Chapter 9
Simplified Customer Due Diligence

Contents of this Chapter

9.1. Introduction

1. This Chapter provides for the treatment of *business relationships* and *occasional transactions* which have been assessed as being *low risk relationships* pursuant to Paragraph 3 of *Schedule 3* and Chapter 3 of this *Handbook*. It sets out the ability to apply *SCDD* measures to *business relationships* or *occasional transactions* in specific circumstances and defines those simplified measures which can be applied.

2. This Chapter should also be read in conjunction with Chapters 4 to 7 of this *Handbook* which provide for the overarching *CDD* obligations and the specific requirements for the differing categories of natural persons, *legal persons* and *legal arrangements* with which the firm could deal as part of a *business relationship* or *occasional transaction*.

9.2. Simplified Customer Due Diligence Measures

3. The general rule is that *business relationships* and *occasional transactions* are subject to the full range of *CDD* measures as set out in *Schedule 3* and this *Handbook*, including the requirement to identify and verify the identity of the *customer* and to identify and take reasonable measures to verify the identity of the *beneficial owner*.

4. However, there may be circumstances where the *risks* of *ML* and *FT* have been assessed by the firm as being low. Examples could include:

   (a) a *Bailiwick* resident *customer* where the purpose and intended nature of the *business relationship* or *occasional transaction* is clearly understood by the firm;
   (b) a *business relationship* or *occasional transaction* where the *risks* associated with the relationship are inherently low and information on the identity of the *customer* and *beneficial owner* is publicly available, or where adequate checks and controls exist elsewhere in publicly available systems; or
   (c) a *business relationship* or *occasional transaction* in which the *customer* is an *Appendix C business*.

5. There may also be circumstances where the *risk* of *ML* and *FT* has been assessed as low by *the Bailiwick* as part of its *NRA*. In these circumstances, the firm may consider applying *SCDD* measures when identifying, and verifying the identity of, the *customer* and *beneficial owner*.

National Risk Assessment

6. In accordance with Paragraph 6(1) of *Schedule 3*, where the firm is required to carry out *CDD* in relation to a *business relationship* or *occasional transaction* which has been assessed as a *low risk relationship* pursuant to Paragraph 3(4)(a) or in accordance with the *NRA*, it may, subject to the provisions of Paragraphs 6(2) and 6(3) of *Schedule 3*, apply reduced or *SCDD* measures.

7. In accordance with Paragraph 6(2) of *Schedule 3*, the discretion in Paragraph 6(1) as set out above may only be exercised by the firm:

   (a) in accordance with the requirements set out in this *Handbook*, and
   (b) where it complies with the requirements of Paragraph 3 of *Schedule 3*.

8. The *SCDD* measures applied by the firm should be commensurate with the low *risk* factors and should relate only to relationship acceptance measures or to aspects of ongoing monitoring (excluding sanctions screening). Examples of possible measures could include:

(a) reducing the verification measures applied to the *customer* and/or *beneficial owner*, in accordance with the following sections of this Chapter;
(b) reducing the degree of on-going monitoring and scrutiny of transactions, based on a reasonable monetary threshold; or
(c) not collecting specific information or carrying out specific measures to understand the purpose and intended nature of the *business relationship* or *occasional transaction*, but inferring the purpose and nature from the type of transaction(s) or *business relationship* established.

9. The firm must ensure that, when it becomes aware of circumstances which affect the assessed *risk* of a *business relationship* or *occasional transaction* to which *SCDD* measures have been applied, a review of the *relationship risk assessment* is undertaken and a determination is made as to whether the *identification data* held remains appropriate to the revised *risk* of the *business relationship* or *occasional transaction*.

10. Where the firm has taken a decision to apply *SCDD* measures, documentary evidence must be retained which reflects the reason for the decision. The *documentation* retained must provide justification for the decision, including why it is deemed acceptable to apply *SCDD* measures having regard to the circumstances of the *business relationship* or *occasional transaction* and the *risks* of *ML* and *FT*.

