

DRAFT INSURANCE GUIDELINE 7.0: Anti-Money Laundering Guideline for Insurance Businesses

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Contents

1.0	Introduction
1.1	The Anti-Money Laundering Guidelines for the Conduct of Insurance Business
1.2	Branches and Subsidiaries
2.0	General
2.1	What is Money-Laundering
2.2	Basic Requirements
3.0	Know Your Customer
3.1	Verification Requirements
3.2	Suitable Certifier
3.3	Certification of Identification Documents
3.4	Verification of Identification by Insurance Business
3.5	Brokers and Agents
3.6	Acceptable Applicant
3.7	Timing of verification
3.8	Waivers and Exemptions
3.8.1	Waivers
3.8.2	Exemption of Insurance Contracts
3.9	Cancellation
3.10	Assignments and Transfers of Ownership
4.0	Identification Requirements
4.1	Individual Identification Requirements
4.1.1	Identity
4.2	Corporate Business Relationships
4.3	Trustee Business Relationships
4.4	Pension Fund Plans
4.5	Other Annuity Schemes
4.6	Other Applicants
4.7	Powers of Attorney and Third Party Mandates
4.8	Verification of Identity by a Related Party
4.9	Accounts for Children
5.0	Existing Clients and Retrospective Review
5.1	Retrospective Review
5.2	Subsequent Business Transactions
5.2.1	Surrender of Redemption
6.0	Source of Funds
6.1	The Source of the Applicant for a Business Relationship Monies
6.2	Remitting and Receiving the Money
6.3	Regular Payments
6.4	Other Payments
7.0	Suspicion Reporting
7.1	Suspicion Reporting
7.1.1	What is "Knowledge"
7.1.2	What is "Suspicion"
7.2	Suspicious Circumstances

- 7.3 Suspicion Reporting Procedures
- 7.4 General
- 8.0 Record Keeping
 - 8.1 Record Keeping
 - 8.3 Transaction Records
 - 8.4 Compliance Records
- 9.0 Staff Awareness and Training
 - 9.1 Training Requirements
 - 9.2 Training Records

1.0 Introduction

1.1 The Anti-Money Laundering Guideline for the Conduct of Insurance Business

This guideline has been developed by the Office of the Commissioner of Insurance, (OCI) Guyana. It is to be followed by all persons conducting insurance businesses in Guyana.

For the purposes of this Guideline Insurance Business means and includes insurance and reinsurance companies, and insurance brokers, agents and other intermediaries as mentioned in section 100 of the Insurance Act, 1998 (“the Act”).

It is expected that:

- a. the directors of Insurance Businesses certify that they have installed systems sufficient to comply with the principles of these Guidelines; and
- b. the auditors of an Insurance Business report that such statements made by the directors were reasonable.

This Guideline should always be considered together with, inter alia, the obligations of the Money Laundering (Prevention) Act, Chapter 85:09 (MLA).

1.2 Branches and Subsidiaries

Where an Insurance Business has branches or subsidiaries in other jurisdictions, practices and procedures, consistent with these Guidelines, must be operated throughout all parts of the business.

2.0 GENERAL

2.1. What is Money Laundering?

Money Laundering is “the processing of criminal proceeds to disguise their illegal origin in order to legitimise the ill gotten gains of crime.”

The insurance industry is a potential major target for money laundering operations because of the variety of services and investment vehicles offered that can be used to conceal the source of money. Perhaps the most common form that may be encountered is the single premium contract or policy.

2. 2. Basic requirements

The OCI has adopted the following four basic principles that have been proposed by the International Association of Insurance Supervisors. They are:

- a. Know Your Customer;
- b. Comply with anti-money laundering laws;
- c. Co-operate with law enforcement authorities and insurance supervisors; and
- d. Have in place anti-money laundering policies, procedures and a training programme.

The OCI also recommends the appointment of an Anti-Money Laundering Officer.

Other international initiatives include the Basle Statement of Principles (which recognised that businesses needed to know who their customers were before they commenced a business relationship) and The Paris Summit which established the Financial Action Task Force (FATF).

3.0 KNOW YOUR CUSTOMER

To combat attempts by money launderers from using Guyanese Insurance Businesses, there is a need for every insurance business to use the “Know Your Customer” principle in their day-to-day business activities. This is the driving force behind these Guidelines and international legislation to combat money laundering and forms the core of these Guidelines.

