Franchise Board* or any representative or agent of the *Society*;
 - (d) permit the *Franchise Board* or any representative or agent of the *Society* to attend at the *approved coverholder's* business premises to inspect, review or assess the *approved coverholder's* business operations, books and records and to pay or contribute to the costs of that inspection, review or assessment;
 - (e) make declarations to the *Franchise Board*.

Revocation of approval

19. The *Franchise Board* may at any time revoke the approval of an *approved coverholder* and remove its name from the *register of approved coverholders* if the *Franchise Board* considers that –
- (a) the *approved coverholder* is not suitable to be an *approved coverholder*;
 - (b) the *approved coverholder* has failed to or has ceased to comply with any direction, condition or requirement given to or imposed upon it under paragraph 16;
 - (c) the *approved coverholder* has failed to or has ceased to comply with the terms of any undertaking or declaration that it has given to the *Franchise Board*;
 - (d) the *approved coverholder* has not been party to a *registered binding authority* for a period of 3 months, or such longer period as the *Franchise Board* may

- permit, since the expiry of its authority to enter into contracts of insurance on behalf of the *members* of a *syndicate* under the last *registered binding authority* to which it was party; or
- (e) it is necessary or desirable in order to protect the name, reputation or standing of the *Society* and of its *members* or their authorisation to conduct insurance business.
20. Where the *Franchise Board* considers that there are grounds for revoking the approval of an *approved coverholder* the *Franchise Board* may if it considers that there is good reason to do so –
- (a) postpone that revocation for such period or periods as the *Franchise Board* may specify from time to time or until the *Franchise Board* shall otherwise determine; and
- (b) in connection with such postponement, at any time give such directions or impose such requirements as it may think fit including directions or requirements for the purpose of ensuring that –
- (i) the *approved coverholder* does not or does not continue to enter into or purport to enter into any further contracts of insurance on behalf of *members* of a *syndicate*; and
- (ii) any contracts of insurance entered into by the *approved coverholder* on behalf of *members* of a *syndicate* in any capacity are properly administered.

Part D – Restricted coverholders

Candidates

21. A *managing agent* may request that the *Franchise Board* enter the name of a company or partnership (the “*candidate*”) in the register of *restricted coverholders* in accordance with this Byelaw. Requests shall be made in accordance with such procedures and shall be accompanied by such documents and information as the *Franchise Board* may from time to time prescribe.

Registration

22. If the *Franchise Board* considers that the *candidate* is eligible to be entered in the register of *restricted coverholders* it may enter its name in that register.
23. The *Franchise Board* may from time to time prescribe the criteria for eligibility to be entered in the register of *restricted coverholders*.
24. The *Franchise Board* may, without giving reasons, return a request made in accordance with paragraph 21 and invite a *candidate* to make an application in accordance with Part C of this Byelaw.
25. The registration of a *restricted coverholder* may be –
 - (a) subject to the *restricted coverholder* entering into a *restricted binding authority* within such period as the *Franchise Board* may specify;
 - (b) for a specific or an indefinite period.
26. A person shall not hold itself out as being a *restricted coverholder* unless its name appears in the register of *restricted coverholders*.

Power to require a restricted coverholder to seek approval

27. The *Franchise Board* may require a *restricted coverholder* to seek the approval of the *Franchise Board* in accordance with Part C of this Byelaw at any time and within such period as the *Franchise Board* may specify.

Revocation of registration

28. The *Franchise Board* may at any time revoke the registration of a *restricted coverholder* and remove it from the *register of restricted coverholders* if –
- (a) the *Franchise Board* considers that it has ceased to be eligible to be a *restricted coverholder*;
 - (b) the *restricted coverholder* has not been approved by the *Franchise Board* within the period specified by it in accordance with paragraph 27;
 - (c) it has not been party to a *restricted binding authority* for a period of 3 months, or such longer period as the *Franchise Board* may permit, since the expiry of its authority to enter into contracts of insurance on behalf of the members of a syndicate under the last *restricted binding authority* to which it was party; or
 - (d) it is necessary or desirable in order to protect the name, reputation or standing of the *Society* and of its members or their authorisation to conduct insurance business.
29. Where the *Franchise Board* considers that there are grounds for revoking the registration of a *restricted coverholder* the *Franchise Board* may if it considers that there is good reason to do so –
- (a) postpone that revocation for such period or periods as the *Franchise Board* may specify from time to time or until the *Franchise Board* shall otherwise determine; and
 - (b) in connection with such postponement, at any time give such directions or impose such requirements as it may think fit including directions or requirements for the purpose of ensuring that –
 - (i) the *restricted coverholder* does not or does not continue to enter into or purport to enter into any further contracts of insurance on behalf of *members* of a *syndicate*; and
 - (ii) any contracts of insurance entered into by the *restricted coverholder* on behalf of *members* of a *syndicate* in any capacity are properly administered.

Part E - Binding authorities

Requirements relating to binding authorities

30. The *Franchise Board* may from time to time prescribe conditions and requirements with which all *binding authorities* or any class or category of *binding authority* must comply including conditions and requirements relating to information, provisions and terms to be included in a *binding authority*.
31. A *coverholder* shall not enter into or purport to enter into a contract of insurance under a *binding authority* unless the *binding authority* complies with the conditions and requirements prescribed by the *Franchise Board* in accordance with paragraph 30.

Registration of binding authorities

32. An *approved coverholder* shall not enter into or purport to enter into a contract of insurance under a *binding authority*, other than a *restricted binding authority*, until that *binding authority* has been registered in accordance with the requirements and procedures prescribed by the *Franchise Board*.
33. The *Franchise Board* may from time to time prescribe –
 - (a) which classes and categories of persons may register a *binding authority*; and
 - (b) prescribe requirements and procedures which must be complied with in order to register a *binding authority*.
34. The person who registers a *registered binding authority* shall ensure that the information contained in the register relating to that binding authority is kept up-to-date.

Part F - Requirements for insurance documentation

35. The *Franchise Board* may from time to time prescribe such conditions and requirements regarding insurance documentation issued by *coverholders* which may include conditions and requirements relating to –
- (a) the content, form and style of the insurance documentation;
 - (b) service standards for the issuance and distribution of the insurance documentation;
 - (c) arrangements to ensure that a policyholder can verify the authority of a *coverholder* to enter into contracts of insurance underwritten by *members* of a *syndicate* and the authenticity of the insurance documentation issued by it; and
 - (d) arrangements for the proper control of the issuance and distribution of the insurance documentation.

Part G – Third party administrators

36. Where under the terms of a *registered binding authority* or a *restricted binding authority* a person, other than a *Lloyd's settling agent*, may be appointed to agree claims arising under contracts of insurance entered into under that *binding authority* (a "*third party administrator*") each *managing agent* that is a party to that *binding authority* shall enter into an agreement with the *third party administrator* which specifies the nature and extent of the *third party administrator's* authority to settle claims. The agreement shall comply with such requirements as the *Franchise Board* may prescribe.

Part H - Suspension

37. The *Franchise Board* may make a direction or order of suspension in respect of any *coverholder* on such terms and subject to such requirements as it may specify when in its opinion such a direction or order appears to be necessary or desirable in the interests of the *Society*, its *members* or policyholders.
38. The terms of a direction or order made by the *Franchise Board* under paragraph 37 may include requirements that the *coverholder* –
- (a) ceases to enter into contracts of insurance on behalf of *members* of a *syndicate* in respect of any or all *binding authorities*;
 - (b) ceases to administer or run-off any contract of insurance entered into by it on behalf of *members* of a *syndicate*;
 - (c) ceases to issue documents evidencing contracts of insurance entered into by it on behalf of *members* of a *syndicate*.

Part I – Miscellaneous and transitional provisions

Acceptance of business

39. A *member* may, at any time, in the course of his underwriting business at Lloyd's –
- (i) accept business through a *registered coverholder* or a *restricted coverholder* in accordance with the terms of a *registered* or a *restricted binding authority* either from a broker, intermediary or directly from a policyholder;
 - (ii) accept business through *Lloyd's Japan Inc* directly from any proposer or *non-Lloyd's broker* in Japan in accordance with such conditions and requirements as the *Franchise Board* may from time to time prescribe;
 - (iii) accept business of a type referred to in paragraph 28 of the Underwriting Byelaw from or through a *non-Lloyd's broker* where there is in force between the *managing agent* accepting business on the *member's* behalf and a *Lloyd's broker* a guarantee in respect of that *non-Lloyd's broker* which complies with such conditions and requirements as the *Franchise Board* may from time to time prescribe.

The Franchise Board

40. All references in this Byelaw to the *Franchise Board* shall be deemed to also be references to the *Council*. The *Franchise Board* may exercise all of the powers, discretions and functions set out in this Byelaw as the agent of the *Council*.

Managing agent's obligations

41. A *managing agent* shall not authorise, permit or cause a *coverholder* to act in contravention of any of the *requirements of the Council*.
42. A *managing agent* shall immediately notify the *Franchise Board* in writing if it knows or believes or has reason to believe that any *coverholder* is acting or has acted in contravention of any provision of this Byelaw or of any of the *requirements of the Council*.
43. A *managing agent* shall take all reasonable steps to satisfy itself that an *approved coverholder* remains suitable to be an *approved coverholder* or that a *restricted coverholder* remains eligible to be a *restricted coverholder* in accordance with this

Byelaw and any requirements as prescribed by the *Franchise Board* prior to the *managing agent* delegating its authority to enter into a contract or contracts of insurance to that *approved coverholder* or *restricted coverholder*.

44. A *managing agent* shall immediately notify the *Franchise Board* in writing in the event that it knows or believes or has reason to believe that any of the events at paragraph 19 (a) to (e) or paragraph 28 (a), (c) or (d) has occurred or is likely to occur.
45. Nothing in this Byelaw shall permit a *managing agent* to delegate its authority to enter into a contract of insurance on behalf of a *member* or to delegate its authority to issue documents evidencing contracts of insurance underwritten on behalf of a *member* where such delegation would be contrary to the laws, regulations or requirements of the *country* in which the business will be transacted.

Publication

46. The *Franchise Board* may, where appropriate, publish any decision made under this Byelaw in such terms as it sees fit.

Revocations

47. The following Byelaw, regulations and scheme are revoked -
 - (a) The Binding Authorities Byelaw (No. 9 of 1990);
 - (b) The Binding Authorities Regulation (No. 5 of 1990);
 - (c) The Binding Authorities Registration Scheme (4 October 1990); and
 - (d) The Approval of Correspondents Regulation (No. 4 of 1990).
48. Every reference in the *requirements of the Council* to the Byelaw, regulations and scheme referred to at paragraph 47 shall, save where the context otherwise requires, be deemed to be a reference to this Byelaw or, in the case of a definition, to the Definitions Byelaw.

Transitional and miscellaneous arrangements

49. The *Franchise Board* shall on 1 March 2004 enter in the register of *approved coverholders*, maintained in accordance with this Byelaw, the name of any person who on 29 February 2004 –

- (a) was approved as a *coverholder* in accordance with the Approval of Correspondents Regulation (No 4 of 1990); or
 - (b) was a *Lloyd's broker*.
50. The *Franchise Board* shall on 1 March 2004 enter in the register of *approved coverholders*, maintained pursuant to this Byelaw, the name of any *coverholder* who did not require approval in accordance with the Approval of Correspondents Regulation (No 4 of 1990), but who on 1 March 2004 requires approval in accordance with this Byelaw.
51. Entry into the register of *approved coverholders* pursuant to paragraphs 49 and 50 may be subject to the provisions of paragraphs 15 and 16 of this Byelaw and the *Franchise Board* may require that person to seek the approval of the *Franchise Board* in accordance with Part C of this Byelaw at any time and within such period as the *Franchise Board* may specify.
52. Every *coverholder* which as at 29 February 2004 was subject to a condition or conditions, imposed under paragraph 9 of the Approval of Correspondents Regulation (No. 4 of 1990) shall from 1 March 2004 be deemed to be subject to a corresponding condition or conditions imposed under paragraph 16 of this Byelaw.
53. Every review of a *coverholder's* approval which as at 29 February 2004 was being conducted pursuant to the terms of paragraph 11 of the Approval of Correspondents Regulation (No. 4 of 1990) shall from 1 March 2004 be deemed to be a review conducted by the *Franchise Board* in accordance with paragraph 17 of this Byelaw.
54. The Lloyd's Appeal Tribunal Byelaw (No. 32 of 1996) is amended by deleting paragraph 1(k) of Schedule 3 and substituting therefor the words "(k) Delegated Underwriting Byelaw (No. 1 of 2004) as to the revocation of the approval of an approved coverholder under paragraph 19 of that byelaw".
55. The Multiple Syndicates Byelaw (No. 5 of 1989) is amended as follows –
- (a) by deleting in paragraph 3(4)(d) each reference to the word "limited"; and
 - (b) by deleting the definition of limited binding authority in Schedule 1.
56. The LPSO Byelaw (No. 11 of 2000) is amended as follows –
- (a) by inserting the word "or" after the words "binding authority, line slip" and deleting the words "or Lloyd's broker's marine line slip"
 - (b) by deleting the definition of Lloyd's broker's marine line slip in Schedule 1.

Supplementary directions, conditions and requirements

57. The *Franchise Board* may at any time give such directions or impose such conditions or requirements as may be necessary in order to clarify or supplement the matter set out in paragraphs 49 to 53 of this Byelaw or otherwise to give effect to orderly transitional arrangements.

Commencement

58. This Byelaw shall come into force on 1 March 2004, save that paragraph 5 (b) of Part B; Part D; paragraphs 30 and 31 of Part E; Part F and Part G shall not come into force until such as time the *Franchise Board* so orders.
59. Until such time as the *Franchise Board* gives the relevant order under paragraph 58, a *managing agent* shall not be in breach of the provisions of paragraphs 1 or 3 of this Byelaw where it delegates its authority –
- (a) to enter into contracts of insurance to be underwritten by the *members* of a *syndicate* managed by it; or
 - (b) to issue documents evidencing contracts of insurance underwritten by the *members* of a *syndicate* managed by it,

to any *coverholder* that, but for the effect of paragraph 58, would in the *managing agent's* opinion otherwise satisfy the criteria for eligibility to be a *restricted coverholder*.

Notes

These notes, the note setting out the purpose of this Byelaw and the part and paragraph headings are for guidance only and do not form part of the Byelaw.

UNDERWRITING REQUIREMENTS

Purpose:

The purpose of the Underwriting Requirements is to conveniently set out all of the matters prescribed, issued or made by the Franchise Board under the Underwriting Byelaw, the Delegated Underwriting Byelaw and the Overseas Underwriting Byelaw. The Underwriting Requirements also contain links to Market Bulletins where they contain further relevant information.

The headings for each of the parts of the Underwriting Requirements correspond with the headings for each of the parts in the relevant Byelaw. The headings for each of the paragraphs of the Underwriting Requirements also include references to the relevant paragraphs in the Byelaw under which the requirements were prescribed, issued or made.

The headings and these notes are for guidance only and do not form part of the Underwriting Requirements.

Words and terms shown in italics have the meaning set out in the Definitions Byelaw.

These requirements came into force on 1 March 2004 and will add to the Underwriting Requirements issued under cover of the Market Bulletin dated 30 June 2003.

