



**GUIDANCE NOTES ON THE PREVENTION AND DETECTION OF
MONEY LAUNDERING AND TERRORIST FINANCING
IN THE CAYMAN ISLANDS**

PART V

**INSURANCE SECTOR
SECTOR SPECIFIC AML/CFT GUIDANCE NOTES**

The purpose of this part of the Guidance Notes is to provide some guidance specifically for the Insurance sector. This Insurance sector specific guidance (Part V) covers Insurance Business and, in Part V Section 2, additional guidance for Insurance Managers and should be read in conjunction with Part I and Part II of the Guidance Notes.

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SECTION 1

INSURANCE BUSINESS

A. OVERVIEW

1. The insurance market of the Cayman Islands is composed of two broad segments: the foreign market, which comprises of captive insurance companies that insure non-domestic risks (Class "B" licence) and of fully collateralised insurance linked securities structures (Class "C" license), and the domestic market (Class "A" licence), where insurers, directly or through intermediaries, sell insurance to Cayman Islands residents and business organisations. In addition, reinsurers (Class "D" license) offer reinsurance products for domestic or foreign risks.
2. While domestic insurers generally have staff or agents in the Cayman Islands, this is not always the case for captive insurance companies, which can be self-managed or managed by an insurance manager. The Insurance Law, 2010, requires Class B and C insurers to either have a physical presence or appoint an insurance manager. Insurance managers are licensed and supervised by CIMA both for prudential and AML/CFT purposes, and the insurance managers manage the day to day activities of the insurer and provide it with insurance expertise. The insurance companies within the domestic market offer their products directly as well as through intermediaries, namely insurance brokers and insurance agents.
3. The Class "B" licence is sub-divided into three categories. Class "B(i)" which includes insurers with at least 95% of the written net premiums originating from the insurer's related business. Class "B(ii)" is for insurers with over 50% of the net premiums written originating from the insurer's related business, and Class "B(iii)" includes insurers with 50% or less of the written net premiums originating from the insurer's related business.

B. SCOPE

1. The AMLRs are mainly applicable to insurance business as specified in its Schedule, which includes life and annuity business, and all of which are described as long term insurance. Whilst the AMLRs do not apply directly to general insurers, from a sound risk management and internal controls perspective, such insurers are still expected to have policies and procedures in place to prevent ML/TF, in accordance with these Guidance Notes.
2. Section 4 of the AMLRs states that the AMLCO shall ensure that measures set out in these Regulations are adopted by companies carrying out relevant financial business. For insurance business, this means companies involved in long-term business as defined within the Insurance Law (2010) (i.e. insurers, insurance managers, insurance agents, and insurance brokers). The AMLRs will therefore apply directly to insurance managers, insurance agents or insurance brokers in relation to long-term business. However, managers,

agents and brokers are still expected to have policies and procedures in place to prevent ML/TF in respect of any general insurance business they are involved in.

3. This sector specific guidance seeks to provide practical assistance to all insurers and insurance intermediaries in complying with the AMLRs, interpreting and applying the general provisions of these Guidance Notes and to adopt sound risk management and internal controls for their operations.
4. The principal obligation to perform AML/CFT procedures under the AMLRs falls on each FSP in respect of the parties with which it directly transacts, that is to say its own applicants/customers. For example, in the case of an insurance manager, its applicants will largely be insurance companies, which themselves, as licensees also, will have their own independent obligations to perform AML/CFT checks as appropriate on policyholders and beneficiaries, or others with whom they conduct relevant financial business.
5. As a practical matter, however, many insurers, particularly those without their own dedicated staff, may often delegate the operation of AML/CFT procedures to insurance managers. However, each FSP retains ultimate responsibility for ensuring that appropriate steps are taken in respect of its own applicants/customers. Where an insurer is un-staffed, section 9 of part II of the Guidance Notes as to the MLRO/AMLCO will still be applicable. In the absence of the MLRO, the Deputy MLRO shall discharge the MLRO functions.