The overriding requirement behind the principle of “Know Your Customer” is to establish the identity of the party/ies wishing to create a business relationship. This applies equally wherever the applicant may be based and whether the applicant is an individual, corporation, trust, nominee or other.

“Know Your Customer” principles do not infringe on the confidentiality and privacy of Client affairs.

3.1 Verification Requirements

Before a Business Relationship is established all Insurance Businesses must satisfy themselves as to the identity of the Applicant for a Business Relationship. In the absence of satisfactory evidence the Application for a Business Relationship shall not proceed any further.

The Insurance Business must hold either original documents, or suitably certified copies of original documents, of identification, on its files.

It should be remembered that it is not possible for an Insurance Business to delegate the responsibility for Know Your Customer to another party; however, in certain circumstances it is acceptable for the collection of the identity documents to be delegated.

Where applicants put forward documents with which an Insurance Business is unfamiliar, either because of origin, format or language, the Insurance Business must take reasonable steps to verify that the document is indeed genuine, which may include contacting the relevant authorities. Where the Insurance Business is unable to verify a document they

should consider whether they have sufficient documentary evidence on the applicant to be satisfied as to their identity. In the absence of being so satisfied the application should not proceed.

The details of requirements given in section 4 should be considered the minimum standard and the Insurance Business should adopt a risk based approach when assessing the documents required.

3.2 Suitable Certifier

All copy documents must be certified as true copies by a Suitable Certifier. A Suitable Certifier is an individual who, by personal qualification, the position they hold within their organisation or approval by the Insurance Business, is deemed suitable to certify any copy documents provided to the Insurance Business as part of the Know Your Customer due diligence.

A Suitable Certifier may be:

- a. an employee of the Insurance Business, or any Group company of the Insurance Business;
- b. an Agent bound by contract to the Insurance Business, or any Group company of the Insurance Business;
- c. an authorised representative of an embassy or consulate of the country who issued the identification document;
- d. a notary public, or lawyer;
- e. an Acceptable Applicant, or authorised employee of an Acceptable Applicant, acting in relation to the application;
- f. an authorised representative of the sponsoring employer for an approved pension fund plan only.

An Insurance Business must have verified the identity of any Suitable Certifier to the level of an individual as detailed in section 4.1. The Insurance Business must hold a specimen signature of the Suitable Certifier on file and must have procedures in place to review the signatures certifying the Client identification documentation produced, on a regular basis to ensure their veracity.

3.3 Certification of identification documents

Where the information has been obtained for this application for a Business Relationship, all copy documents must be signed and dated by the Suitable Certifier. The Suitable Certifier should also write their name in block capitals underneath their signature and should include a statement to the effect that it is a true copy of the original.

3.4 Verification of identity by the Insurance Business

It is acceptable for an Insurance Business to carry out the verification of identity for itself, regardless of the involvement of a third party. The overriding requirement to ensure that the identification evidence is satisfactory rests with the Insurance Business.

Where the Insurance Business undertakes the verification of identity (other than face to face) printouts from any data search or copies of other documents must contain:

- a. the name of the person who has reviewed the information;
- b. the date;
- c. details of their source; and
- d. where the information is provided by an outside agency, the name of the agency.

3.5 Brokers and Agents

Any contract or Terms of Business binding an Agent to the Insurance Business, or any Group company of the Insurance Business, must contain the provisions set out in section 7. Other than as set out below, for the purposes of this guideline the treatment of business introduced by an Appointed Representative is the same as the treatment from any other Broker.

Where the Insurance Business receives an Application for a Business Relationship from a Broker or Agent, the Broker or Agent may provide:

- a. a copy of documentary evidence held on the Agent's or Broker's file which the Agent or Broker had used (historically) to verify the identity of the party. Such a copy document may be accepted as long as the information on that verification document is the same as the application form and provided that the information supplied meets the requirements of this guideline; or
- b. originals or copies of documents obtained specifically in relation to the particular application for business;

All copy documentary evidence passed to the Insurance Business must be certified by the Agent or Broker as being a true copy held on its file.

If this evidence is not provided by the Agent or Broker the Insurance Business must either obtain the evidence themselves, or obtain satisfactory evidence from an alternative source.

3.6 Acceptable Applicants

Where the Insurance Business believes (based on reasonable grounds) that the Applicant for the Business Relationship is an Acceptable Applicant, the Acceptable Applicant may be accepted without detailed identification and verification checks being made.

The Insurance Business should record in detail on the Client file the basis on which the Acceptable Applicant has been accepted.