Contents

- Chapter 1** **Requirements made under the Underwriting Byelaw**
- Chapter 2** **Requirements made under the Delegated Underwriting Byelaw**
- Chapter 3** **Requirements made under the Overseas Underwriting Byelaw**

Chapter 1 Requirements made under the Underwriting Byelaw

Permission to act as an underwriting agent – Part A of the Underwriting Byelaw

Criteria for deciding whether an *applicant* is suitable to be granted permission to act as an underwriting agent – paragraph 8(b) of the Underwriting Byelaw

1. In deciding whether an *applicant* is suitable to be granted permission to act as an *underwriting agent* 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. In considering this the *Franchise Board* may have regard to the following matters –
 - (i) the nature of the *applicant's* business;
 - (ii) the *applicant's* compliance with appropriate principles of good corporate governance;
 - (iii) the quality and adequacy of the *applicant's* human resources including –
 - (i) the competence, reputation, character and suitability of each of the *applicant's* directors;
 - (ii) the collective suitability of the *applicant's* board of directors and of each of its committees;
 - (iii) the competence, reputation, character and suitability of the *applicant's* officers and trustees;
 - (iv) the competence, reputation, character and suitability of the *applicant's* staff;
 - (v) the quality and adequacy of the *applicant's* training and development programme; and
 - (vi) in the case of an *applicant* applying for permission to act as a *managing agent*, the past, present and forecast *underwriting* performance of the *applicant's* underwriters;
 - (iv) the quality and adequacy of the *applicant's* other resources including –
 - (i) the quality and adequacy of the *applicant's* information technology systems;
 - (ii) the quality and adequacy of the *applicant's* accounting and credit control systems;

- (iii) the quality and adequacy of the *applicant's* consultants, advisers, service providers and agents;
 - (iv) the quality and adequacy of the *applicant's* resources to set and comply with appropriate service standards for its customers;
 - (v) the quality and adequacy of the *applicant's* resources to comply with such principles and standards for the conduct or administration of insurance business as the *Franchise Board* may from time to time prescribe, recognise or endorse;
 - (vi) the quality and adequacy of the *applicant's* record keeping arrangements; and
 - (vii) in the case of an *applicant* applying for permission to act as a *managing agent*, the quality and adequacy of the *applicant's* resources and systems for *underwriting* administration;
- (v) the quality and adequacy of the *applicant's* controls and procedures to manage its business including –
- (i) the quality and adequacy of the *applicant's* risk management and internal audit arrangements;
 - (ii) the quality and adequacy of the *applicant's* compliance arrangements;
 - (iii) the quality and adequacy of the *applicant's* arrangements to manage its service providers and agents;
 - (iv) the *applicant's* arrangements for identifying, resolving or managing conflicts of interest; and
 - (v) in the case of an *applicant* applying for permission to act as an *managing agent*, the quality and adequacy of the *applicant's* controls and procedures for the management of *underwriting* risk;
- (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.

Criteria for deciding whether an *applicant* is suitable to be granted permission to manage a *syndicate* – paragraph 8(c) of the Underwriting Byelaw

2. In deciding whether a *managing agent* is suitable to manage a *syndicate* the *Franchise Board* shall have regard to the criteria set out in paragraph 1 above having regard to the nature and quality of the *business plan* prepared and submitted by the *managing agent* in respect of the *syndicate* in question.

Principles of relationship – Part B of the Underwriting Byelaw

Principles of relationship – paragraph 10 of the Underwriting Byelaw

3. Following consultation, the *Franchise Board* made and issued the following statement setting out Lloyd’s goals and market objectives and the principles in accordance with which Lloyd’s and *managing agents* will generally be expected to work together and assist each other to achieve those goals and objectives.

The Principles of Relationship

1. The Franchise Board’s Goal

The new franchise framework was developed to preserve the advantages that the Lloyd’s market derives from being a marketplace of distinct independent businesses, whilst committing the Franchise Board to effectively promote the overall profitability of the market.

In order to ensure that the franchise framework is successful and that the Franchise Board can deliver the step-change in market performance that is required for Lloyd’s to compete successfully in future in the global insurance market, the Franchise Board has been set a clear goal:

“Creating and maintaining a commercial environment at Lloyd’s in which the long term return to all capital providers is maximised”.

2. Achieving the Franchise Board’s Goal

In order to achieve its goal, the Franchise Board’s vision for the franchise is to ensure that Lloyd’s is the “leading specialist insurance marketplace” and the preferred market of choice for policyholders, brokers, underwriters and capital. The purpose of this document is to set out the principles in accordance with which the Franchise Board and franchisees will generally be expected to work together to achieve that.

The Franchise Board is committed to allowing franchisees in the Lloyd’s marketplace to operate independently within a franchise framework which is committed to delivering consistent underwriting profit, which benefits from a common rating and

mutual security and which attracts the highest quality management and underwriting talent.

The leading specialist insurance marketplace

Lloyd's derives considerable strength from being a market offering specialist expertise. The marketplace is attractive both to policyholders and brokers and to underwriting businesses. Specialism and expertise are at the heart of Lloyd's competitive advantage. The Franchise Board is committed to developing that advantage.

Independence within the franchise framework

The Lloyd's franchise framework is one where franchisees are recognised as independent businesses with the freedom to participate in whichever types of business they choose, subject to their duties and provided they operate in accordance with a business plan which they have agreed with the Franchise Board.

Commitment to delivering consistent underwriting profit

The Franchise Board recognises that consistent profit does not mean constant profit. Insurance is a cyclical business. However, it is proposed that each franchisee strives to ensure that each syndicate makes an underwriting profit each year, consistent with the long-term profitability target that will be set by the Franchise Board.

Licences, a common rating and mutual security

These are key elements of the Lloyd's Franchise. Lloyd's licenses to underwrite insurance in the UK and overseas and the security behind the Lloyd's policy depend, to varying but critical degrees, on the existence of the New Central Fund. Lloyd's market security ratings reflect the strength of the chain of security, including the New Central Fund. The strength of the rating and the perception of security depend critically on franchisees' performance. The market pays a reputational price for the performance of the poorest businesses, as well as an economic price in higher New Central Fund contributions. The Franchise Board is therefore committed to encourage higher standards of underwriting and risk management.

Attracting the highest quality management and underwriting talent

Attracting the best people will help the Lloyd's market achieve and maintain profitability and make Lloyd's the most attractive insurance market to work in.

3. The Franchise Board's Commitments

The Franchise Board is committed to achieving the Franchise Goal working in conjunction with the market. In order to do that, the Franchise Board will seek to –

- operate in an open, constructive and flexible manner
- take into account the views of individual franchisees
- encourage regular dialogue and consultation with franchisees and with the market associations. The Franchise Board will develop effective working arrangements with the market associations to achieve this
- adopt a cost effective, commercial and efficient approach
- actively support market initiatives relating to franchise business processes, such as LMP, leading to improved service standards and reduced costs
- allocate charges, as far as possible, on a user pays basis
- deliver high levels of service in accordance with agreed service standards and develop a performance culture amongst Lloyd's employees
- rationalise the frequency and manner in which data and information is collected from franchisees and reduce the number of returns that have to be made to Lloyd's
- give adequate notice of proposed changes to requirements for franchisees
- protect the confidentiality of commercially sensitive information provided to it by franchisees in accordance with published guidelines
- assist franchisees which manage underperforming syndicates to improve their performance but take firm action where a franchisee is unable or unwilling to respond to that approach

More specifically, the Franchise Board will –

- set a target level of profitability for the Lloyd's market over the insurance cycle. The target will be a long term target taking into account the cyclical nature of Lloyd's business

- from time to time publish guidelines with which it will generally expect franchisees to comply. These guidelines will cover a range of underwriting and risk management issues which are based on sound insurance industry practice
- develop the business planning process for syndicates and implement and operate it in a constructive and facilitative manner
- carefully monitor the performance of each syndicate against its business plan and assist franchisees to improve the results of underperforming syndicates. If, however, a franchisee does not respond to a facilitative approach the Franchise Board will take appropriate action which may ultimately include the removal of a franchisee from the franchise

In this way, the Franchise Board will seek to –

- improve profit performance and outperform the competition
- maintain and develop an outstanding risk management capability throughout the franchise
- improve standards of service to brokers and to policyholders and to be their market place of choice
- optimise flows of capital to the Lloyd's market
- reduce contributions to the Central Fund
- improve Lloyd's security rating
- protect, strengthen and develop Lloyd's licences and to have a competitive international trading platform

4. Franchisees' commitments

In return, the Franchise Board will expect franchisees to operate in accordance with the following principles –

- deal with Lloyd's in an open, constructive and cooperative manner

- protect –
 - the brand and reputation of Lloyd’s
 - Lloyd’s security rating
 - the security behind Lloyd’s policies including the New Central Fund
 - Lloyd’s licences and authorisations to conduct insurance business in the UK and overseas
- deliver high levels of service to brokers and policyholders in accordance with set service standards, systems and protocols
- prepare high quality business plans in accordance with the relevant guidelines with a view to achieving the Franchise Board’s long term profitability targets
- operate and underwrite in accordance with agreed business plans
- accurately report syndicate performance in a timely manner and assist Lloyd’s in understanding the factors which may have affected syndicate performance
- notify the Franchise Board in good time of any matters which may have a material effect on the franchisee, its syndicates or on Lloyd’s as a whole
- protect the confidentiality of confidential information provided by Lloyd’s

Service standards – paragraph 12 of the Underwriting Byelaw

- 3A. The *Franchise Board* has prescribed the following standards and arrangements for the conduct and administration of insurance business at Lloyd’s provided always that failure to comply with these standards and arrangements shall not invalidate or call into question any contract or agreement entered into by or on behalf of a *managing agent* or *syndicate* nor shall failure to comply with these standards and arrangements create any right of action or claim in any third party against a *managing agent* or *syndicate*, the authority to enforce compliance being exclusively vested in the *Franchise Board* –
- (a) as from 2 January 2004, a *managing agent* shall not permit the syndicate stamp of a *syndicate* managed by it to be affixed on any slip unless –
 - (i) the slip is in the format of an LMP slip from time to time issued by the LMP Programme Office and the information contained in the slip has been properly completed in accordance with the relevant LMP slip standards;

- (ii) the slip relates to a binding authority or a line slip and the slip is marked “LMP Exempt – Binding Authority”;
- (iii) the slip is marked “LMP Exempt – Client Requirement”; or
- (iv) the slip relates to *motor business, personal lines business* or term life insurance business and the slip will not be processed by LPSO Limited and the slip is marked “LMP Exempt – Non-Bureau”.

Underwriting – Part D of the Underwriting Byelaw

Underwriting guidelines

4. The *underwriting guidelines* made and issued by the *Franchise Board* relating to run-off are set out in Market Bulletin (The Underwriting Byelaw, Underwriting Requirements, Definitions Byelaw and Run-off Guidelines) issued on 30 June 2003.

Risk management requirements – Part E of the Underwriting Byelaw

Codes of practice – paragraph 31 of the Underwriting Byelaw

5. The *codes of practice* made and issued by the *Franchise Board* are set out in Lloyd’s Codes Handbook.

Consent to changes – paragraph 32 of the Underwriting Byelaw

6. No *underwriting agent* shall permit any of the following events to occur without the prior written consent of the *Franchise Board* –
 - (a) In the case of a *managing agent*, the appointment or removal of a *person* as a *managing agent’s trustee* or the appointment by any *managing agent’s trustee* (in his capacity as such) of any *person* as attorney.

Notification of changes - paragraph 34 of the Underwriting Byelaw

7. An *underwriting agent* shall without delay notify the *Franchise Board* in writing if any of the following events occur –
 - (a) an event that must be notified to the *Financial Services Authority* via Lloyd’s in accordance with the Supervision Arrangements for Underwriting Agents between the *Financial Services Authority* and the *Society*. Namely –
 - (i) the appointment of an auditor and information about the auditor in accordance with the *Financial Services Authority’s Handbook* (SUP 3.3.2 R(2) and (5));
 - (ii) the notification of matters raised by an auditor in accordance with the *Financial Services Authority’s Handbook* (SUP 3.7.2 G);
 - (iii) the termination of an auditor’s term of office in accordance with the *Financial Services Authority’s Handbook* (SUP 3.8.11 R and SUP 3.8.12 R);

- (iv) the general notification requirements in accordance with the *Financial Services Authority's Handbook* (SUP 15.3) including –
 - i. matters having serious regulatory impact (SUP 15.3.1 R);
 - ii. communication with the FSA in accordance with Principle 11 (SUP 15.3.7 G);
 - iii. breaches of rules and other requirements in or under the Financial Services and Markets Act 2000 (SUP 15.3.11 R);
 - iv. civil, criminal or disciplinary proceedings against a firm (SUP 15.3.15 R);
 - v. fraud, errors or other irregularities (SUP 15.3.17 R);
 - vi. insolvency, bankruptcy and winding up (SUP 15.3.21 R);
 - (v) the Core information requirements in accordance with the *Financial Services Authority's Handbook* (SUP 15.5);
 - (vi) where an *underwriting agent* becomes aware that inaccurate, false or misleading information has previously been provided, in accordance with the *Financial Services Authority's Handbook* (SUP 15.6);
 - (vii) the change of an accounting reference date in accordance with the *Financial Services Authority's Handbook* (SUP 16.3.17 R);
 - (viii) annual controllers report in accordance with the *Financial Services Authority's Handbook* (SUP 16.4); and
 - (ix) annual close links report in accordance with the *Financial Services Authority's Handbook* (SUP 16.5);
- (b) in the case of a *managing agent*, that the *managing agent* is or is likely to become associated with a *Lloyd's broker* contrary to the provisions of Lloyd's Act 1982 (divestment);
 - (c) in the case of a *managing agent*, the death or resignation of, or the occurrence of any *notifiable event* in relation to any *managing agent's trustee*; and
 - (d) in the case of a *managing agent*, if at any time the *syndicate premium income* allocable to any year account of a *syndicate* managed by it exceeds or appears to have exceeded or likely to exceed the *syndicate allocated capacity* for that year of account. The notification shall include full particulars of the extent of the excess or expected excess, the reasons why the excess has arisen or is expected to arise and what remedial action the *managing agent* has taken or proposes to take.

Disaster scenarios – paragraph 35 of the Underwriting Byelaw

- 8. Details of the disaster scenarios prescribed by the *Franchise Board* and the requirements relating to the realistic disaster reports are set out in Market Bulletin Y3029 (Realistic Disaster Scenarios 2003) issued on 3 April 2003.

Syndicate premium income – paragraph 36 of the Underwriting Byelaw

9. When calculating *syndicate premium income*, *managing agents* shall –
- (a) allocate insurance business underwritten through a *syndicate* to a year of account in accordance with the accounting policies adopted in respect of that *syndicate*;
 - (b) allocate *premium income* to the same year of account as the insurance business out of which it arises unless that year of account of the *syndicate* has been reinsured to close in which case any payments subsequently received or made by way of additional premiums or returns in respect of such business shall be allocated to the reinsuring *syndicate*;
 - (c) where a year of account of a *syndicate* is closed by reinsuring all liabilities outstanding in respect of insurance business allocated to it into a later year of account of –
 - (i) the same *syndicate*, the premium in respect of such reinsurance to close shall not itself be treated as *premium income* allocable to the later year of that *syndicate*;
 - (ii) another *syndicate*, the premium in respect of such reinsurance to close shall, unless the *Franchise Board* otherwise directs, be treated as *premium income* allocable to the later year of that *syndicate*;
 - (d) treat *premium income* as being credited to a *member* –
 - (i) where it arises out of insurance business in respect of which a policy has been or is to be issued and signed by *LPSO*, in accordance with the central accounting system;
 - (ii) where it arises out of other insurance business, in accordance with the accounting policies adopted by the *managing agent* of the *syndicate* through which that business is underwritten;
 - (e) convert *premium income* which is credited in a currency other than sterling using the following rates of exchange for 2003 year of account –
 - (i) US Dollar 1.50;
 - (ii) Canadian Dollar 2.28;
 - (iii) Euro 1.56;
 - (iv) Australian Dollar 2.62;
 - (v) South African Rand 13.52;
 - (vi) Japanese Yen 183.20;
 - (vii) Swiss Franc 2.40;

- (f) treat premiums paid by a *member* of a *syndicate* under a reinsurance contract which satisfies the requirements for *qualifying quota share contracts* set out in Market Bulletin Y3024 (Qualifying Quota Share Reinsurance Arrangements For The 2003 Year Of Account) issued on 2 April 2003 as *qualifying reinsurance premiums*.