C. ML/TF RISKS:

1. As an international financial centre, the Cayman Islands face greater external, rather than internal, ML/TF threats. Theft, corruption and drug trafficking are the main threats emanating from domestic origins. Fraud, the evasion by foreigners of taxes overseas, and drug trafficking in other jurisdictions, present potential threats to the Cayman Islands from foreign origins.
2. The ability to use the insurance sector for ML/TF is generally regarded as lower than that of other sectors such as banking, and securities, which present better opportunities for criminals to quickly deposit and withdraw funds.
3. Regardless, there is some ML/TF risk within the international insurance sector. Captive insurance companies can be formed to attempt to evade taxes in the parent's home jurisdiction and ILS structures must be vigilant to prevent criminals from laundering funds through the purchase of catastrophe bonds, for example. Some of these risks can be mitigated by ensuring the source of funds and identity of investors is understood and appropriate due diligence is performed accordingly.
4. Generally, international insurers operating as commercial insurance companies, especially those engaged in long-term insurance business or annuity products, as well as domestic insurers engaged in long-term insurance business and annuity products, may present a higher ML/TF risk compared to other insurers. Insurance fraud, including staged motor vehicle

accidents, has been known to be used as a means of raising funds for terrorist organizations.

5. Even international insurers covering their own risk/related risks, (i.e. pure captives) still have ML/TF risks and captive owners and insurance managers need to be aware and mitigate such risks. Insurance managers managing captives need to ensure they understand the rationale for the set-up of the captive and monitor any potential ML/TF risks, especially as it relates to money flows, including inter-company loans.

D. RISK BASED APPROACH

1. Companies conducting insurance business must apply a risk-based approach to mitigate the risk that their company will be used for ML/TF. The risk-based approach requires a FSP to take steps to identify the risks relating to:
 - (1) its type of customers, such as retail or corporate, and new or existing customer;
 - (2) the country or geographic area in which its customers reside or originate: for example, is it a country that has robust ML/TF regulations or not;
 - (3) the products, services and transactions of the company: for example, does the product have a cash-in value and can it easily be used for ML/TF purposes;
 - (4) the delivery channels used by the company: for example, does the company distribute its own products or does it use other intermediaries and are these intermediaries licensed by a reputable regulator or not.
2. Section 3 of Part 2 of these Guidance Notes explains how FSPs should operationalize the risk based approach. Section E below provides specific guidance for insurers and intermediaries about risk factors applicable to the business of insurance.

E. NATURE OF PRODUCTS UNDERWRITTEN/SOLD

1. The risk-based approach should lead the FSP to consider the inherent risk within the nature of the product being underwritten/sold, the amounts involved, the ability to surrender the product for a cash value, the ability to add riders to the policy, amongst other things. A few examples of these risks are provided in this section.

GENERAL (NON-LIFE)

- (1) In relation to insurance business, significant factors that will affect the level of risk of any transaction or business relationship include:
 - (a) the mode/method of payment of the premium (e.g. cash, credit card, bank transfer etc.);

- (b) the nature product to be underwritten or sold e.g. does it have a cash-in value or surrender value and can loans be taken against the policy;
 - (c) the amount of premium (e.g. higher premium policies could be more attractive to ML/TF).
- (2) A significant factor determining the level of ML/TF risk in any product is the level of premium payable on the policy and method of payment. For example, a motor policy with an annual premium of \$1000 will present a much lower risk than one on a luxury car or car fleet in the case of a commercial motor policy, which commands a much higher premium and value at risk.
- (3) Premium payments made in cash present a higher risk than payments made via a bank account. For example, premiums for property and casualty policies in the case of condominium developments may be significant and insurers should be especially vigilant when requests are made for large premiums to be paid in cash. Electronic/card or cheque payments may present a lower risk than cash, especially where large premium payments are involved, but both domestic and international insurers must be aware of the inherent risks that might emanate from electronic/card payments, such as fraud, and put appropriate controls in place.
- (4) In addition to vigilance about the means of payment, sound claims management is essential as ML/TF can occur through inflated or bogus claims, e.g. by arson or other means causing a fraudulent claim to be made.

**Features of High Risk and Low Risk
General Insurance Products with examples:**

- (5) Some of the features of high risk and low risk **general insurance** products are listed below:

Low risk	Low premiums, inability to make claims without substantial reliable evidence of loss. Note that products rated as low AML/CFT risk may also be rated a low fraud risk, but not always.
Example of low risk	A single, individual travel policy may be considered low risk simply because the premium is low and the term date is short. Other travel policies, however, for example, annual or group, may be considered to pose a relatively increased risk and thus controls should be applied appropriately.

High risk	High premium amounts and the ability to pay in cash, to overpay premiums, and to cancel the policy to seek a premium refund. Also the greater risk of fraud will generally mean a greater risk of AML/CFT.
Example of high risk	May include Cash-In-Transit policies or Fidelity Guarantees where the likelihood of manipulation and conspiracy is greater.

