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

June 1, 2001

These Guidance Notes have been prepared by the Cayman Islands Monetary Authority and the professional associations for general guidance. This document should not be relied upon in respect of points of law. Reference for that purpose should be made to the appropriate statutory provisions. However, the document will be taken into account by the courts in determining whether a person has complied with the Money Laundering Regulations, 2000.

Issued by the Cayman Islands Monetary Authority and the following associations:

The Bankers Association, the Funds Administrators Association; the Company Managers Association; the Insurance Managers Association; and The Society of Trust and Estate Practitioners (Cayman Islands Branch).

The following associations have also indicated that they expect their members to observe these guidance notes insofar as they conduct relevant financial business, within the scope of the regulations:

Cayman Islands Real Estate Brokers Association, the Cayman Islands Society of Professional Accountants, the Cayman Islands Law Society, the Caymanian Bar Association and the Compliance Association.

Contact: Cayman Islands Monetary Authority
Elizabethan Square
P.O. Box 10052 APO
Grand Cayman
Cayman Islands

Tel: 345-949-7089
Fax: 345-945-6131
Website: www.cimoney.com.ky
Email: CIMA@cimoney.com.ky
FOREWORD

The Cayman Islands as a leading international financial centre has framed its regulatory system around international standards of supervision and co-operation with overseas regulatory authorities in the fight against financial crime. The Islands seek to maintain their position as a premier jurisdiction, while at the same time ensuring that its institutions can operate in a competitive manner.

These Guidance Notes provide guidelines that should be adopted by those involved in the provision of financial services in order to maintain the integrity of the Cayman Islands’ financial sector in respect of money laundering. For the purposes of providing guidance to the industry with respect to money laundering, these notes replace the Code of Practice, which was previously issued under the Proceeds of Criminal Conduct Law (2000 Revision). The Code of Practice has been withdrawn and should no longer be referred to as a point of guidance to the industry.

These guidance notes are based on similar Guidance Notes issued by the UK and some of the Overseas Territories and Crown Dependencies, modified to accord with the laws of the Cayman Islands. The Cayman Islands are grateful to these countries for allowing them to draw on their guidance notes as well as to the authors of the Code of Practice.

The Cayman Islands Monetary Authority stands ready to discuss individual cases with Financial Services Providers to assist in practical implementation. We hope that you find the enclosed guidelines of assistance.
CONTENTS

SECTION 1 - INTRODUCTION.................................................................................................................. 6
- WHAT IS MONEY LAUNDERING? ........................................................................................................ 7
- AREAS OF CONCERN ......................................................................................................................... 7
- NEED FOR VIGILANCE ....................................................................................................................... 8
- COMPLIANCE CULTURE .................................................................................................................... 9

SECTION 2 - CAYMAN ISLANDS LEGISLATIVE AND REGULATORY FRAMEWORK ................................................. 10
- OUTLINE OF THE OFFENCES ........................................................................................................... 10
- PENALTIES ........................................................................................................................................ 11
- OUTLINE OF THE DEFENCES .......................................................................................................... 11
- TIPPING OFF ..................................................................................................................................... 12
- REQUIREMENTS OF THE MONEY LAUNDERING REGULATIONS .................................................. 12
- BUSINESSES COVERED BY THE REGULATIONS ........................................................................... 13

SECTION 3 – IDENTIFICATION PROCEDURES .................................................................................. 15
- GENERAL ........................................................................................................................................... 15
- DIRECT PERSONAL CLIENTS ............................................................................................................ 16
  (a) Identification .............................................................................................................................. 16
  (b) Documentation for evidence of identity ..................................................................................... 17
  (c) Persons without standard identification documentation ........................................................... 18
  (d) Verification of name and address .............................................................................................. 18
  (e) Certification of identification documents ................................................................................... 19
- CORPORATE CLIENTS ..................................................................................................................... 20
- PARTNERSHIPS/UNINCORPORATED BUSINESSES ...................................................................... 21
- TRUST AND FIDUCIARY CLIENTS .................................................................................................... 22
- OTHERS: .......................................................................................................................................... 23
  (a) Internet banking and investment business accounts ................................................................. 23
  (b) Provision of safe custody and safety deposit boxes ................................................................. 23
TIMING AND DURATION OF VERIFICATION ................................................................. 23

PROCEDURES FOR INTRODUCED BUSINESS .......................................................... 24
(a) Corporate Groups .................................................................................................. 25
(b) Entities Governed by the Regulations and Overseas Financial Institutions .......... 25
(c) Professional Intermediaries in Countries with Equivalent Legislation ................. 25
(d) General ................................................................................................................... 26
(e) Payment on an Account in a Bank in the Cayman Islands or Country with Equivalent Legislation .............................................................................................................. 26

EXCEPTIONS TO VERIFICATION REQUIREMENTS ............................................... 27
(a) One-off transactions and Exempted one-off transactions ...................................... 28
(b) Postal, telephonic and electronic business .............................................................. 28
(c) Exempted Clients (where documentary evidence of identity is not normally required) 29

TREATMENT OF BUSINESS RELATIONSHIPS EXISTING PRIOR TO ENACTMENT OF THE REGULATIONS .............................................................. 30

SECTION 4 - ON-GOING MONITORING OF BUSINESS RELATIONSHIPS .................. 32
MONITORING ................................................................................................................ 32
"HOLD MAIL" ACCOUNTS ............................................................................................ 33
ELECTRONIC PAYMENT AND MESSAGE SYSTEMS ................................................. 33

SECTION 5 – INTERNAL REPORTING PROCEDURES FOR SUSPICIOUS ACTIVITIES .............................................................................................................. 34
APPOINTING AN MLRO TO WHOM ALL REPORTS OF KNOWLEDGE OR SUSPICION OF MONEY LAUNDERING ARE MADE ......................................................... 34
IDENTIFYING THE MLRO AND REPORTING CHAINS ........................................... 34
IDENTIFYING SUSPICIONS .......................................................................................... 35
QUESTIONS TO ASK YOURSELF ................................................................................. 36
CASH TRANSACTIONS ................................................................................................. 36
ROLE OF STAFF MEMBERS ...................................................................................... 37
THE ROLE OF THE MLRO .......................................................................................... 37
REPORTING SUSPICIONS TO THE REPORTING AUTHORITY ............................... 38
REPORTING DECLINED BUSINESS ............................................................................................................................................. 39

SECTION 6 - TRAINING AND AWARENESS ................................................................................................................................. 40

THE TIMING AND CONTENT OF TRAINING PROGRAMMES ........................................................................................................ 40

STAFF AWARENESS ........................................................................................................................................................................ 40

NEW EMPLOYEES ............................................................................................................................................................................. 40

OPERATIONS STAFF ........................................................................................................................................................................... 41

TRAINING FOR SUPERVISORS AND MANAGERS ......................................................................................................................... 41

TRAINING FOR MONEY LAUNDERING REPORTING PERSONNEL (MLRO) .................................................................................... 42

CONTINUING VIGILANCE AND REFRESHER TRAINING ............................................................................................................. 42

SECTION 7 - RECORD KEEPING PROCEDURES ............................................................................................................................. 43

GENERAL .......................................................................................................................................................................................... 43

GROUP RECORDS ............................................................................................................................................................................... 44

TRAINING RECORDS ......................................................................................................................................................................... 44

ESTABLISHMENT OF REGISTERS ................................................................................................................................................ 44

SECTION 8 –SECTOR SPECIFIC GUIDANCE ........................................................................................................................................ 45

MUTUAL FUNDS ................................................................................................................................................................................. 45

BANKING ........................................................................................................................................................................................................................................ 53

COMPANY FORMATION AND MANAGEMENT ........................................................................................................................................... 58

TRUSTS ............................................................................................................................................................................................................................................ 61

INSURANCE .......................................................................................................................................................................................................................... 65

SECTION 9 -APPENDICES ........................................................................................................................................................................ 68

Appendix A - Background Information On Money Laundering ............................................................................................................. 68

Appendix B - International Initiatives To Combat Money Laundering .................................................................................................... 72


Appendix D - Anti-Money Laundering Flowchart Summary Of Identification Checks......................................................... 92

Appendix E - Request For Verification Of Customer Identity ........................................................................................................... 93

Appendix F - Eligible Introducer's Form .................................................................................................................................................. 94

Appendix G - Introduced Business Flow Chart ........................................................................................................................................... 95
SECTION 1 - INTRODUCTION

1.1 The prevention of laundering the proceeds of crime has become a major priority for all jurisdictions from which financial activities are carried out. One of the best methods of preventing and deterring money laundering is a sound knowledge of a customer’s business and pattern of financial transactions and commitments. The adoption of procedures by which Financial Services Providers “know their customer” is not only a principle of good business but is also an essential tool to avoid involvement in money laundering. For the purposes of these guidance notes the term Financial Services Providers refers to businesses carrying on relevant financial business as defined under the legislation.

1.2 These Guidance Notes are designed to assist Financial Services Providers in complying with the Cayman Islands money laundering regulations. It is recognised that Financial Services Providers may have systems and procedures in place which, whilst not identical to those outlined in these Guidance Notes, nevertheless impose controls and procedures which are at least equal to, if not higher than, those contained in these Guidance Notes. This will be taken into account by the Monetary Authority in the assessment of a Financial Services Provider's systems and controls and compliance with the Regulations.

1.3 In some respects, these Guidance Notes go beyond the requirements of the Money Laundering Regulations. Nonetheless, it is expected that all institutions conducting relevant financial business pay due regard to all the Guidance Notes in developing responsible anti-money laundering procedures suitable to their situation. If a Financial Services Provider appears not to be doing so the Monetary Authority will seek an explanation and may conclude that the Financial Services Provider is carrying on business in a manner that may give rise to sanctions under the applicable legislation.

1.4 It is important that the management of Financial Services Providers view money laundering prevention as part of their risk management strategies and not simply as a stand-alone requirement that is being imposed by the legislation. Money laundering prevention should not be viewed in isolation from an institution’s other business systems and needs.

1.5 Throughout these Guidance Notes there is reference to an ‘account’ or ‘accounts’ and procedures to be adopted in relation to them. This is a matter of convenience and has been done for illustrative purposes. It is recognised that these references may not always be appropriate to all types of relevant financial business covered by the Regulations. Where there are provisions in these guidelines relating to an account or accounts these will have relevance to mainstream banking activity but should, by analogy, be adapted appropriately to the situations covered by other relevant business. For example ‘account’ could refer to bank accounts, mutual funds or other investment product, trusts or a business relationship etc.
What is Money Laundering?

1.6 Money laundering is the process by which the direct or indirect benefit of crime is channeled through financial institutions to conceal the true origin and ownership of the proceeds of criminal activities. If successful, the money can lose its criminal identity and appear legitimate.

1.7 In basic terms, the money launderer wants to:-

(a) place his money in the financial system, without arousing suspicion;
(b) move the money around, often in a series of complex transactions crossing multiple jurisdictions, so it becomes difficult to identify its original source; and
(c) then move the money back into the financial and business system, so that it appears as legitimate funds or assets.

A more detailed analysis of the background to money laundering, the processes the launderer follows, and international initiatives to prevent it, are included as Appendices A, and B respectively.

Areas of Concern

1.8 No financial sector is immune from the activities of criminals and all Financial Services Providers should consider the money laundering risks posed by the products and services that they offer, and devise and document their procedures with due regard to that risk.

1.9 Historically money laundering has been concentrated on the traditional banking sector. However criminals have responded to the measures taken by banks and have sought to convert illegally earned funds or mix them with legitimate income before they enter the banking system, thus making them harder to detect. Non-bank financial institutions have become increasingly vulnerable to being used for money laundering.

1.10 The highest risk category relates to those products or services where unlimited third party funds can be freely received, or where funds can be regularly paid to, or received from third parties without evidence of identity of the third parties being taken. Examples of products in the highest risk category are, products offering money transfer facilities through chequebooks, telegraphic transfers, deposits from third parties, cash withdrawals, credit and debit cards or other means.

1.11 Some of the lowest risk products are those in which funds can only be received from a named investor by means of a payment from an account held in the name of the investor, and where the funds can only be returned to the named investor. No third party funding or payments are possible. However, despite their apparent low risk, they are not immune
from money laundering. The geographical location of a Financial Services Provider’s customer base will also affect the money laundering risk analysis. Financial Services Providers that have a significant proportion of their customer base located in countries:

- without equivalent money laundering strategies; or
- where cash is the normal medium of exchange; or
- where there is a politically unstable regime with high levels of public or private sector corruption; or
- that are known to be drug producing or drug transit countries,

will need to ensure that additional ‘Know Your Customer’ (KYC) and/or monitoring procedures are in place to manage the enhanced risks of money laundering. Countries with equivalent anti-money laundering strategies are listed in Schedule 3 of the Regulations (see Appendix C). This list represents countries which are considered by the Monetary Authority to have enacted legislation to safeguard their financial systems and to combat money laundering to the required standard and equivalent to legislation enacted in the Islands.

NEED FOR VIGILANCE

1.12 All institutions should be constantly vigilant in deterring criminals from engaging in any form of money laundering. Although the task of detecting crime falls to law enforcement agencies, Financial Services Providers will be called upon to assist law enforcement agencies in the avoidance and detection of money laundering activities and to react in accordance with the law in the reporting of knowledge or suspicion of such.

1.13 Institutions exercise due diligence by ensuring that the following systems are in place:

- Procedures for the determination and confirmation of the true identity of customers requesting their services and the nature of business that the customer expects to conduct;
- Ongoing monitoring of business relationships;
- The recognition and reporting of suspicious activities to the Reporting Authority;
- Maintenance of records for the prescribed period of time;
- Training of key staff;
- Close liaison with the Reporting Authority in relation to suspicious activity reporting and with the Monetary Authority on matters concerning vigilance policy and systems; and
• Ensuring that internal auditing and compliance departments regularly monitor and make recommendations for the update of vigilance systems.

1.14 Due to the diversity of Financial Services Providers, the nature and scope of their vigilance systems will vary according to the size and nature of the institution. However, irrespective of these factors, all institutions must exercise sufficient vigilance to ensure consistency with the procedures as outlined in these Guidance Notes.

1.15 The “Appropriate Person” as defined in the legislation will be referred to in these guidance notes as the Money Laundering Reporting Officer (MLRO). Vigilance systems should enable staff to react effectively to suspicious circumstances by reporting them to the relevant MLRO within the organization. Staff should be adequately trained to enable them to identify such activity and be trained in the internal reporting systems required for compliance with the regulations. Staff training should be documented and will be subject to regulatory review. It is “good practice” for all institutions to maintain and regularly review their instruction manual for all employees relating to entry, verification and recording of customer information and reporting procedures.

1.16 The MLRO should be a senior member of staff who acts as the main point of contact with the Reporting Authority and who has the authority to ensure internal compliance with the regulations.

1.17 In dealing with customers the duty of vigilance starts with the commencement of a business relationship or a significant one-off transaction and continues until that relationship ends. However, the keeping of records upon the cessation of the relationship must be in conformity with the record keeping procedures outlined in these Guidance Notes.

1.18 Financial Services Providers should not hesitate from asking their customers "awkward” questions in circumstances of unusual activity. Any failure by the customer to provide credible answers will almost always give grounds for further enquiry about his activities, make the Financial Services Provider reconsider the wisdom of doing business with him and, potentially, lead to a suspicious activity report being made.

**COMPLIANCE CULTURE**

1.19 It is recognised that Financial Services Providers exist to make a profit. Nevertheless, each Financial Services Provider should give due priority to establishing and maintaining an effective compliance culture.

1.20 The business objectives of customer care are closely aligned to the regulatory objectives of the KYC principle. Similarly linked are the philosophies behind the
regulatory objectives of protecting the reputation of the Cayman Islands and the commercial desirability of protecting the reputation of individual corporations.

1.21 In these respects all Financial Services Providers are urged to give much consideration to ensuring that they encourage an open and welcoming approach to compliance and anti-money laundering issues amongst staff and management.

SECTION 2 - CAYMAN ISLANDS LEGISLATIVE AND REGULATORY FRAMEWORK

OUTLINE OF THE OFFENCES

2.1 The legislation specifically relating to money laundering is contained in the Proceeds of Criminal Conduct Law, (2000 Revision) and the Misuse of Drugs Law, 2000 Revision.

2.2 The money laundering offences are, in summary:

· Providing assistance to another in an arrangement which helps him to retain or control benefits of his criminal conduct. This may be by concealment, removal from the jurisdiction, transfer to nominees or otherwise. In relation to drug trafficking this offence is to be found in Section 47 of the Misuse of Drugs Law, 2000 Revision, and in respect of other serious offences it is to be found section 22 of the Proceeds of Criminal Conduct Law, (2000 Revision)

· For a person to be convicted of this offence, he must know or suspect that the other person is someone who is or has been engaged in criminal conduct or has benefited from criminal conduct.

· The acquisition, possession or use (even temporary) of property knowing that it represents the proceeds of criminal conduct. This is to be found in Section 23 of the Proceeds of Criminal Conduct Law (2000 Revision) and Section 48 of the Misuse of Drugs Law, 2000 Revision.

· Tipping off the target or a third party about an investigation or proposed investigation into money laundering, any matter which is likely to prejudice such an investigation or a report to the Reporting Authority.

· Section 24 of the Proceeds of Criminal Conduct Law (2000 Revision) creates the offence of concealing or disguising property which is the proceeds of criminal conduct, or converting or transferring that property or removing it from the jurisdiction. The section applies to a person’s own proceeds of criminal conduct or
where he knows or has reasonable grounds to suspect that the property he is dealing with represents the proceeds of another’s criminal conduct.

· Failure to make a disclosure to the Reporting Authority as soon as reasonably practicable after knowledge or suspicion of money laundering comes to a person’s attention in the course of his trade, profession, business or employment, is an offence. This is to be found in section 27 of the Proceeds of Criminal Conduct Law (2000 Revision).

2.3 It is not necessary that the original offence from which the proceeds stem was committed in the Cayman Islands if the conduct would also constitute an indictable offence had it taken place within the Islands i.e. an offence which is sufficiently serious to be tried in the Grand Court.

2.4 No duty is imposed on a Financial Services Provider to inquire into the criminal law of another country in which the conduct may have occurred. The question is whether the conduct amounts to an indictable offence in the Cayman Islands or would if it took place in the Cayman Islands. A Financial Services Provider is not expected to know the exact nature of criminal activity concerned or that the particular funds in question are definitely those which flow from the crime.

**PENALTIES**

2.5 Tipping off carries a maximum of 5 years imprisonment and an unlimited fine. The other offences carry a maximum penalty of 14 years imprisonment and an unlimited fine. No prosecution may be brought without the consent of the Attorney General.

**OUTLINE OF THE DEFENCES**

2.6 There are general defences enabling a defendant to prove, for example, that he did not suspect that an arrangement related to the proceeds of criminal conduct or that it facilitated the retention or control of the proceeds by the criminal. There are also specific defences provided by reporting a suspicious transaction. It will not be an offence to act in accordance with an arrangement which would otherwise be a crime if a report is made of the suspicion about the source of the funds or investment. If a disclosure of the arrangement is made before the action in question or volunteered as soon as it reasonably might be after the action, no offence is committed.

2.7 The Proceeds of Criminal Conduct Law provides that a person making a report does not put himself at risk of prosecution by continuing the relevant action (e.g. immediate execution of a transaction or a mandate), before receiving a consent to do so from the
authorities. Whether or not it will be appropriate for the Financial Services Provider to stop the relevant transaction must depend on the circumstances.

