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**INTERMEDIARIES SEMINAR**  
**13 MAY 2008**

# Agenda

## 1. CURRENT REGULATORY ISSUES – Diane Colton

including

IMF VISIT

RATS

AML

## 2. AML LEGISLATION REVIEW – Michael Graham

## 3. INTERMEDIARY CORPORATE GOVERNANCE – Tim Street

including comments on the Annual Return forms and a  
Binding Authority Overview Survey

# IMF / RATS / AML

Diane Colton  
Director of Insurance

# IMF Visit

- December
- Assessment of insurance sector
- Visits to licensees – law including AML

# RATS

- Position paper
- Working Group
- Guidance paper
- Education seminar
- Exam qualification

## AML Chronology

- 18 September 2007 – Handbook published on Commission's website.
- 20 November 2007 – AML/CFT presentation given to insurance sector.
- 15 December 2007 – Handbook and regulations in force.

## What we have currently found.

- At onsite and annual meetings there have been numerous failures to understand and implement properly the Handbook and Regulations.
- In November 2007 we said “non-compliance will be treated seriously”.

## What we have currently found.

- What are the consequences for licensees? – In accordance with Commission wide approach to all licensed entities. Depends on severity of breaches but will include one or more of :
  - Requirement to rectify breaches within strict timetable
  - Imposition of conditions on licence.
  - Reporting breaches to Law Officers.



# AML/CFT Presentation

Michael Graham  
Deputy Director of Insurance

## Why is AML/CFT important?

Maintaining Guernsey's high reputation as an offshore insurance and reinsurance centre.

- Adherence with international standards – FATF.
- Showing we are, in practice, compliant – IMF.
- Compliance with legal requirements of Handbook and Regulations.

## Underlying philosophy of new regime

- Focus on Board responsibilities.
- Risk based approach – low/high risk relationships.
- Dynamic – ongoing.
- Tick-box approach is inappropriate.

# Corporate Governance

- Board has responsibility for reviewing compliance with Regulations.
- Board must, for example, approve general policy regarding identification and assessment of risks of its customer base – Business Risk Assessment.
- Cannot contract-out of this responsibility by outsourcing compliance.
- Compliance must be discussed and minuted at Board Meetings – this will be checked during on-site visits.

## What does a risk based approach entail?

- Risk identification and assessment.
- Risk mitigation by effective policies/procedures.
- Risk monitoring.
- Documenting.

## Risk identification and assessment

What is the threat of being used for money laundering?

- Geographical location.
- Complexity of legal and transactional structures.
- Value of transaction particularly high.

# Risk Mitigation

- **General Rule** – business relationships and occasional transactions are subject to the full range of CDD measures including the requirement to identify and verify the identity of the customer, beneficial owners and any underlying principals.
- Categorising clients as low / medium / high risk.
- Varying CDD procedures appropriate to assessed risks.
- Understanding purpose and intended nature of the relationship.
- Obtaining additional information if appropriate, e.g. where do customer's funds/wealth come from?

# Low Risk

## Customers – Low Risk Indicators

### Examples:

- Locally resident retail customers who have business relationship understood by licensee.
- But this is not conclusive because may also have high risk attributes.



# Low Risk

## Products/Services – Low Risk Indicators

### Examples:

- Life insurance policies where annual premium is no more than £1,000 or single premium of no more than £2,500.
- Insurance policies for pension schemes, if there is no surrender clause and the policy cannot be used for collateral.
- Regular payment savings or investment/insurance products.

# High Risk

## Customers – High Risk Indicators

### Examples:

- PEPs.
- Complex ownership structures.
- Association with location carrying high exposure to risk of corruption.

# High Risk

## Products/Services – High Risk Indicators

### Examples:

- Significant and/or frequent cash transactions which are unusual for type of business.
- Inappropriate delegation of authority.

# Customer Due Diligence

Depends on assessment of risk.

- Low Risk.
- High Risk.
- In Between.

## Low Risk

Specific provisions concerning licensed intermediaries handling commercial and personal lines of business.

- Where customer identified and assessed as low risk, not required to verify until claim or return of premium made.
- Assessment must be made, cannot simply automatically categorise all clients as low risk.

## Low Risk

BUT verification at payment stage not required:

- Business introduced by third party and licensee satisfied itself as to suitability of third party (e.g. local advocate/accountant).
- Payments made direct to insurer.
- Return premium provided satisfied as to reason for payment.
- Payment approved by independent third party (e.g. loss adjuster/lawyer).

# High Risk

When a relationship has been categorised as high risk enhanced CDD is required, which includes considering:

- obtaining additional identification data.
- verifying additional aspects of customer's identify.
- obtaining additional information in order to understand the purpose and intended nature of the relationship.
- taking reasonable measures to establish source of funds and source of wealth.
- carrying out more frequent and more extensive ongoing monitoring.

# High Risk – Politically Exposed Person

## Who is a PEP?

### Include:

- Head of State/Government.
- Senior Politicians/Government Officials/Members of Judiciary.
- Senior Executives of State Owned Body Corporates.
- Family Members.