11. In accordance with Paragraph 6(3) of *Schedule 3*, for the avoidance of doubt, the discretion to apply *SCDD* measures shall not be exercised:

(a) where the firm forms a suspicion that any party to a *business relationship* or *occasional transaction* or any *beneficial owner* is or has been engaged in *ML* or *FT*, or
(b) in relation to a *business relationship* or *occasional transaction* where the *risk* is other than low.

9.3. Bailiwick Residents

12. Where the *customer*, *beneficial owner* or other *key principal* to a *business relationship* or *occasional transaction* is a natural person resident in *the Bailiwick*, the firm may apply *SCDD* measures in respect of that natural person, provided the requirements as set out in Section 9.2. above are met. Where the firm has determined that it can apply *SCDD* measures because the *risk* has been assessed as low, it may elect to verify one of points (b) date of birth and (c) residential address under *Commission Rule* 5.8., in addition to (a) legal name.

13. Notwithstanding the above, it should be borne in mind that not all *Bailiwick* residents are intrinsically low *risk*. The firm must ensure that a *relationship risk assessment* is undertaken in accordance with the requirements of Paragraph 3 of *Schedule 3* and Chapter 3 of this *Handbook* and that where the *business relationship* or *occasional transaction* is considered to be other than low *risk*, that the appropriate *CDD*, and where necessary *ECDD*, measures are applied.

9.4. Bailiwick Public Authorities

14. Where the *customer*, *beneficial owner* or other *key principal* to a *business relationship* or *occasional transaction* has been identified as a *Bailiwick* public authority, the firm may choose to apply *SCDD* measures in respect of that public authority. Where *SCDD* measures are applied, it is not necessary for the firm to apply full verification measures to the public authority (and the *beneficial owners* thereof), other than where the firm considers this course of action appropriate in the circumstances.

15. The firm must identify, and verify the identity of, *the Bailiwick* public authority, including as a minimum:

    (a) the full name of the public authority;
    (b) the nature and status of the public authority;
    (c) the address of the public authority; and
    (d) the names of the directors (or equivalent) of the public authority.

16. The following are examples of *Bailiwick* public authorities:

    (a) a government department;
    (b) an agency established by law;
    (c) a parish authority/douzaine; and
    (d) a body majority owned by an authority listed in points (a) to (c) above.

17. Where a natural person authorised to act on behalf of a *Bailiwick* public authority is acting in the course of employment, it is not necessary to identify and verify the identity of that person. However, the firm should verify the natural person's authority to so act.

18. It may be that an individual acting on behalf of a *Bailiwick* public authority falls within the definition of a *domestic PEP*. However, in the context of acting for *the Bailiwick* public authority, the individual is directing funds belonging to the authority and not their personal funds. The firm may therefore determine that the measures required under *Commission Rule* 9.15. are sufficient and that the prominent public function held by the natural person does not pose an increased *risk* to the firm in the context of the *business relationship* or *occasional transaction* with *the Bailiwick* public authority.

9.5. Collective Investment Schemes Authorised or Registered by the Commission

19. Where the *customer*, *beneficial owner* or other *key principal* to a *business relationship* or *occasional transaction* is a CIS authorised or registered by *the Commission*, the firm (other than where it has been nominated as the party responsible for applying *CDD* measures to investors in accordance with Section 4.8.1. of this *Handbook*) may consider the CIS to be the principal for the purposes of the firm's *CDD* measures.

20. Where this is the case, in verifying the identity of the CIS the firm must, as a minimum, obtain *documentation* which confirms the CIS is authorised or registered by *the Commission*.

21. Further information about CISs authorised and registered by *the Commission* can be found on *the Commission's* website:

    https://www.gfsc.gg/industry-sectors/investment/regulated-entities

22. Where a natural person authorised to act on behalf of a CIS to which this Section applies is doing so in the course of employment with that CIS or its Designated Manager, it is not necessary to identify and verify the identity of that person. However, the firm should verify the person's authority to act on behalf of the CIS.