Reports relating to syndicate premium income – paragraph 39 of the Underwriting Byelaw

- 10. The requirements prescribed by the *Franchise Board* regarding *syndicate premium income* monitoring are set out in Market Bulletin Y3057 (Premium Income Data Collection) issued on 12 May 2003.

**Financial resources and financial returns – Part F of
the Underwriting Byelaw**

Financial resources – paragraph 49 of the Underwriting Byelaw

11. The requirements prescribed by the *Franchise Board* regarding the possession by *underwriting agents* of financial resources and capital and the maintenance of solvency margins are set out in the Market Bulletin (Underwriting Agents Financial Resource Requirements (FRRs)) issued on 30 June 2003.

Financial returns – paragraphs 50 and 51 of the Underwriting Byelaw

12. The requirements prescribed by the *Franchise Board* in respect of *quarterly financial returns* and *annual financial returns* are set out in the Market Bulletin (Underwriting Agents Financial Resource Requirements (FRRs)) issued on 30 June 2003.

Run-off – Part L of the Underwriting Byelaw

Delegation of run-off functions – paragraph 86 of the Underwriting Byelaw

13. The following functions undertaken in the management of a *run-off syndicate* or a *run-off account* shall be called *executive functions* –
- (a) responsibility for *syndicate* strategy, including –
 - (i) approval of forecasts and budgets;
 - (ii) claims reserving and commutation policy and approval;
 - (iii) annual solvency and *syndicate* accounts;
 - (iv) compliance with the *requirements of the Council*;
 - (v) management and control of expenses;
 - (b) reporting and accounting to *members*;
 - (c) performance of duties under *premiums trust deed* – including (but not limited to) investment management policy;
 - (d) management of conflicts of interest between *syndicates* and years of account; and
 - (e) responsibility for the performance of any delegated or sub-contracted functions.
14. The following functions undertaken in the management of a *run-off syndicate* or a *run-off account* shall be called *insurance functions* –
- (a) claims adjusting;
 - (b) identifying reinsurance recoveries;
 - (c) purchasing reinsurance;
 - (d) evaluating reinsurance security;
 - (e) effecting commutations, negotiations and set-off of inwards and outwards business;
 - (f) preparing and maintaining reserving and actuarial data; and
 - (g) undertaking cash and investment management.
15. The following functions undertaken in the management of a *run-off syndicate* or a *run-off account* shall be called *administrative and processing functions* –
- (a) maintaining policy risk records;
 - (b) administering and processing claims;
 - (c) aggregating claims and calculating reinsurance recoveries;
 - (d) credit control in collecting reinsurance recoveries; and
 - (e) maintaining statistical records.

Dispute resolution and appeals – Part M of the Underwriting Byelaw

Dispute resolution

16. The following arrangements and procedures are designed to resolve disputes between *underwriting agents* and the *Franchise Board* arising under the Underwriting Byelaw in a timely, constructive and cost effective manner.
- 1. “Minded to” decisions**
- 1.1 Before a decision is taken by or on behalf of the *Franchise Board* which will be unfavourable to a specific *underwriting agent* the decision taker will, unless he considers that the circumstances make it inappropriate to do so –
- (a) inform the *underwriting agent* that the decision taker is minded to decide the matter in that way;
 - (b) provide the *underwriting agent* with the decision taker’s reasons for deciding the matter in that way; and
 - (c) provide the *underwriting agent* with an opportunity to make representations to the decision taker prior to the decision being taken.
- 1.2 Where a decision is taken by or on behalf of the *Franchise Board* which is unfavourable to a specific *underwriting agent* the decision taker will unless he considers that the circumstances make it inappropriate to do so, provide the *underwriting agent* with the decision taker’s reasons for deciding the matter in that way.
- 2. Requests to review decisions taken on behalf of the Franchise Board**
- Step 1 – Submitting a request for a decision to be reviewed*
- 2.1 In the event that a decision is taken on behalf of the *Franchise Board* which is unfavourable to a specific *underwriting agent*, the *underwriting agent* may, where it reasonably and objectively considers the decision to be wrong or unreasonable, request that the decision is reviewed (a “*request*”).
- 2.2 A *request* shall be made in writing as soon as reasonably practicable following receipt of the decision. The *request* shall include an explanation as to why the *underwriting agent* considers that the decision is either wrong or unreasonable. The *request* shall be made on behalf of the board of directors of

the *underwriting agent* and shall be signed by a director of the *underwriting agent*. The *request* shall be submitted to the decision taker.

Step 2 – Review of the decision by the original decision taker

- 2.3 Following receipt of the *request*, the decision taker shall review the *request* and may, where he considers appropriate, amend, modify or withdraw his decision.

Step 3 – Review of the decision by a director of the Franchise Executive

- 2.4 Where the decision taker does not propose to amend, modify or withdraw his decision he shall refer the *request* to a director or, where appropriate, to the Franchise Executive Committee. The request shall be reviewed by the director or the Franchise Executive Committee and, where the director or the Franchise Executive Committee considers appropriate, the decision may be amended, modified or withdrawn.

Step 4 – Review of the decision by the Franchise Board

- 2.5 If, following the review of the *request* by a director or the Franchise Executive Committee (including where the original decision taker was the Franchise Executive Committee), the *underwriting agent* still reasonably and objectively considers the decision to be wrong or unreasonable, the *underwriting agent* may apply to the *Franchise Board* to review the *request*. The application shall be made in writing as soon as reasonably practicable. The application shall be made on behalf of the board of directors of the *underwriting agent* and shall be signed by two directors. The application shall be submitted to the Secretary to the *Franchise Board*.
- 2.6 The *Franchise Board* shall review the *request* and may, where it considers appropriate, amend, modify or withdraw the decision.

Step 5 – Application for permission to appeal to the Appeal Tribunal

- 2.7 Where, following a review of the *request* by the *Franchise Board*, the *underwriting agent* wishes to apply for the permission of the *independent non-executive directors of the Franchise Board* to appeal to the *Appeal Tribunal*, the *underwriting agent* may make an application to do so. The application shall be made in writing as soon as reasonably practicable. The application shall be made on behalf of the board of directors of the *underwriting agent* and shall be signed by two directors. The application shall be submitted to the Secretary to the *Franchise Board*.

- 2.8 The *independent non-executive directors of the Franchise Board* may, where they consider appropriate, give permission to the *underwriting agent* to appeal to the *Appeal Tribunal*.

3. Request to review decisions taken by the Franchise Board itself

Step 1- submitting a request for a decision to be reviewed

- 3.1 In the event that a decision is taken by the *Franchise Board* which is unfavourable to a specific *underwriting agent* the *underwriting agent* may, where it reasonably and objectively considers the decision to be wrong or unreasonable, request that the decision is reviewed (a “*request*”).
- 3.2 A *request* shall be made in writing as soon as reasonably practicable following receipt of the decision. The *request* shall include an explanation as to why the *underwriting agent* considers that the decision is either wrong or unreasonable. The *request* shall be made on behalf of the board of directors of the *underwriting agent* and shall be signed by two directors of the *underwriting agent*. The *request* shall be submitted to Secretary to the *Franchise Board*.

Step 2 – Review of the decision by the Franchise Board

- 3.3 The *Franchise Board* shall review the *request* and may, where it considers appropriate, amend, modify or withdraw the decision.

Step 3 – Application for permission to appeal to the Appeal Tribunal

- 3.4 Where, following a review of the *request* by the *Franchise Board*, the *underwriting agent* wishes to apply for the permission of the *independent non-executive directors of the Franchise Board* to appeal to the *Appeal Tribunal*, the *underwriting agent* may make an application to do so. The application shall be made in writing as soon as reasonably practicable. The application shall be made on behalf of the board of directors of the *underwriting agent* and shall be signed by two directors. The application shall be submitted to the Secretary to the *Franchise Board*.
- 3.5 The *independent non-executive directors of the Franchise Board* may, where they consider appropriate, give permission to the *underwriting agent* to appeal to the *Appeal Tribunal*.

Chapter 2 Requirements made under the Delegated Underwriting Byelaw

Registers of coverholders and registered binding authorities – Part B of the Delegated Underwriting Byelaw

Format and content of the registers - paragraph 6 of the Delegated Underwriting Byelaw

1. The registers of *approved coverholders*, *restricted coverholders* and *registered binding authorities* shall be held electronically on the system the *Franchise Board* operates for that purpose.

Inspection of the registers - paragraph 7 of the Delegated Underwriting Byelaw

2. Any person may inspect the registers of *approved coverholders* and *restricted coverholders*.
3. Any *approved coverholder*, *managing agent* and any *Lloyd's broker* which is a party to a *registered binding authority* or any *Lloyd's broker* which arranged or broked that *registered binding authority* may inspect the part of the register of *registered binding authorities* which relates to that *registered binding authority*.

**Approved Coverholders - Part C
of the Delegated Underwriting Byelaw**

Applications for approval - paragraphs 8 and 9 of the Delegated Underwriting Byelaw

4. An *applicant* shall apply to the *Franchise Board* for its name to be entered in the *register of approved coverholders* by completing the relevant parts of the appropriate form of application.
5. Any *applicant*, which is not a *Lloyd's broker*, must be sponsored by a *Lloyd's broker* or a *managing agent* ("*the sponsor*"). *The sponsor* shall complete the relevant part of the appropriate form of application.

Approval – paragraph 13 of the Delegated Underwriting Byelaw

6. 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.
7. A *managing agent* that intends to enter into a *binding authority* with the *applicant* must, in accordance with paragraph 15(b) of the Delegated Underwriting Byelaw, complete the declaration attached to the application form.

Restricted Coverholders – Part D of the Delegated Underwriting Byelaw

Applications - paragraphs 21 and 23 of the Delegated Underwriting Byelaw

8. A *managing agent* shall make a request to the *Franchise Board* that a *candidate's* name be entered in the register of *restricted coverholders* by completing the form of application.
9. The criteria for eligibility to entered in the register of *restricted coverholders* are that –
 - (a) the *candidate* is either a company whose registered office is in the United Kingdom or is a partnership based in the United Kingdom;
 - (b) the *candidate* will be a party to a *binding authority* which is a *restricted binding authority*; and
 - (c) with effect from 14 January 2005 the *candidate* has permission to carry on insurance mediation in accordance with the Financial Services and Markets Act 2000 and the *Financial Services Authority's requirements* applicable to it.

Binding Authorities - Part E of the Delegated Underwriting Byelaw

Requirements relating to binding authorities - paragraph 30 of the Delegated Underwriting Byelaw

10. 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 broked 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*.
11. Every *registered binding authority* shall, in addition to the matters referred to at paragraph 10, contain the following information, provisions and terms and comply with the following conditions and requirements –
- (a) a precise description of the nature or classification of the contracts of insurance that the *approved coverholder* will be authorised to enter into under the *registered binding authority* and any relevant exclusions and limitations;
 - (b) the manner or basis for the calculation of premiums, discounts, commissions, brokerages, fees, charges and expenses.
12. Every *restricted binding authority* shall, in addition to the matters referred to at paragraph 10, contain the following information, provisions and terms and comply with the following conditions and requirements –
- (a) provisions to require the *restricted coverholder* to produce to the *Franchise Board* any information, documents, books, records and other materials which, in the opinion of the *Franchise Board* relate or purport to relate to the operation of the *restricted binding authority* and to give to the *Franchise Board* or its agent or general representative all

reasonable facilities in its premises for the purpose of examining such materials.

Registration of registered binding authorities - paragraphs 32 and 33 of the Delegated Underwriting Byelaw

13. A *binding authority* may only be registered by –
 - (a) a *Lloyd's broker* which is a party to the *binding authority* or which arranged or broked the *binding authority*; or
 - (b) a *managing agent* which is a party to the *binding authority*.

14. Registration of a *binding authority* shall be in accordance with the electronic system the *Franchise Board* operates for that purpose. The address of that web-site is <https://www.coversholders@lloyds.com>

**Requirements for insurance documentation – Part F
of the Delegated Underwriting Byelaw**

Paragraph 35 of the Delegated Underwriting Byelaw

15. Insurance documentation evidencing contracts of insurance issued by an *approved coverholder* under a *registered binding authority* or by a *restricted coverholder* under a *restricted binding authority* shall include the following information, provisions and terms -
- (a) the name and address of the *coverholder*;
 - (b) all relevant terms and conditions that relate to the contract of insurance entered into by the *coverholder* including:
 - (i) relevant wordings, exclusions and limitations;
 - (ii) the maximum period of cover; and
 - (iii) the limits of liability.
 - (c) the amount of the premium and any discount;
 - (d) information about the procedures for handling claims arising under the contract of insurance and for the resolution of complaints;
 - (e) the law and jurisdiction applicable to the contract of insurance; and
 - (f) any other provisions required under the laws or requirements of the jurisdiction in which the contract was concluded, where the insured is domiciled or of any other relevant jurisdiction and any other provisions as required by the relevant representative or agent of the *Society*.
16. An *approved coverholder* under a *registered binding authority* or *restricted coverholder* under a *restricted binding authority* may only issue insurance documentation evidencing contracts of insurance in which a proportion of the risk is to be accepted by insurers other than members (a “*joint certificate*”) provided that:
- (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 documentation evidencing contracts of insurance that are issued by an *approved coverholder* under a *registered binding authority* or by a *restricted coverholder* under a *restricted binding authority*;
 - (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.

**Third party administrators – Part G of the
Delegated Underwriting Byelaw**

Paragraph 36 of the Delegated Underwriting Byelaw

17. The terms of the agreement entered into between a *managing agent* and a *third party administrator* shall contain the following information, provisions and terms and comply with the following conditions and requirements -
- (a) provisions requiring the *third party administrator* to produce to each *managing agent* that is a party to the relevant *registered binding authority* or the *restricted binding authority* any information, documents, books, records and other materials which, in the opinion of the *managing agent* relate or purport to relate to the operation of the *binding authority* and to give to the *managing agent* all reasonable facilities in its premises for the purpose of examining such materials;
 - (b) provisions requiring the *third party administrator* to produce to the *Franchise Board* any information, documents, books, records and other materials which, in the opinion of the *Franchise Board* relate or purport to relate to the operation of the *registered binding authority* or the *restricted binding authority* and to give to the *Franchise Board* or its agent or general representative all reasonable facilities in its premises for the purpose of examining such materials;
 - (c) provisions requiring the *third party administrator* to notify each *managing agent* that is a party to the relevant *registered binding authority* or the *restricted binding authority* of any complaint or of any actual, pending or potential litigation.
 - (d) the terms of the agreement shall not conflict with the terms of the relevant *registered binding authority* or the *restricted binding authority* to which it relates.