2.8 An employee who makes a report to his employer in accordance with established internal procedures is specifically protected by the Proceeds of Criminal Conduct Law, (2000 Revision) sections 22, 23 and 27.

2.9 There is a risk that efforts to detect money laundering and follow the assets will be impeded by the use of alternative undetected channels for the flow of illegal funds consequent on an automatic cessation of business (because a service provider suspected that funds stemmed from illegal activity). To avoid that risk, Financial Services Providers are permitted to report their suspicions to the Reporting Authority but continue the business relationship or transaction. In carrying out transactions where an institution is considering making a suspicious activity report, the institution should consider duties owed to third parties such as in the case of a constructive trustee. In such cases, it is recommended that independent legal advice is sought.

2.10 By section 27 of the Proceeds of Criminal Conduct Law (2000 Revision), it is a criminal offence to fail to disclose knowledge or suspicion of money laundering. Financial Services Providers should place themselves in a position to assist in the investigation of crime and to benefit from the statutory defence. It is a defence to a charge of committing an offence under section 27 if the person charged had a reasonable excuse for not disclosing the information or other matter in question.

2.11 A report of a suspicious activity made to the Reporting Authority does not give rise to any civil liability to the client or others and does not constitute, under Cayman Islands law, a breach of a duty of confidentiality. There are statutory safeguards governing the use of information received by the Reporting Authority.

TIPPING OFF

2.12 Disclosure to a third party may constitute a criminal offence if the disclosure is likely to prejudice the investigation and it relates to the fact that a report of a suspicious activity has been made, that a police investigation is under way (or proposed) or that access to information orders under the money laundering legislation have been made or are sought.

2.13 It follows that caution must be adopted in determining what may be disclosed to a client in the event that a report of suspicious activity is made or information obtained about money laundering investigations.

REQUIREMENTS OF THE MONEY LAUNDERING REGULATIONS.
2.14 The *Money Laundering Regulations, 2000* require that relevant persons have in place anti-money laundering policies, procedures and practices, as summarised in section 5(1) of the Regulations. *Financial Services Providers* should always refer to the provisions of the Regulations in determining the exact requirements applying to them.

2.15 The Regulations are included in these Guidance Notes as Appendix C. Specifically, the Regulations require that relevant persons should not form business relationships or carry out one-off transactions with or for another person unless they:-

(a) Maintain procedures which establish the identity of the *Applicant for Business* in accordance with regulations 7 and 9.

(b) Maintain record keeping procedures in accordance with regulation 12.

(c) Adopt appropriate internal controls and communication procedures in accordance with regulation 14.

(d) Provide appropriate training for employees in accordance with regulation 5 (c).

(e) Establish internal reporting procedures in accordance with regulation 14.

**BUSINESSES COVERED BY THE REGULATIONS**

2.16 Although the primary legislation applies to all persons and businesses, the Regulations place additional legal and administrative requirements on relevant businesses. The definitions of *relevant financial businesses* are detailed in Regulation 4(1), these are:

(a) Banking or Trust business carried on by a person who is a licensee under the *Banks and Trust Companies Law (2000 Revision)*;

(b) Building Societies licensed under the *Building Societies (Amendment) (Regulation by Monetary Authority) Law, 2000*.

(c) Co-operatives licensed under the *Cooperative Societies (Amendment)(Credit Unions) Law, 2000*.

(d) Insurance business and the business of an insurance manager, an insurance agent, an insurance sub-agent or an insurance broker within the meaning of the *Insurance Law (1999 Revision)*;

(e) Mutual Fund Administration or the business of a regulated mutual fund regulated under the *Mutual Funds Law (1999 Revision)*.

(f) Company Management as defined in the *Companies Management Law, 1999*; and
(g) Any of the activities set out in Schedule 2 of the Regulations (Appendix C)
SECTION 3 – IDENTIFICATION PROCEDURES

GENERAL

3.1 Two important aspects of knowing your customer are to
   (a) be satisfied that a prospective customer is who he/she claims to be; and is
       the ultimate client.
   (b) ensure that sufficient information is obtained on the nature of the business
       that the customer expects to undertake, and any expected, or predictable
       pattern of transactions.

3.2 When considering entering into a business relationship, certain principles should be
   followed when ascertaining the level of identification and verification checks to be
   completed. See Appendix D for a flow chart summary of the different steps involved.

3.3 Reasonable measures should be taken to obtain sufficient information to distinguish those
   cases in which a business relationship is commenced or Relevant Financial Business is
   conducted with a person acting on behalf of others. If it is established that a client is
   acting on behalf of another (this also includes providing to his own client, fiduciary or
   nominee services or holds funds on “client accounts” which are omnibus accounts) then
   the procedures for verifying the identity of the Applicant for Business as set out in these
   Guidance Notes should be applied.

3.4 If the intermediary applicant for business identified in paragraph 3.3 meets both of the
   following criteria:

   a) acts in the course of business in relation to which an overseas regulatory authority
      exercises regulatory functions; and
   b) is based or incorporated in or formed under the law of a country specified in a
      Schedule 3 country,

   then the Financial Services Provider should require the Applicant for Business to
   complete and sign the Eligible Introducers form in appendix F or its functional
   equivalent. If the intermediary Applicant for Business does not meet the above criteria,
   then full KYC procedures as outlined in these guidance notes should be followed.

3.5 There are situations in which a client is dealing in his own name on behalf of his own
   clients; for example, an attorney may himself enter into an arrangement on behalf of his
   client or a fund manager may operate an account with a bank for the benefit of a number
   of clients not identified to the Financial Services Provider. In this sort of case the
   intermediary is the Applicant for Business of the Financial Services Provider rather than
   the underlying clients for which the intermediary acts.
3.6 The position of the intermediary Applicant for Business must be distinguished from that of a person (an ‘introducer’) who introduces a client (which may also be his client). The Introducer may then withdraw from the business relationship established with the person he has just introduced or may provide other collateral services for him, for example by passing on instructions. The person who is being introduced is the Applicant for Business of the Financial Services Provider. It is the identity of the introduced Applicant for Business which must then be established.

3.7 Whenever appropriate and practical the prospective customer should be interviewed personally. If the prospective client fails or is unable to provide adequate evidence of identity or in circumstances in which the Financial Services Provider is not satisfied that the transaction for which it is or may be involved is bona fide, an explanation should be sought and a judgment made as to whether it is appropriate to continue the relationship, what other steps can be taken to verify the client’s identity and whether or not a report to the Reporting Authority ought to be made.

In circumstances in which the relationship is discontinued, funds held to the order of the prospective client should be returned only to the source from which they came and not to a third party.

3.8 Below are the key principles that Financial Services Providers should follow. Verification of identity is a cumulative process. Except for small one-off transactions, it is not sufficient to rely on a sole piece of evidence of identity.

**DIRECT PERSONAL CLIENTS**

(a) Identification

3.9 It will be normally be necessary to obtain the following documented information concerning direct personal customers subject to paragraph 3.67.

(i) full name/names used;
(ii) correct permanent address including postcode, (if appropriate);
(iii) date and place of birth;
(iv) nationality;
(v) occupation;
(vi) the purpose of the account;
(vii) estimated level of turnover expected for the account; and
(viii) the source of funds (i.e. generated from what transaction or business.)

3.10 In the case of non-resident prospective clients, identification documents of the same sort which bear a photograph and are pre-signed by the client should normally be obtained.
This evidence should, where possible, be supplemented by a bank reference with which the client maintains a current relationship or other appropriate reference. Financial Services Providers should be aware that other identifying information when practicable, for example, a social insurance number could be of material assistance in an audit trail. In any event, the true name, current address or place of business date of birth and nationality of a prospective client should be recorded.

3.11 Nationality should be established to ensure that the Applicant for Business is not from a nation which is subject to sanctions by the United Nations or similar prohibition from any other official body or government which would prohibit such business being transacted. Information on the status of sanctions can be obtained from the Foreign and Commonwealth Office in the UK, for which the website address is http://www.fco.gov.uk.

3.12 Obtaining a date of birth provides an extra safeguard if, for example, a forged or stolen passport or driving licence is used to confirm identity which bears a date of birth that is clearly inconsistent with the age of the person presenting the document.

3.13 Information about a person’s residency and/or nationality is also useful in assessing whether a customer is resident in a high-risk country.

(b) Documentation for evidence of identity

3.14 Information and documentation should be obtained and retained to support, or give evidence to, the details provided by the Applicant for Business.

3.15 Identification documents, either originals or certified copies, should be pre-signed and bear a photograph of the applicant, e.g.:-

(i) Current valid passport;
(ii) Armed Forces ID card;
(iii) A Cayman Islands employer ID card bearing the photograph and signature of the applicant; or
(iv) Provisional or full drivers licence bearing the photograph and signature of the applicant.

3.16 Identification documents which do not bear photographs or signatures, or are easy to obtain, are normally not appropriate as sole evidence of identity, e.g. birth certificate, credit cards, non-Cayman Islands provisional driving licence, student union cards. Any photocopies of documents showing photographs and signatures should be plainly legible. Where applicants put forward documents with which a Financial Services Provider is unfamiliar, either because of origin, format or language, the Financial Services Provider must take reasonable steps to verify that the document is indeed genuine, which may
include contacting the relevant authorities or obtaining a notarised translation. Financial Services Providers should also be aware of the authenticity of passports.

(c) Persons without standard identification documentation

3.17 Irrespective of the type of business, it is recognised that certain classes of customers, such as the elderly, the disabled, students and minors, may not be able to produce the usual types of evidence of identity, such as a driving licence or passport. In these circumstances, a common sense approach and some flexibility without compromising sufficiently rigorous anti-money laundering procedures is recommended. The important point is that a person's identity can be verified from an original or certified copy of another document, preferably one with a photograph.

3.18 If information cannot be obtained from the sources referred to below to enable verification to be completed and the account to be opened, a request may be made to another institution or institutions for confirmation of identity (as opposed to a banker’s reference). Failure of that institution to respond positively and within a reasonable time should put the requesting institution on its guard.

(d) Verification of name and address

3.19 Financial Services Providers should also take appropriate steps to verify the name and address of applicants by one or more methods, e.g. :-

   (i) obtaining a reference from a "respected professional" who knows the applicant;
   (ii) checking the register of electors;
   (iii) making a credit reference agency search;
   (iv) checking a local telephone directory;
   (v) requesting sight of a recent rates or utility bill. Care must be taken that the document is an original and not a copy, or
   (vi) personal visit to the home of the applicant where possible.

3.20 The term ‘respected professional’ could be applied to for instance, lawyers, accountants, directors or managers of a regulated institution, priests, ministers or teachers.

3.21 Where an applicant's address is temporary accommodation, for example an expatriate on a short term overseas contract, Financial Services Providers should adopt flexible procedures to obtain verification under other categories, such as copy of contract of employment, or banker's or employer's written confirmation.

3.22 In circumstances where an accountholder appoints another person as an account signatory e.g. appointing a member of his family, full identification procedures should also be carried out on the new account signatory.
3.23 The form in Appendix E may be used for verification of identity, to supplement the identification documentation already held, and is an alternative to the procedures in 3.19.

3.24 For the avoidance of doubt, the form in Appendix E is not intended to be used as the sole means of obtaining evidence of identity of an applicant, but is designed to be a standardised means by which verification can be obtained concerning identification evidence already obtained.

(e) Certification of identification documents

(i) Suitable certifiers

3.25 A certifier must be a suitable person, such as for instance a lawyer, accountant, director or manager of a regulated credit or financial institution, a notary public, a member of the judiciary or a senior civil servant. The certifier should sign the copy document (printing his name clearly underneath) and clearly indicate his position or capacity on it together with a contact address and phone number.

3.26 The list above of suitable certifiers is not intended to be exhaustive, and Financial Services Providers should exercise due caution when considering certified copy documents, especially where such documents originate from a country perceived to represent a high risk, or from unregulated entities in any jurisdiction. Where certified copy documents are accepted, it is the Financial Services Provider's responsibility to satisfy itself that the certifier is appropriate. In all cases, Financial Services Providers should also ensure that the customer's signature on the identification document matches the signature on the application form, mandate, or other document.

(ii) Face-to-face

3.27 Where possible, face-to-face customers must show Financial Services Providers’ staff original documents, and copies taken immediately and retained and certified by a senior staff member.

(iii) Non face-to-face

3.28 Where it is impractical or impossible to obtain sight of original documents, a copy is acceptable where it has been certified by a suitable certifier as being a true copy of the original document and that the photo is a true likeness of the Applicant for Business.

(iv) Intra-group

In intra-group business, Financial Services Providers should ensure that the certification of documents is in accordance with group policies.

Policy & Research Division
Cayman Islands Monetary Authority
CORPORATE CLIENTS

3.29 It will be normally be necessary to obtain the following documented information concerning corporate clients:-

(i) Certificate of Incorporation or equivalent, details of the registered office, and place of business;

(ii) Explanation of the nature of the applicant's business, the reason for the relationship being established, an indication of the expected turnover, the source of funds, and a copy of the last available financial statements where appropriate;

(iii) Satisfactory evidence of the identity of each of the principal beneficial owners being any person holding 10% interest or more or with principal control over the company’s assets and any person (or persons) on whose instructions the signatories on the account are to act or may act where such persons are not full time employees, officers or directors of the company;

(iv) In the case of a bank account, satisfactory evidence of the identity of the account signatories, details of their relationship with the company and if they are not employees an explanation of the relationship. Subsequent changes to signatories must be verified;

(v) Evidence of the authority to enter into the business relationship (for example, a copy of the Board Resolution authorising the account signatories in the case of a bank account);

(vi) Copies of Powers of Attorney, or any other authority, affecting the operation of the account given by the directors in relation to the company;

(vii) Copies of the list/register of directors;

(viii) Satisfactory evidence of identity must be established for two directors, one of whom should if applicable, be an executive director where different from account signatories.

3.30 Consideration should also be given to whether it is desirable to obtain a copy of the memorandum and articles of association, or by-laws of the client.

3.31 Where the Financial Services Provider feels that there may be additional settlement, credit, or money laundering risk, it may obtain further evidence in order to reassure itself, which might include a full list of shareholders.
3.32 It is sometimes a feature of corporate entities being used to launder money that account signatories are not directors, managers or employees of the corporate entity. In such circumstances, Financial Services Providers should exercise caution, making sure to verify the identity of the signatories, and where appropriate, monitoring the ongoing business relationship more closely.

3.33 For the purposes of these Guidance Notes, a ‘beneficial owner’ is a person on whose behalf an account is opened, a business relationship is established or a transaction is conducted. In some cases the identity of beneficial ownership may not always be the most relevant factor in establishing the control of a corporate client. In such circumstances focus should be placed upon principal control of the operation of the corporate entity. Financial Services Providers should therefore exercise prudent judgement in the spirit of these Guidance Notes in the identification verification process in such cases and the Monetary Authority will seek explanations for the approach adopted during the course of onsite inspections.

3.34 Where it is impractical or impossible to obtain sight of the original Certificate of Incorporation or equivalent, Financial Services Providers may accept a suitably certified copy in accordance with the procedures stated in paragraphs 3.25 to 3.28 of the Guidance Notes.

3.35 It is recognised that on some occasions companies may be used as a disguise for their beneficial owner. These are sometimes referred to as ‘shell companies’. There is concern about the use of such companies to conduct money laundering. Financial Services Providers should therefore be alert to their potential for abuse. In keeping with these Guidance Notes, institutions should obtain satisfactory evidence of the identity of beneficial owners, directors and authorized signatories of shell companies. Where the shell company is introduced to the Financial Services Provider by a professional intermediary acting on its behalf, Financial Services Providers should follow the procedures for introduced business outlined in these Guidance Notes.

**PARTNERSHIPS/UNINCORPORATED BUSINESSES**

3.36 In the case of Cayman Islands limited partnerships and other unincorporated businesses or partnerships in which, for example, the general partner does not fall within the exempted category set out in this section, Financial Services Providers should obtain, where relevant:

- Identification evidence for at least two partners/controllers and/or authorised signatories, in line with the requirements for direct personal clients. When authorised signatories change, care should be taken to ensure that the identity of the current signatories has been verified.
Evidence of the trading address of the business or partnership should be obtained and a copy of the latest report and accounts (audited where applicable).

An explanation of the nature of the business or partnership should be ascertained (but not necessarily verified from a partnership deed) to ensure that it has a legitimate purpose. In cases where a formal partnership arrangement exists, a mandate from the partnership authorising the opening of an account or undertaking the transaction and conferring authority on those who will undertake transactions should be obtained.

**TRUST AND FIDUCIARY CLIENTS**

3.37 Trusts and other fiduciary relationships can be useful to criminals wishing to disguise the origin of funds, if the trustee or fiduciary does not carry out adequate procedures. So particular care is needed on the part of the Financial Services Provider when the Applicant for Business is a trustee or fiduciary who is not an Exempted Client (see paragraph 3.65) or an *Eligible Introducer* (see paragraph 3.51). In such cases the Financial Services Provider should normally, in addition to obtaining identification evidence for the trustee(s) and any other person who has signatory powers on the account:

· make appropriate enquiry as to the general nature of the trust (e.g. family trust, pension trust, charitable trust etc) and the source of funds;

· obtain identification evidence for the settlor(s), i.e. the person(s) whose property was settled on the trust; and

· in the case of a nominee relationship, obtain identification evidence for the beneficial owner(s) if different to the settlor(s).

In some cases it may be impractical to obtain all of the above (e.g. if the settlor has died). Discretion must be exercised but in a manner consistent with the spirit of these Guidance Notes.

Financial Services Providers providing trustee services should refer to section 8 of these Guidance Notes for guidance.
OTHERS:

(a) Internet banking and investment business accounts

3.38 Banking and investment business on the Internet add a new dimension to Financial Services Providers’ activities. The unregulated nature of the Internet is attractive to criminals, opening up alternative possibilities for money laundering, and fraud.

3.39 It is recognized that on-line transactions and services are convenient. However, it is not appropriate that Financial Services Providers should offer on-line live account opening allowing full immediate operation of the account in a way which would dispense with or bypass normal identification procedures.

3.40 However, initial application forms could be completed on-line and then followed up with appropriate identification checks. The account, in common with accounts opened through more traditional methods, should not be put into full operation until the relevant account opening provisions have been satisfied in accordance with these Guidance Notes.

3.41 The development of technologies such as encryption, digital signatures, etc., and the development of new financial services and products, makes the Internet a dynamic environment offering significant business opportunities. The fast pace of technological and product development has significant regulatory and legal implications, and the Monetary Authority is committed to keeping up to date with any developments on these issues through future revisions to its Guidance Notes.

(b) Provision of safe custody and safety deposit boxes

3.42 Where facilities to hold boxes, parcels and sealed envelopes in safe custody are made available, it is expected that Financial Services Providers will follow the identification procedures set out in these Guidance Notes. In addition such facilities should only be made available to account holders.

(c) Managed Financial Services Providers

3.43 For the avoidance of doubt, those Financial Services Providers which are managed by other Financial Services Providers retain the ultimate responsibility for ensuring that the money laundering regulations are complied with.

TIMING AND DURATION OF VERIFICATION

3.44 The best time to undertake verification is prior to entry into the business relationship. Verification of identity should, as soon as is reasonably practicable, be completed before any transaction is completed.
3.45 However, if it is necessary for sound business reasons to open an account or carry out a significant one-off transaction before verification can be completed, this should be subject to stringent controls which should ensure that any funds received are not passed to third parties. Alternatively, a senior member of staff may give appropriate authority. This authority should not be delegated, and should only be done in exceptional circumstances. Any such decision should be recorded in writing.