## High Risk – Politically Exposed Person

What should you do when contemplating a business relationship with a PEP?

- Ensure Senior Management approval is obtained in establishing/maintaining relationship.
- Take reasonable measures to establish source of funds.
- Enhanced CDD.

# Existing Customers

Where you have not introduced or completed a retrospective KYC programme you must:

- Ensure that all customers have been identified.
- Carry out a risk assessment in respect of:
  - relationships
  - level of CDD held (appropriate to assessed risk)
- Timing – not prescriptive under regulations – “undertaken on basis of materiality and risk at appropriate times”.

BUT – we now expect any required retrospective KYC to have been started with a timescale for its completion.

# Monitoring Transactions and Activity

- Perform ongoing and effective monitoring.
- Initial assessments may change.
- Different levels/timing on a risk sensitive basis.

# Documenting

Documentary evidence is required to demonstrate compliance, existence and completeness.

- How licensee identifies/assesses ML/TF risks.
- How agrees/implements appropriate and effective policies.
- How monitors.
- How ensures accountability of Board and Senior Management.

# Practical Application and Considerations

## Intermediaries

- Products – some but not all products are generally low risk.
- Clients (residency) – certain clients relationships are in principle low risk, but consider high profile/PEP.
- Source of funds and wealth.
- Frequency of activity – expected or not, size and timing of withdrawals.

## WHAT YOU SHOULD HAVE DONE

- Directors, MLRO and employees are each fully aware of their responsibilities.
- Existing AML procedures, processes and controls are reviewed and amended to reflect changes.
- Ensure appropriate training is provided to all relevant employees.
- Ensure new regime is, in practice, implemented on an ongoing basis within your organisation.

# Our approach

- We attach a high degree of importance to compliance with the Handbook, Regulations and associated legislation.
- The IMF inspection will focus particularly on AML/CFT and will interview a selected number of licensees.
- Non-compliance will be treated seriously.
- We will expect from our licensees:
  - Procedures etc which comply with the new regime.
  - Positive documented evidence that required procedures etc have been complied with and, particularly, a risk based approach is actually being taken.

# Our approach

## Compliance monitoring:

- On-sites.
- Annual meetings with intermediaries.
- Possible ‘themed’ AML on-sites.



# Conclusion

Compliance with the new regime will:

- Further enhance Guernsey's reputation as a premier offshore insurance and reinsurance centre.
- Greatly assist you and us in addressing successfully IMF AML issues.

# INTERMEDIARY CORPORATE GOVERNANCE

Tim Street  
Assistant Director of Insurance

# Corporate Governance

## Introduction – responsibilities of the Board

### 1. Stakeholders' \* and Commission's view

How the business is directed and controlled i.r.o.

Corporate discipline

Transparency

Independence

Accountability

Responsibility

Fairness

Social responsibility\*

### 2. Discharging its responsibility relative to the size, nature and complexity of its business

# Corporate Governance

## Responsibilities of the Board – Key pointers

- Setting and monitoring the strategy
- Knowledge, skill, experience, commitment and independence
- Corporate and management structure including:
  - Responsibilities i.r.o. senior management particularly –
    - remuneration
    - access to information
- Internal controls
- Risk assessment (SWOT analysis)\*
- Delegation and sub-committees
- Adherence to legislation
- Market conduct
- Audit trail of decisions – need for good records

# Corporate Governance

Three topical items:

- Risk assessment and management
- Personnel as key stakeholders
- Corporate Social Responsibility (CSR)

# Corporate Governance

## Internal Controls

- Division of responsibilities – Board, senior management, 3<sup>rd</sup> parties
- Procedures for monitoring assets, cash flow, debt flow etc
- Procedures for protecting assets
- Deterring, detecting and recording fraud (incl. AML)
- Accounting procedures
- Considering audit and actuarial reports
- Effective compliance procedures particularly incl. legislation
- Regular reporting (noted at Board meetings) esp. deficiencies
- Accountability for all outsourced functions

# Corporate Governance

## Board check list to include

Demonstration that adequate operational procedures are in place

Demonstration of business control over branches through relevant and adequate reporting.

## Risk Assessment and Management check list

Appropriate for the size, nature and complexity of the business

Evaluates risk on an on-going basis

Enables prompt reporting of relevant issues

Regularly reviewed by the Board

# Corporate Governance

## Annual Return – New Supplement

(GFSC Website (track) – Insurance – Insurance Documents – Annual Returns – Intermediary Checklist PDF)

### Breakdown of fee income

Long term & type

General & type

Geographically

Significant insurers

Complaints



# Corporate Governance

## Binding Authority Overview Survey (to be distributed by email)

- Number held, categories and from whom
- Copy of the authority details, especially limits (not full wording)
- Location of underwriting, and policy (certificate) production
- Claims Management
- Review process and signatories
- Each BA statistics
- Regularity of audit

This is in order to assess market regulatory risk from concentration of exposures to category, volume and insurance carrier.

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Questions?