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Confidential

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15 May 2020

Your reference
Our reference DS/SLS

Dear Terence

Product value and coronavirus: draft guidance for insurance firms

Lloyd's welcomes the draft guidance published by the FCA on product value in light of the exceptional circumstances arising from coronavirus (Covid-19). We support the principle that insurers should ensure that their products are providing value to customers and that this is especially important during this difficult time.

As you are aware, Lloyd's is primarily a market for larger and more complex/specialist global risks. Our business flows, including covers provided to small businesses and individuals, are intermediated via brokers and/or coverholders. We therefore work closely with the market associations representing our diverse stakeholder groups, including the Lloyd's Market Association as well as the brokers, Lloyd's managing agents, coverholders and the wider UK general insurance market.

The principles of customer value set out in the FCA's draft guidance are reflected in the Lloyd's minimum standards 'MS9 Customer' (attached for reference as Appendix 1). Lloyd's requires managing agents to have an appropriate governance process to assess the value of their products to their customers, including those which are distributed through coverholders. The guidance clearly articulates the expectation around assessing value and the ongoing requirements when assessing the value of products, especially those which are classified as high product risk.

The standards articulate the following specifically around product review:

- Managing agents must ensure a Product Review is promptly conducted when a material issue or problem with a Product has been identified.

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- Managing agents must conduct regular Product Reviews of all their Products as may be appropriate having regard to the Product Risk. Managing agents must:

    - Record the Product Review in such a way that would enable a person who was not involved to understand, in broad terms, how the Product Review was conducted; and

    - Act on the output of the Product Review. Any failure to act must be escalated appropriately within the managing agent.

- Managing agents must keep the assessment of its Product Risk under review throughout the Product Lifecycle and adjust the Product Design and Product Controls as appropriate.

In addition, the MS9 guidance states that managing agents' governance should ensure that products are reviewed regularly, at least annually for high risk products, to ensure that the original assessments made are still valid and the product still provides value. Where products are reviewed in response to a material issue or problem the conclusion of the review should identify any remedial action required to mitigate or avoid detriment to customers.

Furthermore, Lloyd's, with the support of managing agents, have defined what 'fair value' means to consumers in our market and we believe this provides a good framework for assessment of value. The key elements of the definition are:

- Products must meet a genuine need;
- Terms and conditions and sales process should ensure that customers understand what they are buying;
- Products are priced reasonably reflecting the level of cover required;
- Acquisition costs, fees and charges are transparent and commensurate with the services each party provides; and
- Products respond fairly and promptly in the event of a claim

We are therefore supportive of the FCA's approach to the draft guidance and believe that it aligns with the standards which we have set our market.

We recognise that, in ensuring the principle of product value is maintained given the unprecedented reach of Covid-19, in both its global nature and the impact it has on a broad range of product lines, further guidance may be required. There are further considerations which we believe the FCA should take account of in developing its guidance.

Firstly, in order to ensure a timely response to customers, we suggest the guidance recognises that firms will need to develop and deploy a risk-based approach to reviewing products. Our experience is that undertaking a robust product review is a detailed process, that should be underpinned where possible with relevant qualitative and quantitative MI. For instance, it may require engagement with distributor partners. In some cases, firms offer products that combine a broad range of coverage needs, many of which are not of a homogenous nature. This presents practical challenges which may also impact the timing of the review. For example, it may be that for a packaged product only one area of cover has changed in value or that each area has changed in value to a differing extent or that these changes are interlinked. This means that there is also the potential added risk that adopting a ‘standard’ approach to product reviews may undermine the quality of these reviews.

For these reasons, we believe that the most effective way which firms will be able to meet the 6-month deadline specified within the draft guidance is by undertaking a risk based, proportionate approach which accounts for features such as customer type and product coverage. We believe this approach will support the prioritisation of Consumer and SME products.

Secondly, Lloyd’s would encourage the FCA to consider the role of intermediaries in the scope of this guidance. In addition, it will be important for the FCA to consider the complexity of some of the distribution chains which exist, in setting expectations around timescales for this undertaking. As Lloyd’s is an intermediated market the understanding of how circumstances and coverage may have changed as a result of Covid-19, or indeed may not have changed, can in many cases only be achieved through the involvement of the intermediated party. This may add further complexity and thus time taken for reviews.

We hope that you find these comments useful and would be very happy to discuss any aspects of it with you. We look forward to further discussion on this and related points.

Yours sincerely

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LLOYD'S

Lloyd's Minimum Standards

MS9 – Customer

January 2020

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Introduction

The Franchise Board is committed to protecting the best interests of Customers at all times. The following Minimum Standards bring together Lloyd's requirements for the management of claims, delegated authority, conduct risk and complaints; and are designed to promote managing agents' ability to deliver fair outcomes for Customers.

Minimum Standards, requirements and guidance

The Minimum Standards and requirements are statements of business conduct established under relevant Lloyd's Byelaws. All managing agents are required to meet the Minimum Standards. The requirements represent the minimum level of performance required of any organisation to operate in the Lloyd's market.

Within this document the standards and supporting requirements are set out in the blue box at the beginning of each section. The remainder of each section consists of guidance which explains the standards and requirements in more detail and gives examples of approaches that managing agents may adopt to meet them.

The guidance is intended to provide assurance to managing agents as to approaches which will generally meet the Minimum Standards and comply with the requirement if operational and effective. However, there could be other approaches which could deliver performance at or above the minimum level and it is fully acceptable for managing agents to adopt alternative procedures so long as they can demonstrate that they meet the requirements of the Minimum Standards.

Defined terms have been capitalised and definitions are set out in the Definitions section.

Application

The Minimum Standards and requirements apply to all Customers wherever they are located in the world. The requirements should be applied in the context of each managing agent's business and as such the need for appropriate and proportionate application is recognised. Managing agents are expected to design and implement effective and efficient processes and controls to meet the Minimum Standards and requirements (as well as any other regulatory requirements); and ensure that their effectiveness is regularly reviewed.

Managing agents may adapt the application of these standards, as appropriate, to have regard to local regulatory requirements, but a managing agent must always ensure that Customers receive fair outcomes.

Definitions

Add-on Product	A Product sold to a Customer as an add-on to a primary purchase.
Appropriate Committee	An appropriately authorised committee of the Board.
Binding Authority	An agreement between a managing agent and a Coverholder under which the managing agent delegates its authority to enter into a contract(s) 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.
Board	The managing agent's Board. Section 1: 'Culture & Strategy' sets out specific requirements for the Board's attention. In addition to this, each managing agent should consider the matters reserved for the Board under the Governance Standard in order to evidence appropriate full Board discussion and challenge on these subjects.
Case Reserves	Contingent financial provisions based on available information, which do not necessarily indicate a coverage position or expected outcome unless and until the managing agent(s) accepts coverage without reservation.
Conduct Risk	The risk that a managing agent (or its agents) will fail to pay due regard to the best interests of Customers or will fail to treat them fairly at all times.

Consortium	A contractual arrangement under which one or more managing agents delegate(s) authority to another Lloyd's managing agent to enter into contracts of insurance on their behalf. A consortium will underwrite and bind specific classes of business produced from more than one Lloyd's broker (which is the main difference to a Line Slip). This form of delegation is permitted in accordance with paragraph 1 (c) of the Intermediaries Byelaw.
Coverholder	A company or partnership authorised by a managing agent to enter into a contract(s) of insurance (to be underwritten by the members of a syndicate managed by it) in accordance with the terms of a Binding Authority.
Customer	A person or entity who has purchased, or can make a claim on, a contract of insurance underwritten in whole or in part by a Lloyd's syndicate. As the context requires a Customer may be a prospective Customer.
Customer Challenge	Fair and proportionate challenge and input from the perspective of the Customer.
Customer Risk	The risk associated with the financial sophistication and expertise of a Customer to whom it is intended the Product will be sold.
Distributor	An entity and the individual authorised (directly or indirectly) by a managing agent to enter into a contract of (re)insurance on behalf of a syndicate; including the managing agent's own underwriters where a Product is sold directly to Customers, and service companies and Coverholders.
External Expert	Any external organisation or person retained by the managing agent (or on the managing agent's behalf) to provide services in relation to the assessment, settlement, or other resolution of one or more claims. These organisations or persons are not delegated authority by the managing agent.
Key Performance Indicators (KPIs)	Qualitative and quantitative measures that support the managing agent in assessing their business performance and progress against its Objectives. Each measure includes documented success criteria and performance thresholds.
Line Slip	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.
Management Information	Information compiled by a managing agent in order for it to report against Key Performance Indicators and Objectives.
Objectives	Business goals and targets set by the managing agent. Objectives are specific in their nature, measurable, achievable, relevant in the context of the managing agent, and have set timeframes.
Open Market Placement	Where a managing agent is presented with a contract of (re)insurance by a broker regulated by the Financial Conduct Authority acting as the agent (either directly or indirectly) of a Customer in the placement of that contract.
Operational Reports	Reports produced by the managing agent that present meaningful data analysis and commentary derived from Management Information and any other data sources.
Product	A contract of (re)insurance that is to be, is, or has been, underwritten by a syndicate.
Product Complexity	The risks associated with: • the complexity of the Product Documentation (including when compared with the documentation for products of a similar type from competitors where this is available); • the novelty of the Product; • the familiarity that the Customer might be expected to have with the words and expressions used in the Product Documentation; and • the time that the Customer might be expected to give to considering the Product Documentation.

Product Controls	The systems and controls a managing agent has in place for each product that it sells to ensure that due regard is given to the best interests of Customers and that they are treated fairly throughout the Product Lifecycle. The systems and controls are both internal and at each Distributor.
Product Development and Design	Identifying the type of group of Customers to whom a Product will be sold and considering what their needs and reasonable expectations will be; and then preparing appropriate Product Documentation, determining how the Product will be sold, identifying suitable Distributors, determining what Product Service will be required and how this will be provided and designing effective Product Controls which are proportionate to the Product Risk.
Product Documentation	Pre-contractual documentation, the policy, and sales and promotional documents. The policy includes the relevant terms and conditions (wordings) and any supporting contractual documents.
Product Lifecycle	A Product's Product Design, distribution and Product Service.
Product Manufacturer	As defined by the FCA Handbook Glossary and PROD 1.4.4.
Product Oversight Group	A group or committee established or designated by the Board of a managing agent responsible for the delivery of appropriate Customer Challenge, the analysis and reporting of conduct Management Information and the review of regulatory developments with regard to Conduct Risk.
Product Review	A review of the appropriateness of the Product Risk assessment, the Product Design and the Product Controls having particular regard to conduct Management Information relating to that Product.
Product Risk	The Conduct Risk associated with a Product taking into account its Customer Risk, Product Complexity, Sales Risk and Service Risk.
Product Service	How all post sales interactions with a Customer will be handled; including handling requests for information, handling requests to amend, change or terminate the Product, making claims, making complaints and renewing the Product.
Sales Incentive	Any remuneration or reward that a Distributor (and their personnel) can earn from the sale of the Product in their capacity as agents of the managing agent.
Sales Risk	The risks associated with: • the number of Distributors planned to be appointed (especially where they are located in more than one country); • how the Product Controls will be implemented by the Distributors and overseen; and • how any Sales Incentives are structured.
Service Company	As defined in the Service Company Code of Practice (dated 8 September 2009).
Service Level Expectations	The managing agent's expectations of a Third Party relating to the Product Service as documented in the contractual terms.
Service Risk	The risks associated with not being able to meet the likely Product Service demands of the Customer.
Standard of Service	The standard of service which a managing agent commits to deliver to each of its Customers. Other commonly known terms include: service standards, customer promise, customer charter, claims philosophy.
Syndicate Business Plan	A business plan prepared by a managing agent in accordance with paragraph 14A of the Underwriting Byelaw.