3.46 Verification, once begun, should normally be pursued either to a satisfactory conclusion or to the point of refusal. If a prospective customer does not pursue an application, staff may (or may not) consider that this is in itself suspicious.

3.47 In cases of telephone or electronic business where payment is or is expected to be made from a bank or other account, the person verifying identity should:

- satisfy himself/herself that such account is held in the name of the Applicant for Business at or before the time of payment, and
- not remit the proceeds of any transaction to the Applicant for Business or his/her order until verification of identity has been completed.

**PROCEDURES FOR INTRODUCED BUSINESS**

3.48 As a general rule, Financial Services Providers should obtain documentary evidence of identity of all clients as required by these Guidance Notes but there are circumstances in which obtaining such evidence may be unnecessary duplication, commercially onerous and of no real assistance in the identification of or subsequent investigation into money laundering. It may then be appropriate to place reliance on the due diligence procedures of others who have conducted client verification procedures substantially in accordance with the Guidance Notes. The Eligible Introducer’s Form in Appendix F or its functional equivalent should be completed in these circumstances.

3.49 It may not be necessary to obtain information and documentary evidence of client identity where there is an Eligible Introducer. An Eligible Introducer is defined as one who falls within one of the categories detailed below in paragraphs 3.50 to 3.55. The Financial Services Provider is ultimately responsible for ensuring that adequate due diligence procedures are followed. Only senior management should take the decision that reliance may be placed on the Eligible Introducer and the basis for deciding that normal due diligence procedures need not be followed should be recorded and the record retained in accordance with the Regulations. (See Appendix G, Introduced Business flow chart).
(a) Corporate Groups

3.50 When the prospective client is introduced by one part of a group to another and a new business relationship is being established, it is not necessary for identity to be re-verified or for records to be duplicated provided that the identity of the client has been verified by the introducing parent company, branch, subsidiary or affiliate in a manner compatible with the Regulations and provided that written confirmation is obtained that the identification records will on request be provided. *Institutions that are relying on intra-group introductions must be certain that any group policy is absolutely adhered to and is at least as high a standard as detailed in these Guidance Notes.*

(b) Entities Governed by the Regulations and Overseas Financial Institutions

3.51 The Introducer should complete the Eligible Introducers Form or its functional equivalent (see Appendix F) where the client is introduced by:
   a) An entity in the Cayman Islands to which the Regulations apply,
   b) A member of a local association or professional body to whom the regulations apply, which is subject to disciplinary procedures for failure to conduct relevant financial business in accordance with these Guidance Notes, or
   c) A *Financial Institution* in a country with equivalent legislation.

(c) Professional Intermediaries in Countries with Equivalent Legislation

3.52 It may be possible to rely on another’s due diligence procedures when the *Introducer* is a firm of lawyers or accountants which is regulated in a country with equivalent legislation (see Schedule 3 of the Regulations, Appendix C) or is a member of a professional body which is subject to disciplinary procedures for failure to conduct relevant financial business in accordance with equivalent rules and guidelines to these Guidance Notes. This can only be done when senior management of the *Financial Services Provider* has taken suitable steps to satisfy itself that the intermediary is itself established and reputable. For this purpose it is not sufficient that the intermediary has an entry in a professional directory.

3.53 In the above cases the *Introducer* should complete the Eligible Introducer’s Form in Appendix F or its functional equivalent.
(d) General

3.54 If an Introducer fails or is unable to provide a written confirmation or undertaking of the sort required above, the relationship must be reassessed and a judgment made as to what other steps to verify identity are appropriate or whether or not the relationship should be discontinued.

3.55 Following introduction by an Eligible Introducer, it will not usually be necessary to re-verify identity or duplicate records in respect of each transaction or piece of business.

(e) Payment on an Account in a Bank in the Cayman Islands or Country with Equivalent Legislation

3.56 As provided for in Regulation 8 of the Money Laundering Regulations, when a financial transaction involves payment by the client and he does so by remitting funds from an account held in his name at a bank in the Cayman Islands or a bank regulated in a Schedule 3 country, it may be unnecessary to take any further steps to verify client identity. The Financial Services Provider should however, have evidence identifying the branch or office of the Bank and verifying that the account is in the name of the client.

It may be reasonable for example, to take no further steps to verify identity when payment is made by cheque or electronically and sent either by mail or electronically from an account (or joint account) in the client’s name at a bank in a Schedule 3 country if it does not fall within the following categories:

a) the circumstances of the payment are such that a person handling the transaction knows or suspects that the applicant for business is engaged in money laundering, or that the transaction is carried out on behalf of another person engaged in money laundering; or

b) the payment is made for the purpose of opening a relevant account with a bank in the Cayman Islands; or

c) onward payment is to be made in such way that it is not or does not result in-

   i) a reinvestment on behalf of the applicant with the same institution engaged in relevant financial business, or

   ii) a payment directly to the applicant.
If the payment does fall into one of the above categories then the evidence of identity of the applicant must be obtained in accordance with the full identification procedures as outlined in this chapter of the guidance notes unless the payment is being made by operation of law (i.e. the payment of the proceeds requires to be made to a trustee in bankruptcy, a liquidator, a trustee for an insane person or a trustee of the estate of a deceased person).

When payment does not fall in one of the categories set out above, and is made with no additional verification undertaken, a record should usually be retained indicating how the transaction arose in addition to a record of the relevant branch or office and the account name. In addition, the Financial Services Provider should take steps to ensure that, in relation to any reinvestment or repayment, there is no apparent variation between the name on the initial payment instrument and the form or request related to any reinvestment or repayment.

EXCEPTIONS TO VERIFICATION REQUIREMENTS

3.57 Unless a transaction is a suspicious one, documentary evidence of identity is not normally required in the following circumstances. In the event of any knowledge or suspicion that money laundering has or is occurring, the exemptions and concessions set out below do not apply and the case should be treated the same as one requiring verification and reporting.
Exempted Categories

(a) One-off transactions and Exempted one-off transactions

3.58 As defined in the Regulations, a "one-off transaction" means any transaction other than a transaction carried on in the course of an established business relationship formed by a person acting in the course of relevant financial business.

3.59 As defined in the Regulations, an "exempted one-off transaction" means a one-off transaction (whether a single transaction or a series of linked transactions) where the amount of the transaction or the aggregate of a series of linked transactions is less than CI$15,000 or the equivalent in any other case.

3.60 Financial Services Providers need to be vigilant at all times that the total of a series of linked transactions does not exceed the exempted limit of CI$15,000.

3.61 As a matter of best practice, a time period of 12 months for the identification of linked transactions is normally acceptable. However there is some difficulty in defining an absolute time scale that linked transactions may fall within. Therefore the relevant procedures for linking will ultimately depend on the characteristics of the product rather than relating to any arbitrary time limit. For example, Financial Services Providers should be aware of any obvious connections between sender of funds and the recipient.

3.62 Verification of identity will not normally be needed in the case of an exempted one-off transaction referred to above. If, however, the circumstances surrounding the exempted one-off transaction appear to the Financial Services Provider to be unusual or questionable, it is likely to be necessary to make further enquiries. Depending on the result of such enquiries, it may then be necessary to take steps to verify the proposed client’s identity. If money laundering is known or suspected, the Financial Services Provider should not refrain from making a report in line with Section 7(1) of the Regulations simply because of the size of the transaction.

(b) Postal, telephonic and electronic business

3.63 In the following paragraph the expression “non-paying account” is used to mean an account or investment product which does not provide:

- cheque or other money transmission facilities, or

- the facility for transfer of funds to other types of account which do provide such facilities, or
the facility for repayment or transfer to a person other than the Applicant for Business whether on closure or maturity of the account, or on realization or maturity of the investment, or otherwise.

3.64 Given the above definition, where an Applicant for Business pays or intends to pay monies to an institution by post, or electronically, or by telephoned instruction, in respect of a non-paying account and:

- it is reasonable in all the circumstances for payment to be made by such means; and
- such payment is made from an account held in the name of the Applicant for Business at another regulated financial institution or foreign regulated institution in a Schedule 3 country, and
- the name(s) of the Applicant for Business corresponds with the name(s) of the paying account-holder; and
- the receiving institution keeps a record of the applicant’s account details with that other institution; and
- there is no suspicion of money laundering,

the receiving institution is entitled to rely on verification of the Applicant for Business by that other institution to the extent that it is reasonable to assume that verification has been carried out and completed.

(c) Exempted Clients (where documentary evidence of identity is not normally required)

3.65 Documentary evidence of identity will not normally be required if the client:

(a) is a central or local government, statutory body or agency of government;

(b) is regulated by the Monetary Authority or is a broker member of the Cayman Islands Stock Exchange as defined in the Cayman Islands Stock Exchange Membership Rules;

(c) is a Financial Institution in a country with equivalent legislation as listed in Schedule 3 of the Regulations (Appendix C);

(d) is a company quoted or fund listed on the Cayman Islands Stock Exchange or other market or exchange approved by the Monetary Authority. These are
listed in Appendix H. This list is subject to review and may be updated periodically;

(e) is a subsidiary of a company or a Financial Services Provider referred to in sub-paragraphs (a), (b), (c) and (d) above or has common ownership. In such cases it may be appropriate to obtain written confirmation of the relationship from the holding or parent company or the partnership;

(f) is a pension fund for a professional association, trade union or is for employees of an entity referred to in subparagraphs (a), (b), (c) and (d) above. Satisfactory evidence that the fund falls within this category may be provided by a copy of a certificate of registration, approval or regulation by a government, regulatory or fiscal authority in the jurisdiction in which the fund is established. In the absence of such certificate, Financial Services Providers are recommended to obtain the names and addresses of the trustees of the fund (if a trust) or otherwise those empowered to take decisions in respect of it;

if reliance is to be placed on the fact that a client is an exempted client the Financial Services Provider should satisfy himself appropriately that he does in fact fall within this category. The Financial Services Provider should record the basis upon which he is so satisfied.

TREATMENT OF BUSINESS RELATIONSHIPS EXISTING PRIOR TO ENACTMENT OF THE REGULATIONS

3.66 Section 17 of the Money Laundering Regulations requires that verification of the identity of persons with whom a business relationship was formed before 1st September 2000 be completed by December 31st 2002. An extension of six months may be granted by Executive Council upon request.

3.67 It is clear that certain business relationships established prior to the enactment of the Regulations (1st September, 2000) can still present a major threat of money laundering, and indeed, it is a widely recognised tactic for money launderers to establish seemingly legitimate and normally-run accounts which are then used for laundering money at a later date. Financial Services Providers are encouraged to adopt the following procedure:

a) Conduct a risk assessment, and make a distinction between high and low risk cases.

b) Give immediate priority to obtaining necessary information for the identified high risk cases.

c) Conduct the necessary due diligence on the remaining low risk cases over a longer term.

d) Ensure that the necessary information is obtained on all existing customers in accordance with these Guidance Notes by December 31st 2002.
3.68 Financial Services Providers should have a plan for this exercise and risk prioritization must be conducted on an ongoing basis. The Monetary Authority will be examining the extent to which institutions are following the above procedure during the course of onsite inspections.

3.69 When an existing customer closes one account and opens another, or enters into a new agreement to purchase products or services, there is no need to verify identity or address. However, the opportunity should be taken to confirm the relevant customer information. This is particularly important if there has been no recent contact or correspondence with the customer e.g. within the last 12 months or when a previously dormant account has been reactivated.

3.70 Other than in cases where persons do not have standard identification documents as outlined in paragraph 3.17, an introduction from a respected customer personally known to a Director, Manager or member of staff, will often provide comfort but must not replace the address verification procedures described in these Guidance Notes. Details of who initiated the account and authorized the introduction must be kept. Directors/Senior Managers must ensure that normal identification procedures are not waived as a favour to the applicant.
SECTION 4 - ON-GOING MONITORING OF BUSINESS RELATIONSHIPS

4.1 Once the identification procedures have been completed and the client relationship is established, Financial Services Providers should monitor the conduct of the relationship/account to ensure that it is consistent with the nature of business stated when the relationship/account was opened.

MONITORING

4.2 Financial Services Providers are expected to have systems and controls in place to monitor on an ongoing basis the relevant activities in the course of the business relationship. The nature of this monitoring will depend on the nature of the business. The purpose of this monitoring is for Financial Services Providers to be vigilant for any significant changes or inconsistencies in the pattern of transactions. Inconsistency is measured against the stated original purpose of the accounts. Possible areas to monitor could be:

(a) transaction type
(b) frequency
(c) amount
(d) geographical origin/destination
(e) account signatories

4.3 It is recognised that the most effective method of monitoring of accounts is achieved through a combination of computerised and human manual solutions. A corporate compliance culture, and properly trained, vigilant staff through their day-to-day dealing with customers, will form an effective monitoring method as a matter of course. Computerised approaches may include the setting of “floor levels” for monitoring by amount.

4.4 Whilst some Financial Services Providers may wish to invest in expert computer systems specifically designed to assist the detection of fraud and money laundering, it is recognized that this may not be a practical option for many Financial Services Providers for the reasons of cost, the nature of their business, or difficulties of systems integration, in such circumstances institutions will need to ensure they have alternative systems in place. Appendix K includes examples of suspicious activities.
"Hold Mail" Accounts

4.5 "Hold Mail" accounts are accounts where the accountholder has instructed the Financial Services Provider not to issue any correspondence to the accountholder's address. Although this is not necessarily a suspicious act in itself, the such accounts do carry additional risk to Financial Services Providers, and they should exercise due caution as a result.

4.6 Regardless of the source of "Hold Mail" business, it is recommended on a best practice basis that evidence of identity of the accountholder should be obtained by the Financial Services Provider, even where the client was introduced by an Eligible Introducer. "Hold Mail" accounts should be regularly monitored and reviewed.

4.7 It is recommended that Financial Services Providers have controls in place for when existing accounts change status to "Hold Mail", and that the necessary steps to obtain the identity of the account holder are taken where such evidence is not already on the Financial Services Providers file.

4.8 Accounts with a "c/o" address should not be treated as "Hold Mail" accounts, as mail is being issued, albeit not necessarily to the accountholder's address. There are of course many genuine innocent circumstances where a "c/o" address is used, but Financial Services Providers should monitor such accounts more closely as they represent a higher risk.

4.9 Financial Services Providers should incorporate procedures to check the current permanent address of hold mail customers wherever the opportunity arises.

Electronic Payment and Message Systems

4.10 Financial Services Providers must ensure that details of senders and beneficiaries are incorporated in all payment messages sent via electronic payment and message systems such as SWIFT.

Records of all electronic payments and messages must be retained in accordance with section 7 of these Guidance Notes.
SECTION 5 – INTERNAL REPORTING PROCEDURES FOR SUSPICIOUS ACTIVITIES

5.1 Financial Services Providers must establish a written internal procedures manual so that, in the event of a suspicious activity being discovered, all staff are aware of the reporting chain and the procedures to follow. Such manuals should be periodically updated to reflect any legislative changes.

APPOINTING AN MLRO TO WHOM ALL REPORTS OF KNOWLEDGE OR SUSPICION OF MONEY LAUNDERING ARE MADE.

5.2 Financial Services Providers should appoint a suitably qualified and experienced officer of their institution to whom suspicious activity reports must be made by staff. It is generally expected that the MLRO would be a senior member of staff carrying out a Compliance, Audit or Legal role within the Financial Services Providers' business. It is also recommended that Financial Services Providers appoint a Deputy, who should be a staff member of similar status and experience to the MLRO.

5.3 The MLRO should be well versed in the different types of transaction which the institution handles and which may give rise to opportunities for money laundering. Appendix K gives examples of common transaction types which may be relevant. These are not intended to be exhaustive.

5.4 In cases where the Financial Services Provider is located overseas the Monetary Authority should be notified of the details of the MLRO. Where there is a physical presence, there must a locally resident MLRO.

IDENTIFYING THE MLRO AND REPORTING CHAINS

5.5 All staff engaged in the business of the Financial Services Providers at all levels must be made aware of the identity of the MLRO and his Deputy, and the procedure to follow when making a suspicious activity report. All relevant staff must be aware of the chain through which suspicious activity reports should be passed to the MLRO.

A suggested format of an internal report form is set out in Appendix I.

5.6 Financial Services Providers should ensure that staff report all suspicious activities to the MLRO, and that “any such report be considered in the light of all other relevant information by the MLRO, or by another designated person, for the purpose of
determining whether or not the information or other matter contained in the report does give rise to a knowledge or suspicion.” See section 14(b) of the Regulations.

5.7 Where staff continue to encounter suspicious activities on an account which they have previously reported to the MLRO, they should continue to make reports to the MLRO whenever a further suspicious transaction occurs, and the MLRO should determine whether a disclosure in accordance with the legislation is appropriate.

5.8 All reports of suspicious activities must reach the MLRO and only the MLRO should have the authority to determine whether a disclosure in accordance with the legislation is appropriate. However the line/relationship manager can be permitted to add his comments to the suspicion report indicating any evidence as to why he/she believes the suspicion is not justified.

IDENTIFYING SUSPICIONS

5.9 A suspicious activity will often be one that is inconsistent with a customer’s known, legitimate activities or with the normal business for that type of account. Therefore, the first key to the recognition is knowing enough about the customer and the customer’s normal expected activities to recognize when a transaction, or series of transactions, is unusual.

5.10 Although these Guidance Notes tend to focus on new business relationships and transactions, institutions should be alert to the implications of the financial flows and transaction patterns of existing customers, particularly where there is a significant, unexpected and unexplained change in the behaviour of an account.

5.11 As the types of transactions which may be used by money launderers are almost unlimited, it is difficult to define a suspicious transaction. However, it is important to properly differentiate between the terms "unusual" and "suspicious".

5.12 Where a transaction is inconsistent in amount, origin, destination, or type with a customer's known, legitimate business or personal activities, the transaction must be considered unusual, and the staff member put “on enquiry”.

5.13 Where the staff member conducts enquiries and obtains what he considers to be a satisfactory explanation of the unusual activity, he may conclude that there are no grounds for suspicion, and therefore take no further action as he is satisfied with matters. However, where the enquiries conducted by the staff member do not provide a satisfactory explanation of the activity, he may conclude that there are grounds for suspicion requiring disclosure.

5.14 Activities which should put staff on enquiry may be recognizable as falling into one or
more of the following categories. This list is not meant to be exhaustive.

- any unusual financial activity of the customer in the context of his own usual activities;
- any unusual transaction in the course of some usual financial activity;
- any unusually-linked transactions;
- any unusual employment of an intermediary in the course of some usual transaction or financial activity;
- any unusual method of settlement;
- any unusual or disadvantageous early redemption of an investment product;
- any unwillingness to provide the information requested.

**QUESTIONS TO ASK YOURSELF**

5.15 The following factors should be borne in mind when seeking to identify a suspicious transaction. This list is not meant to be exhaustive.

(a) Is the customer known personally?
(b) Is the transaction in keeping with the customer's normal activity known to the Financial Services Provider, the markets in which the customer is active and the customer's own business? (i.e. does it make sense?)
(c) Is the transaction in keeping with normal practice in the market to which it relates i.e. with reference to market, size and frequency?
(d) Is the role of the agent involved in the transaction unusual?
(e) Is the transaction to be settled in the normal manner?
(f) Are there any other transactions linked to the transaction in question which could be designed to disguise money and divert it into other forms or to other destinations or beneficiaries? And,
(g) Can you understand the reasons for the transaction i.e. might there be an easier, cheaper or more convenient method available?