23. As an example, where a *bank* is opening an *account* for a CIS authorised or registered by *the Commission*, the *bank* may treat the CIS as the *customer* to be identified and verified.

9.6. Appendix C Businesses

24. Appendix C to this *Handbook* lists those countries or territories which *the Commission* considers require regulated *FSBs*, and in limited circumstances *PBs*, to have in place standards to combat *ML* and *FT* consistent with *the FATF Recommendations* and where such businesses are appropriately supervised for compliance with those requirements. Appendix C is reviewed periodically with countries or territories being added or removed as appropriate.

25. The fact that a country or territory has requirements to combat *ML* and *FT* that are consistent with *the FATF Recommendations* means only that the necessary legislation and other means of ensuring compliance with *the FATF Recommendations* are in force in that country or territory. It does not provide assurance that a particular overseas business is subject to that legislation, or that it has implemented the necessary measures to ensure compliance with that legislation.

26. The inclusion of a country or territory in Appendix C does not mean that the country or territory in question is intrinsically low *risk*, nor does it mean that any *business relationship* or *occasional transaction* in which the *customer* or *beneficial owner* has a connection to such a country is to be automatically treated as a *low risk relationship*.

27. Where the *customer* has been identified as an *Appendix C business* and the purpose and intended nature of the *business relationship* or *occasional transaction* is understood, subject to *Commission Rule* 9.28. and with the exception of the circumstances set out in Paragraph 9.31. below, verification of the identity of the *Appendix C business* is not required.

28. With the exception of the provisions in Sections 9.8. and 9.9. of this Chapter, if the *Appendix C business* is acting for or on behalf of another party the firm must, in accordance with Paragraph 4(3)(d) of *Schedule 3*, take reasonable measures to identify and verify the identity of that third party in accordance with the requirements of *Schedule 3* and this *Handbook*.

29. Where a natural person authorised to act on behalf of an *Appendix C business* is doing so in the course of employment with that business, it is acceptable for the firm not to identify and verify the identity of that person. However, the firm should verify the person's authority to act on behalf of the *Appendix C business*. One such example would be a director (or equivalent) of a *Bailiwick* fiduciary who is acting in the course of his fiduciary obligations or an administrator executing instructions on behalf of a CIS.

30. The firm is not obliged to deal with regulated *FSBs* or *PBs* in the jurisdictions listed in Appendix C as if they were local, notwithstanding that they meet the requirements identified in Appendix C. The firm may, in deciding whether or not to deal with a regulated *FSB* or *PB*, impose higher standards than the minimum standards identified in this *Handbook* where it considers this necessary.

31. The provisions in this Section cannot be applied to an *Appendix C business* (other than a trust and corporate service provider licensed by *the Commission*) which, acting as the trustee of a trust, is the *customer* or other *key principal* to a *business relationship* or *occasional transaction*.

9.6.1. Determination of Appendix C Countries and Territories

32. In accordance with Paragraph 16(2) of *Schedule 3*, when exercising its functions *the Commission* must take into account information, or in relation to:

    (a) the *ML* and *FT risk* associated with particular countries, territories and geographic areas; and

(b) the level of cooperation it expects to receive from relevant authorities in those countries, territories and areas.

33. In making its determination of those jurisdictions listed in Appendix C, in addition to the factors set out in Paragraph 16(2) of *Schedule 3, the Commission* will also take into consideration several other factors including:

(a) the jurisdiction's membership of the FATF and/or a FATF-style regional body;
(b) reports and assessments by the FATF and/or other regional body for compliance with *the FATF Recommendations*;
(c) good governance indicators;
(d) the level of drug trafficking, bribery and corruption and other financial and organised crime within the jurisdiction; and
(e) the extent of terrorism and terrorist financing activities within the jurisdiction.