LONG TERM (LIFE)

Features of high risk and low risk

Long term (life) insurance products with examples:

- (6) Significant factors that will affect the level of risk of any transaction or business relationship for long-term policies include:
- (a) The nature of the product to be underwritten or sold; e.g. does it have a cash-in value or surrender value and can loans be taken against the policy.
 - (b) The mode/method of payment of the premium; e.g. cash, credit card bank transfer etc.
 - (c) The manner of transaction; e.g. face-to-face, online etc. FSPs must apply a risk-based approach and consider any additional risks that might apply to digital transactions.
 - (d) The amount of premium e.g. higher premium policies could be more attractive to ML/TF.
- (7) Some of the features of low risk and high risk **life and long-term insurance** products are listed below:

Low	1. Life insurance policies where the total premium payable annually is no more than CI\$800, or a single premium of no more than CI\$2000.
	2. Insurance policies for pension schemes if there is no surrender clause and the policy cannot be used as collateral
	3. A pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme.
High	1. Unit-linked or with profit single premium contracts
	2. Single premium life insurance policies that store cash value

	3. Fixed and variable annuities
	4. (Second hand) endowment policies ¹ .

F. SYSTEMS, POLICIES AND PROCEDURES

1. Companies conducting insurance business must establish and fully implement robust systems, policies and procedures to forestall their products and services from being used for ML/TF.
2. This will include, amongst other things, conducting risk assessments, identifying who is a customer/applicant; customer due diligence; simplified/enhanced due diligence; internal controls, ongoing monitoring, record keeping and reporting.

G. APPLICANTS - ESTABLISHING A BUSINESS RELATIONSHIP

1. Before an insurance contract is concluded between an applicant/customer and insurer there is already a pre-contractual business relationship between the customer and the person selling the policy, be that the insurer or an intermediary.
2. After a policy is taken out:
 - (1) the insurer covers a certain risk described in the contract and policy conditions;
 - (2) certain transactions may take place such as premium payments, payments of advance or final benefits; and
 - (3) certain events may occur such as a change in cover or a change of beneficiaries.
3. The insurer will need to carefully assess the specific background, and other conditions and needs of the customer. This assessment is already being carried out for commercial purposes (determining the risk exposure of the insurer and setting an adequate premium) as well as for reasons of active client management. This will lead to a client profile, which could serve as a reference to establish the purpose of the contract and to monitor subsequent transactions and events.
4. The insurer should realise that creating a customer profile is also of importance for AML/CFT purposes and therefore for the protection of the integrity of the insurer and its business. Generally, it will be appropriate to

¹ Secondhand endowment policies are also known as traded endowment policies (TEPs). Endowment policies are investment funds made up of savings, bonds, and shares. An individual wanting to cash in an endowment policy has two choices: to surrender it back to the life insurance company, generally for a poor return, or to sell it on the second-hand market, often at a much better price.

obtain information as outlined below, but other circumstances may require alternative information.

H. INSURANCE SPECIFIC INFORMATION THAT MAY BE REQUESTED TO SUPPLEMENT AS NECESSARY THAT OUTLINED IN PART II OF THESE GUIDANCE NOTES

1. The following are some of the insurance specific information that may be requested to supplement the other information required under the section "CDD" of Part II of the Guidance Notes.

Applicant business (proposer) for	Insurance specific information
Personal	<ol style="list-style-type: none"> 1. That the person is the proposer and has an insurable interest in the risk to be insured 2. The property or other risk to be insured and its valuation. 3. Any other beneficiaries with insurable interests and/or claims on the policy. 4. The source of funds for the payment of the premium.
Corporate	<ol style="list-style-type: none"> 1. That the person proposing represents and is authorised to represent the company, which has an insurable interests in the risk to be insured 2. The property or other risk to be insured, and its valuation. 3. Any other beneficiaries with insurable interests and/or claims on the policy. 4. Source of funds for the payment of the premium.

When must identity be verified?

2. In principle, identification and verification of customers and beneficial owners should normally take place when the business relationship
3. is established. This means that the policyholder (or its owner / controller) needs to be identified and their identity verified before, or at the very latest at the moment when, the insurance contract is concluded.
4. That said, identification and verification of the beneficiary may take place after the insurance contract has been concluded with the policyholder, provided the ML/TF risks are not significantly high and are effectively managed. One example could be an insurer providing a customer with immediate temporary motor insurance. However, that might be subject to the customer providing evidence of proof of his/her address within an agreed

timeline. Another example is where an insurance contract permits an applicant to delay naming a beneficiary, or permits changes to beneficiaries during the life of the insurance policy, the identity of the beneficiary may be obtained at the time the beneficiary is named.