**CASH TRANSACTIONS**

5.16 Given the international nature of the business conducted by many Financial Services Providers, cash transactions may be relatively uncommon, whereas for banks, building
societies or money services businesses offering services to local customers, cash transactions may be a normal every-day service to many customers.

5.17 Where cash transactions are being proposed by customers, and such requests are not in accordance with the client's known reasonable practice, many Financial Services Providers will need to approach such situations with caution and make further relevant enquiries.

5.18 Depending on the type of business each Financial Services Provider conducts and the nature of its client portfolio, each may wish to set its own parameters for the identification and further investigation of cash transactions. Where the staff member of the Financial Services Provider has been unable to satisfy himself that any cash transaction is reasonable activity, and therefore he considers it suspicious, he should make a disclosure as appropriate.

5.19 Whilst certain cash transactions may lead the Financial Services Providers to make further enquiries to establish or dispel suspicion, it goes without saying that equal vigilance must be applied to transactions which do not involve cash.

ROLE OF STAFF MEMBERS

5.20 Staff should be required to report any suspicion of laundering either directly to their MLRO or, if the institution so decides, to their line manager for preliminary investigation in case there are any known facts which may negate the suspicion subject to paragraph 5.8.

5.21 Employees should comply at all times with the vigilance systems of their institution and will be treated as having met appropriate standards of vigilance if they disclose their suspicions to their MLRO or other appropriate senior colleague according to the vigilance systems in operation in their institution.

THE ROLE OF THE MLRO

5.22 On receipt of a report concerning a suspicious customer or suspicious activity the MLRO should determine whether the information contained in such report supports the suspicion. He should investigate the details in order to determine whether in all the circumstances he in turn should submit a report to the Reporting Authority.

5.23 If the MLRO decides that the information does substantiate a suspicion of laundering, he must disclose this information promptly. If he decides that the information does not substantiate a suspicion, he would nevertheless be well advised to record fully the reasons for his decision not to report to the Reporting Authority.
5.24 It is for each institution (or group) to consider whether its vigilance systems should require the MLRO to report suspicions within the institution (or group) to the inspection or compliance department at head office.

5.25 Failure by the MLRO to diligently consider all relevant material may lead to vital information being overlooked and the suspicious activity not being disclosed to the Reporting Authority in accordance with the requirements of the legislation. Alternatively, it may also lead to vital information being overlooked which may have made it clear that a disclosure would have been unnecessary. As a result, it is recommended that the MLRO should establish and maintain a register of money laundering referrals made to him by staff.

5.26 Staff members should note that in the event of suspicion of money laundering, a disclosure should be made even where there has been no transaction by or through the Financial Services Provider. Staff members should ensure that they do not commit the offence of tipping off the customer who is the subject of the disclosure.

REPORTING SUSPICIONS TO THE REPORTING AUTHORITY

5.27 If the MLRO decides that a disclosure should be made, a report, preferably in standard form (see Appendix J), should be sent to the Reporting Authority.

5.28 If the MLRO considers that a report should be made urgently (e.g. where the account is already part of a current investigation), initial notification to the Reporting Authority should be made by telephone, email, or other means and must be followed up in writing as soon as is reasonably practicable.

5.29 The receipt of a report will be promptly acknowledged by the Reporting Authority. The report is forwarded to trained financial investigation officers who alone have access to it. They may seek further information from the reporting institution and elsewhere. It is important to note that after a reporting institution makes an initial report in respect of a specific suspicious activity, that initial report does not relieve the institution of the need to report further suspicions in respect of the same customer or account and the institution should report any further suspicious activity involving that customer.

5.30 Vigilance systems should require the maintenance of a register of all reports made to the Reporting Authority pursuant to this paragraph. Such registers should contain details of:

- the date of the report;
- the person who made the report;
- the person(s) to whom the report was forwarded; and
• a reference by which supporting evidence is identifiable.

5.31 The Reporting Authority will keep the reporting institution informed of the interim and final result of investigations following the reporting of a suspicion to it. The Reporting Authority will endeavour to issue an interim report to the institution at regular intervals and in any event to issue the first interim report within one month of the report being made. In addition, at the request of the reporting institution, the Reporting Authority will promptly confirm the current status of such an investigation. Suspicious activity disclosure should be sent directly to the Reporting Authority at the following address:

The Reporting Authority  
P.O. Box 1054  
George Town, Grand Cayman  
Telephone: (1345) 945-6267  
Facsimile: (1345) 945-6268

REPORTING DECLINED BUSINESS

5.32 It is normal practice for many Financial Services Providers to turn away business that they suspect might be criminal in intent or origin. While this is commendable the Financial Services Providers should give consideration as to whether they are obliged in such circumstances to make a report, albeit that no transaction has taken place.

5.33 Reporting of such events will allow the Reporting Authority to build a clearer picture of the money laundering threat to the Island, and to use such intelligence on a proactive basis. Furthermore, the Financial Services Provider should refrain from referring such business to other Financial Services Providers.

5.34 The reporting of declined business is consistent with developing international best practice.
SECTION 6 - TRAINING AND AWARENESS

6.1 The communication of a Financial Services Provider’s policies and procedures to prevent money laundering and the training on how to apply those procedures, underpin all other anti-money laundering strategies.

6.2 Financial Services Providers should ensure that all appropriate staff, (in accordance with Section 5(1) of the Regulations), receive training on money laundering prevention on a regular basis, ensure all staff fully understand the procedures and their importance, and ensure that they fully understand that they will be committing criminal offences if they contravene the provisions of the legislation.

THE TIMING AND CONTENT OF TRAINING PROGRAMMES

6.3 Although general provisions are made in Section 5(1) of the Regulations, they do not specify the exact nature of training to be given to staff, and therefore each Financial Services Provider can tailor its training programmes to suit its own needs, depending on size, resources and the type of business they undertake. Smaller organisations with no in-house training function may wish to approach third parties such as specialist training agencies, firms of attorneys or legal practitioners, or the major firms of accountants or management consultants. Training should be structured to ensure compliance with all of the requirements of the applicable legislation.

STAFF AWARENESS

6.4 Staff should appreciate the serious nature of the background against which the Regulations have been issued. They should be aware of their own personal obligations and of their personal liability under the legislation should they fail to report information in accordance with internal procedures and legislation. All staff should be encouraged to co-operate fully and provide a prompt and adequate report of any suspicious activities.

6.5 All staff need to be fully educated in the "Know Your Customer" requirements for the prevention of money laundering. Training should therefore cover not only the need to know the customer's true identity, but also, where a business relationship is being established, the need to know enough about the type of business activity expected in relation to the customer at outset (and on an ongoing basis) so that suspicious activity can be identified in the future.

NEW EMPLOYEES

6.6 Irrespective of seniority, all new employees should be given a general introduction to the background to money laundering and the procedures for reporting suspicious activities to the MLRO, prior to them becoming actively involved in day to day operations.
employees should also receive a clear indication of the importance placed on money laundering issues by the organisation, of the legal requirement to report, and of their personal legal obligations in this regard.

**OPERATIONS STAFF**

6.7 Staff who deal with the public such as cashiers, dealers, sales persons etc., are the first point of contact with potential money launderers, and their efforts are vital to an organisation's effectiveness in combating money laundering. Staff responsible for opening new accounts or dealing with new customers should be aware of the need to verify the customer's identity, for new and existing customers and be aware of the procedures for treatment of declined business as outlined in these Guidance Notes. Training should be given on the factors which may give rise to suspicions about a customer's activities, and on the procedures to be adopted when a transaction is considered to be suspicious.

6.8 Staff involved in the processing of deals or transactions should receive relevant training in the processing and verification procedures, and in the recognition of abnormal settlement, payment or delivery instructions. Staff should be aware of the types of suspicious activities which may need reporting to the relevant authorities regardless of whether the transaction was completed. Staff should also be aware of the correct procedure to follow in such a circumstance.

6.9 All staff should be vigilant in circumstances where a known, existing customer opens a new and different type of account, or makes a new investment e.g. a banking customer with a personal account opening a business account. Whilst the Financial Services Provider may have previously obtained satisfactory identification evidence for the customer, the Financial Services Provider should take steps to learn as much as possible about the customer's new activities.

**TRAINING FOR SUPERVISORS AND MANAGERS**

6.10 Although Executive Directors and Senior Managers may not be involved in the day-to-day procedures for handling transactions that may relate to money laundering, it is important that they understand the statutory duties placed on them, their staff and the firm itself given that these individuals are involved in signing off procedures.

6.11 Supervisors and managers should receive a higher level of training covering all aspects of money laundering procedures, including the offences and penalties arising from the relevant primary legislation for non-reporting or for assisting money launderers, the procedures relating to dealing with production and restraint orders and the requirements for verification of identity and retention of records.
TRAINING FOR MONEY LAUNDERING REPORTING PERSONNEL (MLRO)

6.12 MLROs (and also Deputy MLROs) should receive in-depth training on all aspects of the primary legislation, the Regulations and internal policies. They should also receive appropriate initial and ongoing instruction on the determination and reporting of suspicious activities, on the feedback arrangements and on new trends of criminal activity.

CONTINUING VIGILANCE AND REFRESHER TRAINING

6.13 Over time, due to the multiple demands placed on their time, there is a danger that staff may become less vigilant concerning money laundering, and therefore it is vital that all staff receive appropriate refresher training to maintain the prominence that money laundering prevention requires, and that they fully appreciate the importance that their employer places on it and their obligations arising from it.
SECTION 7 - RECORD KEEPING PROCEDURES

GENERAL

7.1 Institutions should keep appropriate evidence of client identification, account opening or new business documentation. Adequate records identifying relevant financial transactions should be kept for a period of 5 years following the closing of an account, the end of the transaction or the termination of the business relationship.

7.2 Where there has been a report of a suspicious activity or the Financial Services Provider is aware of a continuing investigation into money laundering relating to a client or a transaction, records relating to the transaction or the client should be retained until confirmation is received that the matter has been concluded.

7.3 Records relating to verification of identity will generally comprise:

- a description of the nature of all the evidence received relating to the identity of the verification subject;
- the evidence itself or a copy of it or, if that is not readily available, information reasonably sufficient to obtain such a copy.

7.4 Records relating to transactions will generally comprise:

- details of personal identity, including the names and addresses, of:
  
  (1) the customer;
  
  (2) the beneficial owner of the account or product;
  
  (3) any counter-party;

- details of securities and investments transacted including:
  
  (4) the nature of such securities/investments;
  
  (5) valuation(s) and price(s);
  
  (6) memoranda of purchase and sale;
  
  (7) source(s) and volume of funds and bearer securities;
(8) destination(s) of funds and bearer securities;
(9) memoranda of instruction(s) and authority(ies);
(10) book entries;
(11) custody of title documentation;
(12) the nature of the transaction;
(13) the date of the transaction;
(14) the form (e.g. cash, cheque) in which funds are offered and paid out.

GROUP RECORDS

7.5 There may be circumstances in which group records are stored centrally off island. However, Financial Services Providers should ensure that appropriate records are maintained and can be retrieved promptly on request.

TRAINING RECORDS

7.6 So that Financial Services Providers can demonstrate that they have complied with the provisions of Section 5(1) of the Regulations concerning staff training, they should maintain records which include:

(i) details of the content of the training programmes provided;
(ii) the names of staff who have received the training;
(iii) the date on which the training was delivered;
(iv) the results of any testing carried out to measure staff understanding of the money laundering requirements; and
(v) an on-going training plan.

ESTABLISHMENT OF REGISTERS

7.7 A Financial Services Provider should maintain a register of all enquiries made to it by the Reporting Authority and all disclosures to the Reporting Authority. The register should be kept separate from other records and contain as a minimum the following details:

• the date and nature of the enquiry,
• details of the account(s) involved; and
• be maintained for a period of at least 5 years.
SECTION 8 – SECTOR SPECIFIC GUIDANCE

This section is intended to deal with specialised areas of relevant financial business which require more explanation and raise more complex issues than are dealt with in the general body of these Guidance Notes. This section must be read in conjunction with the other sections of these Guidance Notes.

The following types of relevant financial business are covered by these sector specific guidance notes:

- Mutual funds
- Banking
- Company formation and management
- Creation and administration of Trusts
- Insurance

MUTUAL FUNDS

“MF” means “Mutual Fund” which will include a unit trust although if there is any doubt about the relevance of these notes to unit trusts then reference should be made to the separate notes in this section on Trusts and Fiduciary Services and paragraph 3.37 of the Notes.

“MFA” means “Mutual Fund Administrator” defined in the Mutual Funds Law (MFL) as managing (including controlling all or substantially all the assets of the mutual fund), administering the mutual fund, providing the principal office of the mutual fund in the Cayman Islands or providing an operator to the mutual fund (Section 2, MFL). An operator is defined as being the trustee of a unit trust, general partner of a partnership or director of a company (Section 2, MFL).

“Professional advisor” is defined in Section 2, MFL as an attorney at law or accountant.

“Promoter” is defined in Section 2, MFL as any person who causes the preparation or distribution of an offering document in respect of the mutual fund or proposed fund but does not include a professional adviser acting on their behalf.
1. **Who is the applicant for business?**

*The applicant for business may be one of the following:*

<table>
<thead>
<tr>
<th>Example</th>
<th>Service provided by FSP</th>
<th>Applicant for Business</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Incorporating company/setting up limited partnership/unit trust as part of MF structure including acting as subscriber shareholders and/or providing initial registered office</td>
<td>Promoters Professional advisers acting for promoter Investment manager</td>
</tr>
<tr>
<td>2</td>
<td>Opening/operating bank/trading account for MF</td>
<td>MF</td>
</tr>
<tr>
<td>3</td>
<td>MFA where MF is constituted as corporation/limited partnership/unit trust</td>
<td>MF Promoters Professional advisers acting for promoter Investment manager General partner and possibly also limited partners Unit Trust Trustees</td>
</tr>
<tr>
<td>4</td>
<td>Acting as Investment Manager of MF</td>
<td>MF Promoters Professional advisers acting for promoter Investment manager</td>
</tr>
<tr>
<td>5</td>
<td>Issuing and administering subscriptions/redemptions</td>
<td>MF Promoters Professional advisers acting for promoter Investment manager</td>
</tr>
<tr>
<td>6</td>
<td>Directors of MF/general partner/limited partner</td>
<td>MF Promoters Professional advisers acting for promoter Investment manager</td>
</tr>
<tr>
<td>7</td>
<td>Registered office for MF/general or limited partner other than at date of incorporation</td>
<td>MF or the party with authority to act on its behalf</td>
</tr>
</tbody>
</table>
2. Whose identity must be verified (subject to possible exceptions in 6 below)?

<table>
<thead>
<tr>
<th>Example</th>
<th>Applicant for Business</th>
<th>Evidence of identity required for</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Promoters</td>
<td>Promoters</td>
</tr>
<tr>
<td></td>
<td>Professional advisers</td>
<td>Professional advisers</td>
</tr>
<tr>
<td></td>
<td>acting for promoter</td>
<td>acting for promoter</td>
</tr>
<tr>
<td></td>
<td>Investment manager</td>
<td>Investment manager</td>
</tr>
</tbody>
</table>

1 (a). If the above are in a Schedule 3 country and are regulated in the course of their business by a regulator with functions equivalent to those of the Monetary Authority then the Eligible Introducers Form (appendix F) can be completed (paras 3.3, 3.4 Guidance Notes)

1 (b). If the above are not in a Schedule 3 country or regulated as described then it may still be possible to rely on the procedures for introduced business and exempted clients:

- **Introduced business** – paras 3.48 – 3.49
  - Corporate Groups – para 3.50
  - Introducers that are “Eligible Introducers” – para 3.51
  - Professional intermediaries – paras 3.52 – 3.53’
  - Payment from account at a bank in CI or in country with equivalent legislation – para 3.56
  - Caution must be exercised if written confirmation or Eligible Introducer’s Form not given or unable to be given – para 3.54
exceptions to verification requirements - para 3.57

- Exempted categories – paras 3.58 – 3.62

- Postal, telephone and electronic business – paras 3.63 – 3.64

- Exempted clients – para 3.65

**Investors**

1 (c). If it not possible to rely on 1 (b) above then the identity of the individual investors must be verified in accordance with the Guidance Notes bearing in mind the exceptions to verification (para 3.57 – 3.64 and the exemptions in para 3.65).

A subscription to a mutual fund is not regarded as a one off-transaction (para 3.58 Guidance Notes).

<table>
<thead>
<tr>
<th>2</th>
<th><strong>MF (where FSP is not the MFA)</strong></th>
<th><strong>MF</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>(a). If the MF is an exempted client then no documentary evidence of identity will normally be required (para 3.65 Guidance Notes). Before treating a MF as an exempted client the FSP should be satisfied that if the MF is not carrying out its own client identification or record keeping that it has in place appropriate safeguards to ensure that its obligations under the Regulations are being met.</td>
<td></td>
</tr>
</tbody>
</table>
2 (b). If it is not possible to rely on 2 (a) above or 1 (a) or 1 (b) above then the MF must be identified as a corporate entity in accordance with paras 3.29 and 3.33 of Guidance Notes. If it is not regarded as appropriate to rely on the identification of the party in control of the operation of the mutual funds in accordance with para 3.33 of the Guidance Notes then the identity of the individual investors must be verified in accordance with the Guidance Notes bearing in mind the exceptions to verification (para 3.57 – 3.64 and the exemptions in para 3.65).

If the registered office of a fund is being provided by a FSP and the fund is introduced by that FSP then it may be appropriate to rely on verification of identity by the introducing FSP which must complete an Eligible Introducers Form (para 3.53 of the Guidance Notes). If the registered office is not in the Cayman Islands then it may nevertheless be appropriate to rely on the party providing that service if they are in a jurisdiction with equivalent legislation (paras 3.52 – 3.53 of the Guidance Notes).

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>3</strong></td>
<td><strong>MF (where FSP is MFA)</strong></td>
</tr>
<tr>
<td>Where the MFA is the FSP then it will normally be necessary to obtain evidence of identity for the company or limited partnership and the underlying investors/shareholders. In such circumstances, the MFA should proceed to verify identity in accordance with 1 (a) – (c), 2 (b) and above.</td>
<td></td>
</tr>
</tbody>
</table>

| **4** | **General partner and possibly also limited partners** |
| The same approach should be adopted as set out in 2 above in relation to corporate funds, although para 3.36 of the Guidance Notes will be relevant. |
3. **Investors**

The circumstances in which it may be necessary to identify investors in a mutual fund are covered in paragraphs 2, 1(c) and 2, 2 (b) above, however some particular circumstances warrant more detailed explanation.

*If an investor is a non-profit entity*

This may include entities such as a foundation, university or charity. In such cases, appropriate checks should be carried out to verify the nature of the organisation, its legal constitution and registration or official recognition as such, power to make the investment in question, the authority of those acting on its behalf and the source of its assets.

*If the investor is a fund domiciled in a country without equivalent legislation but the fund investor is administered in a country with equivalent legislation*

In such a case it may be possible to rely on the due diligence of that party either on the grounds that it is a Financial Institution or that it falls within one or more of the above paragraphs of the Guidance Notes.

*If an investor is located in a country without equivalent legislation and sends funds from a bank in a country without equivalent legislation*

In such a case it may be appropriate to rely on due diligence carried out by a member of a corporate group in accordance with para 3.50 of the Guidance Notes.