Where the Acceptable Applicant is acting as a Trustee, Nominee or on behalf of someone other than itself as principal, the Insurance Business may accept the identification of the Acceptable Applicant, but must still satisfy themselves as to the evidence of their appointment and must provide details of the identity of any other persons involved as set out in these Guidelines.

All copy documentary evidence passed to the Insurance Business must be certified by the Acceptable Applicant as being a true copy of either an original or copy document held on its file.

If this evidence is not provided by the Acceptable Applicant the Insurance Business must either obtain the evidence themselves, or obtain satisfactory evidence from an alternative source.

The Insurance Business must monitor the status of all Acceptable Applicants on an ongoing basis.

3.7 Timing of Verification

Where evidence of identity is required, it must be obtained as soon as is reasonably practicable after the Applicant for a Business Relationship applies to enter a Business Relationship with the Insurance Business.

Normally, the application will not be concluded until such time as the verification is complete.

However, it is appreciated that it is not feasible for an Insurance Business to leave any monies un-invested, therefore, it is acceptable for the Insurance Business to invest the monies in such a way that neither the Applicant for a Business Relationship nor Insurance Business are disadvantaged. Thus the Insurance Business can start processing the business immediately, provided that it is at the same time taking steps to verify the Client's identity. In any event, the verification must be completed satisfactorily before the policy is issued.

3.8 Waivers and Exemptions

3.8.1 Waivers

For the purposes of the Guidelines identification and source of funds procedures can be waived for Insurance Business in respect of which:

- (a) a premium is payable in one instalment of an amount not exceeding \$100,000; or
- (b) a regular premium is payable and where the total payable in respect of any one calendar year does not exceed \$120,000.

However, these Guidelines are seen as appropriate to all business regardless of value.

3.8.2 Exempt Insurance Contracts

Where an insurance contract has neither surrender nor maturity value (for example, term insurance) then it is exempt from the identification and source of funds requirements.

However, where a premium is paid and subsequently to be refunded due to e.g. the contract being cancelled, the Insurance Business should consider whether the transaction is suspicious and act accordingly. The Insurance Business should also consider whether verification of identity of the policyholder should be obtained before the premium is refunded.

Where a claim is made on a policy with neither surrender nor maturity value the Insurance Business should obtain verification of identity of the claimant and follow the source of funds requirements set out in section 6.

3.9 Cancellation

Where an Applicant for a Business Relationship takes up the right to decline to proceed with a contract during a cancellation period, the circumstances surrounding the applicant's request to cancel must be considered and if they are viewed as suspicious then this suspicion must be reported. That being the case, reporting procedures must be followed.

Any payment out to a Client as a result of such a right being exercised should normally be to the ceding account from which the monies were originally sent. If the payment out is to be by cheque it should be payable to the Client and marked "Account Payee Only".

Under certain circumstances payment may be to a third party account,. In these circumstances the Insurance Business must be satisfied of the connection between the payee and the Client, and must also consider whether the payment request is suspicious, in which case, reporting procedures must be followed.

3.10 Assignments and Transfers of Ownership

Where a policy is assigned to a third party, verification of identity should be obtained either before assignment takes place, or as soon as reasonably practicable thereafter.

Whether an assignment has been notified or not, when a payment is to be made from the policy (as a withdrawal, surrender or claim) to an account not in the name of a verified person or entity, the Insurance Business must ensure that verification of identity of the account holder has been completed in accordance with these Guidelines before payment is made.

4.0 IDENTIFICATION REQUIREMENTS

This section details the standard minimum requirements for identifying different principals within an application for a business relationship. These are the minimum requirements and the Insurance Business should assess each case to decide whether additional information should be sought.

4.1 Individual Identification Requirements

4.1.1 Identity

The identity of an individual is deemed to comprise of the true full name or names of the individual. Where the name of the individual has changed for a reason other than marriage the company may wish to obtain additional documents. Any previous name or names, and any aliases used should also be disclosed. The preferred documents to verify identity are either a Passport or a National Identification Card (carrying a photograph of the individual), or such documents that will produce satisfactory evidence of identity.

Once the usual residential address has been established to the satisfaction of the Insurance Business any change to that address may be notified to the Insurance Business in any way that the Insurance Business decides is satisfactory. The Insurance Business should hold on file documentary evidence of the current residential address of an individual at the time the application is made. In all cases the documents seen should be the most recent available. It is the responsibility of the Insurance Business to ensure that they hold a current residential address for an individual at all times, however, once the verification of the address of the individual has been accepted, the Insurance Business may accept further notification of address in any form acceptable to them.