5. However, subject to (6) below, where the verification information is not forthcoming at the outset or within a reasonable time after initial contact the proposed business relationship must be re-evaluated and transactions must not proceed.
6. Where the ML/TF risks are assessed as standard or lower than standard, and appropriate risk-mitigation measures are applied, verification of a beneficiary's identity may take place:
 - (1) At or before the time of any payout or premium refund;
 - (2) At or before the time the beneficiary exercises any vested right under the policy.

Simplified/Enhanced due diligence

7. An FSP may apply simplified customer due diligence measures where lower risks have been identified, through an adequate analysis of risks by the country or the FSP itself. The simplified measures Customer Due Diligence (CDD) shall be commensurate with the lower risk factors, but are not acceptable whenever there is suspicion of ML or TF, or higher risk scenarios apply. CDD is required on all life policies. FSPs must take due care and ensure that CDD is also carried out on life insurance beneficiaries. As outlined in the 'Systems, Policies and Procedures section' above, CDD and EDD must be ongoing and not just at the time a policy is placed on risk.
8. It is recommended that EDD be applied high risk situations and in situations where the insurer is particularly exposed to reputational risk. There will be certain occasions where enhanced due diligence will be required, for example:
 - (1) when there is no face-to-face contact with the insurer;
 - (2) where the customer is a PEP;
 - (3) where the beneficiary of a policy can be transferred; and
 - (4) when the customer is involved in a business that is considered to present a high risk for ML/TF.
9. With respect to EDD, in addition to those listed in Part II of the Guidance Notes, the following additional information might be requested in relation to the proposed transaction, business or source of funds:
 - (1) In insurance, various transactions or 'trigger events' occur after the contract date and indicate where due diligence may be required. These trigger events include claims notification, surrender requests and policy alterations, including changes in beneficiaries.

- (2) The background and purpose of such transactions should, as far as possible, be examined, the findings established in writing, and be available to help competent authorities and auditors.
- (3) In this respect "transactions" should be interpreted in a broad sense, meaning inquiries and applications for an insurance policy, requests for changes in cover, redemption, cancellation, claim submission premium payments, requests for changes in benefits, beneficiaries, duration, etc.

How should the business of the customer be monitored?

10. In general, the FSP should pay attention to all requested changes to the policy and/or exercise of rights under the terms of the contract.
11. It should assess if the change/transaction does not fit the profile of the customer and/or beneficial owner or is for some other reason unusual or suspicious.

I. ML/TF WARNING SIGNS

What warning signs or "red flags" should service providers be alert to?

1. The following are some of the warning signs or "red flags" to which FSPs should be alert. The list is not exhaustive, but includes the following:
 - (1) Requests for a return of premium to be remitted to persons other than the policy holder.
 - (2) Claims payments paid to persons other than policyholders and beneficiaries.
 - (3) Unusually complex holding company or trust ownership structure.
 - (4) Making a false claim.
 - (5) A change in beneficiaries (for instance, to include non-family members).
 - (6) A change/increase of the premium payment (for instance, which appear unusual in the light of the policyholder's income or where there are several overpayments of policy premiums after which the policyholder requests that reimbursement is paid to a third party).
 - (7) Use of cash and/or payment of large single premiums.
 - (8) Payment/surrender by a wire transfer from/to foreign parties.
 - (9) Payment by banking instruments that allow anonymity of the transaction.
 - (10) Change of address and/or place of residence of the policyholder.
 - (11) Lump sum top-ups to an existing life insurance contract.
 - (12) Lump sum contributions to personal pension contracts.
 - (13) Requests for prepayment of benefits.
 - (14) Use of the policy as collateral/security (for instance, unusual use of the policy as collateral unless it is clear that it is required for financing of a mortgage by a reputable financial institution).
 - (15) Change of the type of benefit (for instance, change of type of payment from an annuity to a lump sum payment).

- (16) Early surrender of the policy or change of the duration (particularly where this results in penalties).
 - (17) Requests for multiple policies to be taken out for premiums slightly below any publicised limits for performing checks, such as checks on the source of wealth or cash payments.
12. As the above list is not exhaustive, insurers should consider other types of transactions or trigger events, which are appropriate to their type of business.

J. RECORD KEEPING

- 1. FSPs must ensure that their record-keeping procedures are maintained in accordance with Part VIII of the AMLRs.
- 2. All records, including discharge documents must be “readily accessible” and available without delay upon request by competent authorities.