*Reliance on correspondent banks*

*It may be possible to rely on the due diligence of an investor’s correspondent bank which is a Financial Institution in a country with equivalent legislation (para 3.53 of the Guidance Notes).*

4. **When must identity be verified?**

i. *If a fund changes MFA the successor MFA should be able to rely on the identification evidence obtained by its predecessor MFA if the predecessor is subject to the Regulations. If the predecessor is not subject to the Regulations but is in a Schedule 3 country and regulated in the course of their business by a regulator with functions equivalent to those of the Monetary Authority then it may be appropriate to obtain an Eligible Introducers Form from the predecessor along with their confirmation that they will retain evidence of identity for the*
investors for the minimum period set out in the Regulations (paras 7.1 – 7.4 of the Guidance Notes).

If the predecessor MFA is not in a Schedule 3 country or regulated in the course of their business by a regulator with functions equivalent to those of the Monetary Authority then it will be necessary to verify the identity of investors subject to any exemptions or exceptions that may apply.

ii. If it is necessary to verify evidence of the identity of individual investors, it may nevertheless be appropriate to receive funds from an investor prior to completion of the verification. Assuming that such receipt does not itself allow reliance on para 3.64 of the Guidance Notes it will not be inappropriate to transfer such funds from an account or sub-account of the mutual fund in question to a brokerage or similar account in the name of the mutual fund (see paras 3.44 – 3.47 of the Guidance Notes).

5. When might it be possible for identity to be verified by a party not based in the Cayman Islands?

Maintenance by a Financial Services Provider on behalf of a mutual fund of all records and procedures in accordance with the laws and regulations of a schedule 3 country will be regarded as in compliance provided satisfactory written assurance is obtained that such records and procedures will be accessible to the Monetary Authority upon request.

6. How might identification of existing clients be carried out (paras 3.66 – 3.70 of the Guidance Notes)?

If after having conducted a risk assessment in accordance with para 3.67 of the Guidance Notes, attempts are made to verify the identity of a client but are not successful prior to the date on which redemption is due to take place, the FSP should use the opportunity of redemption to confirm that information. This will be important, to ensure that payment is made to the investor and not in favour of a third party. If payment is to be made to an account in the name of the investor with a Financial Institution in a Schedule 3 country then that will be sufficient evidence of identity. If the FSP is unable to verify identify before making the redemption the FSP may nevertheless consider it appropriate to make
the payments although if the FSP concludes that there are grounds for suspicion, it must make a disclosure.

7. **What specific records should be kept and where (paras 7.1 – 7.7 of the Guidance Notes)?**

The Monetary Authority does not necessarily expect each licensed fund to document its compliance with the Regulations however, the MFA must ensure that all appropriate records for the fund are maintained on its behalf (see para 3.43 of the Guidance Notes).

In the case of mutual funds, records for the fund itself should be kept for a period of 5 years after the fund is wound up. Records for individual investors should be maintained for a period of 5 years after their interest in the fund has been redeemed.
### BANKING

2. **Who is the applicant for business?**

   The applicant for business may be one of the following:

<table>
<thead>
<tr>
<th>Example</th>
<th>Applicant for Business</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Direct Personal Clients</td>
</tr>
<tr>
<td>2.</td>
<td>Corporate clients (including trust and fiduciary clients)</td>
</tr>
<tr>
<td>3.</td>
<td>Partnerships / Unincorporated Businesses</td>
</tr>
</tbody>
</table>

3. **Whose identity must be verified (subject to possible exceptions in 6 below)?**

<table>
<thead>
<tr>
<th>Example</th>
<th>Applicant for Business</th>
<th>Evidence of identity required for</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Direct Personal Clients</td>
<td>• Beneficial owners of accounts</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Assets bought, sold or managed through the relationship</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Satisfactory evidence, confirmed by using one or more of the verification methods outlined in section 3.19 of the Guidance Notes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Current, satisfactory bank reference from at least one bank with whom the prospective customer has had a relationship for not less than 3 years. If one is not forthcoming, satisfactory reference from a person or entity who has personal knowledge of the prospective customer and which establish his bona fides and integrity.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• References confirmed for genuineness</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• For non face to face verification, suitably certified or authenticated documents</td>
</tr>
<tr>
<td>2.</td>
<td>Corporate clients (including trust and fiduciary clients)</td>
<td>• The company, that it exists</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Consistent with that required for direct personal clients, documentary evidence of identity for all directors; all those with signing powers, including third parties; and beneficial owners. (See section 3.29, 3.33 and 3.37 in the Guidance Notes)</td>
</tr>
<tr>
<td>3.</td>
<td>Partnerships / Unincorporated Businesses</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td></td>
</tr>
<tr>
<td>· The entity, that it exists</td>
<td></td>
<td></td>
</tr>
<tr>
<td>· Consistent with that required for direct personal clients, documentary evidence of identity required for partners/managers; all those with signing powers, including third parties; and beneficial owners as defined in the Guidance Notes, Section 3.29</td>
<td></td>
<td></td>
</tr>
<tr>
<td>· Documentary evidence of identity of the new owner/controller where there is a change in ownership or control, in accordance with that required of direct personal relationships</td>
<td></td>
<td></td>
</tr>
<tr>
<td>· Satisfactory evidence, confirmed by at least one of the following independent checks, of existence of partnership / unincorporated business:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>· Partnership agreement or excerpt if relevant</td>
<td></td>
<td></td>
</tr>
<tr>
<td>· Certificate of Registration</td>
<td></td>
<td></td>
</tr>
<tr>
<td>· Information about the identity of controlling partners / shareholders, e.g., excerpt from partnership document</td>
<td></td>
<td></td>
</tr>
<tr>
<td>· Establish all relevant party relationships</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- Documentary evidence of identity of the new owner/controller where there is a change in **ownership** or control, in accordance with that required of direct personal relationships
- Satisfactory evidence, confirmed by at least one of the following independent checks, of company’s existence:
  - Memorandum of Association and articles and Certificate of Incorporation
  - Information about the identity of controlling shareholders and directors, e.g., Register of Directors, Register of Members
  - Understanding of all relevant party and inter-company relationships
  - It may be appropriate to obtain information relating to customers or suppliers and the background of major shareholders and directors
4. **When must identity be verified?**

Client verification information should be obtained prior to opening account or establishing business relationship. If it is not forthcoming at the outset or within a reasonable time the relationship should be re-evaluated and transactions should not proceed. For exceptions, refer to the Guidance Notes, “Timing and Duration of Verification”, Sections 3.44 – 3.47.

5. **When might it be possible to rely on third parties to verify identity?**

Bankers should use their judgment in determining whether or not in the context of banking they should place reliance on the due diligence procedures for intermediaries. In cases in which reliance is placed on the intermediary, senior management must make a judgement as to whether or not it would be prudent to obtain appropriate evidence of client verification either by provision by the Introducer of primary documentation relating to this or by written confirmation from the Introducer that it has satisfied itself as to the bona fides and integrity of the client. For guidance on whether an entity qualifies as an Eligible Introducer refer to the Guidance Notes, “Procedures for Introduced Business”, Sections 3.48 – 3.56.

6. **When might it be possible for identity to be verified by a party not based in the Cayman Islands?**

Reliance on exemption (and therefore dispensation of the need to obtain normal evidence of client identity) when conducting mainstream banking business will be rare. Due diligence should be performed in accordance with the Guidance Notes, “Procedures for Introduced Business”, Sections 3.50 – 3.58.

7. **When may there be no need or might it not be practicable for identity to be verified?**

*Refer to the Guidance Notes, “Exceptions to Verification Requirements”, Sections 3.59 – 3.67.*
8. **What information should be obtained in relation the proposed transaction, business and source of assets?**

*In addition to those listed in the main body of the Guidance Notes:*

<table>
<thead>
<tr>
<th>Example</th>
<th>Applicant for Business</th>
<th>Information which should be obtained</th>
</tr>
</thead>
</table>
| 1.      | Direct Personal Clients | · Full details regarding Source of Funds  
· Sufficient information to anticipate normal business activity, including type of products required and general level of likely activity |
| 2.      | Corporate clients      | · Full details regarding Source of Funds  
· Sufficient information to anticipate normal business activity, including type of products required and general level of likely activity  
· Sufficient information regarding intra-group relationships, if any; clients; service providers; and trading partners to establish a trading profile which can be monitored against transactions |
| 3.      | Partnerships/Unincorporated Businesses | · Full details regarding Source of Funds  
· Sufficient information to anticipate normal business activity, including type of products required and general level of likely activity  
· Sufficient information regarding intra-group relationships, if any; clients; service providers; and trading partners to establish a trading profile which can be monitored against transactions |

9. **How should the business of the client be monitored?**


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

*Refer to Appendix K of the Guidance Notes*

11. **How might identification of existing clients be carried out?**
As indicated in the Guidance Notes, sections 3.66-3.70, banks should conduct a risk assessment. Those clients assessed as high risk should be actioned first. The bank should ensure the information on file identifies the party and enables the bank to effectively monitor the account.

12. **What specific records should be kept and where?**

Refer to the Guidance Notes, Sections 7.1-7.5. (to be provided)
COMPANY FORMATION AND MANAGEMENT

Who is the Applicant for business?

Company formation

In the case of forming a company, the applicant for business is the client upon whose instructions the company is formed. This may or may not be a proposed shareholder. In addition to obtaining identification evidence for the client, it will normally be necessary to obtain:

i. An explanation of the nature of the proposed company’s business, and the source of funds.

ii. Satisfactory evidence of the identity of each of the proposed principal beneficial owners (see paras 3.29 and 3.33)

In some circumstances reliance may be placed on the due diligence of other persons. Refer to the section on Introduced business in the Guidance Notes.

Company management

Where a company manager provides corporate services to a company, the client may or not be the company itself. However one must look behind the company for due diligence purposes and, depending upon the circumstances, investigate and obtain proof of identity of any or all of the following:

a) the shareholders (or beneficial owners if different from the registered shareholders);
b) the directors and officers;
c) anyone who is giving instructions to the company manager on behalf of the company;
d) anyone who introduces any of the above persons to the company manager.

However it is recognized that obtaining due diligence on all of the above in every case could be onerous and could lead to a duplication of procedures, unnecessary complication and eventual loss of legitimate business. The money laundering regulations and the notes therefore allow for reliance, in certain circumstances, on third party intermediaries. For guidance in this area see section on Introduced Business in the guidance notes.

The following will therefore apply:

1. Where the company manager is approached by a shareholder, beneficial owner or directors and officers as the applicant for business, the company manager should do appropriate due diligence on the shareholders and beneficial owners, the directors and anyone who gives instructions to the company manager on behalf of the company, the directors, officers or the shareholders in accordance with the sections of these guidance
notes dealing with corporate clients (see section 3.29 to 3.35).

2. Where the company manager is approached by a person who gives instructions to the company manager on behalf of the company, the company manager should do appropriate due diligence on that person, the shareholders, and the directors and officers in accordance with the sections of these guidance notes dealing with corporate clients (see section 3.29 to 3.35). However it may, in certain circumstances, be acceptable to rely solely on the due diligence of the person giving those instructions. (See section on introduced business)

Where the company manager relies upon the due diligence of an introducer such a decision must be made by senior management and the reasons for the decision must be documented. In addition the company manager must carry out appropriate due diligence on the introducer or intermediary to ensure their eligibility and ensure that written undertakings are received from the intermediary in accordance with the guidance notes.

**Structured Finance Companies**

Sometimes a company will be set up to play a part in one or more structured finance transactions and may ultimately be owned by a trust specially structured for the transaction. In such cases the company manager must ascertain who is responsible for the creation of the various structures and their commercial purpose and should conduct enquiry on any or all of the following persons and entities as appropriate in the particular circumstances:

1) The main participants in the arrangement.
2) The promoters of the arrangement.
3) The provider of funds for payment of fees to the company manager.
4) Where the company manager is taking instructions or is engaged from or by another professional the company manager should ask the professional; whom he regards as his client and conduct appropriate due diligence on that client in accordance with the procedures for introduced business.

**Discontinued Relationships**

Funds held to the order of a client or prospective client should only be returned to the source from which they came and not to a third party.

**Ongoing Monitoring**

In order to be alert for instances of money laundering company managers must continue monitoring the activities of their client companies for signs of unusual or suspicious activities. Changes in transaction type, frequency, unusually large amounts, geographical origins and destinations attributes and change in account signatories all warrant special attention.
Hold Mail and c/o Addresses

Sometimes the directors or beneficial owners of client companies request that mail not be forwarded but held at the registered office for storage or later collection. These are not necessarily suspicious acts but do carry higher risk and should warrant special attention. Evidence of identity of the beneficial owners should be obtained even where the client is introduced by eligible introducers. Clients who request “c/o” addresses should also receive additional attention.

Bearer Shares

The Cayman Islands company law allows the issue of bearer shares. Bearer shares can be used to conceal the identity of beneficial owners. Company managers should therefore only be a party to the issue of bearer shares where the shares are physically held by the company manager or by a custodian authorized or recognised by the Monetary Authority to the order of the beneficial owner. Such shares should not be released to the beneficial owner and may only be physically transferred to another entity authorised or recognised to act as a custodian under the companies law. If any such shares are in issue prior to these Guidance Notes company managers should ensure that such shares are lodged with a custodian within the period prescribed under the law.

Changes in service provider

Clients have the right to choose which management company should manage their affairs and to change to others if they so desire. However company managers who are asked by a prospective client to take over the management of a company which is being managed by another service provider should communicate with that service provider and make appropriate enquiries as to the reason for the transfer of business.

Provision of Directors and Officers

Where a company manager provides directors and officers to a managed company he should ensure that all statutory requirements with regard to keeping and filing details of the shareholders, directors and officers as required by law, are complied with within the period allowed by statute.
TRUSTS

1. Creation and Administration of Trusts

“Trust business” may be divided into three categories for the purposes of the Regulations and these Guidance Notes:
(a) unit trusts which are therefore covered by the mutual funds part of this section in relation to their creation and administration;
(b) bare trusts or nomineeships where the trustee is acting both as a trustee and as an agent and Regulation 9 will apply;
(c) all other trusts, where the trust is not a mutual fund and the trustee is a principal as a matter of law.

This section deals solely with the creation and administration of trusts falling within category (c).

2. Competent Staff

FSPs and the Monetary Authority are expected to pay particular attention to ensuring that staff working in these areas are properly competent, qualified (where necessary or appropriate) and have the requisite experience for a person in their position within the organisation.

3. Creation of a Trust

3.1. Settlor
Where a new trust is being created, the Applicant for Business will be the settlor (or all of the settlors if more than one).

3.2. Settled Assets
FSPs should also make appropriate inquiry as to the source of the assets a settlor intends to settle. This will necessarily vary from case to case and depend on many factors, such as the type of trust intended to be created, the relative and absolute value of the assets intended to be settled, the objectives of the settlor in creating the trust and the timeframe within which the parties are working.

3.3. Ongoing Obligations
FSPs must recognise the need to adopt ongoing procedures in relation to trusts. In particular, each time assets are added to the trust by a new or existing settlor the same procedures should be followed.

4. Transfer of an Existing Trust

Where an FSP is approached to become an additional or successor trustee, it is recognised that the concept of an “Applicant for Business” as used in the Regulations does not apply easily.
4.1. Previous Due Diligence

Trustees act as a body. Additional or successor trustees “step into the shoes” of the existing or predecessor trustees. An FSP who is an additional or successor trustee should inquire of the existing or predecessor trustees whether appropriate inquiries were made of the settlor or settlors at the time of creating the trust and at the time of addition of any assets to the trust, and seek to obtain the originals or copies of the relevant due diligence documentation (e.g. verification of the settlor’s identity and source of funds). Having done so, the FSP should consider whether it is adequate, according to the circumstances of the particular case. However, in some cases such documentation may not be available or upon review may not be adequate. In such cases the FSP should make reasonable inquiries of its own:-

(a) Where the Settlor is Alive
Where the settlor is still alive, the FSP should make the relevant inquiries of the settlor.

(b) Where the Settlor is Dead
Where the settlor is dead, the FSP should make reasonable inquiries about the settlor of such persons as may be appropriate in the circumstances of the particular case e.g. the existing or predecessor trustees or the beneficiaries. In particular, if the beneficiaries are relatives of the deceased settlor, as will often be the case, appropriate inquiry of the oldest beneficiaries may be the most fruitful.

5. Trusts Established Prior to 1 September 2000

In order to comply with the regulations on the treatment of existing business, the FSP should review existing trusts in the same way as if it were being invited to act as a successor or additional trustee of such trusts.

6. Possible Abuse of Trusts by Money Launderers

There appears to be limited potential for trusts to be used at the initial or placement stage of the money laundering process. Indeed, criminally derived funds would normally already have to have been inserted into the financial system before such assets could be placed into a trust. At the layering and integration stages of money laundering, however, there is greater potential for the misuse of trusts. Once the illegal proceeds have already entered the banking system, trusts could be exploited to further confuse the links between these proceeds and the illicit activity that generated them. The FATF have expressed concerns that this process may be even more effective if it is carried out in a number of countries and through legal professionals able to claim professional secrecy.
7. Circumstances Prompting Increased Vigilance

FSPs are urged to be particularly vigilant in the following areas:

7.1 Links with High Risk Countries

Links with countries that are known for problems related to drugs, terrorism, corruption, money-laundering or non-existent or inadequate financial regulation (“High Risk Countries”) – e.g. settlors in such countries, assets, whether held in trusts or in underlying companies or business entities owned by trusts, that are located in such countries etc.

7.2 Total Changes of Beneficiaries

Where all of the existing beneficiaries are removed and different beneficiaries are added, or where this is intended, or where the trust is intentionally structured to permit this.

There may be perfectly legitimate reasons for this occurring or for this to be possible, but FSPs should endeavour to ascertain what these are.

7.3 Unexplained Requests for Anonymity

Where the settlor’s stated reason for establishing a trust is the need for anonymity or confidentiality in relation to himself or the beneficiaries.

It should not be automatically inferred that this in itself is an illegitimate need. There are many instances where a settlor may desire that the extent or nature of his wealth is not known to third parties – such as children, the media, business or industry colleagues, potential kidnappers, industry competitors etc. The legitimate need for privacy is acknowledged and supported in the Cayman Islands as in other countries and may be a reason for establishing a trust. However, FSPs are encouraged to adopt a conservative and cautious approach in this area. In particular, where the reasons given by the settlor for the need for anonymity or confidentiality are not clear or are unconvincing, FSPs should take appropriate further action.

7.4 Beneficiaries with no apparent connection to the settlor

Where there is no readily apparent connection or relationship of the settlor to the beneficiaries.

Since the economic nature of a trust is a mechanism for the settlor to benefit a beneficiary, typically not in return for any consideration (payment, transfer of assets or provision of services), FSPs should endeavour so far as possible to ascertain the settlor’s reasons for wanting to benefit a beneficiary with whom he seemingly has no connection. This can be a matter of great sensitivity (for example, where the beneficiary turns out to be an illegitimate child of the settlor).
and FSPs are encouraged to take this into account while pursuing necessary or appropriate inquiries.

7.5 Unexplained Urgency

FSPs are encouraged to inquire as to the reasons for any urgency, especially where the settlor is indicating that some of the due diligence process can or will be completed after the trust has been established or a transaction has been entered into by the trustees or an underlying company owned by the trust.

7.6 Potentate risk

Business relationships with individuals holding important public positions and with persons or companies clearly related to them may expose a trust service provider to significant reputational and/or legal risk. Such persons commonly referred to as ‘potentates’ include heads of state, ministers, influential public officials, judges and military commanders.