Chapter 3 Requirements made under the Overseas Underwriting Byelaw

Conditions of underwriting – Part B of the Overseas Underwriting Byelaw

Lloyd's Japan – Paragraphs 5 and 8 of the Overseas Underwriting Byelaw

1. (a) *Lloyd's Japan Inc* may charge, pursuant to any agency agreement or other agreement or arrangement between it and any *member* of the *Society* (whether or not an underwriting member) or any *managing agent* of any such *member*, any commission, profit commission, fee or other remuneration or any advance payment or reimbursement of expenses incurred by it in the performance of its functions in connection with the underwriting business of that *member*.
- (b) Any levy under this paragraph should be made by service on the *member* or on the *member's managing agent* of a notice specifying the amount payable and the date or dates on which it is payable.
2. A *member* of the *Society* (whether or not an underwriting member) shall not in the course of his underwriting business at Lloyd's accept *Japanese local insurance business* directly from any proposer or *non-Lloyd's broker* in Japan otherwise than through *Lloyd's Japan Inc* and unless he has appointed *Lloyd's Japan Inc* as General Agent (as defined in article 219 of the Insurance Business Law (Law No. 105 of 1995) of Japan).

Canada – Paragraphs 5 and 8 of the Overseas Underwriting Byelaw

3. It shall be a condition and requirement of permission to underwrite Canadian Business that where any *member* of the *Society* (whether or not an underwriting member) uses or purports to use the system known as Scheme Canada that *member* shall comply with the provisions of the Scheme Canada Rules (as amended from time to time) contained in the schedule 1 to these conditions and requirements and for these purposes –

“Act” means the Insurance Companies Act S.C. 1991 C.47 including any amendments or regulations made pursuant thereto.

“Canadian Business” means such part of a *member's* underwriting business at Lloyd's (being general business) as constitutes either

- (a) contracts or policies of insurance (other than contracts or policies of marine insurance) to the extent to which such contracts or policies insure risks which are or will be ordinarily in Canada including all policies in Canada as defined in the Act;

- (b) contracts or policies of reinsurance underwritten by the *member* of any general business (other than contracts or policies of marine insurance) underwritten by a company (not being a member of Lloyd's) incorporated in Canada and licensed to underwrite insurance business under the laws of Canada or any province or territory thereof;
- (c) contracts or policies of reinsurance underwritten by the *member* of general business (other than contracts or policies of marine insurance) underwritten in Canada by a company (not being a member of Lloyd's) incorporated elsewhere than in Canada and licensed to underwrite insurance business under the laws of Canada or any province or territory thereof;
- (d) any contract of reinsurance to close of any year of account underwritten by the *member* to the extent only to which the *member* is liable under such contract in respect of.
 - (i) contracts or policies of insurance (other than contracts or policies of marine insurance) underwritten by other members to the extent to which such contracts or policies insure risks which are or will be ordinarily in Canada including all policies in Canada as defined in the Act; or
 - (ii) contracts or policies of reinsurance underwritten by other members of general business (other than marine insurance) underwritten by a company (not being a member of Lloyd's) incorporated in Canada and licensed to underwrite insurance business under the laws of Canada or any province or territory thereof ;
 - (iii) contracts or policies of reinsurance underwritten by other members of general business (other than contracts or policies of marine insurance) underwritten in Canada by a company (not being a member of Lloyd's) incorporated elsewhere than in Canada and licensed to underwrite insurance business under the laws of Canada or any province or territory thereof.

SCHEDULE 1

SCHEME CANADA RULES (THE “RULES”)

Paragraphs

PART A - PRELIMINARY

1 Interpretation

PART B - INSURANCE SERVICES

2 Provision of services

PART C - SCHEME CANADA

- 3 Scheme Canada
- 4 Demand and collection of moneys
- 5 Establishment of bank accounts
- 6 Currencies
- 7 Advice and accounting of Scheme transactions
- 8 Settlement of Scheme transactions
- 9 Agreed settlement dates
- 10 Settlement information statements
- 11 Obligations to fund settlements
- 12 Wrongful and unpaid credits
- 13 Default declarations
- 14 Scheme transactions involving defaulters
- 15 General saving relating to default
- 16 Termination of Scheme
- 17 Exclusion from participation in Scheme
- 18 Saving of rights on termination or exclusion

PART D - INFORMATION

- 19 Provision of information
- 20 Storage and distribution of information
- 21 Confidentiality of information

PART E - MISCELLANEOUS AND GENERAL

- 22 Power of Lloyd’s Canada Inc to prescribe charges
- 23 Regulations, codes of practice and manuals
- 24 Power to enter into agreements, etc.
- 25 Variation of services
- 26 Service of notices
- 27 Liability
- 28 Records/Determinations
- 29 Compliance with laws
- 30 Force majeure
- 31 Commencement and transitional provisions

PART A PRELIMINARY**1. Citation and interpretation**

- (1) These rules may be cited as ‘Scheme Canada Rules’ (the “Rules”).
- (2) The provisions of the Schedule to these Rules (interpretation) shall have effect.

PART B INSURANCE SERVICES**2. Provision of services**

- (1) Lloyd’s Canada Inc (“LCI”) may provide the services referred to in sub-paragraph (2) on the terms prescribed by these Rules.
- (2) The services referred to in sub-paragraph (1) are -
 - (a) a service for the accounting, netting and settlement of Canadian insurance transactions and the transfer of funds more particularly described in Part C;
 - (b) any ancillary service incidental or relating to the foregoing services; and
 - (c) any other service which LCI considers it is in the interests of any of the persons referred to in subparagraph (4) or any class of them to receive in conjunction with any of the foregoing services.
- (3) All or any of the services may be provided wholly or partly by electronic means and by the use of electronic documents.
- (4) The services may be provided to or on behalf of -
 - (a) the Society (in its capacity as principal payee or payor under insurance transactions or otherwise);
 - (b) LCI;
 - (c) any member or group of members of the Society;
 - (d) any underwriting agent (including any substitute agent);

- (e) any approved run-off company;
 - (f) any Lloyd's broker or any person permitted by the Council to broke insurance business at Lloyd's (other than as referred to in subparagraph (g));
 - (g) any Canadian coverholder or correspondent;
 - (h) any trustee of the LCTF and/or LCMTF and/or any premiums trust deed or any person acting pursuant to any power under a trust deed; and
 - (i) any other person to whom LCI agrees to provide a service.
- (5) LCI may provide any service to or on behalf of a participant whether that participant is acting, or appears to the LCI to be acting, as -
- (a) a principal;
 - (b) an agent for a person, whether or not that person is a participant; or
 - (c) a trustee or pursuant to powers under a trust deed, in either case whether or not the beneficiary of the trust concerned is, or where this is more than one, includes, another person referred to in subparagraph (4).

Provided that in each of cases (b) and (c) LCI may treat such a trustee or agent as if it were a transacting principal in respect of the provision of the services and shall have no obligation to provide the services to, or claim unpaid amounts owed by an agent or trustee hereunder from, underlying principals or beneficiaries. LCI shall have a right to claim against any agent or trustee.

- (6) LCI may delegate the provision of all or any of the services referred to in paragraph 2(2) to any person on such terms and conditions as it thinks fit and/or may agree with any person that such terms and conditions as it thinks fit and/or may agree with another person that such other person may provide all or any of such services on the terms and conditions set out or referred to in these Rules on such terms and conditions as may be agreed with LCI (including, without limitation, in relation to the provision of information and assistance to LCI) or otherwise as it thinks fit. If agreed with LCI, any such person may provide any such services in the name of LCI and may, with prior written consent from LCI, sub-delegate or delegate (as the case may be) the

provision of all or any of such services to another person on such terms as may be stipulated in LCI's consent.

PART C SCHEME CANADA

3. Scheme Canada

- (1) LCI may, as part of the services referred to in paragraph 2(2), maintain a system to be known as Scheme Canada ("Scheme") for the processing, advice, accounting, netting and settlement of Canadian insurance transactions, (including monetary obligations arising from insurance transactions) and other transfers of funds.
- (2) In providing the services, LCI is acting as the settlement agent of each of the participants and undertakes no liability as a principal to any participant in respect of any insurance transaction.

4. Demand and collection of moneys

- (1) LCI, as principal in respect of amounts due to it as principal payee under any Canadian insurance transaction, or as agent of any other participant, may demand and/or collect or procure the demand and/or collection from any participant any moneys which are, or which appear to LCI to be, due on any settlement date from that participant (whether as agent or principal) to any other participant or participants (whether as agent or principal) (each a "payee") under any Scheme transaction. Such demands and/or collections may be made through the Lloyd's central accounting system where necessary.
- (2) LCI, as principal in respect of amounts due from it as principal payor under any Canadian insurance transaction, or as agent of any other participant may pay or procure payment any of the amounts referred to under sub-paragraph (1) to the relevant payee.
- (3) LCI may, in making payments to and collecting payments from participants, or procuring the payment to or collection of payments from participants pursuant to sub-paragraphs (1) and (2) above, aggregate and net all such payments in accordance with paragraph 8.
- (4) Subject to paragraph 8, payments under Scheme transactions shall be made by participants in full and without set-off, deduction or counterclaim.

5. Establishment of bank accounts

- (1) One or more bank accounts may be opened (including accounts in the name of the trustee of the LCTF and/or LCMTF) for the purpose of operating, or providing any service under Scheme.
- (2) Every participant shall open and maintain such accounts with such banks as LCI or the Council may prescribe.
- (3) LCI may as a condition of participation, or continued participation, in Scheme require participants to establish irrevocable direct debit arrangements and/or direct credit arrangements in favour of LCI or such other persons as LCI may specify.

6. Currencies

- (1) Scheme transactions shall be settled only in a Scheme currency.
- (2) Subject to sub-paragraph 6(3), participants shall agree such currency conversion arrangements between themselves as are necessary to effect settlement in respect of insurance transactions expressed in convertible currencies which are required to be settled under the Scheme.
- (3) LCI may, but shall not be obliged to, prescribe the exchange rate to be used, and the procedures and requirements to be followed, for the conversion of amounts payable in respect of underlying insurance transactions expressed in a convertible currency into a Scheme currency and for making adjustments to exchange rates.
- (4) LCI may, on written notice to participants, declare that a convertible currency is to become a Scheme currency or declare that a Scheme currency is no longer a Scheme currency.

7. Advice and accounting of Scheme transactions

- (1) In respect of any Scheme transaction, the participants concerned shall provide to LCI such information and documents relating to it as LCI may require in order to facilitate the advice and, if necessary, the accounting, netting and settlement of the Scheme transaction and shall comply with the provisions of any regulations, requirements, codes of practice and/or manuals made or issued by LCI in accordance with paragraph 23 below.

- (2) Without prejudice to the generality of sub-paragraph (1), any requirement made under that sub-paragraph or pursuant to any regulations, requirements, codes of practise and/or manuals made or issued by LCI in accordance with paragraph 23 below may -
- (a) impose conditions which are absolute or which are to vary from time to time by such factors as are specified in or are determined in accordance with such conditions and requirements;
 - (b) make different provision for different classes or categories of participants;
 - (c) make different provision for different classes or categories of insurance transaction;
 - (d) be made in respect of a specific insurance transaction or a specific class or category of insurance transaction or be of general application;
 - (e) contain incidental and supplementary provisions.
- (3) LCI shall be entitled to rely on information and documents provided under sub-paragraph (1) in effecting Scheme transactions.

8. Settlement of Scheme transactions

- (1) Subject to paragraphs 8(5) and 14, prior to each settlement date (the “relevant settlement date”) LCI shall calculate in respect of each participant and in respect of each Scheme currency:
- (a) the aggregate amount due to be paid to that participant by the other participants under all Scheme transactions of which LCI has notice which are denominated in that Scheme currency and are due to be settled on the relevant settlement date (the “entitlements”);
 - (b) the aggregate amount due to be paid by that participant to other participants under all Scheme transactions of which LCI has notice which are denominated in that Scheme currency and which are due to be settled on the relevant settlement date (the “gross payments”).
- (2) If the entitlements exceed the gross payments the amount of such excess shall, subject to sub-paragraph 11(4), be directly credited or otherwise paid by LCI to the participant on the relevant settlement date.

- (3) If the gross payments exceed the entitlements, the amount of such excess shall be directly debited, by LCI from such participant's account(s) or paid by the participant to LCI for value on the relevant settlement date.
- (4) LCI may settle a Scheme transaction otherwise than in accordance with sub-paragraphs (1) to (3) and shall consider representations from participants that a Scheme transaction that would otherwise be settled in accordance with sub-paragraphs (1) to (3) should not be so settled.
- (5) Any direction made under sub-paragraph (4) may be given in respect of a specific Scheme transaction or a specific class of Scheme transaction or be of general application

9. Settlement dates

Amounts due for settlement under the Scheme shall be settled or brought into settlement between participants on one of the applicable settlement dates as specified from time to time by LCI except where a Scheme transaction is to be settled otherwise than in accordance with paragraphs 8(1) to (3) above whereupon the settlement date shall be determined by LCI in its absolute discretion.

10. Settlement information statements

- (1) LCI may deliver or shall procure the delivery to every participant of settlement information statements in accordance with this paragraph.
- (2) A settlement information statement delivered to a participant may provide such information as to enable the participant to ascertain (from the settlement information statement alone or in conjunction with other information) those Scheme transactions to which the participant is a party and which have been, or which will be, accounted and, if such is the case, settled under the Scheme during the period covered by the settlement information statement.
- (3) Settlement information statements delivered under sub-paragraph (1) may -
 - (a) contain different information for different classes of participant and for different classes of Scheme transaction;
 - (b) be delivered at such intervals as LCI may determine; and
 - (c) contain such additional information as LCI may determine.

- (4) A participant may appoint a person to whom LCI is able to send settlement information statements to and to receive settlement information statements on its behalf.
- (5) The members of a syndicate shall for the purposes of sub-paragraph (4) be deemed to have appointed the managing agent of the syndicate to receive all settlement information statements on their behalf.
- (6) Where a participant has appointed a person under sub-paragraph (4), the participant shall give written notification to LCI of the appointment together with such additional information as LCI may require.
- (7) Where a participant has appointed a person under sub-paragraph (4), the obligations of LCI to the participant under sub-paragraph (1) shall be discharged by delivery of settlement information statements to the person so appointed by the participant.

11. Obligation to fund settlements

- (1) Every participant shall, in accordance with any conditions and requirements of LCI, make available, or procure that there are made available, sufficient funds on the applicable settlement date for the settlement of any Scheme transaction in respect of which amounts are to be paid by or on behalf of that participant.
- (2) Where a participant is required to make funds available for the settlement of Scheme transactions and does not make the full amount of such funds available on or before the applicable settlement date LCI may -
 - (a) refuse to settle any or all Scheme transactions until sufficient funds have been made available; or
 - (b) apply any funds received from the participant in the *pro rata* settlement of outstanding Scheme transactions to which it is a party; or
 - (c) settle any or all Scheme transactions in respect of, on account of or on behalf of the participant.
- (3) Where LCI settles a Scheme transaction under sub-paragraph (2)(c), the participant shall on demand pay forthwith to LCI amounts equal to any sums so paid in settlement in respect of, on account of or for the benefit on behalf of that participant, together with (if so demanded) interest thereon charged in accordance with sub-paragraph (5) and shall indemnify LCI in respect of any

interest paid or payable or any charges, expenses or liabilities incurred by LCI or the Society by reason of LCI having settled the Scheme transaction, and LCI and/or the Society may bring proceedings to recover the same as a civil debt. All amounts payable pursuant to this sub-paragraph by any participant carrying on an underwriting business shall be treated for all purposes as an expense of that underwriting business.