Where two or more individuals apply as joint Applicants for a Business Relationship the identity of each individual must be verified.

In the absence of satisfactory evidence the application for a business relationship shall not proceed any further.

4.2 Corporate Business Relationships

The Insurance Business must as a minimum take such measures as will produce satisfactory evidence of the identity of the applicant as listed below:

- a. a suitably certified copy of the Certificate of Incorporation or equivalent document establishing the registered number of the company or document of listing, and, if not on this document, evidence of the registered office of the contracting party. If the registered office is not the address shown on the application then the Insurance Business must be satisfied as to the reason for this address to be used;
- b. a list of all directors (although their identity need not be verified);
- c. where possible a set of the latest annual report and accounts;
- d. confirmation that the company has not been, or is not in the process of being, dissolved, struck off, wound up or terminated; and
- e. a list of the officers from whom the Insurance Business is to take instructions and specimen signatures (although their identity need not be verified). The Insurance Business should make appropriate arrangements to ensure that the officer(s) so named are properly able to act on behalf of the company.

In the absence of satisfactory evidence the application for a business relationship shall not proceed any further.

4.3 Trustee Business Relationships

Where the applicant for a Business Relationship is a Trustee, the Insurance Business must satisfy itself that:

- a. the Trustees have been identified in accordance with the appropriate verification requirements for corporate applicants or individuals. Where there is more than one Trustee, appropriate identification must be obtained for each;
- b. satisfactory evidence of proper appointment of the Trustees has been received e.g. extracts of the Deed of Trust;
- c. the nature and purpose of the trust is known;
- d. the source or origin of the assets under the trust is known and the Insurance Business considers it satisfactory;
- e. the persons from whom the Insurance Business is to take instructions have been identified and specimen signatures have been obtained (although their identity need not be verified); and
- f. the trustees have provided details of the parties to the trust at the time the application was being made. These will be:

(i) the settlor(s), whose details should include the full name(s), date(s) of birth and, if they are still living, the current addresses of any individuals. If the settlor is no longer living the date of death should be included. If the settlor has been other than an individual, or individuals, the trustee should provide sufficient information for the Insurance Business to identify the settlor(s) should they wish to do so;

(ii) any protector(s), whose details should include the full name(s), date(s) of birth and the current addresses of any individuals;

(iii) all beneficiaries (as and when defined).

The Insurance Business must verify the identity of the beneficiary(ies) Where a class of beneficiary is disclosed the Insurance Business should satisfy itself that the class does exist

and undertake whatever steps it considers necessary to achieve this. It is not necessary at this point to identify the individual members of this class.

The list must also include those contingent beneficiaries named at the time of the application for business which may include charities.

In the absence of satisfactory evidence, or where it may be impossible to identify the parties involved in the application at a date in the future due to insufficient information, the application for a business relationship shall not proceed any further.

Where a trustee who has been verified is replaced, the identity of the new trustee must be verified before they are allowed to exercise any control over the assets.

The Insurance Business may wish to undertake regular reviews of the parties to a trust during the duration of the policy, the timing of such reviews to be at the discretion of the Insurance Business.

4.4 Pension Fund Plans

Where the Applicant for a Business Relationship is the trustee of a Pension Fund Plan the Insurance Business must satisfy itself that:

- a. the Trustees have been identified in accordance with the appropriate verification requirements for corporate applicants or individuals. Where there is more than one Trustee, appropriate identification must be obtained for each;
- b. any Plan Manager/Management Committee has been identified in accordance with the appropriate verification requirements for corporate applicants or individuals;
- c. satisfactory evidence of proper appointment of the Trustees has been received e.g. copies of the Trust Deed;
- d. the source or origin of the assets under the trust is known and the Insurance Business considers it satisfactory;
- e. a list of the persons from whom the Insurance Business is to take instructions and specimen signatures have been obtained (although their identity need not be verified);
and
- f. the trustees (and/or Plan Managers) have provided details of the parties to the trust at the time the application was being made.

In any event the Insurance Business must verify the identity of a beneficiary, as set out in these Guidelines, should payment by the Insurance Business directly to that beneficiary, or for the benefit of a beneficiary, be requested by the Trustees (whether named on the original list provided by the trustee, subsequently added, or included originally only by class).

In the absence of satisfactory evidence, or where it may be impossible to identify the parties involved in the application at a date in the future due to insufficient information, the application for a business relationship shall not proceed any further.