FSPs are encouraged to be vigilant in relation to potentates from all jurisdictions, but especially High Risk Countries, seeking to establish substantial private trusts.
INSURANCE

1. Who is the applicant for business?

_The applicant for business may be one of the following:_

<table>
<thead>
<tr>
<th>Example</th>
<th>Applicant for business</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. Association Captive.</td>
<td>Association or Individual companies all members of a trade association or professional association insuring the risk of the individual members.</td>
</tr>
<tr>
<td>4. Privately Owned Captive (similar risk)</td>
<td>Typically owned by a group of companies with a similar risk profile and a commitment to risk management. Usually all shareholders are policyholders.</td>
</tr>
<tr>
<td>5. Privately Owned Captive (third party risk)</td>
<td>Investors seeking to profit from underwriting third party risk.</td>
</tr>
<tr>
<td>6. Agency Captive</td>
<td>Insurance Agency writing the risk of clients of the agency.</td>
</tr>
<tr>
<td>7. Segregated Portfolio Cell Company</td>
<td>Core Company and individual portfolio cells.</td>
</tr>
<tr>
<td>8. Companies formed to carry on long term business</td>
<td>Public or Private Companies, Associations or privately owned (individuals) insuring life related products and individual policy owners and life assureds.</td>
</tr>
</tbody>
</table>
2. Whose identity MUST be verified?

<table>
<thead>
<tr>
<th>Applicant for business</th>
<th>Evidence of identification required for</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The proposed Captive Owner (Public Company)</td>
<td>The publicly quoted company and Directors, Officers and Controllers of the Captive</td>
</tr>
<tr>
<td>2. The proposed Captive Owner</td>
<td>The private company itself. Shareholders of the private company owning more than 10% of the shares and Directors, Officers and Controllers of the Captive</td>
</tr>
<tr>
<td>3. Association Captive</td>
<td>The Association itself and Directors, Officers and Controllers of the Captive</td>
</tr>
<tr>
<td>4. Privately Owned Captive</td>
<td>Directors, Officers and Controllers of the Captive</td>
</tr>
<tr>
<td>5. Privately Owned (Third party risk)</td>
<td>Directors, Officers and Controllers of the Captive</td>
</tr>
<tr>
<td>6. Agency Captive</td>
<td>Agency itself and Directors, Officers and Controllers of the Captive</td>
</tr>
<tr>
<td>7. Segregated Portfolio Cell Company</td>
<td>Core Company itself, shareholders of core company if owning 10% or more of shares, Directors, Officers and Controllers of Core Company. Plus Directors, Officers &amp; Controllers of each individual cell if different from the core company</td>
</tr>
<tr>
<td>8. Companies formed to carry on long term business</td>
<td>If a public company see 1 above, if a private company see 2 above, if an association see 3 above, if privately owned see 4 above. All individual policy owners paying premiums in excess of minimums as stated in the regulations together with life assureds</td>
</tr>
</tbody>
</table>

3. When must identity be verified?
   At the time of licensing and on the appointment of new shareholders, directors, officers or controllers.

4. When might it be possible to rely on third parties to verify identity?
   When introduced by an Eligible Introducer (as defined). Form must be completed.
5. When might it be possible for identity to be verified by a party not based in the Cayman Islands?
   As in 4 above e.g. through Associations, fronting carriers, branches of Financial Service Provider.

6. When may there be no need or might it not be practicable for identity to be verified?
   Policyholders of captives not writing insurance business as specified in Schedule 1 to the Regulations.

7. Applicant for Business

<table>
<thead>
<tr>
<th>Applicant for business</th>
<th>Information to be obtained</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Single Parent Captive (Public Company)</td>
<td>Company Annual Report, Company 10K and Company authority to form Captive. Certified copy of the passport photograph and signature page or similar together with one of the additional methods of identification listed in Section 3.19 of the Guidance Notes (usually 3 references) on all Directors, Officers and Controllers of the Captive.</td>
</tr>
<tr>
<td>2. Single Parent Captive (Private Company)</td>
<td>Financial Statements where possible or other acceptable financial information (e.g. Tax Return), Charter and By-Laws (or other incorporation documents), Certified copies of Register of Shareholders, Directors and Officers. Certified copy of the passport photograph and signature page or similar together with one of the additional methods of identification listed in Section 3.19 of the Guidance Notes (usually 3 references) on all Directors, Officers and Controllers of the Captive and shareholders of parent company owning in excess of 10% of the shares.</td>
</tr>
<tr>
<td>3. Association Captive</td>
<td>Association’s Articles of Incorporation usual background information on Association (business purpose, membership requirements. Certified copies of Register of Members, Directors and Officers. Certified copy of the passport photograph and signature page or similar together with one of the additional methods of identification listed in Section 3.19 of the Guidance Notes (usually 3 references) on all Directors, Officers and Controllers of the Captive.</td>
</tr>
<tr>
<td>4. Privately Owned</td>
<td>Certified copy of the passport photograph and signature page or similar together with one of the additional methods of identification listed in Section 3.19 of the Guidance Notes</td>
</tr>
<tr>
<td>8. <strong>What additional information might be requested and when?</strong> Changes of shareholders (10%) of companies owning captives and Directors, Officers and Controllers.</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td></td>
</tr>
<tr>
<td>9. <strong>How should the business of the client be monitored?</strong> Within the industry detailed books and records are kept of the captive itself. Annual Statement of Operations filed with the Cayman Islands Monetary Authority.</td>
<td></td>
</tr>
<tr>
<td>10. <strong>What warning sings or “red flags” should service providers be alert to?</strong></td>
<td></td>
</tr>
<tr>
<td>1. Return premium remitted to persons other than policy holder</td>
<td></td>
</tr>
<tr>
<td>2. Dividends paid to persons other than shareholders</td>
<td></td>
</tr>
<tr>
<td>3. Unusually complex holding company or trust ownership structure.</td>
<td></td>
</tr>
</tbody>
</table>
11. **How might identification of existing clients be carried out?** All existing clients have references, resumes, and Monetary Authority Questionnaires already on file with the Monetary Authority. It would appear therefore the only additional information required would be a Certified copy of the passport photograph and signature page or similar of Directors, Officers & Controllers already approved by the Monetary Authority.

12. **What specific records should be kept and where?** Financial Statements, copies of policies (direct write only) reinsurance agreements policy registers, loss runs at Mangers office.

13. **Examples of possible abuses of relevant financial business by money launderers.**
   To be provided at a later date.
Appendix A - Background Information On Money Laundering

What is money laundering?

Money laundering is the process by which criminals attempt to conceal the true origin and ownership of the proceeds of their criminal activities. If they are successful, it also allows them to maintain control over those proceeds and, ultimately, to provide a legitimate cover for their source of income.

Money laundering is a global phenomenon that affects all countries to varying degrees. By its very nature it is a hidden activity, and therefore the scale of the problem and the amount of criminal money being generated either locally or globally each year is impossible to measure accurately. Failure to prevent the laundering of the proceeds of crime allows criminals to benefit from their actions, making crime a more attractive proposition.

The need to combat money laundering

In recent years there has been a growing recognition that it is essential to the fight against crime that criminals be prevented, wherever possible, from legitimising the proceeds of their criminal activities by converting funds from "dirty" to "clean".

The laundering of the proceeds of criminal activity through the financial system is vital to the success of criminal operations. Those involved must exploit the facilities of the world's Financial Institutions if they are to benefit from the proceeds of their activities. The increased integration of the world's financial systems, and the removal of barriers to the free movement of capital, have meant it is potentially easier for criminals to launder dirty money, and more complicated for the relevant authorities to trace. The long-term success of any of the world's financial sectors depends on attracting and retaining legitimately earned funds. The unchecked use of the financial system for laundering money has the potential to undermine individual Financial Institutions, and ultimately the entire financial sector.

Money laundering in various forms has existed since time immemorial. The effect of legislation is to criminalise the activity and create a number of specific offences. It is inevitable that in all countries, some existing customers, including those of long-standing, are already engaged in money laundering. Although these Guidance Notes focus upon new business relationships and
transactions, Financial Institutions should also be alert to the financial flows and transaction patterns of existing customers, particularly where there is a significant and unexplained change in the behaviour of the account. (See Appendix K, Examples of Suspicious Activities).

The Money Laundering Regulations, 2000 requires Financial Institutions to establish systems to detect money laundering, and therefore assist in the prevention of abuse of their financial products and services. This is also in Financial Institutions' own commercial interest, and it also protects the reputation of the Cayman Islands.

Because of the international nature and both market and geographical spread of business on the Cayman Islands, local institutions which are less than vigilant may be vulnerable to abuse by money launderers, particularly in the ‘layering’ and ‘integration’ stages (see below). Banks, Building Societies, Investment Business and Money Service Providers which, albeit unwittingly, become involved in money laundering risk prosecution and substantial costs both in management time and money, as well as face the severe consequences of loss of reputation.

**The stages of money laundering**

There is no single method of laundering money. Methods can range from the purchase and resale of a luxury item (e.g. a car, or jewellery), to passing money through a complex international web of legitimate businesses or ‘shell’ companies. Initially, however, in the case of drug trafficking and some other serious crimes such as robbery, the proceeds usually take the form of cash which needs to enter the financial system by some means. Street purchases of drugs are almost always made with cash.

Despite the variety of methods employed, the laundering process is accomplished in three stages. These may include numerous transactions by the launderers that could alert a Financial Service to criminal activity:

a) Placement - the physical disposal of cash proceeds derived from criminal activity.

b) Layering - separating the illicit proceeds from their source by creating complex layers of financial transactions designed to disguise the audit trail and provide anonymity.

c) Integration - the provision of apparent legitimacy to wealth derived from crime. If the layering process has succeeded,
integration schemes place the laundered proceeds back into the economy in such a way that they re-enter the financial system appearing as normal business funds.

The three basic steps may or may not occur as separate and distinct phases. They may occur simultaneously or, more commonly, they may overlap. How the basic steps are used depends on the available laundering mechanisms and the requirements of the criminal organisations. The table below provides some typical examples.

**The stages of money laundering**

<table>
<thead>
<tr>
<th>Placement Stage</th>
<th>Layering stage</th>
<th>Integration Stage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash paid into bank*</td>
<td>Wiring transfer abroad</td>
<td>False loan repayments</td>
</tr>
<tr>
<td>(Sometimes with staff complicity or mixed with proceeds of legitimate business)</td>
<td>often using shell or companies or funds as proceeds of legitimate business)</td>
<td>forged invoices used cover for laundered money.</td>
</tr>
<tr>
<td>Cash exported</td>
<td>Cash deposited in overseas</td>
<td>Complex web of transfers (both domestic and international) makes tracing source of funds virtually impossible</td>
</tr>
<tr>
<td>Cash used to buy high value items</td>
<td>Resale of goods or assets</td>
<td>Income from property or legitimate business assets appears ‘clean’</td>
</tr>
</tbody>
</table>

‘bank’ includes all deposit-taking institutions, those which exchange or remit cash, and the client accounts of professional intermediaries, such as accountants, regulators and trustees.

Certain points of vulnerability have been identified in the laundering process which the money launderer finds difficult to avoid, and where his activities are therefore more susceptible to being recognised, such as:

---

Policy & Research Division  
Cayman Islands Monetary Authority
• entry of cash into the financial system;
• cross-border flows of cash;
• acquisition of financial assets;
• transfers within and from the financial system;
• incorporation of companies; and
• establishment of financial vehicles (e.g. ostensible pooled investment funds, merchanting and barter companies).
Appendix B - International Initiatives To Combat Money Laundering

Basle Statement of Principles

In December 1988 the Basle Committee on Banking Regulation and Supervisory Practices (“the Basle Committee”) issued a Statement of Principles. This Statement was endorsed by Cayman Islands Monetary Authority and circulated to all banking institutions licensed by it at the time. The statement set out the following basic principles:-

**Customer Identification** - when establishing a relationship by opening an account or providing any other service, including safe custody and safe deposit box facilities, reasonable efforts should be made to determine the true identity of the customer requesting the service;

**Compliance with Legislation and Regulation Enforcement Agencies** - business should be conducted in conformity with high ethical standards and local regulations and regulations pertaining to financial transactions. Institutions should cooperate fully with national regulation enforcement authorities to the extent permitted without breaching customer confidentiality; and

**Record Keeping and Systems** - institutions should implement specific procedures for retaining internal records of transactions and establish an effective means of testing for general compliance with the Statement.

The Financial Action Task Force (“FATF”)

In June 1989 the Heads of Government of the Group of Seven (“G7”) countries established the Financial Action Task Force, commonly referred to as "FATF".

FATF Member countries have thus been introducing legislation to combat money laundering. Such legislation generally includes equivalent offences and compliance obligations for companies established and operating within the Member countries and, as such, seeks to create consistent regulations and prevention practices. This international initiative will therefore create similar obligations for all companies operating within the international financial market place and thereby reduce the likelihood of discriminatory practices between Members, and between Members and non-Members.

The Caribbean Financial Action Task Force (“CFATF”)

Policy & Research Division
Cayman Islands Monetary Authority
In June 1990 15 Caribbean states plus five members of the Financial Action Task Force with affiliations in the region met in conference in Aruba and produced 21 recommendations, 19 of which were eventually adopted as CFATF recommendations. In June 1992 a second regional meeting addressed the areas of legal, financial, political and technical assistance in combating money laundering. It provided detailed recommendations which were presented at a ministerial meeting convened in Kingston, Jamaica in November 1992. 20 Caribbean states plus the FATF affiliates participated. An accord was agreed embodied in the Kingston Declaration on money laundering endorsing the implementation of the 1988 United Nations Vienna Convention, the Organisation of American States Model Regulations, the 40 FATF Recommendations and the 19 Regional Specific Objectives.

In October 1996 21 countries signed a Memorandum of Understanding and a Mission Statement formulating its mission, organisation and membership requirements.

The CFATF also has a rolling programme of mutual evaluations.

**The EU Money Laundering Directive**

As part of this initiative, the UK and other countries of the European Union are implementing a Council Directive on the prevention of the use of the financial system for the purposes of money laundering (No 91/308/EEC).

The Governor in Council, in exercise of the powers conferred by section 19A of the Proceeds of Criminal Conduct Law (1999 Revision), makes the following Regulations:

Part 1 - General

1. These Regulations may be cited as the Money Laundering Regulations, 2000 and will come into force on the 1 September, 2000.

2. (1) In these Regulations, unless the context otherwise requires -

“applicant for business” means a person seeking to form a business relationship, or carry out a one-off transaction, with a person who is carrying out relevant financial business in the Islands;

“Authority” means the Cayman Islands Monetary Authority;

“business relationship” has the meaning given by regulation 3;

“Case 1”, “Case 2”, “Case 3” and “Case 4” have the meanings given in regulation 7;

“insurance business” means business of any of the classes of business specified in Schedule 1;

“one-off transaction” means any transaction other than a transaction carried out in the course of an established business relationship formed by a person acting in the course of relevant financial business;

“principal Law” means the Proceeds of Criminal Conduct Law (1999 Revision); and

“relevant financial business” has the meaning given by regulation 4.

(2) In these Regulations, except in so far as the context otherwise requires, “money laundering” means doing any act which constitutes an offence under section 47 or 48 of the Misuse of Drugs Law (2000 Revision) or sections 21 to 23 of the principal Law or, in the case of an act done otherwise than in the Islands, would constitute such an offence if done in the Islands.

(3) The reference in sub-regulation (2) to doing any act which would constitute an offence under the provisions of the principal Law shall, for the purposes of these Regulations, be construed as a reference to doing any act which would constitute an offence under those provisions if, for the definition of “criminal conduct” in section 21(10) of the principal Law, there were substituted -

“(10) In this Law “criminal conduct” means -
(a) conduct which constitutes an offence to which this Law applies; or
(b) conduct which -
   (i) would constitute such an offence if it had occurred in the Islands; and
   (ii) contravenes the law of the country in which it occurred.”.

(4) For the purposes of this regulation, a business relationship formed by a person acting in the course of relevant financial business is an established business relationship where that person has obtained, under procedures maintained by him in accordance with regulation 7, satisfactory evidence of the identity of the person who, in relation to the formation of that business relationship, was the applicant for business.

3. (1) Any reference in this regulation to an arrangement between two or more persons is a reference to an arrangement in which at least one person is acting in the course of a business.

(2) For the purposes of these Regulations, “business relationship” means any arrangement between two or more persons where -
   (a) the purpose of the arrangement is to facilitate the carrying out of transactions between the persons concerned on a frequent, habitual or regular basis; and
   (b) the total amount of any payment or payments to be made by any person to any other in the course of that arrangement is not known or capable of being ascertained at the time the arrangement is made.

4. (1) For the purposes of these Regulations, “relevant financial business” means, subject to sub-regulation (2), the business of engaging in one or more of the following -
   (a) banking or trust business carried on by a person who is for the time being a licensee under the Banks and Trust Companies Law (2000 Revision);
   (b) acceptance by a building society of deposits made by any person (including the raising of money from members of the society by the issue of shares);
   (c) business carried on by a co-operative society within the meaning of the Co-operative Societies Law (1997 Revision);
   (d) insurance business and the business of an insurance manager, an insurance agent, an insurance sub-agent or an insurance broker within the meaning of the Insurance Law (1999 Revision);
   (e) mutual fund administration or the business of a regulated mutual fund within the meaning of the Mutual Funds Law (1999 Revision);
   (f) the business of company management as defined by the Companies Management Law, 1999, except that the services specified in section 3(4)(b) of that Law shall not be excluded for the purposes of these regulations from the provision of the specified services as defined in subsection (2) of that section; and
   (g) any of the activities set out in Schedule 2, other than an activity falling within paragraphs (a) to (f) of this sub-regulation.

(2) In this regulation -
   “banking business” has the same meaning as in the Banks and Trust Companies Law (2000 Revision); and
Part 2 - Systems and training to prevent money laundering

5. (1) A person shall not, in the course of relevant financial business carried on by him in the Islands, form a business relationship, or carry out a one-off transaction, with or for another unless he -

(a) maintains the following procedures established in relation to that business -
   (i) identification procedures in accordance with regulations 7 and 9;
   (ii) record-keeping procedures in accordance with regulation 12;
   (iii) except where the person concerned is an individual who in the course of relevant financial business does not employ or act in association with any other person, internal reporting procedures in accordance with regulation 14; and
   (iv) such other procedures of internal control and communication as may be appropriate for the purposes of forestalling and preventing money laundering;

(b) takes appropriate measures from time to time for the purposes of making employees whose duties include the handling of relevant financial business aware of -
   (i) the procedures under paragraph (a) which are maintained by him and which relate to the relevant financial business in question; and
   (ii) the enactments relating to money laundering; and

(c) provides such employees from time to time with training 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.

(2) A person who contravenes this regulation shall be guilty of an offence and liable -

(a) on conviction on indictment, to imprisonment not exceeding a term of two years or a fine or both;

(b) on summary conviction, to a fine not exceeding $5,000.

(3) In determining whether a person has complied with any of the requirements of sub-regulation (1) -

(a) a court shall take into account any relevant supervisory or regulatory guidance which applies to that person; and

(b) a court may take into account any other relevant guidance issued by a body that regulates, or is representative of, any trade, profession, business or employment carried on by that person.

(4) In proceedings against a person for an offence under this regulation, it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(5) In this regulation -

“enactments relating to money laundering” means the enactments referred to in regulation 2(2) and the provisions of these Regulations; and

“supervisory or regulatory guidance” means guidance issued, adopted or approved by the Authority or contained in regulations or a code of practice issued under the principal Law.
6. (1) Where an offence under regulation 5 committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by the members, sub-regulation (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of a body corporate.