SECTION 2

INSURANCE MANAGERS

A. NATURE OF THE PRODUCTS UNDERWRITTEN/SOLD

1. ML/TF can occur either by establishing fictitious (re)insurance companies or reinsurance intermediaries, and fronting arrangements, or by the misuse of normal reinsurance transactions.
2. Examples include:
 - (1) the deliberate placement via the insurer of the proceeds of crime or terrorist funds with reinsurers in order to disguise the source of funds;
 - (2) the establishment of bogus reinsurers, which may be used to launder the proceeds of crime or to facilitate terrorist funding; and
 - (3) the establishment of bogus insurers, which may be used to place the proceeds of crime or terrorist funds with legitimate reinsurers.
3. For Class B insurers the line of business or risk assumed is much less relevant to the assessment of AML/CFT risk, than the persons or applicants involved. This is because even the typically lowest risk product could potentially be used for ML. For example, workers compensation schemes may be established for fictitious personnel or be funding mechanisms for terrorists awaiting assignment.
4. One factor that should help to mitigate this risk is the involvement of independent third parties e.g. medical practitioners, claims adjusters and government agencies to substantiate claims. In the international market the scope for lines of business in insurers is unlimited.
5. The focus for FSPs entering into relationships with Class B insurers should be the operators and owners of the insurer, the business rationale for the insurer, its relationships and source of funding.

B. APPLICANTS

6. The applicant for business may be either an existing insurer, possibly already under management and regulated, or it may be a company or group of individuals seeking to establish a new insurer.
7. The following guidance regarding due diligence and documentation to be obtained falls outside and is separate from that which the manager may necessarily obtain in preparing a licence application for an insurer or insurer to be formed as per the Insurance Law and Regulations thereunder.

C. EXISTING INSURER TO BE MANAGED

1. It is recognized that where insurers already formed and licensed are transferred to an Insurance Manager, although the insurer, as an applicant, may be regarded as an acceptable applicant for the purpose of verification requirements as per section 22 of the AMLR, the nature of the relationship between the manager and the insurer may require that additional commercial due diligence is obtained and maintained in order to discharge its obligations as manager and for on-going monitoring. See in particular Sections 27 – 29 of the AMLR.

How should the business of the customer be monitored?

2. All changes to the nature of the business of the Class B insurer should be assessed and a decision made whether such constitutes a trigger requiring further verification or investigation/information.
3. At a minimum the Annual Statement of Operations filed with the Monetary Authority provides a periodic opportunity to review the relationship and the business of the customer, or upon renewal of the service agreement.

D. ML/TF WARNING SIGNS

What warning signs or “red flags” should service providers be alert to?

1. The following are some of the warning signs or “red flags” to which service providers should be alert. The list is not exhaustive, but includes the following:
 - (1) Requests for a premium refund to be remitted to persons other than the policy holder.
 - (2) Dividends paid to persons other than shareholders.
 - (3) Unusually complex holding company or trust ownership structure.
 - (4) Concealment of identity of the client or the beneficial owner; or of the ownership of funds.
 - (5) Incomplete application details and lack of willingness to provide evidence to answers required.
 - (6) Unexplained changes in investment pattern; investment taken against advice or not appropriate to insurer's real needs;
 - (7) Sudden changes in intermediary transaction pattern;
 - (8) Unexplained receipt of bulk premiums from intermediary accounts.
 - (9) Third party transactions (payments or withdrawals);
 - (10) Multiple sources of payment or cross jurisdiction funding for payment;
 - (11) Payment of premiums from early surrender of another investment in unusual circumstances;
 - (12) Payment from obscure or unregulated organisations;
 - (13) Unnecessarily complex transactions or intentions;
 - (14) Requests for part investment and return of surplus funds;
 - (15) Immediate interest in surrender penalties or requests for large withdrawals or policy loans;
 - (16) Early surrender of a contract;

- (17) Receipt of unexplained wire transfers and requests to return wire transfers;
- (18) Requests for no correspondence to go to client.

E. RECORD KEEPING

What specific AML/CFT records should be kept and where?

- 1. See Sections 31 and 32 of the AMLRs and, in addition, all documentation listed above together with initial and subsequent information necessary for on-going monitoring should be held, whether as duplicate or back up by the Manager at its office in Cayman.

F. OTHER RELEVANT SECTORS

- 1. Catastrophe bonds and other Insurance Linked Securities (ILS) may be a source for ML/TF due to the large amount of money that is invested into them. FSPs need to apply a risk-based approach to ensure they understand who the customer/investors are; the source of funds; the jurisdictions of the customer/investors; the beneficial owners of the policy, where a trust structure might be in place; and means of payments such as cash and bank transfers.