Where a trustee or Plan Manager/Management Committee who have been verified is replaced, the identity of the new trustee or Plan Manager/Management Committee must be verified before they are allowed to exercise any control over the assets.

4.5 Other Annuity Schemes

Where an Applicant for a Business Relationship opts to purchase an Annuity all the parties to the scheme should have their identity verified as appropriate.

In the absence of satisfactory evidence, the application for a business relationship shall not proceed any further.

4.6 Other Applicants

Other Applicants for a Business Relationship may arise and the Insurance Business should exercise common sense in obtaining suitable evidence of identity.

As a guide, where the application for a business relationship is in the name of another category of applicant the Insurance Business should satisfy itself that:

- a. the applicant exists. This may be achieved by obtaining copies of the constitution or similar;
- b. this investment is legitimately being made on behalf of the organisation;
- c. evidence of the normal address for delivery of documents should have been received. This may be by means of a suitably certified copy of an existing bank account statement;
- d. a list of all directors, executives or committee members is received, and, verification of the identity of at least two of them, is obtained;
- e. a set of the latest annual report and accounts is obtained where possible;
- f. a list of the officers from whom the Insurance Business is to take instructions and specimen signatures is held. The Insurance Business should verify the identity of at least two of the principal signatories. When signatories change, the Insurance Business should ensure that it continues to hold verified identity of at least two signatories. Under certain circumstances the Insurance Business may wish to verify the identity of additional or all of the signatories.

In the absence of satisfactory evidence the application for a business relationship shall not proceed any further.

4.7 Powers of Attorney and Third Party Mandates

When an application for a business relationship is received from an applicant acting under a power of attorney or similar, evidence of identification should be obtained for the holder(s) of the power(s) of attorney and/or third party mandates in addition to the evidence of identification for the person granting the power. The Insurance Business should be satisfied that the power or mandate exists. The reason for granting the power of attorney should also be recorded.

4.8 Verification of Identity by a Related Party

Where an employee, partner or principal of a Broker or Acceptable Applicant is the Applicant for a Business Relationship, either personally or in the role of an individual Trustee or Nominee, they may not act as Suitable Certifier to verify the identity of either themselves or of other parties or documentation relevant to the application. Any certification of copy documents must be completed by a third party.

Draft OCI Guideline 7.0 - Anti-Money Laundering

This does not apply when the application is made by an individual acting as an authorised officer of an Acceptable Applicant.

4.9 Accounts for children

When an Applicant for a Business Relationship is a child who is not in possession of suitable identification documents the Insurance Business may rely on a written confirmation of details of identity of the applicant from a parent or guardian providing that:

- a. the identity of the parent or guardian providing the confirmation has been verified in accordance with these Guidelines;
- b. the relationship between the child and the person providing the confirmation is established to the satisfaction of the Insurance Business; and
- c. the Insurance Business should endeavour to verify the identity of the child as set out in these Guidelines when payment to the child is requested. If at that time the child is still not able to provide suitable documentary evidence of identity the Insurance Business should decide whether it is satisfied with the confirmation received and take such additional action as it considers necessary.

5.0 EXISTING CLIENTS AND RETROSPECTIVE REVIEW

5.1 Retrospective Review

The Insurance Business must have in place a programme to review the identification documents on each file.

The programme should be based on risk prioritisation, and all high risk relationships for which a deficiency in verification documentation exists should be addressed and completed as a matter of priority.

Other relationships which are not yet being reviewed on a risk basis should be reviewed for any deficiency in verification documentation following the occurrence of a “trigger” event.

For the purpose of this document the trigger events in low risk cases which will automatically cause a file to require review: are as follows:

- a. a subsequent business transaction on the policy; or
- b. a surrender or redemption request.

This should run concurrently with a review of higher risk relationships, also considering that a file can cause suspicion at any time and other events may prompt a review.

5.2 Subsequent Business Transactions

For the purposes of this section a subsequent business transaction is a transaction which was not expected by the Insurance Business. It should be noted that a “regular” premium payment (whether the same as the previous premium payment or not) is not a subsequent business transaction.

If the Applicant for a Business Relationship is an existing Client of the Insurance Business and has had its identity verified within the preceding two years, it is not necessary to re-verify identity for that subsequent business transaction.

However, where a subsequent business transaction occurs and the Applicant for a Business Relationship is an existing Client but it is more than two years since verification of identity was undertaken and the verification on file is not of the level required by the current

Guidelines, or no verification of identity is held on file, or where previously the Client was subject to a waiver, but where the existing, plus proposed, investment are now above the waiver level, or where there is reason to believe that the information previously supplied by the Client has been superseded, then the identity of the Client must be verified.