(3) Where an offence under regulation 5 committed by a partnership, or by an unincorporated association other than a partnership, is proved to have been committed with the consent or connivance of, or is attributable to any neglect on the part of, a partner in the partnership or a person concerned in the management or control of the association, he, as well as the partnership or association, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Part 3 - Identification procedures**

7. (1) Subject to regulations 8 and 10, identification procedures maintained by a person are in accordance with this regulation if in Cases 1 to 4 they require, as soon as is reasonably practicable after contact is first made between that person and an applicant for business concerning any particular business relationship or one-off transaction -

   (a) the production by the applicant for business of satisfactory evidence of his identity; or

   (b) the taking of such measures specified in the procedures as will produce satisfactory evidence of his identity,

and the procedures are, subject to sub-regulation (6), in accordance with this regulation if they require that where that evidence is not obtained the business relationship or one-off transaction in question shall not proceed any further.

(2) Case 1 is any case where the parties form or resolve to form a business relationship between them.

(3) Case 2 is any case where, in respect of any one-off transaction, a person handling the transaction knows or suspects that the applicant for business is engaged in money laundering, or that the transaction is carried out on behalf of another person engaged in money laundering.

(4) Case 3 is any case where, in respect of any one-off transaction, payment is to be made by or to the applicant for business of the amount of $15,000 or more.

(5) Case 4 is any case where, in respect of two or more one-off transactions -

   (a) it appears at the outset to a person handling any of the transactions -

      (i) that the transactions are linked; and

      (ii) that the total amount, in respect of all of the transactions, which is payable by or to the applicant for business is $15,000 or more; or

   (b) at any later stage, it comes to the attention of such a person that sub-paragraphs (i) and (ii) of paragraph (a) are satisfied.
(6) The procedures referred to in sub-regulation (1) are in accordance with this regulation if, when a report is made in circumstances falling within Case 2 (whether in accordance with regulation 14 or directly to the Reporting Authority), they provide for steps to be taken in relation to the one-off transaction in question in accordance with any directions that may be given by the Reporting Authority.

(7) In these Regulations references to satisfactory evidence of a person’s identity shall be construed in accordance with regulation 11(1).

8. (1) Where satisfactory evidence of the identity of an applicant for business would, apart from this regulation, be required under identification procedures in accordance with regulation 7 but -

(a) the circumstances are such that a payment is to be made by the applicant for business; and

(b) it is reasonable in all the circumstances -

(i) for the payment to be sent by post or delivered by hand or by any electronic means which is effective to transfer funds; or

(ii) for the details of the payment to be sent by post or delivered by hand, to be given on the telephone or to be given by any other electronic means,

then, subject to sub-regulation (2), the fact that the payment is debited from an account held in the applicant’s name at a licensee under the Banks and Trust Companies Law (2000 Revision) or at a bank that is regulated in, and either based or incorporated in or formed under the laws of, a country specified in Schedule 3 (whether the account is held by the applicant alone or jointly with one or more other persons) shall be capable of constituting the required evidence of identity.

(2) Sub-regulation (1) shall not have effect to the extent that -

(a) the circumstances of the payment fall within Case 2; or

(b) the payment is made by a person for the purpose of opening a relevant account with a licensee under the Banks and Trust Companies Law (2000 Revision).

(3) For the purposes of sub-regulation (1)(b), it shall be immaterial whether the payment or its details are sent or given to a person who is bound by regulation 5(1) or to some other person acting on his behalf.

(4) For the purposes of this regulation “relevant account” means an account from which a payment may be made by any means to a person other than the applicant for business, whether such a payment -

(a) may be made directly to such a person from the account by or on behalf of the applicant for business; or

(b) may be made to such a person indirectly as a result of -

(i) a direct transfer of funds from an account from which no such direct payment may be made to another account; or

(ii) a change in any of the characteristics of the account.

9. (1) This regulation applies where, in relation to a person who is bound by regulation 5(1), an applicant for business is or appears to be acting otherwise than as principal.

(2) Subject to regulation 10, identification procedures maintained by a person are in accordance with this regulation if, in a case to which this regulation applies, they require
reasonable measures to be taken for the purpose of establishing the identity of any person on
whose behalf the applicant for business is acting.

(3) In determining, for the purposes of sub-regulation (2), what constitutes reasonable
measures in any particular case regard shall be had to all the circumstances of the case and, in
particular, to best practice which, for the time being, is followed in the relevant field of
business and which is applicable to those circumstances.

(4) Without prejudice to the generality of sub-regulation (3), if the conditions mentioned
in sub-regulation (5) are fulfilled in relation to an applicant for business who is, or appears to
be, acting as an agent for a principal (whether undisclosed or disclosed for reference purposes
only) it shall be reasonable for a person bound by regulation 5(1) to accept a written assurance
from the applicant for business to the effect that evidence of the identity of any principal on
whose behalf the applicant for business may act in relation to that person will have been
obtained and recorded under procedures maintained by the applicant for business.

(5) The conditions referred to in sub-regulation (4) are that in relation to the business
relationship or transaction in question, there are reasonable grounds for believing that the
applicant for business -

(a) acts in the course of a business in relation to which an overseas regulatory
authority exercises regulatory functions; and
(b) is based or incorporated in, or formed under the law of, a country specified in
Schedule 3.

(6) In sub-regulation (5), and in regulation 10, “overseas regulatory authority” means an
authority which, in a country outside the Islands, exercises a function corresponding to a
statutory function of the Authority in relation to relevant financial business in the Islands.

10. (1) Subject to sub-regulation (2), identification procedures under regulations 7
and 9 shall not require any steps to be taken to obtain evidence of any person’s identity -

(a) where there are reasonable grounds for believing that the applicant for
business is a person who is bound by the provisions of regulation 5(1);
(b) where there are reasonable grounds for believing that the applicant for
business is himself -
   (i) acting in the course of a business in relation to which an overseas
regulatory authority, as defined in regulation 9(6), exercises regulatory
functions; and
   (ii) is based or incorporated in, or formed under the law of, a country
specified in Schedule 3.
(c) where a one-off transaction is carried out with or for a third party pursuant to
an introduction effected by a person who has provided an assurance that
evidence of the identity of all third parties introduced by him will have been
obtained and recorded under procedures maintained by him, where that person
identifies the third party and where -
   (i) that person falls within paragraph (a); or
   (ii) there are reasonable grounds for believing that the conditions mentioned
in regulation 9(5)(a) and (b) are fulfilled in relation to him;
(d) where the person who would otherwise be required to be identified, in relation
to a one-off transaction, is the person to whom the proceeds of that transaction
are payable but to whom no payment is made because all of those proceeds are
directly reinvested on his behalf in another transaction -
   (i) of which a record is kept; and
(ii) which can result only in another reinvestment made on that person’s behalf or in a payment made directly to that person;

(e) in relation to insurance business consisting of a policy of insurance in connection with a pension scheme taken out by virtue of a person’s contract of employment or occupation where the policy -

(i) contains no surrender clause; and

(ii) may not be used as collateral for a loan;

(f) in relation to insurance business in respect of which a premium is payable in one instalment of an amount not exceeding $2,000; or

(g) in relation to insurance business in respect of which a periodic premium is payable and where the total payable in respect of any calendar year does not exceed $800.

(2) Nothing in this regulation shall apply in circumstances falling within Case 2.

(3) In this regulation “calendar year” means a period of twelve months beginning on 31st December.

11. (1) For the purposes of these Regulations, evidence of identity is satisfactory if -

(a) it is reasonably capable of establishing that the applicant is the person he claims to be; and

(b) the person who obtains the evidence is satisfied, in accordance with the procedures maintained under these Regulations in relation to the relevant financial business concerned, that it does establish that fact.

(2) In determining for the purposes of regulation 7(1) the time span in which satisfactory evidence of a person’s identity has to be obtained, in relation to any particular business relationship or one-off transaction, all the circumstances shall be taken into account including, in particular -

(a) the nature of the business relationship or one-off transaction concerned;

(b) the geographical locations of the parties;

(c) whether it is practical to obtain the evidence before commitments are entered into between the parties or before money passes; and

(d) in relation to Case 3 or 4, the earliest stage at which there are reasonable grounds for believing that the total amount payable by an applicant for business is $15,000 or more.

Part 4 - Record-keeping procedures

12. (1) Record-keeping procedures maintained by a person are in accordance with this regulation if they require the keeping, for the prescribed period, of the following records -

(a) in any case where, in relation to any business relationship that is formed or one-off transaction that is carried out, evidence of a person’s identity is obtained under procedures maintained in accordance with regulation 7 or 9, a record that indicates the nature of the evidence and -

(i) comprises a copy of the evidence;

(ii) provides such information as would enable a copy of it to be obtained; or

(iii) in a case where it is not reasonably practicable to comply with subparagraph (i) or (ii), provides sufficient information to enable the details
as to a person’s identity contained in the relevant evidence to be re-
obtained; and

(b) a record containing details relating to all transactions carried out by that person
in the course of relevant financial business.

(2) For the purposes of sub-regulation (1), the prescribed period is, subject to sub-
regulation (3), the period of at least five years commencing with -

(a) in relation to such records as are described in paragraph (a), the date on which
the relevant business was completed within the meaning of sub-regulation (4); and

(b) in relation to such records as are described in paragraph (b), the date on which
all activities taking place in the course of the transaction in question were
completed.

(3) Where a person who is bound by the provisions of regulation 5(1)-

(a) forms a business relationship or carries out a one-off transaction with another
person;

(b) has reasonable grounds for believing that that person has become insolvent;
and

(c) after forming that belief, takes any step for the purpose of recovering all or
part of the amount of any debt payable to him by that person which has fallen
due,

the prescribed period for the purposes of sub-regulation (1) is the period of at least five years
commencing with the date on which the first such step is taken.

(4) For the purposes of sub-regulation (2)(a), the date on which relevant business is
completed is -

(a) in circumstances falling within Case 1, the date of the ending of the business
relationship in respect of whose formation the record under sub-regulation
(1)(a) was compiled;

(b) in circumstances falling within Case 2 or 3, the date of the completion of all
activities taking place in the course of the one-off transaction in respect of
which the record under sub-regulation (1)(a) was compiled; or

(c) in circumstances falling within Case 4, the date of the completion of all
activities taking place in the course of the last one-off transaction in respect of
which the record under sub-regulation (1)(a) was compiled,

and where the formalities necessary to end a business relationship have not been observed, but
a period of five years has elapsed since the date on which the last transaction was carried out in
the course of that relationship, then the date of the completion of all activities taking place in
the course of that last transaction shall be treated as the date on which the relevant business
was completed.

13. (1) For the purposes of regulation 12(3)(b), a person shall be taken to be
insolvent if, but only if -

(a) he has been adjudged bankrupt or has made a composition or arrangement
with his creditors;

(b) he has died and his estate falls to be administered in accordance with an order
under section 66 of the Bankruptcy Law (1997 Revision); or

(c) where that person is a company, a winding up order or an administration order
has been made or a resolution for voluntary winding up has been passed with
respect to it, or a receiver or manager of its undertaking has been duly appointed, or possession has been taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property of the company comprised in or subject to the charge, or a voluntary arrangement has been sanctioned under section 86 of the Companies Law (2000 Revision).

(2) Where a person bound by regulation 5(1) -
(a) is an appointed representative; and
(b) is not -
(i) a licensee under the Banks and Trust Companies Law (2000 Revision);
(ii) a licensee under the Insurance Law (1999 Revision);
(iii) a licensed mutual fund administrator under the Mutual Funds Law (1999 Revision); or
(iv) the holder of a licence under the Companies Management Law, 1999,
it shall be the responsibility of the appointed representative’s principal to ensure that record-keeping procedures in accordance with regulation 12 are maintained in respect of any relevant financial business carried out by the appointed representative which is investment business carried on by him for which the principal has accepted responsibility.

(3) Where record-keeping procedures in accordance with regulation 12 are not maintained in respect of business relationships formed, and one-off transactions carried out, in the course of such relevant financial business as is referred to in sub-regulation (2), an appointed representative’s principal shall be regarded as having contravened regulation 5 in respect of those procedures and he, as well as the appointed representative, shall be guilty of an offence and shall be liable to be proceeded against and punished accordingly.

(4) In this Regulation “appointed representative” means a person -
(a) who is employed by a person under a contract for services which -
(i) requires or permits him to carry on relevant financial business; and
(ii) either prohibits him from giving advice about entering into investment agreements with persons other than his principal, or enables his principal to impose such a restriction or to restrict or prohibit the kinds of advice which he may give; or
(iii) either prohibits him from procuring persons to enter into investment agreements with persons other than his principal, or enables his principal to impose such a prohibition or to restrict the kinds of investment to which the agreements may relate or the other persons with whom they may be entered into; and
(b) for whose activities in carrying on the whole or part of that relevant financial business his principal has accepted responsibility in writing,

and the relevant financial business carried on by the appointed representative as such is the relevant financial business for which his principal has accepted responsibility.

Part 5 - Internal reporting procedures

14. Internal reporting procedures maintained by a person are in accordance with this regulation if they include provisions -
(a) identifying a person (“the appropriate person”) to whom a report is to be made of any information or other matter which comes to the attention of a person handling relevant financial business and which, in the opinion of the person handling that business, gives rise to a knowledge or suspicion that another person is engaged in money laundering;

(b) requiring that any such report be considered in the light of all other relevant information by the appropriate person, or by another designated person, for the purpose of determining whether or not the information or other matter contained in the report does give rise to such a knowledge or suspicion;

(c) for any person charged with considering a report in accordance with paragraph (b) to have reasonable access to other information which may be of assistance to him and which is available to the person responsible for maintaining the internal reporting procedures concerned; and

(d) for securing that the information or other matter contained in a report is disclosed to the Reporting Authority where the person who has considered the report under the procedures maintained in accordance with the preceding provisions of this regulation knows or suspects that another person is engaged in money laundering.
Part 6 - Duty to report evidence of money laundering

15. These Regulations apply to the Authority and to a minister or official member in the exercise, in relation to any person carrying on relevant financial business, of his statutory or official functions.

16. (1) Subject to sub-regulation (2), where the Authority or a minister or official member -

(a) obtains any information; and
(b) is of the opinion that the information indicates that any person has or may have been engaged in money laundering,

he shall, as soon as is reasonably practicable, disclose that information to the Reporting Authority.

(2) Where any person is a secondary recipient of information obtained by the Authority or a minister or official member, and that person forms such an opinion as is mentioned in sub-regulation (1)(b), that person may disclose the information to the Reporting Authority.

(3) Where any person employed by the Authority, appointed by the Authority to act as the Authority’s agent, employed by any such agent, or employed by the Government in the ministry or portfolio of a minister or official member -

(a) obtains any information whilst acting in the course of any investigation, or discharging any functions, to which his appointment or authorisation relates; and
(b) is of the opinion that the information indicates that a person has or may have been engaged in money laundering,

that person shall, as soon as is reasonably practicable, either disclose that information to the Reporting Authority or disclose that information to the Authority, minister or official member by whom he was appointed or authorised.

(4) Any disclosure made by virtue of the preceding provisions of this regulation shall not be treated as a breach of any restriction imposed by statute or otherwise.

(5) Any information -

(a) which has been disclosed to the Reporting Authority by virtue of the preceding provisions of this regulation; and
(b) which would, apart from the provisions of sub-regulation (4), be subject to such a restriction as is mentioned in that sub-regulation,

may be disclosed by the Reporting Authority, or any person obtaining the information directly or indirectly from the Reporting Authority, in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings, but not otherwise.

(6) In this regulation “secondary recipient”, in relation to information obtained by the Authority or a minister or official member, means any person to whom that information has been passed by the Authority or a minister or official member.
Part 7 - Transitional provisions

17. (1) Nothing in these Regulations shall require a person who is bound by regulation 5(1) to maintain procedures in accordance with regulations 7 and 9 which require evidence to be obtained, in respect of any business relationship formed by him before the date on which these Regulations come into force, as to the identity of the person with whom that relationship has been formed.

(2) For the purposes of regulation 2(4), any business relationship referred to in sub-regulation (1) shall be treated as if it were an established business relationship.
In exercise of the powers conferred by section 20 of the Proceeds of Criminal Conduct Law (2000 Revision), the Governor in Council makes the following regulations -

1. These regulations may be cited as the Money Laundering (Amendment) (Client Identification) Regulations, 2001.

2. The Money Laundering Regulations, 2000 are amended in regulation 17 as follows -

   (a) in paragraph (1), by repealing the word “Nothing” and substituting the words “Subject to paragraphs (1A) and (1B), nothing”; and

   (b) by inserting after paragraph (1), the following paragraphs -

   “(1A) Paragraph (1) ceases to have effect on 31 December, 2002, by which date a person who is bound by regulation 5(1) is required to complete verification of the identity of persons with whom a business relationship was formed before 1 September, 2000; and such verification shall be conducted with a view to the earliest minimisation of money laundering risks.

   (1B) The Governor in Council may, if the Council thinks it expedient, by order extend the period ending on 31 December, 2002, either generally or in relation to a particular sector of the financial services industry, for a period not exceeding six months.”.

Made in Executive Council this 26th day of April, 2001.

Carmena H. Watler
CAYMAN ISLANDS

THE PROCEEDS OF CRIMINAL CONDUCT LAW
(2001 REVISION)

THE MONEY LAUNDERING (AMENDMENT) (ELECTRONIC PAYMENTS) REGULATIONS, 2001

In exercise of the powers conferred by section 20 of the Proceeds of Criminal Conduct Law (2001 Revision), the Governor in Council makes the following regulations:

1. These regulations may be cited as the Money Laundering (Amendment) (Electronic Payments) Regulations, 2001.

2. The Money Laundering Regulations, 2000 are amended in regulation 8 by repealing sub-regulation (2) and substituting the following:

   “(2) Sub-regulation (1) shall -
   (a) not have effect to the extent that the circumstances of the payment fall within Case 2;
   (b) not have effect to the extent that the payment is made by a person for the purpose of opening a relevant account with a licensee under the Banks and Trust Companies Law (2000 Revision); and
   (c) cease to have effect in relation to an applicant for business where onward payment is to be made in any way other than results in -
   (i) a reinvestment on behalf of the applicant with the same institution engaged in relevant financial business; or
   (ii) a payment made directly to the applicant,

so that the evidence of identity of the applicant which would have been required but for the operation of sub-regulation (1) shall be obtained before payment of the proceeds is made (unless by operation of law the payment of the proceeds requires to be made to a trustee in bankruptcy, a liquidator, a trustee for an insane person or a trustee of the estate of a deceased person).”.

3. The Money Laundering Regulations, 2000 are amended in Schedule 2 by inserting, after paragraph 15, the following paragraph:

   “16. The conduct of securities investment business.”

Made in Executive Council this 24th day of May, 2001.

Carmena H. Watler
Clerk of Executive Council.
# SCHEDULE 1

## CLASSES OF LONG TERM BUSINESS

<table>
<thead>
<tr>
<th>Number</th>
<th>Description</th>
<th>Nature of Business</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Life and annuity</td>
<td>Effecting and carrying out contracts of insurance on human life or contracts to pay annuities on human life, but excluding (in each case) contracts within Class III below.</td>
</tr>
<tr>
<td>II</td>
<td>Marriage and birth</td>
<td>Effecting and carrying out contracts of insurance to provide a sum on marriage or on the birth of a child, being contracts expressed to be in effect for a period of more than one year.</td>
</tr>
<tr>
<td>III</td>
<td>Linked long term</td>
<td>Effecting and carrying out contracts of insurance on human life or contracts to pay annuities on human life where the benefits are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contracts) or by reference to fluctuations in, or in an index of, the value of property of any description whether or not so specified).</td>
</tr>
<tr>
<td>IV</td>
<td>Permanent health</td>
<td>Effecting and carrying out contracts of insurance providing specified benefits against risks of persons becoming incapacitated in consequence of sustaining injury as a result of an accident or of an accident of a specified class or of sickness or infirmity, being contracts that - (a) are expressed to be in effect for a period of not less than five years or until the normal retirement age for the persons concerned, or without limit of time; and (b) either are not expressed to be terminable by the insurer. Or are expressed to be so terminable only in special circumstances mentioned in the contract.</td>
</tr>
<tr>
<td>V</td>
<td>Tontines</td>
<td>Effecting and carrying out tontines</td>
</tr>
<tr>
<td>VI</td>
<td>Capital redemption</td>
<td>Effecting and carrying out capital redemption contracts</td>
</tr>
</tbody>
</table>
redemption contracts.