- (4) Where LCI refuses to settle any Scheme transaction under sub-paragraph 2(a) LCI may either reduce the amount of the entitlements of any participant payable to it pursuant to paragraph 8 by the amount which such participant would have received in respect of such Scheme transaction had it been settled in full or may suspend the payment to the relevant participant until such Scheme transactions have been settled in full. Where LCI makes a pro rata partial settlement of a Scheme transaction under sub-paragraph 2(b) LCI shall reduce the amount of the entitlements of any participant payable to it pursuant to paragraph 8 by an amount equal to the amount which such participant would have received in respect of such Scheme transaction had it been settled in full less the amount of the pro rata partial settlement made by LCI.
- (5) LCI may charge interest on any amount paid under sub-paragraph (2)(c) from the applicable settlement date until the date of repayment of such amount to LCI or the Society. The rate of interest shall be five per cent. above the then current prime rate of the Royal Bank of Canada (or such other leading bank as LCI may select).
- (6) Without prejudice to any other powers of LCI, LCI may treat any sum payable under sub-paragraph (3) or (5) as a Scheme transaction which may be settled, or brought into settlement, under Scheme.
- (7) Without prejudice to the provisions of paragraph 18, the rights and liabilities conferred or created by this paragraph shall subsist notwithstanding that the participant in respect of, or on account of or for the benefit of whom a transaction has been settled under sub-paragraph 2(b) has, if a member of the Society, ceased to be such a member by reason of resignation, death or otherwise or, if not such a member, has ceased to be a participant.

12. Wrongful and unpaid credits

- (1) Where, in calculating the entitlements due to a participant under paragraph 8(1)(a), LCI has taken into account any amount which is due to be paid to that participant and which is not subsequently paid on the relevant settlement date

or any amount which is not due to that participant on the relevant settlement date, LCI may directly debit the accounts of that participant in respect of that amount or make demand for the prompt repayment of that amount. Such participant shall repay LCI immediately on its making such demand and that participant shall indemnify LCI against any loss, liability, charge or expense arising from the crediting or other payment of such amount to its account.

- (2) Where, at any stage during the operation of a service a participant becomes aware of an inputting or similar or analogous error such participant shall immediately notify LCI of the error. LCI may, where it is practicable so to do, reverse any transaction notified to it as having been erroneously made or of which LCI has itself become aware. The participant shall settle in full any transaction notified to it pending the correction taking effect.

13. Default declarations

- (1) Where -
 - (a) a participant -
 - (i) is unable to fulfil its obligations in respect of any Scheme transaction; or
 - (ii) appears to LCI to be or likely to be so unable; or
 - (b) an insolvency event occurs in relation to the participant or any relevant principal or beneficiary on whose behalf it acts,

LCI may make a default declaration in respect of that participant, whereupon the following provisions of this Part shall apply.

- (2) Where LCI makes a default declaration, it shall as soon as is reasonably practicable thereafter give written notice of the default declaration to the defaulter and such other persons as LCI thinks fit.
- (3) The form of the default declaration and the manner in which notice thereof is given to the persons referred to in sub-paragraph (2) shall be as LCI thinks fit.
- (4) LCI may at any time it thinks fit revoke a default declaration.
- (5) Where LCI revokes a default declaration it shall give written notice thereof to the defaulter and such other persons as it thinks fit.

14. System transactions involving defaulters

As soon as is reasonably practicable after a participant has been declared a defaulter, LCI may -

- (a) suspend the settlement of sums due to or from the defaulter which would otherwise be settled or brought into settlement on settlement dates after the date on which the participant has been declared a defaulter; and
- (b) take such steps and make such arrangements as LCI thinks fit to facilitate the settlement of amounts due to the defaulter from other participants and other persons and amounts due from the defaulter to other participants and other persons, provided that LCI shall not be obliged to take any action in respect of the settlement of sums for which instructions have already been given to any relevant clearing institutions.

15. General saving relating to default

Nothing in this Part shall prevent LCI, the Society, any other participant or any other person from exercising any lawful right or fulfilling any lawful obligation in respect of the defaulter whether or not the right or obligation concerned arises in respect of a Scheme transaction.

16. Termination of the Scheme

- (1) LCI may in its absolute discretion upon giving not less than six months' notice (or such lesser period as LCI may determine at any time, having regard to the prevailing circumstances) to participants terminate any or all of the services including the provision of the Scheme.
- (2) As soon as practicable after any notice to terminate the Scheme has taken effect LCI shall take such steps as it considers appropriate -
 - (a) to account to participants for any sums that may be due to them under the Scheme; and
 - (b) to facilitate the orderly winding up of the Scheme.
- (3) Termination of the Scheme or any service shall not release any participant from any liability which at the time of termination had already accrued to another participant or LCI nor affect in any way the provisions of paragraphs 28 and 29.

17. **Exclusion from participation in the Scheme**

- (1) LCI may exclude a participant from participation in the Scheme where-
 - (a) in the opinion of LCI, the participant has used or is using or is proposing to use the Scheme in a way which has caused or is causing or will cause material harm or damage to the Scheme, other participants or information processed, held or transmitted on, under or through the Scheme;
 - (b) the participant has ceased to be a person referred to in paragraph 2(4)(b) to (i);
 - (c) LCI has made a default direction in respect of the participant under paragraph 13;
 - (d) an insolvency event has occurred in relation to the participant or any principal or beneficiary on whose behalf it acts;
 - (e) the participant has failed to comply with or any other provision of these Rules or any provision of any requirements, regulation, code of practice or manual made or published by LCI issued under paragraph 23;
 - (f) the participant has failed to pay a charge payable under paragraph 22 within the period for the time being prescribed; or
 - (g) having regard to the circumstances then pertaining LCI thinks fit that a participant is excluded from participation in the Scheme.
- (2) Before exercising the powers conferred on LCI by this paragraph in respect of a participant referred to in paragraph 2(4)(c) to (i), LCI shall -
 - (a) inform the participant concerned in writing of its intention and of the grounds for the intended exclusion; and
 - (b) allow the participant to make representations as to the intended exclusion within such a period and in such form as LCI may allow.
- (3) If in the opinion of LCI the power conferred by sub-paragraph (1) is required to be exercised immediately, LCI may exercise such powers without having first taken the steps referred to in sub-paragraph (2).

- (4) In any case falling within sub-paragraph (3) LCI shall-
 - (a) as soon as possible inform the participant concerned of the reasons for the exclusion; and
 - (b) allow the participant to make representations within such period as LCI may require.
- (5) LCI shall as soon as practicable after the exclusion of a participant from participation in the Scheme notify in writing all the other participants thereof.

18. Saving of rights on termination or exclusion

The termination of the Scheme under paragraph 16 or the exclusion from participation of a participant under paragraph 17 shall not affect any right, obligation or liability of any person accrued, due or outstanding at the date of termination or exclusion and arising under the Scheme or from his participation in the Scheme or in respect of any Scheme transaction.

PART D INFORMATION

19. Provision of information

- (1) LCI may require any participant to supply LCI and/or any service provider with such information as LCI may specify in connection with the provision of any service.
- (2) Each participant shall immediately notify LCI and any service provider on becoming aware that an insolvency event has occurred or is likely to occur in relation to it or any principal or beneficiary on whose behalf it acts.

20. Storage and distribution of information

LCI and any service provider may as part of, or for the purposes of, or in connection with, providing a service hold information provided under paragraph 19 of any other provisions of these Rules or otherwise provided to, or obtained by, it in providing a service and, subject to paragraph 21 may distribute such information or any of it.

21. Confidentiality of information

- (1) Subject to paragraph (2) and paragraph 24 (2), information provided to, or obtained by, LCI under these Rules or in providing any service shall be held subject to the provisions of the Information and Confidentiality Byelaw (No.

21 of 1993 and applicable Canadian law), provided that LCI may disclose such information to any service provider in so far as it thinks fit.

- (2) Information provided to, or obtained by, any service provider under these Rules or in providing any service shall be held subject to the provisions relating to disclosure and use as may be agreed between the service provider and LCI.

PART E MISCELLANEOUS AND GENERAL

22. Power of LCI to prescribe charges

- (1) Every applicant and every participant shall pay to LCI such charges as LCI shall notify to them from time to time .
- (2) For the purposes of this paragraph LCI may -
 - (a) determine the amount of any charges in accordance with a specified scale or other specified factors;
 - (b) determine the time or times of payment of charges;
 - (c) provide for the exemption from payment of, or the return or abatement of, any charges in specified circumstances;
 - (d) charge interest on such amounts of charges as are unpaid on the due date until the date of payment at a rate determined by LCI; and
 - (e) make different provision for different cases.

23. Regulations, codes of practice and manuals

- (1) LCI may make, amend and terminate requirements, regulations, and issue codes of practice and/or manuals in respect of the provision and operation of the services or any of them and the administrative and technical procedures to be observed by participants.
- (2) Where any provision in a regulation, requirement, code of practice or manual made or issued under sub-paragraph (1) conflicts with a provision of these Rules, the latter shall prevail.

24. Power to enter into agreements, etc.

- (1) LCI may enter into such contracts and arrangements as LCI considers are necessary or expedient for the purposes of or in connection with the provision of any service under this byelaw.
- (2) Where LCI has entered into a contract or arrangement as described in sub-paragraph (1), and, as a result thereof, LCI uses systems and equipment owned, maintained, operated or controlled by third parties, LCI may disclose to such third parties information about participants and Scheme transactions to the extent that such disclosure is necessary for the purpose of, or giving effect to, the contract or arrangement concerned.
- (3) Any service provider may, if LCI so agrees, disclose to third parties information about participants and their businesses to the extent that such disclosure is necessary for the purpose of or in connection with the provision of any service.

25. Variation of services

- (1) Subject to this paragraph, LCI may vary a service or any part of a service.
- (2) Subject to sub-paragraph (3), LCI shall not vary a service to any material extent without giving prior notice of the proposed variation to the affected participants. LCI shall consider the representations (if any) of the affected participants on any such variation before reaching any decision on the variation.
- (3) If in the opinion of LCI any material variation is required to be made as a matter of urgency in order to enhance a service or any part of a service or to preserve the integrity of the services or any part of a service or to preserve the interests of participants or any of them LCI may make that variation without first having taken the steps referred to in sub-paragraph (2).
- (4) In any case falling within sub-paragraph (3) LCI shall -
 - (a) as soon as practicable thereafter inform the affected participants in writing of the variation; and
 - (b) permit the affected participants to make representations to LCI on the action taken by LCI within such period as LCI may prescribeand where such representations are received by LCI, it shall reconsider the action taken under sub-paragraph (3).

26. Service of notices

- (1) All notices and other communications by LCI or a service provider which are required to be given to a participant under these Rules shall for all purposes be treated as effectively given if left at or sent by post to the address from time to time notified to LCI or the service provider in question by that participant as the address to which notices and other communications are to be sent or, if give by facsimile transmission or email by submitting it to such number or email address from time to time notified to LCI or the service provider in question as appropriate by that participant.
- (2) Any notice or communication sent to a participant by ordinary post shall be treated as having been effectively given by properly addressing and posting a letter containing that notice or communication and shall be deemed to have been served 24 hours after the letter is posted. Any notice or communication sent by facsimile or email transmission shall be deemed to have been received when evidence of its receipt is transmitted to the person sending it and any notice or communication sent by electronic means shall be deemed to have been received when transmitted.

27. Liability

- (1) Neither LCI nor any delegate of LCI (each a “service provider”) shall have any liability (whether direct or indirect, in contract, tort or otherwise) to any participant or any principal or beneficiary of any participant or any of their respective shareholders or any other person (each such person a “claimant”) for or in connection with the services except for direct losses suffered by the claimant to the extent that such losses are found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted directly and primarily from the negligence or wilful misconduct of that service provider and in no event shall LCI or that service provider be liable for any claimant’s loss of profits, business or anticipated savings or for any indirect or consequential loss whatsoever.
- (2) Without limiting any provision of sub-paragraph (1), LCI shall not be responsible for the negligence or wilful misconduct of, or any other loss or liability arising in connection with, the action or inaction of any service provider selected by LCI with reasonable care.
- (3) LCI will have no liability or responsibility, except as expressly provided in these Rules, for the good faith or acts or omissions, creditworthiness, performance or standing of any participant or any other person whomsoever or

for admitting any participant to the Scheme, making or failing to make any default declaration in respect of a participant or taking or failing to take any action to terminate or suspend the provision of any service to any participant.

- (4) LCI assumes no liability or responsibility for the consequences arising out of delay or loss in transmission of any messages, letters, cheques or documents, or for delay, mutilation or other errors arising in transmission of any telecommunication or other electronic notification and will not be liable or responsible for any delays resulting from the need to obtain clarification of any instructions received.
- (5) Each participant shall indemnify and hold harmless LCI and any service provider from and against any and all claims, damages, losses, liabilities, costs and expenses (including, without limitation legal fees and disbursements) that may be incurred by or asserted or awarded against LCI or any service provider, in each case arising out of or in connection with any investigation, litigation or other proceeding commenced by any person against LCI or any service provider which arises out of or in connection with the provision by LCI or any service provider of any of the services to that participant or as a result of any breach by that participant of its obligations to LCI or any service provider, except to the extent such claim, damage, loss, liability, cost or expense has resulted directly and primarily from LCI's or any service provider negligence or wilful misconduct. All amounts payable pursuant to this subparagraph by any participant carrying on an underwriting business shall be treated for all purposes as an expense of that underwriting business.

28. Records/Determinations

- (1) In the absence of manifest error, the records of LCI relating to the settlement of Scheme transactions shall constitute conclusive evidence as to matter.
- (2) Any determination or notification by LCI concerning any rate or amount to be determined or calculated in connection with the services shall, in the absence of manifest error, be conclusive evidence as to the matter.

29. Compliance with laws

In carrying out the services LCI or any service provider may refrain from doing anything which might, in its opinion, constitute a breach of any law or regulation or any duty of confidentiality or be otherwise actionable at the suit of any person and may do anything which, in its opinion, is necessary or desirable to comply with any law or regulation of any jurisdiction or to comply with the order of any court.

30. Force Majeure

LCI and any service provider shall have no responsibility or liability for or regarding any non-performance, improper performance, suspension of performance or delay in performance, of LCI's or any service provider's obligations under or in connection with the services by reason of any circumstances beyond LCI's or any service provider's reasonable control including, without limitation, by reason of any failure by a clearing agent to make a payment on a settlement date, any breakdown or failure of transmission, communication or computer facility or other mechanical breakdown or malfunction, work stoppage, postal or other strike or other labour disturbance or industrial action, earthquake, flood, fire, storm and other act of God, explosion, accident, sabotage, terrorism, insurrection, revolution, riot, rebellion or other unrest or disturbance or present or future law or act of any governmental or regulatory authority.

31. Commencement and transitional provisions

- (1) These Rules shall come into force on 1 March 2004.
- (2) The document entitled "Scheme Canada Manual" shall be deemed to be a manual issued under paragraph 23.

SCHEDULE

Interpretation

1. In these Rules, unless the context otherwise requires -

"approved run-off company" has the meaning given to it in the Underwriting Byelaw (No. 2 of 2003)

"arrangement" includes any agreement or arrangement whether or not intended to be enforceable by legal proceedings and whether or not evidenced in writing;

"Canadian coverholder" means any approved coverholder (as defined in the Delegated Underwriting Byelaw (No 1 of 2004)) who transacts Canadian insurance business pursuant to a recognised binding authority in Canada;

"Canadian correspondent" means a broker (not being a Lloyd's broker) or other intermediary in Canada introducing risks:

- (a) directly to a Lloyd's broker for placing with underwriters; or
- (b) if a non-Lloyd's intermediary, directly to underwriters otherwise than by a binding authority.