Additionally, whether identification of the Client is held or not, where any subsequent business transaction is undertaken which is significantly different from the normal pattern of previous business then the Insurance Business must consider whether this requires additional information or not and whether this is a suspicious transaction or not.

5.2.1 Surrender or Redemption

In the case of a redemption or surrender of a policy, wholly or partially, an Insurance Business will not normally be required to verify the identity of the Client (even when no, or insufficient, information is held on file) where payment is made:

- a. to the name of the Client(s) by means of a cheque crossed "account payee"; or
- b. to a bank account held (solely or jointly) in the name of the Client by any electronic means effective to transfer funds.

6.0 SOURCE OF FUNDS

6.1 The Source of the Applicant for a Business Relationship's Monies

The Insurance Business should make enquiries as to how the Applicant for a Business Relationship has acquired the monies to be invested. A risk based approach will be needed in respect of the extent of the information that may be required and/or validated for this purpose.

The Insurance Business should not normally accept generic descriptions of the source of wealth from the Applicant for a Business Relationship, such as "savings", "investments", "inheritance", or "business dealings".

6.2 Remitting and Receiving Monies

The Insurance Business must establish how the payment is to be made, from where and by whom and that monies received have come from expected account(s).

Where the monies are being remitted from accounts other than in the name of the Applicant for Business the Insurance Business must be satisfied that the reasons for the account remitting the monies not being in the name of the Applicant for a Business Relationship are understood, and where considered necessary, the identity of the holder of the account from which remittance has been made should be verified.

In the absence of being so satisfied the application for a business relationship shall not proceed any further.

While, ideally, the Insurance Business should demonstrate its satisfaction by linking the

information provided with the monies remitted to monies received, it is accepted that this may not always be possible. Where the Insurance Business does not receive complete originator information from the remitting bank the Insurance Business must review the information provided and consider whether additional information should be sought. A risk based approach may be used in deciding whether to seek additional information.

Where the monies are being remitted from several accounts the Insurance Business should understand the reasons for this and be satisfied in each case. When payment of monies to be remitted by the Insurance Business is requested to be made to more than one account, whether in the name of the Client or otherwise, the reasons for this should be understood and recorded and, where considered necessary, evidence of identity of the account holder(s) should be obtained.

Where the Insurance Business receives additional remittances, other than expected premiums for a regular premium contract, it must ensure that the source of monies and account(s) remitting the monies is known in accordance with sections 6.1 to 6.4.

6.3 Regular Payments

Where a Client remits monies on a regular premium contract the Insurance Business must have in place procedures requiring the review of these policies on a regular basis to ensure that the requirements of sections 6.2, 6.3 and 6.4 are being complied with. The frequency of such review should be set to take account of risk factors such as the size of premium, frequency of remittance and location of the remitting bank.

Should, at any time, the Insurance Business become aware of a change of remitting account the file should be reviewed to ensure that sufficient information is held to satisfy the requirements of sections 6.2, 6.3 and 6.4. Additionally should the level of premiums contributed on a regular basis change, the Insurance Business should review the information held to ensure that the requirements of section 6.1 are met.

6.4 Other Payments

Monies remitted by the Insurance Business should be paid to an account in the name of the Client. Where payment is made to an account other than in the name of the Client the reasons for this should be understood and recorded and where considered necessary evidence of identity of the account holder should be obtained.

When the Client requests the monies to be remitted by multiple "small" payments, whether to the same account or not, and whether in the name of the Client or otherwise, the Insurance Business should consider whether additional enquiries are required to ascertain the reasons for this. Where additional enquiries are made the reasons for the multiple payments should be understood and recorded and, where considered necessary, evidence of identity of the account holder(s) should be obtained.

7.0 SUSPICION REPORTING

7.1 Suspicion Reporting

Where an employee/director of an Insurance Business reports a knowledge or suspicion of money laundering, there remains a duty to protect “client confidentiality”; however, no breach of that duty is committed by a person reporting the information associated with the knowledge or suspicion to the Financial Intelligence Unit (FIU).

7.1.1 What is “Knowledge”

Knowledge has been defined by Baden Delvaux v. Society General [1992] to include the following:

- a. actual knowledge;
- b. wilfully shutting one’s mind to the obvious;
- c. wilfully and recklessly failing to make such enquiries as a reasonable and honest person would make;
- d. knowledge of circumstances which would indicate facts to an honest and reasonable person; and
- e. knowledge of circumstances which would put an honest and reasonable person on enquiry.