VII Pension fund management Effecting and carrying out:

(a) contracts to manage the investments of pension funds; or

(b) contracts of the kind mentioned in paragraph (a) above that are combined with contracts of insurance covering either conservation of capital or payment of a minimum interest.

SCHEDULE 2

LIST OF ACTIVITIES FALLING WITHIN THE DEFINITION OF “RELEVANT FINANCIAL BUSINESS”

1. Acceptance of deposits and other repayable funds from the public.
2. Lending.
3. Financial leasing.
4. Money transmission services.
5. Issuing and administering means of payment (e.g. credit cards, travellers’ cheques and bankers’ drafts).
7. Trading for own account or for account of customers in:
   (a) money market instruments (cheques, bills, CDs, etc.);
   (b) foreign exchange;
   (c) financial futures and options;
   (d) exchange and interest rate instruments;
   (e) transferable securities.
8. Participation in securities issues and the provision of services related to such issues.
9. Advice to undertakings on capital structure, industrial strategy and related questions and advice and services relating to mergers and the purchase of undertakings.
10. Money broking.
11. Portfolio management and advice.
12. Safekeeping and administration of securities.
13. Safe custody services.
14. Financial, estate agency and legal services provided in the course of business relating to the sale, purchase or mortgage of land or interests in land on behalf of clients or customers.

15. The services of listing agents and broker members of the Cayman Islands Stock Exchange as defined in the CSX Listing Rules and the Cayman Islands Stock Exchange Membership Rules respectively.

SCHEDULE 3

COUNTRIES AND TERRITORIES WITH EQUIVALENT LEGISLATION

Argentina  United States of America
Australia
Belgium
Brazil
Canada
Denmark
Finland
France
Germany
Gibraltar
Greece
Hong Kong
Iceland
Ireland
Italy
Japan
Luxembourg
Malta
Mexico
Netherlands
New Zealand
Norway
Portugal
Singapore
Spain
Sweden
Switzerland
Turkey
United Kingdom
Made in Council the 2nd day of August, 2000.

CARMENA WATLER

Clerk of the Executive Council.
Appendix D - Anti-Money Laundering Flowchart Summary Of Identification Checks

Note: This flow chart is designed as a summary document and may not be exhaustive. Financial Institutions should refer to specific provisions within the legislation and the Guidance Notes to ascertain the full requirements.

DIRECT APPLICANTS FOR BUSINESS

Are there reasonable grounds for believing that the Applicant for Business is a ‘Special Case’ as defined in these Guidance Notes?

YES

Document the basis on which this assessment is made & obtain any supplementary documentation as outlined in the Guidance Notes

NO

Is the transaction covered under the “Exempted Categories” as outlined in the Guidance Notes?

YES

Full identification and KYC checks to be made on the Applicant for Business – see Section 3 of these Guidance Notes

NO

No further identification checks required at that stage on acceptance of Applicant for Business as a client provided there is no suspicion of money laundering
Appendix E- Request For Verification Of Customer Identity

Financial Institutions using this form must obtain the prior consent of the customer to avoid breaching confidentiality).

To: (Address of financial institution to which request is sent)  From: (Stamp of financial institution sending the letter)

Dear Sirs,

REQUEST FOR VERIFICATION OF CUSTOMER IDENTITY

In accordance with the Cayman Islands Anti-Money Laundering Guidance Notes for Financial Services Providers, we write to request your verification of the identity of our prospective customer detailed below.

Full name of customer ________________________________________________________________

Title:(Mr/Mrs/Miss/Ms) SPECIFY______________________________________________

Address including postcode (as given by customer) ________________________________________

Date of birth: __________________ Account No. (if known __________________

A specimen of the customer’s signature is attached.

Please respond promptly by returning the tear-off portion below. Thank you.

-----------------------------------------------------------------------------------------------

To: The Manager (originating institution)  From: (Stamp of sending Financial Institution)

Request for verification of the identity of [title and full name of customer]

With reference to your enquiry dated____________________ ______________________________we:

(*Delete as applicable)

1. Confirm that the above customer *is/is not known to us. If yes, for ____________ years.
2. *Confirm/Cannot confirm the address shown in your enquiry. If yes, the nature of evidence held is ____________________________________________________________________________

3. *Confirm/Cannot confirm that the signature reproduced in your enquiry appears to be that of the above customer.

Name: ____________________________________  Signature: ________________________________

Job Title: _________________________________  Date: _________________________________

The above information is given in strict confidence, for your private use only, and without any guarantee or responsibility on the part of this institution or its officials.
Appendix F - Eligible Introducer's Form

(To be completed by the Introducer)

Information about the Introducer

Name of Introducer ____________________________________________________________

Address of Introducer: _________________________________________________________
Telephone number __________________ Fax number ______________ Email ____________

Name of Applicant for Business ________________________________________________

Address of Applicant for Business ______________________________________________

I/We confirm that I/We am/are:- [Please tick as appropriate]

1. A Financial Service Provider in a schedule 3 country as defined by the Money Laundering Regulations of the Cayman Islands

2. An institution which belongs to the same corporate group as the introduced client.

3. A Professional Intermediary in a schedule 3 country as defined by the Money Laundering Regulations of the Cayman Islands. (specify which country …………………………………………………………………………)

4. A member of a local association or professional body to which the regulations apply which is subject to disciplinary procedures for failure to conduct relevant financial business in accordance with equivalent rules and guidelines to the Money Laundering Regulations of the Cayman Islands.

5. A business which is subject to the Money Laundering Regulations of the Cayman Islands

Name and address of relevant regulator/professional body

I confirm that I have satisfactory evidence of the identity of the introduced client and will on request provide a copy of that evidence.

Name: _______________________________________________________________________

Signature: ____________________________________________________________________

Job Title: ___________________________________________________________________

Date: _______________________________________________________________________
Appendix G - Introduced Business Flow Chart

Note: This flowchart is designed as a summary document and may not be exhaustive. Financial Services Providers should refer to specific provisions within the legislation and the Guidance Notes to ascertain the full requirements.

Is the transaction within the exempted one-off transaction limits?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Are you seeking to rely upon the Exemption in the Law?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Does the Introducer qualify as an “Eligible Introducer”?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Are there terms of business in place which comply with the requirements of the Regulations and the Guidance Notes?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Has a complete “Eligible Introducer” Form been received?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

No further KYC checks required at that stage on acceptance of Applicant for Business as a client provided there is no suspicion of money laundering

Full KYC checks to be made on Applicant for Business – see section 3 of the Guidance Notes
Appendix H - Approved Markets And Exchanges

In addition to the Cayman Islands Stock Exchange, the following are markets and exchanges approved by the Monetary Authority as at 28th March, 1999. Amendments to this list may be made by the Monetary Authority from time to time. Such amendments will be gazetted.

American Stock Exchange (AMEX)
Amsterdam Stock Exchange (Amsterdamse Effectenbeurs)
Antwerp Stock Exchange (Effectenbeurs vennootschap van Antwerpen)
Athens Stock Exchange (ASE)
Australian Stock Exchange
Barcelona Stock Exchange (Bolsa de Valores de Barcelona)
Basle Stock Exchange (Basler Börse)
Belgium Futures & Options Exchange (BELFOX)
Berlin Stock Exchange (Berliner Börse)
Bergen Stock Exchange (Bergen Bors)
Bermuda Stock Exchange
Bilbao Stock Exchange (Borsa de Valores de Bilbao)
Bologna Stock Exchange (Borsa Valori de Bologna)
Bordeaux Stock Exchange
Boston Stock Exchange
Bovespa (São Paulo Stock Exchange)
Bremen Stock Exchange (Bremener Wertpapierbörse)
Brussels Stock Exchange (Société de la Bourse des Valeurs Mobilières/Effecten Beursvennootschap van Brussel)
Cincinnati Stock Exchange
Copenhagen Stock Exchange (Kobenhayns Fondsbors)
Dusseldorf Stock Exchange (Rheinisch-Westfälische Börse zu Düsseldorf)
Florence Stock Exchange (Borsa Valori di Firenze)
Frankfurt Stock Exchange (Frankfurter Wertpapierbörse)
Fukuoka Stock Exchange
Geneva Stock Exchange
Genoa Stock Exchange (Borsa Valori de Genova)
Hamburg Stock Exchange (Hanseatische Wertpapier Börse Hamburg)
Helsinki Stock Exchange (Helsingen Arvopaperipörssi Osuuskunta)
Hong Kong Stock Exchange
Irish Stock Exchange
Johannesburg Stock Exchange
Korea Stock Exchange
Kuala Lumpur Stock Exchange
Lille Stock Exchange
Lisbon Stock Exchange (Borsa de Valores de Lisboa)
London Stock Exchange (LSE)
Luxembourg Stock Exchange (Société de la Bourse de Luxembourg SA)
Lyon Stock Exchange
Madrid Stock Exchange (Bolsa de Valores de Madrid)
Marseille Stock Exchange
Mexican Stock Exchange (Bolsa Mexicana de Valores)
Midwest Stock Exchange
Milan Stock Exchange (Borsa Valores de Milano)
Montreal Stock Exchange
Munich Stock Exchange (Bayerische Börse in München)
Nagoya Stock Exchange
Nancy Stock Exchange
Nantes Stock Exchange
Naples Stock Exchange (Borsa Valori di Napoli)
NASDAQ (The National Association of Securities Dealers Automated Quotations)
New York Stock Exchange
New Zealand Stock Exchange
Oporto Stock Exchange (Bolsa de Valores do Porto)
Osaka Stock Exchange
Oslo Stock Exchange (Oslo Bors)
Pacific Stock Exchange
Palermo Stock Exchange (Borsa Valori di Palermo)
Paris Stock Exchange
Philadelphia Stock Exchange
Rio de Janeiro Stock Exchange (BVRJ)
Rome Stock Exchange (Borsa Valori di Roma)
Singapore Stock Exchange
Stockholm Stock Exchange (Stockholm Fondbörs)
Stuttgart Stock Exchange (Baden-Württembergische Wertpapierbörse zu Stuttgart)
Taiwan Stock Exchange
Tel Aviv Stock Exchange
The Stock Exchange of Thailand
Tokyo Stock Exchange
Toronto Stock Exchange
Trieste Stock Exchange (Borsa Valori di Trieste)
Trondheim Stock Exchange (Trondheims Bors)
Turin Stock Exchange (Borsa Valori de Torino)
Valencia Stock Exchange (Borsa de Valores de Valencia)
Vancouver Stock Exchange
Venice Stock Exchange (Borsa Valori de Venezia)
Vienna Stock Exchange (Wiener Wertpapierbörse)
Zurich Stock Exchange (Zürcher Börse)
Appendix I - Internal Report Form

Name of customer:

Full account name(s):

Account no(s):

Date(s) of opening:

Date of customer’s birth:

Nationality:

Passport number:

Identification and references:

Customer’s address:

Details of transactions arousing suspicion:

As relevant:
  Amount (currency)       Date of receipt       Sources of funds

Other relevant information:

Money Laundering Reporting Officer:
(The Reporting Officer should briefly set out the reason for regarding the transactions to be reported as suspicious or, if he decides against reporting, his reasons for that decision.)
Appendix J - Suspicious Activity Reporting Form

TO: The Reporting Authority
    P.O. Box 1054
    George Town, Grand Cayman
    Telephone: (1345) 945-6267
    Facsimile: (1345) 945-6268

Reference of Reporting Institution: Reference of Reporting Authority:

REPORT FORM FOR SUSPICION OF MONEY LAUNDERING

Date: __________________________

Date of Original Report*: __________________________

Name of Reporting Institution: ____________________________________________

Name of Reporting Officer: ______________________________________________

SUBJECT OF REPORT:

Surname: __________________________

Forename: __________________________

Date of Birth: __________________________

Nationality: __________________________

1*: Address(es)

PO Box: __________________________

Telephone No: __________________________

Fax No.: __________________________

E-Mail: __________________________

PO Box: __________________________

Telephone No: __________________________

Fax No.: __________________________

E-Mail: __________________________

* Delete if inapplicable
2. Company Name: ________________________________________________

Business Address: ________________________________________________

Registered Office (if different): ____________________________________

Authorised signatory(ies):

name(s) _______________________________________
address(es) _______________________________________

Director(s):

name(s) _______________________________________
address(es) _______________________________________

Beneficial owner(s):

name(s) _______________________________________
address(es) _______________________________________

TYPE OF IDENTIFICATION EVIDENCE HELD:

Identification Document: __________________________________________

Number: _______________________________________________________

Date of Issue: __________________________________________________

Place of Issue: __________________________________________________

Name of other bank(s) or financial institution(s) involved in transaction*:

_________________________________________________________________

_________________________________________________________________

_________________________________________________________________

* Delete if inapplicable
Reason for Suspicion:
(please include the name and amount of the transaction(s) the source and determination of funds)
Appendix K - Examples Of Suspicious Activities

The examples within this Appendix are not exhaustive; nor, despite two categorisations, "Intermediaries/Introducers" and "Financial Services Providers", are they exclusive to any one type of investment business. They may apply equally to portfolio managers, investment advisers, stockbrokers, et al.

The fact that a particular kind of behaviour or type of transaction is mentioned does not of course mean that it is sinister. It may well have an entirely innocent explanation. The examples are intended to promote awareness and stimulate a culture of deterrence to money laundering.

Intermediaries/Introducers

(a) clients who produce large amounts of cash and ask for it to be credited to the intermediary's client money account;

(b) clients who seek to use the intermediary's client money account as a bank account;

(c) clients who settle transactions in cash or bearer instruments, such as travellers cheques;

(d) clients who frequently settle significant transactions by transfers from banks, bureaux de change or money remittance providers located in centres known to be associated with drug trafficking;

(e) clients who use (deal through or hold securities) companies located in poorly regulated or uncooperative jurisdictions with undisclosed ownership;

(f) clients whose transactions are in their size, type or nature not in accordance with their apparent standing or wealth;

(g) clients whose source of funds is not clear and who decline to provide satisfactory explanations;

(h) clients whose approach to investment risk or reward is unusual. (They may, for example, be unconcerned about return or risk when a normal investor would be);

(i) clients whose behaviour is significantly different from that of the normal investor. (They may, for example, "churn" their investments or indulge in early surrender of life or investment products despite the penalties);

(j) clients who request bearer and other securities transferable by delivery and do not wish to have them held in safe custody or within a recognised custodial system;

(k) clients who request the intermediary to obtain in his own name for them facilities from banks such as travellers cheques, wire transfers, safe deposit facilities for which the client would normally have to produce satisfactory identification to the bank;

(l) accounts which are said to be "trust" or fiduciary accounts for which there is no trust deed or supplemental documentation.
Financial Services Providers

The examples given for intermediaries/introducers may also be relevant to the direct business of Financial Services Providers. The product provider will often effectively be the counterparty of the intermediary and should be alert to unusual transactions or investment behavior, particularly where under the Regulations the Financial Services Provider is relying on the intermediary/introducer for identification of the customer. The systems and procedures of the Financial Services Providers are geared to serving the needs of the "normal" or "average" investors, as this is the most cost-effective solution. Hence, unusual behavior should be readily identifiable.

Particular care should be taken where:-

(a) settlement of purchases or sales involves (or appears to involve) third parties other than the investor;
(b) bearer shares (if available) are requested;
(c) bearer or unregistered securities/near-cash instruments are offered in settlement of purchases;
(d) there is excessive switching;
(e) there is early termination despite front-end loading or exit charges;
(f) they become aware that the customer's holding has been pledged to secure a borrowing in order to gear up his investment activities;
(g) they are managing or administering an unregulated collective investment scheme or pooled funds arrangement.

The routes and devices used to launder criminal money are limited only by the imagination and ingenuity of those concerned. These are examples of potentially suspicious transactions. The Authority is always pleased to learn from Financial Institutions of new examples and techniques they come across in their day-to-day business.
Appendix L - Glossary Of Terms

**Applicant for Business**
A person seeking to form a business relationship or carry out a one-off transaction, with a person who is carrying out relevant financial business in the Islands.

**Appropriate Person**
Money Laundering Reporting Officer.

**Authority**
The Cayman Islands Monetary Authority.

**Business Relationship**
Regulation 3(2) defines a business relationship as an arrangement between two or more persons where the purpose of the arrangement is to facilitate the carrying out of transactions between the persons concerned on a frequent or habitual basis; and the total amount of any payment or payments to be made by any person to any other in the course of that arrangement is not known or capable of being ascertained at the time the arrangement is made.

**Exempted one-off transaction**
A single or series of linked transactions where the aggregate sum is less than $15,000.

**Financial Services Provider**
A person or business conducting relevant financial business as defined under the legislation.

**Financial Institution**
Reference is made in these Guidance Notes to Financial Institutions particularly in the context of due diligence procedures necessary when a prospective client is introduced by or is a Financial Institution in a country with equivalent legislation. In this context, Financial Institutions refer not only to banks but also to non bank financial institutions, namely insurance companies, savings or pension societies, building societies, security brokers and dealers, regulated investment managers, bureaux de change, credit unions, licensed or otherwise regulated corporate trustees and the following clearing agents, their operators and depositories:

- Clearstream Banking Société Anonyme
- Euroclear;
- Canadian Depository For Securities; and
- Depository Trust Company,

and such other clearing agents (their operators and depositories) as the Cayman Islands Monetary Authority shall from time to time designate.
**Introducer**
An individual or institution which is introducing business to a *Financial Services Provider* in the Cayman Islands

**One-off transaction**
Any transaction other than a transaction carried out in the course of an established business relationship formed by a person acting in the course of relevant financial business.

** Relevant financial business**
Relevant financial businesses are detailed in section 4(1) of the Regulation, these include:

(a) Banking or trust business carried on by a person who is a licensee under the Banks and Trust Companies Law (2000 Revision);
(b) Building societies licensed under the Building Societies (Amendment) (Regulation by Monetary Authority) Law, 2000.
(c) Co-operatives licensed under the Cooperative Societies (Amendment)(Credit Unions) Law, 2000.
(d) Insurance business and the business of an insurance manager, an insurance agent, an insurance sub-agent or an insurance broker within the meaning of the Insurance Law (1999 Revision).
(e) Mutual Fund administration or the business of a regulated mutual fund regulated under the Mutual Funds Law (1999 Revision).
(f) Company management licensed under the Companies Management Law, 1999; and
(g) Any of the activities set out in Schedule 2 of the Regulations.

**Reporting Authority**
The Reporting Authority as appointed by the Governor under section 21 (2) of the Proceeds of Criminal Conduct Law.

**Vigilance Policy**
The policy, group-based or local, of an institution to guard against:

(i) its business (and the financial system at large) being used for laundering; and
(ii) the committing of any of the offences under the anti money laundering legislation of the Cayman Islands by the institution itself or its staff.