"Canadian insurance transaction" means any transaction effected, or intended to be effected, as part of, or arising from, the business of insurance or any activity whatsoever directly or indirectly related to, or arising from, the business of insurance in Canada;

"claimant" has the meaning given to it in paragraph 27(1);

"convertible currency" means a currency which is not a Scheme currency;

"default declaration" means a declaration made by LCI under paragraph 13(1);

"defaulter" means a participant in respect of which LCI has made a default declaration;

"direct credit arrangement" means any arrangement whereby a person is authorised to credit another person's account;

"direct debit arrangement" means any arrangement whereby a person other than the

account holder is authorised to debit, or take money from, that account;

“entitlements” has the meaning given to it in paragraph 8(1);

“gross payments” has the meaning given to it in paragraph 8(1);

“insolvency event” means:

- (a) in relation to any individual or partnership, the making of a receiving order in bankruptcy against such individuals or any partner in such partnership by the due process of law of any country, such individual or partner in such partnership making or proposing any composition with his creditors or otherwise acknowledging his insolvency, or being adjudicated bankruptcy or adjudicated or declared insolvent by the due process of law of any country; and
- (b) in relation to any body corporate its making or proposing any composition with its creditors or otherwise acknowledging its insolvency, a bankruptcy order being made against it by the due process of law of any country; its being adjudicated or declared insolvent by the due process of law of any country, an order being made or resolution being passed for its winding up or dissolution, a receiver, trustee or analogous officer being appointed in respect of the whole or any material of its property or assets, its directors presenting or filing in any court a petition in respect of its bankruptcy, winding up or other insolvency or which seeks any reorganisation, dissolution or similar relief or there occurring an event in any jurisdiction which is analogous to any of the foregoing events;

"insurance" includes assurance, reinsurance, reinsurance and suretyship;

“LCI” means Lloyd’s Canada Inc (or its successors and assignees from time to time);

“LCMTF” means the trust fund constituted by the Lloyd’s Canadian Margin Fund Trust Deed dated 25 May 2001 as amended from time to time;

“LCTF” means the trust fund constituted by the Lloyd’s Canadian Trust Deed dated 25 May 2001 as amended from time to time;

"managing agent" means a person who is listed as a managing agent in the register of underwriting agents under the Underwriting Byelaw (No. 2 of 2003);

"participant" means a person set out in paragraph 2(4) acting in one of the capacities set out at paragraph 2(5) to whom or on behalf of whom a service is for the time being provided under this byelaw;

“payee” has the meaning given to it in paragraph 4(1);

"premiums trust deed" means a trust deed in the form for the time being required by the Council constituting a premium trust fund (including all such trust deeds relating to long term business and any Overseas Direction or Special Trust Direction as therein defined);

"prescribed form" means, in relation to any application, notice or other document, such forms and contents as may from time to time be prescribed by LCI;

"Scheme currency" means any currency in which LCI or any service provider settles Scheme transactions;

"Scheme" means Scheme Canada as referred to in paragraph 3;

"Scheme transaction" means an insurance transaction which, in accordance with these Rules is, or should be, processed under the Scheme or in respect of which monetary obligations are, or should be, settled under the Scheme;

"services" means the services referred to in paragraph 2(2) for the time being provided under this byelaw;

“services provider” means (other than in paragraph 27) a person, other than LCI, who is referred to in paragraph 2(6) and who provides any service referred to in paragraph 2(2);

“settlement information statement” means a statement as described in paragraph 10;

“settlement date” means a date specified by LCI under paragraph 9 for the settlement of Scheme transactions.

“Society” means the Society incorporated by Lloyd’s Act 1871 by the name of Lloyd’s;

"substitute agent" means a person appointed to act as agent for an underwriting member under the Substitute Agents Byelaw (No 20 of 1983) or in accordance with part K of the Underwriting Byelaw (No 2 of 2003)

“syndicate" means a group of underwriting members underwriting insurance business at Lloyd's through the agency of a managing agent;

“underwriting agent” has the meaning given to it in the Underwriting Byelaw (No. 2 of 2003), and includes any substitute agent.

2. The references in paragraphs 2(3), 26(1) and 26(2) to "electronic means" and in paragraph 2(3) to "electronic documents" include references to computers, networks and any means whereby information is processed, held or transmitted in a machine-readable form and to documents which are in a machine-readable form. The references in this byelaw to any other Lloyd's byelaw shall be deemed to be a reference to that Lloyd's byelaw as the same may be amended from time to time;

Managing agent's code of practice for delegated underwriting

Important Note

This Code of Practice is provided for the purposes as set out at section B1. However, it is not a substitute for the provisions of the Delegated Underwriting Byelaw and any conditions and requirements made under that byelaw (including chapter 2 of the Underwriting Requirements) and the provisions of the byelaw and any conditions and requirements shall, in the event of any conflict with the terms of this Code, take precedence. This Code of Practice comes into force on 1 March 2004. The following are revoked as 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

February 2004

CONTENTS

A	Introduction _____	1
	1. What is ‘delegated underwriting’? _____	1
	2. What is a coverholder? _____	1
	3. What is a binding authority? _____	1
	4. What are the different types of coverholder and binding authorities? _____	1
	5. What are approved coverholders and registered binding authorities? _____	1
	6. What are restricted coverholders and restricted binding authorities? _____	2
	7. Are there other ways of delegating authority? _____	3
	8. Other arrangements which are not delegated underwriting _____	4
	9. What is the legal position of the parties involved in an arrangement to delegate authority? _____	6
B	Applying this code of practice _____	8
	1. What is the purpose of this code of practice? _____	8
	2. What does Lloyd’s expect of managing agents? _____	8
C	Assessing new coverholders _____	10
	1. Main considerations _____	10
	2. Coverholder suitability _____	10
	3. Underwriting plan _____	12
	4. Licensing issues _____	13
	5. Binding authorities arranged with the involvement of a Lloyd’s broker _____	13
	6. Binding authorities arranged without the involvement of a Lloyd’s broker _____	13
D	Producing the contract of delegation _____	15
	1. Contractual certainty _____	15
	2. The role of Xchanging Insure Services (“XIS”) in contracts of delegation _____	15
	3. Model contracts of delegation _____	16
E	Main provisions of a contract of delegation _____	17
	1. Prudent underwriting _____	17
	2. Authorised people _____	17
	3. Duration _____	17
	4. Contracts of insurance _____	17
	5. Selling arrangements _____	18
	6. Renewing contracts of insurance _____	18

7.	Limits on premiums income	19
8.	Collecting premiums	19
9.	Insurance monies	19
10.	Insurance documents	20
11.	Handling claims	21
12.	Agreeing claims	21
13.	Claims funds	21
14.	Reporting responsibilities	22
15.	Sub-contracted claims handling	22
16.	Complaints	23
17.	Lawful instructions	23
18.	Cancellation	23
19.	Using Lloyd's name	24
20.	Inspection and ownership of records	24
21.	Jurisdiction and choice of law	24
F	Monitoring contracts of delegation	25
1.	Monitoring	25
2.	Reporting	25
3.	Visits and audits	26
4.	Renewing contracts of delegation	26
5.	Serious irregularities	27
6.	Record keeping	27
G	Cancelling or not renewing contracts of delegation	29
1.	Non-renewal	29
2.	Cancellation	29
3.	Transferring run-off responsibilities from a coverholder	31
	Appendix 1: Criteria for coverholder suitability	32
	Appendix 2: Requirements for contracts of delegation	34
	Appendix 3: Joint certificates	36
	Appendix 4: Managing agents dealing directly with coverholders	37
	Appendix 5: Delegated underwriting – risks and controls	39

A Introduction

1. 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.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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 of the managing agent.

b. A restricted binding authority is one which:

- 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 determination of the premium to be charged in respect of each contract of insurance to be entered into under the binding authority which do not afford the coverholder or any third party any material discretion in calculation of the premium or of any adjustment to it; and
- only authorises the coverholder to enter into contracts of insurance where:
 - the contract will be concluded in the United Kingdom and the insured has his habitual residence in the UK, or in the case of a company, the company is registered in the UK; and where:
 - the property to be insured under the contract is situated in the United Kingdom; or
 - the property to be insured is a motor vehicle which is registered in the United Kingdom; or
 - the risk to be insured is a travel or holiday risk and the contract is for a duration of 4 months or less;
 - 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.

7. 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 ways you can delegate your authority – consortiums and services companies. Under these arrangements, Lloyd's treats the entities which authority is delegated to as coverholders.

a. 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.

b. 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.

8. 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, have been confused with delegated underwriting arrangements.

a. Marine Open Cargo Covers

A marine open cargo cover is an arrangement under which a Lloyd's syndicate (or syndicates) provides the insured (the Marine Insurance Act 1906 refers to the term "assured", however the term "insured" is used throughout this section and has the same meaning) with a general grant of marine cargo insurance relevant to their business activities. That insurance covers the insured's own property or property in which the insured has had or is expected to acquire, an insurable interest. (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 pre-determined 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 to whom the Insured has entrusted the goods and 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 acquire an insurable interest, Lloyd's views that arrangement as a binding authority.

b. 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.

c. Master policies

A master policy is a contract of insurance issued to an association, organisation or club to 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 a 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, guarantee and travel insurance, as well as arrangements where a manufacturer or supplier provides free insurance with its product or service.

9. 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 of account 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 interface 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

B Applying this code of practice

1. 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.

2. 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.

C Assessing new coverholders

1. 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.

2. 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.

a. 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's 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.

b. 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 coverholders performance under them.
- Their current owners or shareholders.
- Any potential conflicts of interest the coverholder may have.

c. 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.

d. 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.

3. 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.

4. 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, fiscal 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.

5. Binding authorities arranged with the involvement of a Lloyd's broker

If you intend to enter into a binding authority that is arranged or broked 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.

6. Binding authorities arranged without the involvement of a Lloyd's broker

Although many managing agents will use a Lloyd's broker to arrange or broke 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 broked, 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.

D 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, section D and section E highlight some of the important areas you should consider.

1. 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.

2. The role of Xchanging Insure Services ("XIS") in contracts of delegation

Historically, XIS has checked contracts of delegation. This review usually took place after the coverholder had been given authority to act. In future, XIS 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, XIS 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 XIS) to review the contract before you agree it with the coverholder.

3. 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.

E 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.

1. Prudent underwriting

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

2. 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.

3. 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.

4. 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.

5. 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.

6. 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 prior 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 syndicates underwriting the binding authority may be committed to renewing them.

7. Limits on premium income

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.

8. 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

9. 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.

10. 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.

11. 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.

12. 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 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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 wish to include a suspension provision in the contract of delegation. This provision will allow you to stop the coverholder immediately 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.

19. 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.

20. 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.

21. Jurisdiction and choice of law

English law and English jurisdiction should apply to the contract of delegation, wherever possible.

F 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.

1. Monitoring

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

2. 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.

3. 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 and IT systems; and
 - licensing, regulatory, 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.

4. 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).

5. Serious irregularities

You should have clearly defined procedures to follow when you find out about serious irregularities at a coverholder (such as fraud and dishonesty).

Lloyd's and the managing agents of following syndicates should be told promptly about any serious irregularities.

6. 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:
 - Lloyd's broker (if any);
 - business proposed (for example, the underwriting plan);
 - coverholder.
- Information relating to the contract of delegation such as:
 - any rating basis, schedule or guide;
 - details of certificate wording and extra clauses;
 - the format of insurance documents;
 - proposals and claims forms;
 - 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).

G Cancellling 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.

1. Non-renewal

There may be many reasons for you deciding not to renew a coverholder's binding authority. These reasons may includes 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.

2. 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.

a. 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.

b. 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.

c. 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 coverholders 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).

3. 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 resolved 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 broked 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 XIS.

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 XIS or Xchanging Claims Services (XCS), whichever is appropriate.
- Premium and claim bordereaux must be provided to XIS or XCS at least every three months (except for motor or personal lines business not processed through XIS or XCS). This also applies where the managing agent's syndicate writes a binding authority 100% and does not use XIS or XCS 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 XIS should contact their XIS account manager. Managing agents wanting to have discussions with XCS should contact the appropriate XCS head of claims.

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

What could go wrong?	Possible risk prevention and detection controls
Underwriting	
<p>1. The coverholder operates outside its authority in relation to:</p> <ul style="list-style-type: none"> - limits of risk; - type or class of business; - territories traded in; and - length of policy period. 	<ol style="list-style-type: none"> 1. The contract of delegation could clearly define the arrangements in each of these areas. 2. A risk report could identify type and classes of business, periods, limits and territories. 3. Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists. 4. Reporting could identify premium by type and class of business and territory.
<p>2. The coverholder enters into contracts of insurance where rates are below those anticipated.</p>	<ol style="list-style-type: none"> 1. Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists. 2. A risk report could identify the amounts insured and premiums for each risk.
<p>3. The coverholder generates too much or too little income under the contract of delegation.</p>	<ol style="list-style-type: none"> 1. The contract of delegation could clearly set a limit on the income from premiums. 2. Reports to underwriters could identify premium income and compare the figures against those in the underwriting plan.
<p>4. The coverholder does not control sub-delegated authority to other coverholders.</p>	<ol style="list-style-type: none"> 1. The contract of delegation could clearly state the authority delegated to each other coverholder. 2. A risk report could identify premiums by type of business for each other coverholder. 3. Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists.

What could go wrong?	Possible risk prevention and detection controls
5. The coverholder writes a different mix of business to that expected by underwriters in the underwriting plan.	<ol style="list-style-type: none"> 1. The contract of delegation or underwriting plan could set out premium income by type or class of business. 2. A report to underwriters could show how premium income compares to the underwriting plan.
6. The coverholder accepts business produced by 'bad' brokers or producers.	<ol style="list-style-type: none"> 1. A risk report could identify the business produced by each broker or producer. 2. Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists. 3. A report to underwriters could identify the premium income from main brokers
7. Risks are accepted by an underwriter who is not authorised under the contract of delegation	<ol style="list-style-type: none"> 1. The contract of delegation could state the authorised underwriters. 2. Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists.
Reinsurance	
1. The coverholder buys inappropriate reinsurance.	<ol style="list-style-type: none"> 1. The contract of delegation could specify how reinsurance should be bought (if allowed at all). 2. A report to underwriters could identify all reinsurance bought. 3. Copies of reinsurance cover notes could be provided to all underwriters.
Aggregate exposures	
1. The coverholder fails to maintain aggregate exposures.	<ol style="list-style-type: none"> 1. The contract of delegation could state that aggregate exposures must be maintained. 2. A report to underwriters could include aggregate exposures. 3. Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists.

What could go wrong?	Possible risk prevention and detection controls
2. The aggregate exposures are inaccurately maintained.	1. 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.	1. The contract of delegation could specify a maximum aggregate exposure for each territory. 2. A report to underwriters could include aggregate exposures.
Claims and reserves	
1. The coverholder agrees claims above their authority.	1. A report to underwriters could include details of all claims agreed and all other claims issues. 2. Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists.
2. Claims are settled ex-gratia or without prejudice without informing the underwriters.	1. The contract of delegation could specify the procedures to be followed when settling claims ex-gratia or without prejudice. 2. A report to underwriters could include details of all claims agreed and all other claims issues. 3. Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists.
3. Coverholder overpays claims, pays claims twice or does not use loss adjusters.	1. Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists. 2. A report to underwriters could include details of all claims agreed and all other claims issued
4. Inaccurate or out-of-date reserves are held.	1. A report to underwriters could include specific details of all significant claims and reserves.

What could go wrong?	Possible risk prevention and detection controls
Other	
1. Managing agents are not told about a complaint or potential litigation.	<ol style="list-style-type: none"> 1. The contract of delegation could specify the procedures to be followed in the event of a complaint or potential litigation. 2. A report to underwriters could include details of any complaints or potential litigation.
2. There are concerns about the coverholder and the underwriters want to cancel or suspend the contract of delegation.	<ol style="list-style-type: none"> 1. The contract of delegation could contain a cancellation clause. 2. The coverholder could be audited by the managing agent of the lead syndicate.
3. The coverholder enters into contracts of insurance or operates in a way which infringes Lloyd's licence in a jurisdiction.	<ol style="list-style-type: none"> 1. The contract of delegation could define types of business and licensing issues. 2. Regular visits or audits could be performed by the managing agent of the lead syndicate or coverholder review specialists.