Third Party	Any entity to which the managing agent delegates authority in respect of distribution or to provide services to Customers.

Section 1: Culture and Strategy

A managing agent's corporate culture must be one based on winning and maintaining the trust and confidence of Customers.

CS 1.1 Corporate culture

The Board of a managing agent must lead a corporate culture which pays due regard to the best interests of Customers and treats them fairly at all times.

CS 1.2 Committing to a standard of service for customers

The Board of a managing agent must commit to a Standard of Service it wishes to provide to Customers. The Standard of Service must be documented and available to staff, Distributors and Third Parties. Where the Standard of Service sets expectations for sales and Product Service these should be shared with Customers.

CS 1.3 Strategy, planning & risk appetite

The Board of a managing agent must:

- set and document its approach and strategy to the management of claims, delegated authority, Conduct Risk and complaints;
- implement an appropriate framework to support and deliver the strategy;
- ensure that the Syndicate Business Plan is assessed for its impact on claims, delegated authority, Conduct Risk and complaints; and identify and address subsequent requirements; and
- set and document its risk appetite and associated key risk indicators for claims, delegated authority, Conduct Risk and complaints.

CS 1.4 Board oversight

The Board of a managing agent must maintain oversight of the corporate culture, strategy, delivery of the Standard of Service and broader business Objectives. In support of this the Board must:

- receive regular reports which include information relating to customer service and outcomes, and identify any necessary actions following their assessment;
- decide whether it is appropriate to establish or designate a Product Oversight Group; and
- ensure appropriate Customer Challenge is provided and reflected in the overall business strategy, in Syndicate Business Plans and in the approach to Product Design, Product Service and Product distribution.

Corporate culture

Treating Customers fairly and paying due regard to their best interests should be central to a managing agent's decision making and when determining what is or is not acceptable.

Members of the Board should regularly demonstrate their commitment to that corporate culture in their decision making, their management of the business and, in particular, in their presentations and communications to staff and to their Distributors. Good examples seen by Lloyd's include management and staff demonstrating a very strong customer focused culture and a sound awareness of the different aspects of Conduct Risk and how to mitigate them.

The Board's approach must have careful regard to the conduct requirements and appropriate business practices in the territory in which business is being undertaken and recognise the regulatory expectations and sensitivities in those territories. Reference in this regard should always be had to Lloyd's 'Crystal' database.

Committing to a standard of service for customers

The Standard of Service should set out how a managing agent wishes to service its Customers. The content, format, presentation and language of the Standard of Service is expected to vary, with each managing agent determining what is right for their business, their values and their Customers' expectations. Other terminology commonly used includes: 'service standards', 'customer promise', 'customer charter', 'claims philosophy'.

A managing agent may choose to differentiate between an internal version, to be used by staff; and an external version, likely to be condensed to key points, which Customers can rely upon to understand how their expectations will be met and the level of service that they are going to receive. It is expected that a managing agent's website would be the most common approach to sharing these standards with Customers.

The Standard of Service should be readily available to all staff and be reflected in the management of the business. For staff whose roles influence the Product Design or service being received by Customers, the Standard of Service should be understood at a practical level and relevant aspects should be incorporated into their appraisal objectives.

Managing agents should ensure that Third Parties, including Distributors and claims service providers, have good awareness of the Standard of Service and be capable of delivering its core components.

The managing agent's ability to deliver its commitments should be monitored. Quantitative aspects of the Standard of Service, such as commitments to respond in a certain timeframe, should be regularly monitored through Management Information and Operational Reports. For behavioural or value based aspects of the Standard of Service, managing agents should consider what processes and controls can provide evidence that the Standard of Service is being delivered as promised to Customers. This could be achieved by the managing agent determining how those values and behaviours should manifest themselves through actions taken by staff when interacting with Customers (for instance through the claims process) and communicating these expectations to staff. As an example, phone calls or written communication could be regularly reviewed to determine whether those actions (aligned to behaviours or values) have been completed or demonstrated.

Strategy, planning & risk appetite

It is expected that managing agents will have a written strategy, agreed at Board level, relating to delegated authority business, claims, conduct and complaints.

The strategy, or strategies, may include:

- the appetite for delegated authority business including classes and territories, lead/follow positions, estimated premium income, minimum controls to be exercised
- optimal claims operating model and resourcing, case reserving philosophy, systems and use of technology, claims outsourcing and partnering strategy and risk appetite
- appetite for and management of higher Product Risk Products, target markets, , complaints strategy including root cause analysis, minimum controls to be exercised

The strategy should be understood by relevant staff members and a robust framework must be in place to ensure that the strategy can and is being delivered by the business.

The Syndicate Business Plan must be carefully assessed each year with any potential impact upon claims, delegated authority, conduct or complaints identified and accommodated. The assessment should, at a minimum, review resourcing requirements and the impact on processes and systems i.e. their capability to manage any changes to the business. The strategy may need to be adjusted if the Syndicate Business Plan alters significantly from prior years.

The managing agent's risk appetite must be documented, along with associated risk indicators. In relation to Conduct Risk, the Board should consider the reputational and financial implications of selling Products with a high Product Risk especially where they have little or no experience of selling such Products.

The ultimate responsibility for the strategy rests with the Board and its approval of such should be formally documented. Lloyd's accepts, however, that it is common for the managing agent's Board to provide authority to nominated committees or individuals for the design, review and agreement of specific elements of the strategy and procedures. In such circumstances, the scope of authority provided to committees and / or individuals should be clearly documented.

Board oversight

Management Information should be available to the Board to facilitate effective oversight of the functions responsible for managing delegated authority, claims, conduct and complaints. Where Board reporting is on an exceptions basis, we would expect sufficient contextual data to supplement the exception reports. This is of particular relevance for high Product Risk where at a minimum Product and Customer volumes will be needed for context. We would only expect exceptions reporting to be used where an Appropriate Committee has already reviewed, considered and actioned more detailed reporting.

A managing agent should be able to evidence that members of the Board are engaged in considering and challenging conduct related matters and that any action points are properly followed up by the Board. Good examples seen by Lloyd's include the Board asking to see the output of a Product Oversight Group discussion on a product assessment and, where appropriate, the Board appointing one of the non-executive directors as a "customer champion".

Where a managing agent writes a large number or a high proportion of Products with a high Product Risk we would generally expect a Product Oversight Group to be established or designated in order to support the Board with regard to the management of Conduct Risk. Where a Product Oversight Group is not established, the managing agent will need to decide which body or structure will be responsible for establishing, implementing and reviewing the product approval process. See Section 5: Product Governance for further guidance.

Section 2: Performance Management and Monitoring

Meaningful Objectives and Key Performance Indicators, supported by robust reporting, support managing agents in monitoring and managing their ability to service Customers and deliver the overall business strategy. A managing agent's performance management process must represent all aspects of its business including where business functions or processes have been delegated or outsourced to a Third Party.

CS 2.1 Objective setting and key performance indicators

Managing agents must set appropriate Objectives and Key Performance Indicators to effectively assess performance in relation to claims, delegated authority, Conduct Risk and complaints. Objectives and Key Performance Indicators must:

- monitor delivery of the Standard of Service and include quantitative and qualitative measures; and
- be continually reviewed and evaluated so as to remain effective, relevant and meaningful to the business.

CS 2.2 Performance review and monitoring

Managing agents must have systems and controls in place to regularly monitor, assess and report on performance. Managing agents must:

- review performance regularly, with any variances or problems promptly identified and corrected;
- identify and review performance trends;
- report trends and progress against Objectives and Key Performance Indicators to the broader business, including written reports to Appropriate Committees, on at least a quarterly basis;
- ensure performance reporting is readily available and challenged by all levels of management and Appropriate Committees;
- ensure a Product Review is promptly conducted when a material issue or problem with a Product has been identified; and
- record actions that have been taken to successfully resolve problems and ensure that those actions have been completed.

CS 2.3 Management information and operational reports

Managing agents must have in place a suite of meaningful Management Information and Operational Reports to enable it to assess:

- whether it is treating Customers fairly at all times and the Standard of Service is being delivered;
- its performance against Objectives and Key Performance Indicators;
- its performance against key risk indicators, adherence to risk appetite and effectiveness of Product Controls;
- Third Party performance against Service Level Expectations; and
- whether its approach and strategy support the corporate culture with regard to Conduct Risk generally.

In addition to the requirements of CS 2.3, Managing agents must collect data consistent with the requirements of the Lloyd's Coverholder Reporting Standards.

CS 2.4 Management information and operational reports – quality and completeness

Managing agents' Management Information and Operational Reports must enable it to make informed decisions with regard to claims, delegated authority, Conduct Risk and complaints. The information and reporting must therefore be:

- accurate, with regard to both quantitative and qualitative information;
- complete, representing the full portfolio of business written;
- available in good time to enable the managing agent to take prompt and appropriate action where that is required;
- relevant and proportionate to the Product Risks in question;
- compiled on a consistent basis to enable the managing agent to identify trends and patterns over time; and
- focused on outcomes for Customers rather than process.

CS 2.5 Claim file review

Managing agents must ensure that a detailed, regular claims file review process is documented and operational. The file review process must:

- assess the quality of claims handling decisions and the Standard of Service;
- assess whether complaints have been identified and dealt with appropriately;
- have a file sample representative of the claims portfolio, including a sample of high Product Risk claims where these are a feature of the claims portfolio;
- have a process in place to share results with individual claims handlers;
- have a process in place to promptly identify, analyse and report trends or concerns; and
- be undertaken by a suitably trained person.

CS 2.6 Policyholder data

Managing agents must be able to independently access sufficiently detailed records to allow verification of policyholders' coverage (including where policies are written through Distributors).

Objective setting & key performance indicators

Objectives should reflect the key priorities of the business and be clearly aligned to the strategy. Objectives should be specific in their nature, measurable, achievable, and relevant in the context of the managing agent and have set timeframes.

Key Performance Indicators should have clear tolerances and thresholds for escalation, and include a mix of quantitative and qualitative measures. The latter is expected to be necessary to monitor the delivery of the Standard of Service. Qualitative measures are of particular importance when reviewing claims performance as they help to monitor the quality of claims decisions as well as customer service.

Objectives and Key Performance Indicators should be reviewed regularly and especially when there have been changes to the business. At the very least, they should be reviewed annually. This is likely to take place as part of, or shortly after, the Syndicate Business Planning process.

Objectives and Key Performance Indicators may be presented as part of an annual business plan or in another appropriate format.