7.1.2 What is “Suspicion”

Suspicion is personal and subjective and falls far short of proof based on firm evidence. Suspicion has been defined as being beyond mere speculation and must be based on some foundation. A person who considered a transaction to be suspicious would not be expected to know the exact nature of the criminal offence or that the particular funds were definitely those arising from the crime.

7.2 Suspicious Circumstances

Suspicions may be aroused as a result of one, or a combination, of any number of circumstances which may be associated with a Client case or transaction. Money launderers constantly invent new schemes, but the list below gives examples of the traits shown in some of those so far identified:

- a. Evasiveness
 - (i) Concealment of identity of Client;
 - (ii) Concealment of identity of beneficial owner;
 - (iii) Concealment of ownership of funds;
 - (iv) Incomplete application details and lack of willingness to provide evidence to answers required.
- b. Inappropriateness
 - (i) Application beyond lifestyle or means;
 - (ii) Unexplained changes in investment pattern;
 - (iii) Investment taken against advice or not appropriate to customer’s true needs;
 - (iv) Sudden changes in intermediary transaction pattern;
 - (v) Unexplained receipt of bulk premiums from intermediary accounts

c. Unexplained or complex arrangements

- (i) Third party transaction (payments or improper withdrawals) circumstances;
- (ii) Cash or “near-cash” payments or withdrawal requests;
- (iii) Multiple sources of payment;
- (iv) Cross jurisdiction funding for payment;
- (v) Payment of premium from early surrender of another investment in unusual circumstances;
- (vi) Payment from obscure or unregulated organisations;
- (vii) Unnecessarily complex and/or unusual transactions or intentions, or patterns of Transactions;
- (viii) Requests for part investment and return of surplus funds;
- (ix) Immediate interest in surrender penalties or requests for large withdrawals or policy loans;
- (x) Early surrender of a contract;
- (xi) Receipt of unexplained Telegraphic Transfers, requests to return Telegraphic Transfers;
- (xii) Requests for no correspondence to go to Client;
- (xiii) Complex ownership structures involving layers of companies and/or trusts;
- (xiv) Suspicious of behaviour by either the Client or Intermediary.

This list is not exhaustive.

The presence of any one or more of the above circumstances does not in itself mean money laundering is occurring. Each employee or director of an Insurance Business must judge a case on its own merits.

Where any of the above circumstances or other circumstances giving cause for concern, have been identified on an application or file this fact should be recorded.

Comprehensive details of any subsequent actions, explanations and decisions taken on the application or file must also be documented and maintained on the file.

If, for any reason, at any stage of the life of a policy, the Insurance Business becomes aware of any doubts as to the identity of a Client (or any other party to a policy) this must be reported to the Money Laundering Reporting Officer using the normal reporting procedure for suspicious transactions. The Money Laundering Reporting Officer may take whatever steps they consider appropriate to satisfy the Insurance Business as to the identity of the Client (or other party) and if they consider there is a suspicion they should report as detailed in Section 7.2.

Departments should be encouraged to share information which may highlight suspicious transactions e.g. underwriters and claims investigators.

7.3 Suspicion Reporting Procedure

It is appreciated that internal procedures for reporting suspicions by employees or directors to the FIU, will vary between Insurance Businesses.

Nevertheless the key principles that must be adopted in establishing these procedures are as follows:

- a. An Insurance Business shall establish written internal procedures which enable all directors, managers and employees to know to whom they should report any

knowledge or suspicions of money laundering activities.

b. Any knowledge or suspicions of money laundering activities should be reported to the Money Laundering Reporting Officer who will determine whether the information gives rise to a suspicion, investigate that suspicion; decide whether to report or not; record his action (which may involve further disclosure to the FIU)

and act as the central co-ordination point.

c. All suspicions must be reported to the FIU promptly.

d. Once a suspicion has been reported, it may not be suppressed by the Insurance Business. Although an employee's line manager may add comments and recommendations to the suspicion report to assist in evaluating the circumstances surrounding the suspicion, the report must be sent to the Money Laundering Reporting Officer and an appropriate record maintained. A suspicion is not transferable and, as such, cannot be passed on as the report is progressed within the organisation.

e. Where, in the judgement of the Money Laundering Reporting Officer, it is believed that the suspicion is well founded, the suspicion must be reported to the appropriate FIU.