TRANSITIONAL ARRANGEMENTS

Not all requirements contained in the new Delegated Underwriting Byelaw (“the new byelaw”) and the Requirements made under the new byelaw come immediately into force.

Our aim is to migrate to the new approach over the course of 2004 with the objective of ensuring the full implementation by the end of 2004. In order to achieve this we will liaise as necessary with all relevant parties (including the LMA, the LMBC, XIS and the LMP Office).

The following key transitional arrangements and guidance is designed to clarify or supplement certain provisions in the new byelaw (and the requirements made under the new byelaw) and to give effect to orderly transitional arrangements:

UK Coverholders/Lloyd’s brokers acting as coverholders

new coverholders

With effect from 1 March 2004 all new coverholders in the UK (with the exception of restricted coverholders) will need to be approved by Lloyd’s as coverholders under the new byelaw. This will include all new Lloyd’s brokers that wish to act as coverholders.

existing coverholders

With effect from 1 March 2004 all existing UK coverholders (with the exception of restricted coverholders) will be formally “grandfathered” in as approved Lloyd’s coverholders, by the Coverholders Department. This will include grandfathering in all existing Lloyd’s brokers that currently act as coverholders.

All UK coverholders which are already approved by Lloyd’s because they handle marine business or non-UK business, will automatically become approved coverholders under the new byelaw on 1 March 2004.

Restricted coverholders

The formal requirements relating to restricted coverholders have not yet come into force. However, a managing agent may from now on delegate its authority to a “restricted coverholder” under the terms of a “restricted binding authority” as if those requirements applied. Accordingly, if the managing agent considers that a UK coverholder meets the criteria to be a restricted coverholder, it does not need Lloyd’s approval.

When the formal requirements relating to restricted coverholders come into force later this year Lloyd’s will require details to be recorded on the register of restricted coverholders. Details of how this register will operate will be issued in due course.

All other coverholders

All coverholders based elsewhere in the world and which are already approved by Lloyd’s will remain as approved Lloyd’s coverholders. (As from 1 March 2004 they will be deemed to be approved under the new byelaw).

Marine open cargo covers

those not treated as binding authorities

The new Managing Agent's Code of Practice for Delegated Underwriting provides a new definition of what constitutes a marine open cargo cover. If the arrangement falls within that definition then Lloyd's will not regard the marine open cargo cover as a binding authority and the arrangement does not need to be approved under the new byelaw.

those that will be treated as binding authorities

If the arrangement does not fall within the terms of that definition, for example because the arrangement is not for the entity's own property, or property in which the entity has, had or is expected to acquire an insurable interest, then Lloyd's would regard the entity as a coverholder and would therefore need to be approved by Lloyd's. In respect of existing arrangements that would now need to be approved, then Lloyd's will grandfather the entity as an approved coverholder with effect from 1 March 2004.

Lloyd's Coverholder Undertaking

new coverholders

With effect from 1 March 2004, all new coverholders will need to sign the Coverholder's Undertaking to Lloyd's.

existing coverholders

The Coverholders Department will work with Lloyd's brokers and managing agents to make sure that existing coverholders sign the Coverholder's Undertaking to Lloyd's during 2004.

Where more than one Lloyd's broker has a binding authority for an approved coverholder, only one undertaking needs to be signed by the coverholder.

Contractual certainty and contents of binding authorities

new contracts

With effect from 1 March 2004, all new contracts of delegation must be agreed prior to the coverholder being able to accept business under a binding authority. In addition, each binding authority must also contain the information, provisions and terms set out in paragraphs 10 to 12 of the Underwriting Requirements, Chapter 2 (made under paragraph 30 of the new byelaw).

renewals

We recognise that for renewals of existing contracts of delegation it is not practical to implement this rule with immediate effect. It will therefore come into force for all binding authorities renewing on or after 1 January 2005.

Insurance documents

joint certificates

The requirements relating to “joint certificates” come into force immediately. (Underwriting Requirements, Chapter 2, paragraph 16).

contents of other insurance documents

The other requirements relating to the information, provisions and terms to be included in insurance documents to be issued by coverholders will not come into force until 31 December 2004. (Underwriting Requirements, Chapter 2, paragraph 15).

Direct contractual relationships (with coverholders and third party administrators)

new contracts

Managing agents need to have a direct contractual relationship with all their coverholders and with any third party administrators that may agree claims.

renewals

For existing contracts of delegation, this rule will come into force from 31 December 2004.

These transitional arrangements are made pursuant to paragraphs 57 and 58 of the Delegated Underwriting Byelaw

OVERSEAS UNDERWRITING BYELAW

Purpose:

The purpose of this Byelaw is to amend and consolidate the existing byelaws relating to *overseas underwriting* into a single byelaw.

The byelaw revokes –

1. Membership (Overseas Deposits) Byelaw (No. 2 of 1992);
2. Lloyd's Japan Inc Byelaw (No. 2 of 1997); and
3. Lloyd's Asia Byelaw (No. 17 of 1999).

Words and terms shown in italics have the meaning set out in the Definitions Byelaw.

This Byelaw was made by the *Council* on 4 February 2004 in exercise of its powers under sections 6(2) and 8(3) of, and paragraphs (1), (4), (20), (41), and (42) of schedule 2 to, Lloyd's Act 1982 and may be referred to as the Overseas Underwriting Byelaw (No. 2 of 2004).

The headings and these notes are for guidance only and do not form part of the Overseas Underwriting Byelaw (No. 2 of 2004).

Contents

Part A Overseas Deposits

Provision of overseas deposits

Part B Compliance

Compliance with overseas laws and regulations

Part C Payment of Fees and Levies

Payment of fees and levies

Part D Underwriting

Conditions of underwriting

Part E General

No set off

Commencement

The Franchise Board

Revocation and transitional provisions

Part A - Overseas deposits

Provision of overseas deposits

1. The *Franchise Board* may from time to time prescribe conditions and requirements regarding the provision, or the procurement of the provision, by *members* of the *Society* of funds in respect of and incidental to the establishment and maintenance of *overseas deposits*.
2. Without prejudice to the generality of paragraph 1, any conditions and requirements prescribed under that paragraph –
 - (a) may impose requirements which are absolute or which are to vary from time to time by reference to such factors as may be specified or determined in accordance with such conditions and requirements;
 - (b) may make different provision for different cases or different classes of cases;
 - (c) may include requirements that *members* of the *Society* provide, or procure the provision of, funds by way of loans to, or deposits with, the *Society*, any *deposit company* or any other person whether as a trustee or otherwise and whether out of *members' premiums trust funds* or otherwise;
 - (d) may include a requirement that *underwriting agents* exercise any powers which they have under any *premiums trust deed* to transfer funds to any *central syndicate sub-fund* held under that *premiums trust deed*;
 - (e) may include requirements -
 - (i) to complete applications, notices and other documents in such form as may be prescribed by the *Franchise Board*;
 - (ii) to execute and deliver or otherwise become a party to any deed, trust deed, contract, assignment, undertaking, mandate, authority, power of attorney, or other document or instrument as may be prescribed by the *Franchise Board*;
 - (f) may specify circumstances in which *members* of the *Society* are to be exempt from any such *condition or requirement* or may be excused from compliance with any such *condition or requirement* to such an extent as the *Franchise Board* may think fit;
 - (g) may include requirements that -
 - (i) *members* of the *Society* provide funds in different currencies;

- (ii) provide for the determination of the amount to be provided in accordance with a specified scale or other specified factor;
 - (iii) may prescribe the manner and timing of the provision of funds;
 - (iv) may, in the case of loans or deposits, provide that any such loan or deposit be made in a particular form and on particular terms and at any rate of interest (or without interest) and at any time or times and generally upon any terms whatsoever as to repayment; and
 - (h) may contain incidental, supplementary and transitional provisions.
3. The *countries* in which *overseas deposits* are to be made and the amounts of such *overseas deposits* and generally the manner in which such *overseas deposits* are to be dealt with and applied shall be in the absolute discretion of the *Franchise Board*, if such *overseas deposits* are held by the *Society*, or the directors of the *deposit company*, if such *overseas deposits* are held by the *deposit company*. Nothing contained in this Byelaw or in any *condition or requirement* made under this Byelaw shall be construed or operate as in any manner limiting such discretion or as giving any *member* of the *Society* any right, title or interest to require any such *overseas deposit* or any part of such *overseas deposit* to be deposited, dealt with or applied in any particular manner or in any particular *country*.

Part B - Compliance

Compliance with overseas laws and regulations

4. The *Franchise Board* may take any steps and give any undertakings required by or under the laws or regulations of any *country* applicable to *members* of the *Society* in order to secure authorisation for *members* of the *Society* to transact insurance business in or emanating from that *country*.
5. The *Franchise Board* may from time to time prescribe conditions and requirements or issue directions to be complied with by all or some of the *members* of the *Society* or *underwriting agents* in relation to *overseas insurance business*. Such *conditions and requirements* or directions may include the requirement for all or some *members* of the *Society* (whether or not *underwriting members*) or for any *underwriting agent* to -
 - (a) pay directly or reimburse the *Society* in respect of any fines, costs or awards levied by any court, regulator or any other relevant authority of any *country* in which such *members* or *underwriting agents* transact *overseas insurance business*;
 - (b) deal with any matter arising in any particular *country* in a particular way, including cooperating with any Lloyd's general representative or attorney in fact in such *country* or any Lloyd's agent appointed to accept service of suit under an overseas jurisdiction clause in an insurance policy.

Part C – Payment of Fees and Levies

Payment of fees and levies

6. The *Franchise Board* may from time to time prescribe conditions and requirements requiring *members* of the *Society* who underwrite or who propose to underwrite or who have underwritten *overseas insurance business* to pay to the *Society* or, as the *Franchise Board* may determine, any *deposit company*, fees and/or levies for the purpose of financing, or reimbursing any expenses incurred at any time in connection with the underwriting of *overseas insurance business*.
7. The amount of any fee or levy made under paragraph 6, the manner of calculating such fee and/or levy and the date or dates on which any such levy shall be payable shall be such as the *Franchise Board* may from time to time prescribe in any *conditions and requirements* made under paragraph 6 above.

Part D – Underwriting

Conditions of underwriting

8. Without prejudice to the generality of the *Franchise Board's* powers under this byelaw to prescribe conditions and requirements applicable to any *member* of the *Society*, the provision of funds or the procurement of the provision of funds, compliance with overseas laws and regulations and the payment of fees and levies in accordance with any conditions and requirements made under this Byelaw shall be a condition relating to permission to underwrite insurance business at Lloyd's and the provisions of the Membership Byelaw shall apply accordingly where any *member* of the *Society* fails to comply with such condition.

Part E – General

No set off

9. Any sum required by the *Franchise Board* by conditions and requirements made under this byelaw to be provided by or at the procurement of a *member* of the *Society* shall be paid free and clear from any set-off, counterclaim or deduction on any account whatsoever, and shall, if the *Franchise Board* so specifies, if not paid on the due date for payment, bear interest from the due date until the date payment (as well after as before judgment) at the rate prescribed from time to time by the *Franchise Board* and the *member's* obligation to provide or procure the provision of such sum, together with any interest shall be enforceable by the *Society* in any court of competent jurisdiction.

Commencement

10. This byelaw shall come into force on 1 March 2004.

The Franchise Board

11. All references in this byelaw to the *Franchise Board* shall be deemed also to be references to the *Council*. The *Franchise Board* may exercise all of the powers, discretions and functions set out in this byelaw as the agent of the *Council*.

Revocation and transitional provision

12. The following byelaws are revoked with effect from 1 March 2004:
- (a) Membership (Overseas Deposits) Byelaw (No. 2 of 1992);
 - (b) Lloyd's Japan Inc Byelaw (No. 2 of 1997); and
 - (c) Lloyd's Asia Byelaw (No. 17 of 1999);

save that nothing in this byelaw shall affect the validity of any conditions and requirements made pursuant to the byelaws above or any other byelaw in respect of *overseas insurance business* and such conditions and requirements shall be deemed to have been made pursuant to this Byelaw with effect from 1 March 2004.

Notes

These notes, the notes setting out the purpose of this byelaw and the part and paragraph headings are for guidance only and do not form part the byelaw.

Words and terms shown in italics have the meaning set out in the Definitions Byelaw.

DEFINITIONS BYELAW

Purpose:

The purpose of this Byelaw is to define terms and expressions used in the *requirements of the Council*.

Words and terms shown in italics have the meaning set out elsewhere in this Byelaw.

This byelaw was made by the *Council* on 4 February 2004 in exercise of its powers under section 6(2) Lloyd's Act 1982 and may be referred to as the Definitions Byelaw (No. 3 of 2004).

The headings and these notes are for guidance only and do not form part of the Definitions Byelaw (No. 3 of 2004).

Definition of terms and expressions

1. In every byelaw and regulation made under Lloyd's Act 1982, save where that byelaw or regulation expressly provides to the contrary or the context otherwise requires –

“active underwriter” means, in relation to a *syndicate*, the individual at or deemed by the *Council* to be at, the underwriting box with principal authority to accept risks on behalf of the *members* of the *syndicate*;

“Additional Securities Limited” means a subsidiary of the *Society* incorporated by that name under the laws of England and Wales with limited liability;

“administrative and processing functions” means, in relation to an *approved run-off company*, the functions prescribed by the *Franchise Board* in accordance with paragraph 86 of the Underwriting Byelaw (No. 2 of 2003);

“agreed business plan” means a *business plan*, as amended from time to time, agreed by the *Franchise Board* pursuant to paragraph 17 of the Underwriting Byelaw (No. 2 of 2003);

“agreed run-off closure plan” means a *run-off closure plan*, as amended from time to time, agreed by the *Franchise Board* pursuant to paragraph 81 of the Underwriting Byelaw (No. 2 of 2003);

“agreed run-off contingency plan” means a *run-off contingency plan*, as amended from time to time, agreed by the *Franchise Board* pursuant to paragraph 81 of the Underwriting Byelaw (No. 2 of 2003);

“annual financial return” means a return prepared by an *underwriting agent* in accordance with paragraph 51 of the Underwriting Byelaw (No. 2 of 2003);

“Appeal Tribunal” means the appeal tribunal established pursuant to section 7(1)(b) of Lloyd’s Act 1982;

“approved coverholder” means a company or partnership which the *Franchise Board* has approved to act as an *approved coverholder* in accordance with the Delegated Underwriting Byelaw (No 1 of 2004).