Performance review and monitoring

Managing agents should clearly identify roles and responsibilities for performance review and monitoring. Appropriate systems and processes should be in place to support performance review ensuring consistency of interpretation and timeliness. The design of the performance review and supporting processes will depend upon risk characteristics of the managing agent – for example size, operating model, lines of business, outsourcing strategy etc.

Where adverse trends are identified through performance review, this should be promptly shared with management responsible for the functional area and with other areas of the business that would find the information of importance or interest. Good practice includes:

- claims declinatures being shared with underwriting and compliance teams to assess whether changes to policy coverage and/or policy wording are required;
- complaints regarding the Standard of Service provided by a Coverholder being shared with delegated authority, underwriting and compliance teams in order to agree what action is required to rectify the issue.

We would also expect the relevant senior management function holders to be involved in regular performance review and monitoring.

Regular reporting to Appropriate Committees is likely to take the form of a 'pack' or presentation. In the context of these Minimum Standards, Appropriate Committees are likely to include the committees of the managing agent responsible for claims, delegated authority, complaints and conduct (e.g. Product Oversight Group) and the managing agent's executive committee. Where exceptions based reporting is used, Lloyd's would expect that the base level data is being assessed and appropriately challenged before exceptions are reported to the Appropriate Committee.

Reporting of progress against Objectives and Key Performance Indicators should be discussed and challenged at Appropriate Committees and evidence of such activity should be demonstrated through minutes. Where there are variances in performance specific reference should be made in the minutes to the corrective action to be taken. Where material variances are identified managing agents should deal with these immediately and not wait for scheduled committee meetings. The committee should take steps to ensure that the agreed action has been completed and that this has led to a satisfactory conclusion.

Management information and operational reports

Management Information and Operational Reports should cover a broad range of claims, delegated authority, conduct and complaints activity.

The content of managing agents conduct Management Information and Operational Reports will vary depending on their business strategy, governance structure, product range and appetite and exposure to Conduct Risk generally. An illustration of model metrics and indicators that Lloyd's would typically expect to see in a robust conduct Management Information pack for agents transacting high Product Risk business can be found in Appendix 1.

In addition to the requirements of CS 2.3, managing agents must collect data consistent with the requirements of the Lloyd's Coverholder Reporting Standards. For the avoidance of doubt it is not the intention of these standards to expand the territorial application of the Lloyd's Coverholder Reporting Standards.

Management information and operational reports – quality and completeness

Where data is taken from multiple sources, care should be taken to ensure its integrity remains intact through the process of compilation and presentation. As reporting at all levels relies upon Management Information it must be a complete record and reflect all business written by the managing agent. For example, when reporting on performance against Key Performance Indicators the data should include Service Companies. This can either be achieved by presenting merged data, or where this is not possible separate reporting should be provided.

The level of detail and granularity contained in Management Information and Operational Reports should be appropriate to the audience to enable them to fulfil their respective responsibilities and meet their objectives. For example, Management Information and Operational Reports intended for the business and operational functions should be focused, detailed and line of business specific; it should provide recommendations and it should assist in day-to-day decision making. However, Management Information and Operational Reports intended for senior management or the Board, who have different objectives and responsibilities, may be less detailed and granular.

Lloyd's expects all Management Information and Operational Reports to be labelled appropriately so that it is clear to the reader what is being presented. For example when reporting is on a sub-set of data this should be clearly identified.

Claim file review

Claim file reviews should use a documented range of criteria for evaluating claims performance in terms of quality, decision making, service delivered, accuracy and procedure. Managing agents should consider who is best placed to undertake claim file reviews. Depending on managing agents' own requirements claim file reviews may be completed internally or undertaken by an external firm. If completed internally, reviews may be carried out by a peer but must remain a separate activity from the type of 'peer review' associated with a referral for an individual decision.

The claims file review is also a separate activity to the Lloyd's Claims File Review (CRF) programme. It is recommended that managing agents familiarise themselves with the CFR programme, details of which, including guidance and templates, can be found on Lloyds.com.

A typical file review process would involve regular consideration of a number of open and closed files. A written rationale for the sampling methodology should be in place and take into account the frequency of the review, the open claim count, the mix of business written and the claims portfolio. A sample of high Product Risk claims must always be included where these are a feature of the claims portfolio. In order for the file review to represent the entire portfolio, managing agents are expected to have a process in place to regularly review claims managed by third parties. Managing agents may choose to rely upon a third party's own file review process. Where this is the case, the adequacy of the file review should be assessed to ensure that it meets the Minimum Standard requirements, as well as the managing agent's own expectations.

At a minimum file reviews should be conducted at least quarterly.

Managing agent file review criteria will usually include the following:

- Proactive approach, achieving prompt resolution of the claim and effective problem solving
- Delivery of the Standard of Service (e.g. communications, availability, timeliness)
- Fair treatment of the Customer
- Accuracy of adjustment
- Accuracy and timeliness of claim reserves, application of the reserving philosophy
- File management including effective use of diary
- Documentation of the investigation and approach to resolution of theclaim
- Correct identification of complaints
- Compliance with authority limits
- External Expert management
- Adherence to procedures
- Identification of and, where appropriate, follow-up on subrogation and recoveries

Claims file review output can be a particularly effective tool for monitoring quality of claims handling decisions and customer service. When the output is carefully considered the claims file review can be effectively used to inform managing agents on performance against Key Performance Indicators and Objectives.

Results of a claims file review, especially when used to support managing agents in monitoring performance of the Standard of Service or other key performance indicators, should be included in regular reporting for management and Appropriate Committees.

Policyholder data

The leader is expected to have independent access to accurate and up to date records of policyholder details, including names and addresses. Followers are expected to be able to request this information from the lead if and when necessary; they are not expected to retain independent records.

In cases where a Distributor is unable to provide information, the bordereaux could be used as a means of obtaining policyholder details. The managing agent will need to ensure that the bordereaux is received in a sufficiently timely manner to allow prompt confirmation of cover and claims handling services.

Section 3: Operational Management

Regular and careful planning of resources is central to a managing agent's ability to fulfil its promises and duties to its Customers. Providing staff with documented processes and procedures will support the managing agent in delivering a consistent experience for Customers and delivering its overall business strategy.

CS 3.1 Processes and procedures

Managing agents must maintain processes and procedures for the management of claims, delegated authority, Conduct Risk and complaints. Managing agents must ensure that processes and procedures:

- are clear and documented;
- communicated and accessible to staff;
- regularly reviewed and updated; and
- periodically assessed for adherence.

CS 3.2 Resource and skill management

Managing agents must have appropriate resource capability, knowledge and skills in place taking into account the classes of business written, business objectives, distribution methods and Product Risks. Managing agents must ensure:

- resource planning is undertaken on a regular basis taking into account business development or change;
- resource planning includes plans for dealing with events that could generate high volumes of claims or increased Customer interaction;
- that relevant staff have Customer focused objectives which include delivering the Standard of Service;
- claims handlers have appropriate authorisation levels, for settlement and reserving; and
- individual authority levels are documented and reviewed at least annually.

CS 3.3 Staff remuneration

Managing agents must ensure that staff are remunerated in a way which incentivises them to treat all Customers fairly.

CS 3.4 Service delivery

Managing agents must have in place adequate arrangements for:

- time critical aspects of Product Service should business systems, business premises or key personnel be unavailable for any material period; and
- data security and the safekeeping of Customer data.

Processes and procedures

A managing agent's processes and procedures should be made available to all relevant staff, with guidance and training provided as necessary. They should be applied consistently to all syndicates managed by the managing agent, with appropriate modifications to meet a syndicate's individual requirements. The procedures must be documented and regularly reviewed by the appropriate subject matter experts and updated whenever necessary. Lloyd's considers it good practice for procedures to be reviewed at least annually.

Managing agents should have a process in place to assess whether processes and procedures are being adhered to. This process might range from system exception reporting, use of claims file reviews and periodic procedural checks. Where processes and procedures are not being adhered to this should be dealt with promptly and consideration given to whether the documentation requires clarification or whether additional training or communication for employees is required.

Resource and skill management

A managing agent should have in place appropriate claims, delegated authority, Conduct Risk and complaints resource planning for its business mix, including any new lines of business and growth areas. This must include plans for dealing with events that could generate a high volume of claims or increased Customer interaction.

The sophistication of resource planning and level of documentation required will depend on risk characteristics of the managing agent; for example size, operating model, number of claims, number of Coverholder arrangements, number of complaints, outsourcing strategy, etc. For those larger managing agents or those with more complex operating models, Lloyd's would expect a systematic and documented approach to determining resourcing requirements and to monitoring actual resource against planned on a regular basis.

Resource plans must be inclusive of any outsourcing and Third Party requirements. For example, where claims handling is delegated to a Third Party, not only does the managing agent need to ensure that the Third Party has appropriate resource but also that the managing agent itself has appropriate resource to monitor and manage the Third Party.

Resource planning should also give consideration to the use of systems, technology and artificial intelligence, where applicable. The managing agent should review the impact of efficiency gains / re-deployment of staff, whether the increased use of technology creates training needs and how transition will be managed so as not to disrupt Product Service.

Managing agents should consider whether they have any key-man dependence risks, particularly for time sensitive activities such as complaints handling and the management of claims. If a managing agent identifies such a risk then Lloyd's expects contingency plans to be put in place.

Succession planning should take a risk-based approach with particular attention to contingencies and continuity in management. Such an approach could include creating bespoke succession plans for certain individuals, and team or class of business level succession plans.

A managing agent should have specific Customer focused objectives in place particularly for those staff with Customer facing roles and/or involvement in high Product Risk business. Where it would not be appropriate to have such specific objectives, Lloyd's would nevertheless expect there to be appropriate reference to Customer treatment in staff's role profiles of similar.

The competencies needed for managing delegated authority arrangements are different to those needed for other methods of acceptance. Managing agents need to satisfy themselves that they have the necessary controls and resources (both systems and individuals) to enter into and manage delegated authority arrangements effectively. These controls and resources will likely vary between managing agents, and all managing agents are expected to adopt a risk-based approach to their management of delegated authorities in line with their own strategy and procedures as well as the guidance found within the Code of Practice - Delegated Authority (dated 15 September 2017).

Managing agents should have due regard to the following considerations:

- Number of Coverholders and branch offices;
- Number of contracts which a syndicate writes (lead and follow);
- Extent of delegation;
- Volume of income;
- Classes of business;
- Level of exposure (e.g. catastrophe exposure);

- Geographic distribution; and
- Capabilities of IT systems, especially as regards risk and premium reporting and validation.

A managing agent should continually assess training needs and respond to those needs as they arise. Ad hoc training, particularly in response to legal and regulatory changes, may also be required.

When setting authority levels for claims handlers, careful consideration should be given to the handler's own experience and expertise along with the types of claims expected to be handled. It is good practice for documented authority levels to confirm the types of claims (for example the class of business, or peril) that a claims handler has authority to handle, in addition to any financial reserving and settlement limits.

Staff remuneration

Particular care should be taken when setting the remuneration arrangements for claims and complaints handlers and those involved in Customer facing roles and/or the writing of high Product Risk business. These staff should have appropriate Customer focused objectives and performance against these should be linked to their remuneration. Quality should be rewarded, not just quantity.