7.4 General

Where a transaction has not been proceeded with for any reason, and any member of staff of the Insurance Business considers that there may be a suspicion of money laundering or other suspicious activity, normal reporting procedures should be followed.

8.0 RECORD KEEPING

8.1 Record Keeping

The records prepared and maintained by an Insurance Business on its Client relationships and transactions should be such that:

- a. requirements of legislation, including these Guidelines, are fully met;
- b. competent third parties will be able to assess the Insurance Business' observance of money laundering policies and procedures;
- c. any transactions effected via the Insurance Business can be reconstructed; and
- d. the Insurance Business can satisfy, within a reasonable time, any enquiries or court orders from the appropriate authorities as to disclosure of information.

Any records retained in computer or any other format must be capable of being reproduced in a manner acceptable to the OCI and to the Courts and in accordance with the Evidence Act Chapter 5:01.

8.2 Transaction Records

All items which constitute a transaction in the life of a contract must be recorded and be retrievable. These records must be able to show exactly what was requested by the Client and the subsequent results of processing.

For example, records showing the following may be maintained:

- a. the origin of the funds;
- b. the form in which they were offered or withdrawn i.e. cheque, cash, telegraphic transfers;

- c. the identity of the person originating the transaction;
- d. the destination of the funds;
- e. the form of instruction and authority.

8.3 Compliance Records

Insurance Businesses must maintain written records in two broad categories:-

- a. reports of suspicions; and
- b. maintenance of adequate procedures;

to demonstrate to OCI that ongoing compliance Guidelines are maintained. It must include a register for each report made to the FIU that contains the following:

- a. an outline of the circumstances of the suspicion;
- b. details of the action taken following the processing of the report within the organisation;
- c. details of the date on which the report is made;
- d. the identity of the person who makes the report;
- e. identification of the Law Enforcement Officer to whom the report is made (if applicable); and
- f. information sufficient to identify any relevant papers.

Relevant reports, disclosures to, acknowledgements and consents by the FIU must also be retained.

Records must also be kept of all reports made to the Money Laundering Reporting Officer which are not passed on to the FIU. These records should also demonstrate the decision making process and the reasons why a disclosure was not made.

A register should also be maintained of all enquiries made by law enforcement or other authorities acting under powers provided by any anti-money laundering requirements.

The register maintained above shall be kept separate from other records and shall contain as a minimum the date and nature of the enquiry, the name and agency of the inquiring officer, the powers being exercised, and details of the account(s) and/or transaction(s) involved.

9.0 STAFF AWARENESS AND TRAINING

9.1 Training Requirements

The Insurance Business shall provide, or shall arrange to be provided, education and training for all staff (new and existing) to ensure that they are, at a minimum, aware of:

- a. the provisions of the anti-money laundering requirements;
- b. their personal obligations under the anti-money laundering requirements;
- c. their personal liability for failure to report information or suspicions in accordance with the anti-money laundering requirements;
- e. the internal procedures for reporting suspicious transactions within the Insurance Business; and
- e. the identity of the Money Laundering Reporting Officer.

Draft OCI Guideline 7.0 - Anti-Money Laundering

Additionally, the Insurance Business shall provide training to assist all staff:

- a. in the recognition and handling of transactions carried out by or on behalf of, any person who is, or appears to be, engaged in money laundering;
- b. in dealing with customers where such transactions occur; and
- c. in procedures to be adopted where transactions have been reported to the FIU in accordance with this guideline, or where the FIU or any law enforcement entity are carrying out or intending to carry out a money laundering investigation.

The Insurance Business shall provide, or shall arrange to be provided, specific training appropriate to the particular categories of staff, dependent on the jobs performed which in addition to the training set out above includes:

- a. the legal obligations and the offences associated with money laundering activities;
- b. the types of suspicious transactions in respect of which diligence should be exercised;
- c. the policies and procedures in place to prevent money laundering;
- d. customer identification, record keeping and other procedures; and
- e. the recognition and handling of suspicious transactions.

Senior Staff includes directors, both executive and non-executive.

Refresher courses should be provided at regular intervals, for key, "front line", and other appropriate staff, to maintain awareness and to continue diligence of prevention procedures and regulatory requirements and to cater for significant changes to legislative, regulatory or internal requirements and/or procedures.

9.2 Training Records

Training records which demonstrate that appropriate training has been provided to all participants, including temporary staff, must be maintained by the Insurance Business.