“approved run-off company” means a company with the *Franchise Board’s* permission to perform *executive functions*, *insurance functions* or *administrative and processing functions* on behalf of a *managing agent* or a *substitute agent*;

“approved transfer agreement” has the meaning given in paragraph 2(2) of the Conversion and Related Arrangements Byelaw (No. 22 of 1996);

“binding authority” means an agreement between a *managing agent* and a *coverholder* under which the *managing agent* delegates its authority to enter into a contract or contracts of insurance to be underwritten by the *members* of a syndicate managed by it to the *coverholder* in accordance with the terms of the agreement;

“business plan” means a business plan prepared by a *managing agent* in accordance with paragraph 14 of the Underwriting Byelaw (No. 2 of 2003);

“central syndicate sub-fund” means the sub-fund referred to in clause 11 of the *premiums trust deed*;

“codes of practice” means the codes of practice from time to time made and issued by the *Franchise Board* under paragraph 31 of the Underwriting Byelaw (No. 2 of 2003);

“commercial life business” means *life business* which is not *personal lines business*;

“commercial motor business” means *motor business* which is not *personal lines business*;

“compliance officer” means the individual appointed by an *underwriting agent* or an *approved run-off company* in accordance with paragraph 40 of the Underwriting Byelaw (No. 2 of 2003);

“controller” shall have the meaning given in section 422 of the Financial Services and Markets Act 2000 and control shall be construed accordingly;

“corporate adviser” means a *members’ agent* which acts solely on behalf of a *corporate member*;

“corporate member” means a *member* of the *Society* which is a body corporate or a Scottish limited partnership;

“country” means any country, state, province or territory;

“coverholder” means a company or partnership authorised by a *managing agent* to enter into a contract or contracts of insurance to be underwritten by the *members* of a *syndicate* managed by it in accordance with the terms of a *binding authority*;

“Council” means the council constituted by section 3 of Lloyd’s Act 1982;

“deposit company” means *Additional Securities Limited*, *Lloyd’s Japan Inc* or any other company for the time being nominated by the *Franchise Board* under one or more *premiums trust deeds* as a person with whom *premiums trust funds* may be deposited or to whom *premiums trust funds* may be lent;

“executive functions” means, in relation to an *approved run-off company*, the functions prescribed by the *Franchise Board* in accordance with paragraph 86 of the Underwriting Byelaw (No. 2 of 2003);

“financial guarantee insurance” means contracts of insurance (which includes any indemnity, guarantee, bond, contract of surety, slip or other similar instrument and references to “insurance” include “reinsurance”) where -

- (a) the insurer agrees that on the occurrence of an event specified in the contract he will indemnify the assured against loss caused by the specified event or pay or otherwise benefit the assured to the extent provided by the contract;
- (b) the specified event is any of the following -
 - (i) the financial failure, default, insolvency, bankruptcy, liquidation or winding up for any person whether or not a party to the contract of insurance;
 - (ii) the financial failure of any venture;
 - (iii) the lack of or insufficient receipts, sales or profits of any venture;
 - (iv) the lack of or inadequate response or support by sponsors or financial supporters;
 - (v) a change in levels of interest rates;
 - (vi) a change of rates in exchange of currency;
 - (vii) a change in the value or price of land, buildings, securities or commodities;
 - (viii) a change in levels of financial or commodity indices;
 - (ix) any liability or obligation under an accommodation bill or similar instrument; and
- (c) the specified event is not directly caused by another specified event which is not of a description falling within (b) above,

save that the *Franchise Board* may on the application of any person conclusively determine whether or not a proposed contract of insurance is a contract of financial guarantee insurance.

“Financial Services Authority” means the body corporate known by that name with the functions conferred on it by or under the Financial Services and Markets Act 2000;

“Financial Services Authority’s requirements” means any rule, direction, requirement, principle, evidential provision, code or guidance made, given or issued by the *Financial Services Authority*;

“former member” means any *person* who was a *member* of the *Society* but who has ceased to be a *member* of the *Society*;

“Franchise Board” means the board established by the *Council* with that name;

“General Insurance Standards Council” means the company limited by guarantee with the registered number 3705388;

“independent non-executive directors of the Franchise Board” means the directors for the time being of the *Franchise Board* designated by the *Council* as being the independent non-executive directors of the *Franchise Board*;

“individual member” means a *member* of the *Society* who is an individual;

“insurance functions” means, in relation to an *approved run-off company*, the functions prescribed by the *Franchise Board* in accordance with paragraph 86 of the Underwriting Byelaw (No. 2 of 2003);

“Japanese local insurance” means insurance business in Japan which is carried out under business authorisation granted to Lloyd’s from the Minister of Finance of Japan pursuant to Article 219 of the Insurance Business Law (No 105 of 1995) of Japan;

“liability risk” means a risk where an insured is liable to a third party as a result of or caused by any act, error, omission, representation or statement by the insured.

“life business” means contracts of insurance on human life or contracts to pay annuities on human life;

“line slip” means an agreement by which a *managing agent* delegates its authority to enter into contracts of insurance to be underwritten by the *members* of a syndicate managed by it to another *managing agent* or authorised insurance company in respect of business introduced by a *Lloyd’s broker* named in the agreement;

“Lloyd's broker” means a *person* which is listed in the register of Lloyd's brokers maintained under the Lloyd's Brokers Byelaw (No. 17 of 2000);

“Lloyd’s Japan Inc” means a subsidiary of the *Society* incorporated by that name under the law of Japan with limited liability;

“Lloyd’s Settling Agent” means a person appointed in accordance with the Marine Insurance Certificates Byelaw (No 3 of 2002);

“LPSO” shall, as the context requires, mean Lloyd's Policy Signing Office and/or any service provider (as that expression is defined in the Lloyd's Policy Signing Office Byelaw (No. 11 of 2000)) for the time being carrying on or out (under whatever

name) all or any of the services and operations formerly carried on or out by the *Society* under the name of Lloyd's Policy Signing Office or the acronym LPSO;

“managing agent” means an *underwriting agent* which carries on *underwriting* for a *member*;

“managing agent’s trustee” means, in regard to a *managing agent*, any trustee of one or more *premiums trust deeds* designated under the terms of that deed or those deeds as the managing agent’s trustee in respect of that *managing agent*;

“MAPA” means an arrangement of the kind described in paragraph 10 of the Agency Agreements Byelaw (No. 8 of 1988) operated by a *members' agent*;

“member” means a *person* admitted to membership of the *Society*;

“members’ agent” means an *underwriting agent* which is appointed by a *member* to provide services and perform duties of the same kind and nature as those set out in the standard members’ agent’s agreement;

“member’s syndicate premium income” means *premium income* of a *member* of a *syndicate* arising out of insurance business underwritten through that *syndicate*;

“member’s syndicate premium limit” means –

- (a) the limit prescribed by or on behalf of a *member* of a *syndicate* on the amount of insurance business allocable to a year of account which is to be underwritten on his behalf through that *syndicate* (such limit being expressed as the maximum permissible amount of his *member’s syndicate premium income* allocatable to that year of account); or
- (b) where a limit lower than that referred to in (a) above is prescribed by the *Council* that lower limit;

“motor business” means insurance business of any one or more of the following classes –

- (a) risks of bodily injury to or the death of the person insured while driving or travelling as a passenger (which expression shall include a person getting into, onto, out of or off a motor vehicle) in or on a motor vehicle;
- (b) risks of loss of or damage to property or of bodily injury to or the death of any party caused by, or arising out of, the use of motor vehicles including third-party risks and carrier’s liability;

- (c) risks of loss of or damage to –
 - (i) vehicles used on land, including motor vehicles but excluding railway rolling stock or
 - (ii) such vehicles as are referred to in sub-paragraph (c)(i) while in the course of transportation by land, rail, air, sea or inland waterway;
- (d) risks of loss of or damage to merchandise, baggage and all other goods in transit by motor vehicle or trailer; or
- (e) risks of loss arising out of or in connection with the mechanical or electrical breakdown or failure of a motor vehicle, or any part thereof, under which insurance the purchaser of the motor vehicle is the assured;

“New Central Fund” means the fund held, managed and applied by the *Society* pursuant to the New Central Fund Byelaw (No. 23 of 1996);

“non-Lloyd’s broker” means any broker or other intermediary, not being a Lloyd’s broker, engaged in the broking of insurance business;

“notifiable event” has the meaning given in paragraph 4 of the Premiums Trust Fund and Regulating Trustee Byelaw (No. 22 of 1998);

“overseas deposits” means deposits provided or maintained in respect of the *overseas insurance business* of *members* of the *Society* (whether or not underwriting members) in accordance with statutory or other requirements from time to time in force in various parts of the world;

“overseas insurance business” means insurance business underwritten by *members* transacted in or emanating from any *country* outside the United Kingdom;

“performance report” means either a *quarterly monitoring report* or a *supplementary monitoring report*;

“person” shall include any natural person, firm, partnership, corporation, association, or other body of persons (whether corporate or unincorporate);

“personal lines business” means insurance business of any nature in relation to which the insured has an insurable interest which satisfies both of the following requirements –

- (a) the insured must be an individual (which expression shall exclude any body whether corporate or unincorporate or any other legal person not being a natural person); and
- (b) the insured in concluding the contract of insurance must be acting –
 - (i) on his own behalf and (where appropriate) in his private capacity; or
 - (ii) on behalf of any member of his family ordinarily residing in his household; or
 - (iii) in furtherance of a business (other than the underwriting business of a *member*) carried on by him as a sole trader;

“premium income” means, in relation to a *member*, the aggregate of the premiums credited to him less, or net of, *qualifying reinsurance premiums*, brokerage, discount, commission, *premium tax* and returns;

“premium tax” means any tax charged upon or any monies withheld from a premium by or on behalf of any statutory, governmental, state, provincial or local governmental authority, body or official;

“premiums trust deed” means a trust deed, in the form for the time being required by the *Council*, constituting a premiums trust fund;

“premiums trust funds” means a fund of premiums and other monies held from time to time upon the trusts of a *premiums trust deed*;

“qualifying quota share contract” means a reinsurance contract which satisfies the requirements specified by the *Franchise Board* in accordance with paragraph 36 of the Underwriting Byelaw (No. 2 of 2003);

“qualifying reinsurance premiums” means premiums paid by a *member* of a *syndicate* under a reinsurance arrangement which is a *qualifying quota share contract*;

“quarterly monitoring report” means a report prepared by a *managing agent* in accordance with paragraph 20 of the Underwriting Byelaw (No. 2 of 2003);

“quasi-individual member” means a *corporate member* whose members consist only of, or of nominees for, a single individual or a group of connected individuals (together with, in the case of a Scottish limited partnership, another person who is the general partner in that partnership) and for the purposes of this definition only –

- (a) a “group of connected individuals” means a group of individuals each of whom is a director or manager of, or a partner in, the *corporate member* or a close relative of any such person;
- (b) “close relative” means an individual's spouse, his children and step-children, his parents and step-parents, his brothers and sisters and his step-brothers and step-sisters;

“recognised accountant” means an individual or firm entitled to act as a recognised accountant in accordance with the Audit Arrangements Byelaw (No. 7 of 1998);

“registered binding authority” means a *binding authority* under which the *managing agent* delegates its authority to enter into a contract or contracts of insurance to be underwritten by the members of a *syndicate* or *syndicates* managed by it to an *approved coverholder* and which has been registered with the *Franchise Board* in accordance with the Delegated Underwriting Byelaw (No 1 of 2004).

“registered individual” means an individual registered in accordance with paragraph 1 of the Individual Registration Byelaw (No. 3 of 1998);

“reinsurance to close” has the meaning given in paragraph 1 of Schedule 1 to the Syndicate Accounting Byelaw (No. 18 of 1994);

“restricted binding authority” means a *binding authority* which –

- (a) prescribes the terms and conditions to be included in each contract of insurance to be entered into by the *coverholder* under the *binding authority*;
- (b) contains comprehensive arrangements for the determination of the premium to be charged in respect of each contract of insurance to be entered into under the *binding authority* which do not afford the *coverholder* or any third party any material discretion in calculation of the premium or of any adjustment to it; and
- (c) only authorises the *coverholder* to enter into contracts of insurance where –
 - (i) the contract will be concluded in the United Kingdom and the insured has his habitual residence in the UK, or in the case of a company, the company is registered in the UK; and
 - (ii) where –
 - (i) the property to be insured under the contract is situated in the United Kingdom; or
 - (ii) the property to be insured is a motor vehicle which is registered in the United Kingdom; or

- (iii) the risk to be insured is a travel or holiday risk and the contract is for a duration of 4 months or less;
- (iv) the risk to be insured is a *liability risk*.

“restricted coverholder” – means any company or partnership whose name has been entered in the register of *restricted coverholders* by the *Franchise Board* in accordance with the Delegated Underwriting Byelaw (No 1 of 2004);

“requirements of the Council” means any requirement imposed by any byelaw or regulation made under Lloyd’s Acts 1871 to 1982 or under the authority given by any *premiums trust deed*, any code of practice, *underwriting guideline*, condition or requirement made or imposed or direction given under any such byelaw regulation or authority and any direction given under section 6 of Lloyd’s Act 1982, any requirement imposed by or under any agreement, deed or other instrument between Lloyd’s or the *Council* and any *member*, *underwriting agent*, or any trustee of any premiums trust deed, or by or under any undertaking in favour of Lloyd’s or the *Council* given by a *member*, any *underwriting agent* or any trustee of any *premiums trust deed*, and any other direction or requirement given or made by the *Council* under Lloyd’s Acts;

“run-off account” means a year of account which has not been closed as at the date at which it would normally have been closed in accordance with the policies and practices generally adopted in respect of the *syndicate* concerned;

“run-off closure plan” means a plan prepared by a *managing agent* in accordance with paragraph 77 of the Underwriting Byelaw (No. 2 of 2003);

“run-off contingency plan” means a plan prepared by a *managing agent* in accordance with paragraph 76 of the Underwriting Byelaw (No. 2 of 2003);

“run-off manager” means, in relation to a *run-off syndicate*, the *person* who has principal authority to negotiate or place contracts of reinsurance or negotiate and settle the payment of claims on contracts of insurance or reinsurance on behalf of the *members* of the *syndicate*;

“run-off monitoring report” means a report prepared by a *managing agent* which manages a *run-off syndicate* or a *run-off account* in accordance with paragraph 85 of the Underwriting Byelaw (No. 2 of 2003);

“run-off syndicate” means a *syndicate* which no longer accepts new or renewal insurance business (other than the variation or extension of risks previously underwritten, or *reinsurance to close* of an earlier year of account of that *syndicate*);

the “Society” means the Society incorporated by Lloyd’s Act 1871 by the name of Lloyd’s;

“substitute agent” means a person or body appointed in accordance with the Substitute Agents Byelaw (No. 20 of 1983) or in accordance with part K of the Underwriting Byelaw;

“supplementary monitoring report” means a report prepared by a *managing agent* in accordance with paragraph 21 of the Underwriting Agents Byelaw;

“syndicate” means a *member* or group of *members* underwriting insurance business at Lloyd’s through the agency of a *managing agent* or a *substitute agent* to which a syndicate number is assigned by the *Council*. Except where it is expressly otherwise provided the several groups of *members* to which in different years a particular syndicate number is assigned by or under the authority of the *Council* shall be treated as the same *syndicate*, notwithstanding that they may not comprise the same *members* with the same individual participations;

“syndicate allocated capacity” means, in relation to a *syndicate*, the aggregate of the *member’s syndicate premium limits* of all the *members* for the time being of the *syndicate*;

“syndicate premium income” means, in relation to a *syndicate*, the aggregate of the *member’s syndicate premium income* of all the *members* for the time being of the *syndicate*;

“transferor” has the meaning given in relation to an *approved transfer agreement* in the Conversion and Related Arrangements Byelaw (No. 22 of 1996);

“underwriting” shall, unless the context otherwise requires, mean the business of underwriting and all related activities including the acceptance of risks, the purchasing of reinsurance and the settlement and payment of claims and the word “underwrite” shall be construed accordingly;

“underwriting agent” means a *managing agent* or a *members’ agent*;

“underwriting guidelines” means the guidelines made and issued by the *Franchise Board* under paragraph 24 of the Underwriting Byelaw (No. 2 of 2003).

Underwriting Agents Byelaw

2. Every reference in the *requirements of the Council* to a definition set out in the Underwriting Agents Byelaw (No. 4 of 1984) shall be deemed to be a reference to this Byelaw.

Revocation

3. The Definitions Byelaw (No. 3 of 2003) is revoked.

Commencement

4. This byelaw shall come into force on 1 March 2004.

Notes

These notes, the note setting out the purpose of this Byelaw and the paragraph headings are for guidance only and do not form part of the Byelaw.