Service delivery

Detailed and documented plans should be in place in case of an event which may lead to systems, premises or key personnel being unavailable for a material period of time. These plans should:

- cover a number of possible scenarios and provide instruction to staff on action necessary to maintain time critical aspects of service delivery;
- identify time critical processes for customer service delivery, potential barriers to customer communication and any critical controls which may be impacted and require manual intervention;
- clearly articulate roles and responsibilities required for continuity of service, including leadership and operational management.

At all times, a managing agent must ensure the security and safekeeping of Customer data.

MS4 Governance and MS11 Cyber Resilience & Data Management provide further detail on Lloyd's expectations in relation to business continuity planning and data security.

Section 4: Case Reserving

The setting and monitoring of appropriate Case Reserves is of extreme importance; not only for business viability but in providing security to each Customer.

CS 4.1 Case reserve philosophy and management

Managing agents must ensure Case Reserves are consistent, timely and accurate and exist without prejudice to coverage. Managing agents must ensure:

- they have a documented case reserving philosophy, agreed and overseen by an Appropriate Committee, which provides guidance for assessing and determining claims Case Reserves;
- Case Reserves are proactively managed, reviewed as information is made available and actively confirmed or amended at least every 12 months;
- systems and controls are in place to monitor authority level adherence with breaches escalated for investigation; and
- agreement parties receive the rationale for current Case Reserve positions as soon as practicable and followers are alerted to situations where it is appropriate for them to consider independently reserving.

The case reserving philosophy should provide guidance for determining Case Reserves for both possible costs and indemnity across all classes of business written.

Proactive steps should be taken by the managing agent to obtain information to enable a Case Reserve to be established or maintained.

For subscription market claims, confirmation or amendment of a Case Reserve is ordinarily reflected in the issuance of a ‘syndicate claims message’ to the subscribing syndicates.

There should be in place a procedure for validating large reserve entries via an appropriate internal peer review. There should also be in place a process that includes communication of a large reserve entry to relevant departments within the managing agent.

For assistance with complying with the requirements in respect of communicating with agreement parties or followers please note that contact details for all managing agents are available from Lloyd’s or the Lloyd’s Market Association (LMA).

Section 5: Product Governance

Understanding your Customers' needs is essential to ensuring that managing agents' products meet Customer expectations. Regular review, including the use of feedback, helps to improve the overall Product and service offering.

CS 5.1 Product governance

Managing agents must have:

- a process in place for the approval of each Product and any material change to existing Products. The process must:
  - be set out in a written document;
  - be proportionate and appropriate to the Product Risk;
  - cover the design, monitoring, review and distribution of Products; and
  - provide for corrective action for Products that are detrimental to customers.
- a body or structure responsible for establishing, implementing and reviewing the product approval process.

CS 5.2 Product development and design

Managing agents must have a customer focused Product Development and Design process which:

- identifies the target market at a sufficiently granular level and ensures that the Product is distributed to the identified target market;
- determines how the Product should be sold and, if appropriate, identifies suitable Distributors;
- prepares appropriate Product Documentation that is clear, fair and not misleading;
- determines what Product Service will be required and how this will be provided;
- ensures that Customers do not face unreasonable post-sales barriers;
- assesses the appropriateness of the charging structure including any remuneration or fees for all entities in the distribution chain;
- ensures that Distributors, or their employees, are not incentivised to sell the Product to Customers for whom it was not designed or would not meet their needs and expectations;
- ensures that the Product will provide Customers with valuable insurance cover which meets their needs and reasonable expectations, on which they can realistically claim, and which is not generally provided in some other way;
- ensures that a Product developed and designed by a Distributor or other third party meets these Minimum Standards; and
- ensures that there are effective Product Controls proportionate to the Product Risk of each Product and which form part of a coherent framework of controls.

CS 5.3 Product risk assessment

Prior to underwriting, managing agents must make an assessment of the Product Risk of each Product and decide whether or not it is appropriate to sell that Product. The Product Risk assessment must have careful regard to:

- Customer Risk;
- Product Complexity;
- Sales Risk, having particular regard to how the Product will be sold;
- Service Risk; and
- any other relevant factors or criteria set by the managing agent's Board.

The Product Risk assessment must be recorded by the managing agent in such a way that it:

- would enable a person who was not involved in the assessment to understand, in broad terms, how the assessment was made;
- supports a consistent approach to the assessment of Product Risk; and
- allows simple comparisons to be made between the Product Risk of different Products.

CS 5.4 Product testing

Managing agents must appropriately test their Product and conduct scenario analysis, as may be appropriate having regard to the Product Risk, to assess whether the Product meets their Customers' needs and reasonable expectations and achieves fair customer outcomes throughout the Product Lifecycle. Product testing must be conducted before bringing the Product to market, if the Product is materially changed or if the Product Risk changes significantly.

CS 5.5 Monitoring and review of products

Managing agents must conduct regular Product Reviews of all their Products as may be appropriate having regard to the Product Risk. Managing agents must:

- record the Product Review in such a way that would enable a person who was not involved to understand, in broad terms, how the Product Review was conducted; and
- act on the output of the Product Review. Any failure to act must be escalated appropriately within the managing agent.

Managing agents must keep the assessment of its Product Risk under review throughout the Product Lifecycle and adjust the Product Design and Product Controls as appropriate.

Application of Section 5: Product Governance

Section 5 sets out the minimum expectations for product governance and oversight for all insurance related products. Requirements should be applied proportionately and in line with Product Risk.

Managing agents should be able to rely upon the regulatory responsibilities of a broker acting on behalf of the end customer particularly in considering whether an individual policy will meet the needs and reasonable expectations of the customer. For the avoidance of doubt, nothing in these standards is intended to make a managing agent responsible for the conduct of a broker (regulated by the Financial Conduct Authority or otherwise) in their capacity as the agent of a Customer.

Managing Agents should note that this section 5 applies to all risks and therefore includes risks written through a binding authority, as an open market risk, a line slip, a consortium or a master policy. Different considerations will apply dependent upon the method of placement and managing agents should adopt a risk-based proportionate approach. Managing agents will need to be able to demonstrate that they have properly considered the level of oversight required.

Product governance

All Products should be subject to an appropriate and proportionate Product approval process with a body responsible for establishing, implementing and reviewing that Product approval process.

Where a managing agent underwrites high Product Risk business we would expect a Product Oversight Group to be established to fulfil these requirements and to support the Board with the management and oversight of Conduct Risk. While the structure and frequency of a Product Oversight Group will vary by managing agent, its primary role should be to provide a forum in which the design of a Product can be reviewed and challenged, together with the Product risk assessment and Product Controls. A Product Oversight Group should also facilitate Customer Challenge where decisions need to be made about Conduct Risk. For example Customer Challenge should be provided not only when considering approval of individual products but when reviewing the managing agent's business model, Syndicate Business Plan and overall business strategy.

The Product Oversight Group should be provided with regular conduct Management Information for analysis and review. The conduct Management Information should be designed to support the Product Oversight Group with monitoring and reviewing Products; as well as monitoring the operation and effectiveness of Product Controls. The Product Oversight Group should extract key information and trends about Conduct Risk and prepare or agree appropriate reporting to the Board which clearly illustrates and explains that information and outlines any recommendations to the Board for improving the effectiveness of Product governance and oversight. The Product Oversight Group should also have responsibilities for reviewing regulatory developments relating to Conduct Risk and analysing the impact of those developments. Product Oversight Group meetings should have written minutes with clear and allocated action points.

A Product Oversight Group should consist of a multi-disciplinary team of individuals with experience in developing a customer-led culture, managing relationships with Distributors, preparing policy documentation, handling claims, handling complaints (including those referred to external dispute resolution bodies) and regulatory compliance. For Customer Challenge to be effective, it may be useful to also include members of the business who are not insurance professionals on the Product Oversight Group.

Information about the Product Oversight Group, including its membership, should be made available to employees. Employees of the managing agent should be encouraged to submit questions, comments and suggestions to the Product Oversight Group. Employees or Distributors should also be able to raise concerns about Conduct Risk in confidence and managing agents should ensure there are appropriate processes in place to facilitate this.

Managing agents should also have risk based and proportionate processes in place for the approval and oversight of lower rated Products.

Guidance relating specifically to the Insurance Distribution Directive can be found in Lloyd's "Thematic Review: Insurance Distribution Directive".

Product development and design

Those involved in Product Development and Design (whether the managing agent or a Distributor) must have the necessary skills, knowledge and expertise to properly understand the insurance Products that they manufacture and the interests, objectives and characteristics of Customers in the target market.

It is important that there is a comprehensive understanding of the characteristics of the sectoral and geographical market in which the managing agent intends the Product to be sold e.g. competitors, distribution chain dynamics, regulatory expectations, and also the needs and expectations of the Customers in that market. There is a risk of Customer detriment if a product is launched without sufficient expertise or resources in place e.g. trained staff, technology, infrastructure, operational support. Similarly, if there is inadequate understanding of likely claims and complaints patterns, this could lead to a strain on claims and complaints services or inefficient under usage of them.

It is essential that Products are underpinned by thorough research, both in terms of the product's intended performance and the Customers in its target market, and that Product Development and Design responsibilities are performed by firms with appropriate skills and knowledge in the relevant area.

Target market

The target market must be identified at a sufficiently granular level, taking into account the characteristics, risk profile, complexity and nature of the Product. The criteria for the target market should be sufficiently detailed that it is possible to assess which Customers fall within the target market and those Customers for whose needs the Product would not be compatible. Therefore, in some cases it may be necessary to identify the types of Customer that are not in the target market.

Selection of distributors

Detailed requirements and guidance relating to the selection and appointment of third parties are contained in Section 8.

Selection of distribution channel

A wide range of distribution channels are available in order to sell a Product to a Customer, e.g., face to face sales in an intermediary's office/shop, telesales (proactive and reactive), an intermediary's website, a product comparison website, a specific product app on a smartphone. It is important that the selected distribution channel is suitable in relation to the Product Complexity and Customer Risk. Where a Product has a wide target market, it may be necessary to provide different distribution channels that are suited to the different needs of the respective Customers. Reasonable steps must be taken to ensure that the Product will be distributed to the intended target market.

The complexity of a distribution model or chain and the number of parties involved must not negatively affect the delivery of services, customer experience or outcomes.

Product documentation

Product Documentation, including marketing materials, must be clear, fair and not misleading and published in line with any local regulatory requirements (including the language in which the document is to be issued). Please refer to the Insurance Documentation section of Crystal for details.

When preparing appropriate Product Documentation, particular care should be taken with regard to:

- the content of any pre-contractual documentation e.g. Insurance Product Information Documents, policy summaries, or Key Facts documents;
- explaining the main benefits of the Product and what is covered;
- explaining what is not covered or is excluded (having particular regard to the application of the Consumer Rights Act 2015;
- how claims and complaints may be made;
- providing examples of claims that will be acceptable under the Product and those that will not;
- how the Product may be renewed, switched or cancelled (including refund rights) and any fees that may be charged in this respect;
- which law the Product is subject to; and
- setting out which syndicate or syndicates have underwritten the Product.

Where the Customer is a managing agent or a (re)insurance company, the managing agent selling the Product may assume that it will meet the needs and reasonable expectations of that Customer if the Customer chooses to purchase the Product.

Standard terms and conditions which are entirely appropriate for Products with lower Product Risk may not be appropriate for Products with a high Product Risk especially where they use terms and expressions primarily used within the insurance industry. Managing agents may place reasonable reliance on wordings that have been specifically formulated by the LMA for use in Products with a high Product Risk and wordings that have been approved by the regulator in the relevant territory for the purpose in question.

Product Service and post sales barriers

The Product should not be designed in such a way that it imposes unreasonable post sales barriers to Customers cancelling or non renewing the contract, for example through automatic or tacit renewal terms (when these are not a regulatory requirement) or having long periods of insurance.

Lloyd’s requirements relating to Product Service and further information regarding unreasonable barriers can be found in Section 7: Customer Experience – Post Sales.

Remuneration and costs/charging structures

Managing agents should have a process in place to assess the appropriateness of t the cost/charges structure, including any remuneration received by entities in the distribution chain. When considering what is appropriate, managing agents should have regard for the overall cost to the end Customer, transparency of costs/charges and remuneration and ensure these do not conflict with the Customers’ best interests.

Managing agents must ensure they understand any Sales Incentives used by their Distributors and how Distributors remunerate their employees. Consideration should always be given to industry requirements and practices in the territory in question. Factors that may suggest a pressurized sales environment include:

- Incentives are wholly or largely based on achieving pre-determined sales or profit targets.
- Most of an individual’s salary is based on commission rather than a fixed salary.
- A salary increase is solely related to achieving a sales target during a defined period.
- There is an element of a “retrospective accelerator” where passing a target increases the level of incentive earned for all sales over a period, rather than just those sales above the target.
- Incentives include disproportionate or unusual rewards.
- Incentive arrangements are complex or where the Distributor does not understand the effect they may have on sales.

Good incentive schemes and arrangements generally include:

- Incentives that reward sales personnel by reference to sales quality or customer satisfaction and which have a suitable ‘deferred’ period.
- Penalties or full claw-back provisions of incentives where it is subsequently discovered that there have been inappropriate sales.
- Distributor’s managers’ bonuses which are not solely based on the sales performance of the sales team they are overseeing.

Valuable insurance cover

Managing agents should continually review the impact of their decisions on the value of the Product through the Product Development and Design stage. Understanding the target markets’ needs and reasonable expectations is critical to understanding whether valuable insurance cover is being offered.

When ensuring that the Product provides Customers with valuable insurance cover, managing agents should consider:

- whether the coverage provided by the Product is aligned with the needs of the Customer. In particular, consideration may need to be given as to the impact of any exclusions of cover. Whilst exclusions can ensure that a Product is priced competitively and provides value for money, care needs to be taken to ensure that this is not at the expense of meeting Customers’ needs and reasonable expectations
- whether the benefit following a successful claim is likely to meet the needs of Customers. In particular, consideration may need to be given where limits of liability are placed on the level of cover that a Product provides; and
- whether the Product disadvantages any particularly vulnerable group and whether it meets all applicable obligations under the Equality Act 2010.

Product controls

Effective and proportionate Product Controls must be applied aligned with the level of risk identified in the Product risk assessment. It is expected that managing agents will have a range of standard controls based on the Product Risk assessment rating produced in accordance with CS 5.3 e.g. audit frequency and/or scope.

Managing agents are also expected to have a range of standard documented controls in place to manage the specific risks associated with certain types of activity, e.g. advised selling, cold calling, internet sales, use of call centres, dealing with vulnerable customers, servicing of the Product being outsourced or delegated to a Third Party. Individual bespoke controls should be designed and used where appropriate.

It is recommended that where a Product Oversight Group has been established, it agrees to the final suite of controls as part of the Product Development and Design and Product Review process.

Where vulnerable Customers are identified careful consideration should be given to Product Controls. For example, customer facing staff (either at the managing agent or at a Third Party) should have appropriate training to facilitate proper conversations with vulnerable Customers. The Financial Conduct Authority define a vulnerable Customer as someone who, due to their personal circumstances, is especially susceptible to detriment. They are therefore at greater risk of experiencing harm. Particular care should be taken where Customers may be vulnerable and managing agents should pay attention to the drivers of potential vulnerability, which can include:

- Health – health conditions or illnesses that affect the ability to carry out day to day tasks
- Resilience – low ability to withstand financial or emotional shocks
- Life events – major life events such as bereavement or relationship breakdown
- Capability – knowledge of financial matters

Product Controls should be documented and regularly monitored and tested for effectiveness through the regular monitoring of conduct Management Information and through Product Reviews.

Add-on Products

A Customer’s attention is usually focussed on the purchase of the main item (e.g. a car or a loan) or event (e.g. a holiday) rather than the additional insurance Product. This means that Customers may have little time or inclination to examine an Add-on Product offered or assess its value. For this reason it is important when developing and designing Add-on Products, that the price is clear and distinguished from the price of the main item or event and that adequate product information is provided to the Customer, prior to the conclusion of the contract, to enable them to make an informed decision about the purchase.

Add-on products must not be sold on an opt-out basis i.e. where the Customer has to deselect a pre-ticked box. Particular consideration must be given to the sales environment in which an Add-on Product is sold, or rather purchased.

Product risk assessment

Managing agents must undertake an initial risk assessment of each Product in order to decide whether to market and distribute the Product taking into account the risk factors set out in CS 5.3.

The risk assessment must be based on the inherent Product Risk of the Product before the application of any controls or mitigating factors. The assessment is intended to make the managing agent aware of their exposure to potential Conduct Risk and to determine the proportionate level of control necessary to manage those risks.

It is acceptable for the risk assessment to give greater weighting to some risk areas than others, but where this is done the weightings should be carefully calibrated. Customer Risk will usually carry the largest weighting.

A common methodology employed by managing agents when conducting Product Risk assessments has been to develop an assessment tool that product owners and/or underwriters must complete. These tools generally contain questions related to the risk factors contained in CS 5.3. The answers to these questions then typically receive a score which may or may not be weighted or aggregated. Lloyd’s supports the development of systematic methods and tools for assessing Product Risk to ensure consistency of application and clarity as to how assessments are performed. However, there are some key issues that should be considered in their development:

- The scoring and weighting of questions and/or risk factors should be carefully calibrated to ensure that all high Product Risk Products are identified as such.
- The assessment of Product Risk should be largely objective to ensure consistency in application.
- The Product Risk assessment process should be clearly documented in such a way that a person not involved in the process could understand how it was performed.

- The initial risk assessment should not include mitigating factors and controls that serve to reduce the risk, i.e. the rating should be applied on an inherent risk basis.

A Product should not be given a different Product Risk assessment rating simply because it is being sold in another territory or because the managing agent leads or follows. However, it is recognised that these factors may lead to different controls being applied by the managing agent. Managing agents may adapt the application of these standards, as appropriate, to have regard to local regulatory requirements, but a managing agent must always ensure that Customers receive fair outcomes.

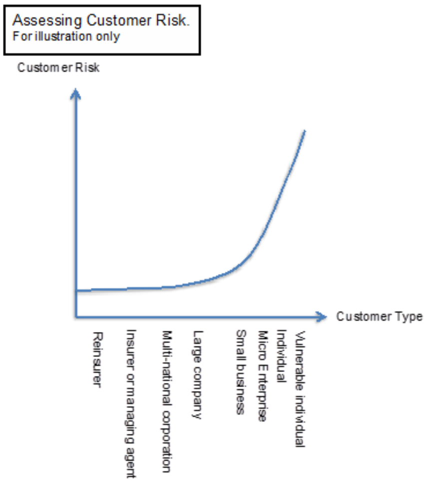
Product Risk should be re-assessed in any case of material change and should be reviewed at least annually (see guidance for CS 5.5). A material change to an existing Product might include a material change to the terms and conditions of the Product (for example the inclusion of a significant exclusion clause) or a material change to the way in which the Product is to be sold.

Managing agents are expected to conduct a Product Risk assessment when taking on a risk which has previously been written elsewhere. The managing agent can obtain relevant information from the previous carrier but it remains critical that the new carrier forms its own opinion of the associated Conduct Risk before writing the business. For business which is transferring between carriers, it is important to consider any Conduct Risk which arise from that change, particularly those that might affect the Customer. For example, does the change present a risk of detriment to the Customer and, if so, how can that risk be mitigated?

Assessment of customer risk

An insurance product must be compatible with the needs, characteristics and objectives of the Customers in the target market. In order to assess whether this is the case, it is necessary to understand the Customer Risk. This should take into account the ability of the Customer to assess the Product and whether it will meet their needs and reasonable expectations. The lower the financial capability of the Customer the higher the Customer Risk (as illustrated below). The Customer Risk of a Customer who is an individual (vulnerable individuals, consumers and sole traders), small business or micro-enterprise is likely to be high. It should also take into account whether the Customer is considered to be a 'consumer' as defined in the regulations of the territory in which the Customer or risk will be located. A consumer will generally have a high Customer Risk. The Customer Risk of a Customer who is an insurer or reinsurer is likely to be low.

Managing agents should also consider the Customer Risk of any person other than the policyholder who may make a claim on the contract or insurance (for example, employer purchased travel insurance on which employees may claim).



Assessment of product complexity

When assessing the complexity of a Product, managing agents should consider:

- the complexity of the Product Documentation (including when compared to the documentation for products of a similar type from competitors where this is available);
- the novelty of the Product;
- the familiarity that the Customer might be expected to have with the words and expressions used in the Product Documentation; and

- the time that the Customer might be expected to give to considering the Product Documentation.

A simple Product that Customers are familiar with and is written in plain English is more likely to be understood by Customers with a relatively low level of financial capability, such as ‘consumers’. By contrast, a complex Product with complex documentation written in legalistic language that Customers are not familiar with, either because the Product is new to the market or new to that type of Customer, is less likely to be understood by Customers with a relatively low level of financial capability.

Assessment of sales risk

When assessing Sales Risk, managing agents should consider:

- the number of Distributors planned to be appointed (especially where they are located in more than one country);
- how the Product Controls will be implemented by the Distributors and overseen; and
- how any Sales Incentives are structured.

If an independent Lloyd’s broker is providing advice to the insured the Sales Risk is likely to be lower.

The Sales Risk is generally higher, and as such careful consideration should be given to Product Controls, if –

- it is an Add-on Product;
- cold calling and/or a call centre are involved;
- there will be advised selling by an agent of the managing agent; or
- there will be internet selling including via a price comparison site.

Assessment of service risk

When considering Service Risk, careful regard should be given to the likely demands of the Customer to require Product Service. Products with a high demand for Product Service, such as those with a relatively high claims frequency, or those exposed to potential aggregate catastrophe claims, could risk stretching a managing agent’s resources to the detriment of Customers if not identified and managed. In addition, the reasonable expectations of Customers with respect to Product Service often differ between Products and Customer types. Recognising these differences is key to managing the associated risk.

Managing agents should take into account the increased risks associated with the delegation of claims and/or complaints handling where applicable.

Generally, it may be expected that the Service Risk of a Product placed by a Lloyd’s broker will be lower.

Examples of high product risk products

Without prejudice to the analysis required by managing agents in assessing Product Risk, the following Products will generally have a high Product Risk.

- Motor
- Household
- Accident and/or health
- Legal expenses
- Payment protection insurance
- Extended warranty
- Mobile phone or gadget insurance
- Travel insurance
- Pet insurance
- Life insurance
- Add-on products
- Home emergency cover
- Guaranteed asset protection

Lloyd's does not expect these examples to be automatically rated as high Product Risk without assessment. To do so would defeat the objective of a managing agent being aware of where they are exposed to potential Conduct Risks. However, where a managing agent has performed an assessment of one of these Products and has determined that it is not high Product Risk, the managing agent should document its rationale for giving a lower rating.

Product testing

Products should be tested in a qualitative manner and, depending on the type and nature of the product and the related risks of detriment to Customers, in a quantitative manner. For Products with a high Product Risk, managing agents should consider using qualitative research and quantitative data, working with proposed Distributors to use their experience of dealing with the potential Customers and where proportionate and appropriate, using a 'focus group'. A 'focus group' would involve engaging with the prospective target market to gather feedback on the Product being developed.

Testing should include scenario analyses where relevant. Scenario testing includes an assessment of the working of the Product, the price and coverage of the Product, the performance of the Product, the risk/reward profile of the Product and the Product information given to customers. Where appropriate, scenario analysis might also include testing a large number of Customers requiring Product Service (including claims and complaints) following a catastrophe, the insolvency of a Distributor or an intermediary or a large number of claims being made where it is difficult to determine whether cover is provided by the Product.

Monitoring and review of products

In addition to regular monitoring of Products, for example through conduct Management Information, managing agents should set as part of the Product's Development and Design an appropriate time period after which a Product will be subject to a Product Review. The frequency of the Product Review should be based on the Product Risk and should be at least annually for high Product Risk. For high Product Risk consideration should also be given to a post launch review.

In conducting a Product Review, managing agents should take into account any learnings or information gained through their regular monitoring (including audit), conduct Management Information and Distributors. The Product Review should include a reassessment of the Product Risk of the Product in accordance with CS 5.3 and should consider the following points:

- Have the needs, characteristics and objectives of the target market changed?
- Is the Product being sold to the target market or to other Customers as well or instead?
- Is the distribution strategy still appropriate?
- Are the Distributors still suitable for the Product and the target market?
- Have any regulatory requirements changed, or been introduced, that affect the Product or the distribution strategy?
- Have there been any technological changes or changes in the relevant local insurance market that need to be taken into account?
- Have Customers been treated fairly at all times? This should be examined by reference to relevant claims and complaints data for the Product.
- Are the Product Controls still relevant and effective?

To support Product Reviews, where appropriate Distributors should also be requested to provide relevant sales information, including information relating to reviews of their own product distribution arrangements.

In cases of material change, or issues being identified, a Product Review should be proactively triggered. In such cases, the Product Review should identify the root cause(s) of any particular problem(s), whether any detriment to Customers has been caused, and provide a conclusion as to whether any remedial action is required to mitigate or avoid detriment to Customers.

Remedial action may include, for example, changes to the Product itself, changes to the distribution and sales arrangements or enhanced Product Controls. Where it is decided to withdraw a Product from the market, consideration should be given as to what action is necessary regarding existing Customers of the Product.

Remedial action that is identified as part of a Product Review must have clear and documented ownership, responsibilities and timescales for completion. Managing agents should consider if and how Distributors and Customers should be communicated with in respect of the remedial action taken.

Managing agents should consider what information arising from a Product Review should be escalated to its Product Oversight Group or to the Board particularly where remediation activity is envisaged. Managing agents should also consider how the output of a Product Review can be used in the Product Development and Design process so as to create an effective feedback process.

Expectations for managing agents in a follow position

Managing agents must carry out a Product Risk assessment of their follow business. However, Lloyd's strongly encourages managing agents to share their assessments of Product Risk (and to request others' assessments of Product Risk) to allow a proportionate approach to be taken by those in a follow position. For binding authority business LMA9116 has been designed to be used by lead underwriters to provide Product Risk information to the follow market and sets out the minimum information that we would expect to be shared. LMA 9116 may be used to assist the follow market to gain a full understanding of the Product Risk of their follow business and to complement their own risk assessments.

Managing agents must satisfy themselves before writing business in a follow capacity that the requirements of these standards, specifically those relating to the design process and Product Controls, will be met. For example, if a follower's Product Risk assessment does not match the Product Risk assessment of the lead, particularly where the follower considers it to be higher risk, the follower should discuss the discrepancy with the lead and satisfy itself that appropriate due diligence has been conducted and that adequate controls are in place.

Where a lead managing agent has designed a new Product (or has undertaken due diligence on the work of a Distributor) and decides to share information in connection with that Product to the following managing agent(s) to assist them in meeting these standards, provided that the information has been shared in good faith the lead managing agent shall bear no liability in damages or otherwise to the following managing agent(s) or to any other person in that regard.

Section 6: Customer Experience - Sales

Ensuring a Customer is provided with appropriate information, advice and timely documentation, allows them to make an informed decision about the Products they are purchasing.

CS 6.1 Providing customers with appropriate information

Managing agents must ensure that a Customer is given appropriate information about a Product in good time so that the Customer can make an informed decision about purchasing the Product.

CS 6.2 Providing distributors with appropriate information

Managing agents must provide Distributors, and any other party in the distribution chain, with adequate information to properly understand and sell the Product including:

- the identified target market;
- appropriate Product Documentation, including point of sale materials; and
- information regarding the product approval process and the proposed distribution strategy.

CS 6.3 Giving advice

Managing agents must maintain a record of whether its Distributors undertake advised selling on a Product and where they do undertake adequate due diligence and monitoring to ensure that they are competent to do so.

CS 6.4 Document issuance

Contract documentation must be sent to the Customer (or the Customer's agent) promptly and, in any event, within 7 working days for consumers and 30 calendar days for other Customers in accordance with the Contract Certainty Code of Practice issued by Lloyd's and the market associations from time to time.

Providing customers with appropriate information

Appropriate point of sale documentation must be developed for use by managing agents and their Distributors, as per the requirements of Section 5. When considering the sales process managing agents should think carefully about the capability of the Customer and the time that the Customer might be expected to give to considering the Product Documentation. Managing agents should ensure that documentation is easily accessible to all Customers, at the appropriate times, throughout the Customer journey. Where a Product is distributed through a website or app, the product information should be made available at an appropriate point in the digital journey.

Providing distributors with appropriate information

The information provided to Distributors must include the main features and characteristics of the Product, its risks and costs (including indirect costs) and any circumstances that may cause a conflict of interest to arise to the detriment to the Customer. This information must be clear, complete and kept up to date. It must be provided to the Distributors in a timely fashion before they start marketing or distributing the Product. The information must enable the distributor to understand the Product and the target market and to identify any customers for whom the Product is not compatible with their needs, characteristics and objectives.

Managing agents should have a clear policy describing how and what Product information will be shared with Distributors, including who is responsible for sharing it and when.

When preparing information for Distributors managing agents should consider the adequacy of any sales scripts to be used in the sales process (e.g. a call center) to ensure that the scripts are not misleading and will not lead to poor Customer outcomes.

Giving advice

Managing agents are expected to check that any Distributor providing advice is authorised to do so. Careful consideration should also be given to the capacity in which the Distributor is providing advice. Where they are doing so as agent of the managing agent, the managing agent should ensure that the Distributor has appropriate and adequate controls in place in relation to advised selling (e.g. sales scripts, sales file reviews, telephone call monitoring) and implement its own sufficiently detailed and regular monitoring of the provision of advice by the Distributor on an ongoing basis (e.g. provision of MI, site visits, sales call and file reviews and appropriately scoped audits).

It is expected that the record of whether a Distributor undertakes advised selling would be maintained as part of the Product Risk assessment and that controls are established as part of the normal due diligence process.

Managing agents may wish to consider including a provision in a Binding Authority which precludes the use of cold calling and/or advised selling unless expressly authorised by the managing agent.

Section 7: Customer Experience – Post Sales

When Customers make a claim it is important that the Product performs as they expect. Ensuring there are no unreasonable barriers and that claims or complaints are dealt with fairly and promptly should help meet Customer expectations.

CS 7.1 Unreasonable barriers

Managing agents must ensure that they do not impose unreasonable barriers on Customers (including by way of fees or charges) to requests:

- for information relating to a Product;
- to cancel, terminate or switch a Product;
- to amend a Product as may be appropriate;
- to make or progress a claim; or
- to make a complaint.

CS 7.2 Claims handling

Managing agents must ensure that they handle claims from Customers fairly, in the way that the managing agent has led them to expect and in line with the Standard of Service. Managing agents must:

- assess what actions can be taken to resolve claims promptly;
- provide appropriate information to a Customer (or its agent) on the progress of a claim;
- communicate progress and decisions clearly and in a language appropriate to the Customer Risk of the Customer;
- settle claims promptly (either to the Customer or to its agent) once settlement terms have been agreed; and
- not unreasonably reject a claim or unreasonably terminate or avoid a contract of insurance.

CS 7.3 Complaints

Managing agents must ensure that they handle complaints from a Customer fairly having regard to their needs and reasonable expectations. Managing agents must:

- ensure that a Customer can make a complaint by any reasonable means and that this is made clear to those Customers;
- record all complaints from Customers accurately and consistently;
- provide reasonable information upon request to the Customer about the progress of a complaint;
- ensure that complaints are investigated competently, impartially and in a timely way and that underlying reasons for similar complaints (the root cause) are identified and addressed;
- explain decisions about complaints clearly to the Customer having regard to the Customer Risk of the Customer;
- make fair offers of redress where a complaint is upheld;
- report complaints to Lloyd’s, in accordance with Lloyd’s reporting requirements;
- ensure complaint handling staff are clearly identified and have good knowledge of complaint handling rules and requirements; and
- comply with Lloyd’s Code for Underwriting Agents: UK Personal Lines Claims and Complaints Handling, Lloyd’s Brussels Complaint Handling and International Complaint Handling requirements.

Unreasonable barriers

Examples of unreasonable barriers may include:

- use of premium rate phone numbers
- no contact details for making a claim or complaint on the website, or contact details are difficult to find
- inappropriate fees to cancel, terminate or switch a product
- specific points of contact not provided when a claim has been made
- overly complex or confusing IVR (automated telephony) system
- inappropriate opening hours or absence of out of hours services for emergencies
- complex insurance terminology or 'jargon' used in correspondence or documentation
- overly onerous claims process e.g. excessive documentation asked of the Customer
- inappropriate documentation including language barriers or lack of alternative forms for Customers with a disability.

Claims handling

Managing agents should ensure systems and processes are in place so that claims are properly and promptly managed to conclusion. This should include operating a triage system to ensure that claims are allocated to appropriate claims handlers who are able to effectively and promptly make decisions and progress the claim.

For more complex claims, a clear strategy should be in place to drive the claim to conclusion. The handling of the claim should be timely, commensurate with the complexity of the claim and include appropriate information gathering and expert advice, all of which should be properly reflected in the claim record.

A managing agent should have regard to the level of Customer Risk of the Customer making a claim and adapt its claims handling approach accordingly.

Lloyd's expects managing agents to operate a diary system to support claims handlers in their claims management and to drive proactivity. Appropriate controls for diary management should be in place including clear instruction on how and when the diary should be used. Where no diary system is used, managing agents are expected to carefully consider how claims files will be proactively managed and how the timely review of claims will be overseen.

Claims handlers should be well versed in the Standard of Service and be able to communicate appropriately with Customers. Claims systems and processes should be designed with the Standard of Service in mind. Where commitments have been made, workflow should support the claims handlers in meeting those commitments. Examples of how this could be achieved includes rules based work allocation or exception reporting.

Claims should always be fully investigated before any decision is made to reject a claim. A two stage claims process (i.e. one where claims are initially routinely rejected) must never be adopted. Clear procedures should be in place for claims declinatures, as well as for the use of other claims management strategies such as reservation of rights and ex gratia payments.

Complaints

Managing agents should have regard to the relevant definition of a complaint. Territory specific complaints handling guidance can be found on Lloyd's.com.

All staff should understand how to recognise a complaint and appropriately detailed training should be provided to relevant staff including claims handlers.

Section 8: Third Parties and Outsourcing

Outsourcing to Third Parties, whether for distribution or providing services to Customers, can be crucial to a managing agent's business plans and strategy. Third Parties must be capable of meeting managing agents' expectations and standards and must be carefully monitored to ensure that Customers are provided with the Product and level of service they have been led to expect.

CS 8.1 No adverse effect on customers

The use of Third Parties by a managing agent must have no adverse effect on a Customer. Managing agents must ensure that a Third Party is:

- provided with sufficient information as to the managing agent's expectations and requirements regarding the service to be provided; and
- properly managed and monitored by the managing agent.

CS 8.2 Selection and appointment of third parties

Managing agents must conduct an objective and effective due diligence process for all Third Parties. The due diligence must:

- be conducted prior to appointment and renewal and as appropriate throughout the period of each Third Party contract;
- have an appropriate scope and documented assessment criteria;
- assess a Third Party's suitability for delegated underwriting and/or claims and/or complaints handling authority;
- ensure that a Third Party will pay due regard to the best interests of Customers and treat them fairly at all times;
- ensure that the Third Party is are capable of implementing appropriate Product Controls;
- ensure that the provision of service by the Third Party is closely aligned with the Standard of Service;
- ensure that a Third Party has appropriate resources, skills and experience to provide appropriate Product Service to Customers;
- ensure that a Third Party has appropriate systems, processes and controls including data security arrangements;
- determine the appropriate level of underwriting and/or claims and/or complaints authority to be delegated;
- be documented including the assessment output and managing agent's decision; and
- be carefully considered by someone authorised to take the final decision to enter into or renew a Third Party agreement.

CS 8.3 Lloyd's process for coverholders with delegated underwriting authority

Managing agents must ensure that:

- they have obtained prior approval from Lloyd's for new Coverholders and for existing Coverholders where additional permissions are required for a Binding Authority;
- where a Binding Authority is arranged by a broker, that the broker has the necessary resources to administer and service the Binding Authority effectively; and
- where a Binding Authority is not arranged via a broker, prior approval is obtained from Lloyd's to 'deal direct' and appropriate controls and resources are in place for direct dealing.

CS 8.4 Contractual terms & service level expectations

Managing agents must have contracts in place with each Third Party to which they delegate authority.

Managing agents must ensure that the delegated authority contract:

- clearly defines the conditions, scope and limits of authority for any binding of insurance contracts, document issuance, claims or complaints handling and reporting requirements;
- details the standard of service to be delivered, the associated Service Level Expectations and the criteria against which the Third Party's performance will be regularly assessed;
- meets expectations for pre bind quality assurance (PBQA), including Contract Certainty both for the contract itself and for all contracts of insurance to be issued by the Third Party under a Binding Authority;
- contains terms and conditions which are agreed by all parties prior to the agreement being entered into; and
- in the case of a Binding Authority or a Consortium arrangement, is registered on market systems as prescribed by Lloyd's.

CS 8.5 Management and monitoring

Managing agents must proactively manage Third Parties, ensuring that:

- there is regular monitoring of compliance with the terms and conditions of the contract, Lloyd's requirements and applicable local regulatory requirements;
- sufficient information is received from the Third Party to allow proactive management of the contract;
- the performance of the Third Party is monitored by appropriately skilled and experienced personnel, supported by adequate resources including effective IT systems;
- management has oversight of Third Party performance, including regular reporting of Key Performance Indicators to Appropriate Committees;
- adequate records are maintained of all delegated authority contracts;
- a clearly documented procedure is in place to identify, monitor and resolve problem cases, including internal escalation processes and notification to Lloyd's; and
- a clearly documented procedure is in place for non-renewal and termination of Third Party contracts.

CS 8.6 Audit programme

Managing agents must ensure that Third Parties are subject to regular and appropriate audit. Managing agents must establish and keep under review an audit programme which must be reviewed at least annually, having careful regard to Product Risk and Management Information relating to Third Party performance.

Managing agents must:

- set and record an appropriate scope for each audit, designed to assess compliance with contracted terms and quality of services being provided;
- ensure that the person selected to undertake an audit of a Third Party has the necessary skills, competence and experience to do so;
- provide the person selected to undertake an audit with all information necessary to conduct that audit;
- ensure the person who carries out the audit conducts an objective and evidence based assessment of the Third Party, with the output suitably recorded;

- promptly identify areas of non-compliance, shortfalls in capability or under performance;
- communicate the results of the audit to the Third Party with any corrective action followed through to prompt resolution; and
- regularly consider the suitability and effectiveness of each audit firm being used.

CS 8.7 Appointment and management of External Experts

Managing agents must manage and monitor the use of External Experts, ensuring that :

- processes for the selection, appointment and management of External Experts are documented;
- terms of appointment and fees are agreed and documented with the External Expert; and
- performance is monitored against the terms of appointment and fees agreed.

No adverse effect on customers

A managing agent must ensure that its corporate culture is supported by and reflected in the approach of its Third Parties and accordingly, from time to time, the managing agent should specifically consider all aspects of its use of Third Parties.

Selection and appointment of third parties

Third Parties must be subject to appropriate due diligence before appointment, at renewal and as appropriate throughout the period of the contract. Full due diligence must be undertaken where the syndicate has a lead position. A risk-based approach can be applied where in a follow position.

Due diligence at renewal should focus on changes in the Third Party's circumstances, or any anticipated changes to the Binding Authority or claims or complaints handling authority. Lloyd's expectations in this regard are no different where managing agents have long standing relationships or arrangements with Third Parties.

Careful consideration should be given to the scope of the due diligence taking into account the type and level of authority to be given, the Product Risk and the level of complexity of the arrangement and services to be provided. The due diligence conducted must be sufficient to assess the Third Party's suitability to have delegated underwriting, claims or complaints handling authority.

When carrying out an assessment of a Third Party, care must be taken to ensure that they are capable of:

- implementing the proposed Product Controls having regard to their own experience and systems and controls. Regard should be given to their sales monitoring, sales training, sales administration and any complaints or claims handling authority;
- providing appropriate Management Information and Operational Reports to the managing agent; and
- giving any appropriate advice to the Customer in the context in which the Product will be sold.

When assessing a new Coverholder and conducting due diligence, the lead managing agent must take into account, as a minimum, the suitability criteria that Lloyd's applies when determining whether to approve a Coverholder, as set out in Chapter 2, Paragraph 6 of the Requirements made under the Intermediaries Byelaw.

Managing agents must document the criteria to be used when conducting the due diligence assessment and provide clarity on what constitutes a 'pass', what would need referral, and what would not meet their risk appetite and therefore should not be progressed.

Managing agents must record the basis for determining that a Third Party is suitable to have delegated underwriting, claims or complaints handling authority to the standard expected by the managing agent. Managing agents are expected to be able to evidence that sufficient focus on the capabilities of the proposed service provider has been given and that the assessment has been objective, and evidence based. The managing agent's reason for selection should be documented, and where the proposed Third Party will sell or service a product with high Product Risk, the managing agent should further document:

- the relevant matters in the Consumer Product Binding Authority Questionnaire; and
- observations on the corporate culture of the Third Party regarding Conduct Risk.

To ensure that there is no adverse effect on Customers, the Third Party should be closely aligned with the managing agent's Standard of Service and Lloyd's would expect the Third Party to be able to deliver the applicable sales and Product Service commitments set by the managing agent for its Customers.

In selecting the person to undertake the due diligence assessment of a Third Party, specific consideration should be given to their:

- experience of undertaking reviews of Third Parties (including those selling Products with a high Product Risk where applicable);
- knowledge and application of these Minimum Standards; and
- knowledge and application of the other regulatory requirements that apply to the Third Party and to the Products in the territory in question.

Specific consideration should be given to the level of claims handling authority to be delegated. Managing agents should comment on what information was considered, how it aligns to their appetite and how the authority level is reflective of the managing agent's objectives and service to be provided.

Where loss funds are being requested, managing agents must ensure these are set at a level that is appropriate and would not adversely affect Customers. Attention should be given to the Third Party's processes and controls for handling insurance monies.

The final decision to enter into or renew a Third Party agreement should be taken by an individual with sufficient seniority or an Appropriate Committee. Where the proposed Third Party will sell or service a Product with a high Product Risk, the decision to appoint the Third Party should be taken by, or in conjunction with, any Product Oversight Group or person who is able to provide appropriate Customer Challenge.

Where a managing agent feels it is necessary to approve a Third Party with subjectivities, a robust process should be in place to achieve resolution of those subjectivities; including clear ownership and monitoring of follow up and closure of those subjectivities. Post approval subjectivities are only suitable for non-material issues.

Contractual terms and service level expectations

Managing agents should ensure there is a clear and complete contract in place prior to inception of all delegated authority arrangements.

Binding Authorities should meet the requirements for PBQA and all relevant requirements set out in Paragraph 10 of the Requirements made under the Intermediaries Byelaw. These requirements can be met by using the LMA model Binding Authority wordings. The LMA has also published a model Consortium wording. The Binding Authority should be signed and dated by the Coverholder (or in the case of a Consortium agreement by the Consortium leader) and by all subscribing syndicates. The Market Reform Contract (MRC) placing standards must be followed for all Binding Authorities.

In the case of Line Slips, managing agents should ensure that the MRC standard for Line Slips (as published by the London Market Group) is followed and that the contract includes all relevant terms. Managing agents should also have particular regard to the lead and follow protocols, the format and content of documents issued under the Line Slip and the information provided to following underwriters during the operation of the Line Slip. The managing agents of following syndicates must in particular ensure that the terms of the Line Slip will allow compliance with all relevant minimum standards.

To satisfy the requirements of the Contract Certainty Code of Practice regarding the timely delivery of insurance documents, managing agents should have controls in place to monitor and verify that insurance documents have been issued by Coverholders within required timescales.

For Line Slips and Consortium arrangements, managing agents will not be expected to obtain a report on document issuance from the leader. However, the leader accepts responsibility for timeliness of document issuance and adherence to consumer business document issuance timeframes where applicable.

Managing agents should ensure they have a direct contractual relationship with each party which enters into contracts of insurance and / or issues documents on behalf of Lloyd’s syndicates, or has claims or complaints handling authority. Sub-delegation is not permitted (other than for Service Companies) in accordance with the Intermediaries Byelaw.

Managing agents should ensure they only enter into Binding Authorities which are within the permissions granted to the relevant Coverholder on Atlas. All Binding Authorities should be registered on BAR and all details on BAR must match the permissions granted on the Binding Authority.

All Consortium arrangements must be registered on the Consortia Register held by Lloyd’s.

Complaints endorsements for Binding Authorities have been produced by the LMA to ensure compliance with the UK and international complaints handling code.

Where a Product is distributed or serviced by two or more parties, the contract should clearly set out the responsibilities of each party so as to not affect the Customer’s experience due to the increased risk of poor customer outcomes through the division of knowledge and responsibilities.

Where claims handling authority is delegated the contract must clearly set out the level of authority to be delegated (financial and non-financial), exceptions to authority, referral triggers and associated procedures. These procedures should be detailed enough, with points of contact shared at the managing agent, to ensure there is no delay in handling the claim. Managing agents should ensure that any conflicts of interest are identified and mitigated; for example where individuals at a Coverholder work across underwriting and claims; or where a Coverholder is remunerated by way of a profit commission.

Service Level Expectations must be reflective of the Product Risk, particularly Service Risk, class of business and territory and be closely aligned to the managing agent’s Standard of Service and corporate culture. It is likely that a managing agent will have a core suite of Service Level Expectations for Third Parties. Managing agents should consider the appropriateness of core Service Level Expectations for each contract, and tailor, or create bespoke Service Level Expectations, as may be necessary.

Reporting requirements should be clearly articulated within the contractual terms and should be clearly aligned with the Service Level Expectations to ensure that the managing agent can manage and monitor the Third Party effectively. Lloyd’s typically expects Third Parties to provide reporting to managing agents at least on a quarterly basis.

Management and monitoring

Managing agents must maintain or have access to adequate records, containing key information relating to all delegated authority arrangements to facilitate management and monitoring.

Managing agents should have specific procedures in place to monitor ongoing adherence by a Third Party to the terms and conditions of the contract, including Service Level Expectations, reporting requirements, meeting terms of trade, adherence to authority and handling of insurance monies. Managing agents must also monitor compliance with relevant Lloyd’s requirements and local regulations. It is recommended that Crystal and the Risk Locator Tool, the QA Tool and Lloyd’s international representatives are utilised to assist in this.

It is essential that the service being delivered by a Third Party is regularly monitored to identify negative variances which should in turn prompt appropriate interventions. A managing agent’s oversight should cover operational and qualitative assessments. Oversight can be achieved through a combination of mechanisms such as performance management information dashboards, bordereaux or other reports, and periodic underwriting and claims visits. Annual audits, whilst a valuable and necessary method for assessing compliance and performance, should not be a substitute for regular performance oversight.

Reporting from Third Parties should be regularly assessed, with any negative variances identified. Issues should be promptly communicated to Third Parties with a corrective plan agreed and followed through to conclusion. The corrective plan should be proportionate to the severity and frequency of the negative variance(s). The managing agent should have clear roles and responsibilities for the management and monitoring of Third Parties, and have clear escalation processes for underperformance.

Managing agents are expected to have a process in place to monitor their own management of delegated authority arrangements, including regular reporting of KPIs to Appropriate Committees.

The sophistication of a managing agent's management and monitoring of Third Parties will depend on a number of risk characteristics including the outsourcing strategy, number of third party arrangements, type of Product Service provided, number of Customers being serviced, level of authority being given, level of funds provided etc. For those managing agents with larger numbers of arrangements or with more complex models, Lloyd's would expect a systematic and documented approach to monitoring the performance of both the Third Party and the managing agent's management of the Third Party. Regardless of approach, managing agents need to have a sufficiently detailed understanding of a Third Party's performance to understand whether Customers are being treated fairly.

Managing agents must also have clearly defined procedures in place for identifying and monitoring problem cases and irregularities, such as fraud or dishonesty or other improper conduct, on the part of Third Parties or Lloyd's brokers.

Managing agents are expected to deal with non-renewal or termination of a Binding Authority or claims handling contract in an appropriate manner, including having procedures in place to manage the run-off. Where business is put into run off, careful consideration should be given to claims management, specifically where a Third Party has claims handling authority. A clear and agreed plan should be put in place and management and oversight must be maintained while claims remain open.

The managing agent should ensure that there is a regular documented review of the bordereaux; it is recommended that the Risk Locator Tool and Crystal is utilised to assist in this.

Loss funds should also be monitored regularly to ensure that funds remain appropriate and support the claims process. It is recommended that all loss funds are reviewed at least annually to ensure they remain appropriate and are ultimately still required.

Audit programme

Managing agents are permitted to adopt a risk based approach to the frequency of audit. Managing agents should use a broad range of risk factors when determining the frequency of audit which should include, but not be limited to:

- the Product Risk;
- the number of Products the Third Party sells;
- the materiality of the Third Party to the managing agent;
- estimated Premium Income;
- claims volumes and values, where claims authority is delegated;
- delegated authority levels and loss fund assignment, where claims authority is delegated;
- numbers of and reasons for complaints; and
- performance against Service Level Expectations and analysis of Management Information relating to that Third Party.

A complete register of all Third Party arrangements is required. This should include both live and lapsed agreements where claims authority has been delegated to ensure that all of them can be monitored and audited. The rationale for the audit frequency should be documented. The audit schedule should be kept under review with particular attention given to any negative variances in a Third Party's performance against Service Level Expectations.

The audit scope should have careful regard to the Product Risk and be specific enough to allow the managing agent to look more closely into relevant issues. The audit scope should not be so broad that the output has little value. Where claims handling authority is delegated attention should be given to the qualitative aspects of claims handling, the claims culture, delivery against required Service Level Expectations and accuracy of record keeping. The scope should include explicit instruction on the file sample size where file reviews are to be completed.

Particularly where the audit firm is used to carry out high Product Risk audits, assessment of the suitability and effectiveness of each audit firm should include consideration of how competently they address the sections of the audit scope that relate to culture and customer outcomes. Generally, an audit firm that was engaged to perform due diligence in respect of a Third Party or who has performed non-audit services for that Third Party should not be appointed to conduct an audit. Consideration should be given to rotating audit firms for a particular Third Party.

The auditor must be provided with all necessary information to conduct the audit, which is likely to include:

- copies of any relevant previous audit reports or recommendations;
- copies of the relevant Binding Authorities;
- copies of the claims handling agreement and specific Service Level Expectations;

- information taken from the ATLAS system;
- copies of the Third Party's latest financial reports, licenses, CVs and example bordereaux; and
- relevant Management Information relating to the Third Party including recent reporting on Service Level Expectations.

Managing agents should have a process in place for risk rating audit findings once an audit is complete. These risk ratings should drive the next steps to be taken by the managing agent. Findings should be communicated to Third Parties promptly with a corrective plan agreed and followed through to conclusion. The corrective plan should be proportionate to the severity and frequency of the audit finding(s). The managing agent should have clear roles and responsibilities for the management of audit findings, in particular the follow up of corrective action through to resolution. Managing agents should not close audit findings until they are satisfied that the action taken by the Third Party has suitably resolved the issue.

The sophistication of a managing agent's audit schedule and tracking will depend primarily on the size of the audit program. For those managing agents with larger programs or where several internal functions are involved, Lloyd's would expect a systematic and documented approach to monitoring progress against the audit schedule and the resolution of audit findings. Suitable Management Information should be produced to provide oversight of these areas and regular reporting of Key Performance Indicators should be shared with Appropriate Committees.

Managing agents are expected to have clear escalation processes for high risk rated audit findings, unsatisfactory audit outcomes, and overdue audit findings.

For Line Slips and for Consortium arrangements it is not expected that followers will carry out audits of the leader or undertake the same level of oversight that may be appropriate for delegation to a Coverholder. However, the followers should be furnished with enough information that they are able to understand how the Line Slip is being managed and to meet all Minimum Standards and facilitate internal peer review processes.

Appointment and management of external experts

Managing agents are likely to have an approved External Expert panel established for the use of the claims function. Managing agents should have processes in place to facilitate the review of the composition of the approved panel to ensure it meets business requirements and the service required. Where an External Expert is not appointed from a panel, the managing agent is expected to ensure that they are suitable to provide the services required. All External Experts must pay due regard to the best interests of Customers and treat them fairly at all times.

The goals and budget agreed with any appointed External Expert should be recorded by way of a written document. When monitoring performance against the terms of appointment and fees agreed, managing agents should ensure that any variances are justified.

Where appropriate the External Expert should be advised that the instruction is also on behalf of any Lloyd's followers of that managing agent on London market subscription placements.

Further Information

More detailed information on Lloyd's expectations of managing agents in meeting the Minimum Standards, and further guidance, can be found in:

- The Code of Practice - Delegated Authority (dated 15 September 2017) and the Intermediaries Byelaw;
- The Service Companies Code of Practice (dated 8 September 2009) which should be referred to when delegating authority to a Service Company;
- Market Thematic Review Reports; and
- Conduct Risk newsletters and workshop materials.

These documents are available from Lloyds.com or the Lloyd's Policyholder & Third Party Oversight team.

Appendix 1 – Conduct Management Information

Below is an illustration of the model metrics and indicators that we would typically expect to see in a robust conduct Management Information pack for managing agents transacting high Product Risk ('HPR') business.

Customers	Customer numbers for relevant HPR products
	Premium income for relevant HPR products
	Analysis of Customer type, e.g. consumer, SME, large commercial, reinsurer
Products	New products, pending and approved, with qualitative analysis
	Material changes to products, pending and approved, with qualitative analysis
	Completed product reviews (new and renewal)
	Outstanding product reviews (new and renewal)
	Any exceptions to the process for product review, e.g. products written without approval
Sales & Distribution	Analysis of products and Customer by distribution method e.g. delegated authority, internet, open market
	Analysis of cancellations
Complaints	Analysis of complaints by product, distributor, distribution method, territory, quantum (including redress), resolution and links to themes/ root causes
	Complaints referred to/ upheld/ denied by Lloyd's/ FOS, with category of complaint (i.e. product, sales, distribution, service) and quantum (including redress)
	Timeliness of complaints handling
	Root cause analysis
Claims	Analysis of claims declinatures, by product, claim handler (internal or third party) and any other occurring theme
	Declinatures subsequently paid following escalation, analysed by product, distributor and any other occurring theme
	Timeliness of claims handling internally and against agreed third party service levels
	HPR loss ratio analysis
Service	Timeliness of policy documentation issuance to Customers
	Performance against agreed service standards / SLAs, internally and by distributor
Coverholder activity	Coverholder audit points or other Coverholder operational concerns outstanding on HPR business