34. When reviewing assessments undertaken by the FATF or other FATF-style regional bodies of a country/territory's compliance with *the FATF Recommendations*, particular attention is given to:

(a) the findings, recommendations and ratings of compliance with *the FATF Recommendations* (in particular Recommendations 10, 11 and 12); and
(b) the findings, recommendations and ratings of effectiveness of the country or territory's AML and CFT regime against the FATF's eleven 'Immediate Outcomes' set out within its methodology for compliance with *the FATF Recommendations*.

9.7. Receipt of Funds as Verification of Identity

35. Where the *customer* and *beneficial owner* have been identified and the *business relationship* or *occasional transaction* is considered to be low *risk*, the firm may consider the receipt of *funds* to provide satisfactory means of verifying identity.

36. In order to utilise this provision, the firm must ensure that:

(a) all initial and future *funds* are received from an *Appendix C business*;
(b) all initial and future *funds* come from an *account* in the sole or joint name of the *customer* or *beneficial owner*;
(c) payments are only paid to an *account* in the *customer's* name (i.e. no third party payments allowed), or in respect of real estate *transactions*, to an *account* in the name of the vendor of the property or in the name of the legal professional acting on behalf of the purchaser;
(d) no changes are made to the product or service that enable *funds* to be received from or paid to third parties; and
(e) no cash withdrawals are permitted other than by the *customer*, or a *beneficial owner*, on a face-to-face basis where the identity of the *customer* or *beneficial owner* can be confirmed, and in the case of significant cash transactions, the reasons for cash withdrawal are verified.

37. The firm must ensure that, once a *business relationship* has been established, should any of the conditions set out in *Commission Rule* 9.36. no longer be met, full verification of the identity of the *customer* and *beneficial owner* is carried out in accordance with the requirements of *Schedule 3* and this *Handbook*.

38. Should the firm have reason to suspect the motives behind a particular transaction or believe that the *business relationship* or *occasional transaction* is being structured to avoid the firm's standard *CDD* measures, it must ensure that the receipt of *funds* is not used to verify the identity of the *customer* or *beneficial owner*.

39. The firm must retain documentary evidence to demonstrate the reasonableness of its conclusion that the *risk* of the *business relationship* being established or the *occasional transaction* being undertaken is low.

9.8. Intermediary Relationships

40. An *intermediary relationship* is where the firm enters into a *business relationship* with an *intermediary* who is acting for or on behalf of its customers and where the *business relationship* the firm has is with the *intermediary* and not the *intermediary's* customers. If the firm has assessed the *ML* and *FT risks* of the relationship with the *intermediary* as low, it may, subject to certain criteria being met and only in respect of certain qualifying products and services, treat the *intermediary* as its *customer* for *CDD* purposes, instead of identifying and verifying the identity of the *intermediary's* customer(s).

41. The firm should be aware that money launderers are attracted by the availability of complex products and services that operate internationally within a reputable and secure financial services environment. In this respect, the firm should be alert to the risk of an *intermediary relationship* being used to mask the true beneficial ownership of an underlying customer for criminal purposes.

42. Section 9.8.2. of this *Handbook* sets out the criteria which must be met for an *intermediary relationship* to be established by the firm. In such cases the firm will not have a direct relationship with the *intermediary's* customer and it will therefore not be necessary to apply *CDD* measures to the *intermediary's* customers, unless the firm considers this course of action to be appropriate in the circumstances. The *intermediary* does however have a direct relationship with its customer.

9.8.1. Risk Assessment

43. Before establishing an *intermediary relationship*, the firm must undertake a *relationship risk assessment* of the proposed *business relationship* with the *intermediary*.

44. Such an assessment will allow the firm to determine the *risk* in placing reliance on an *intermediary* and to consider whether it is appropriate to treat the *intermediary* as the firm's *customer* or whether it feels the *risk* would be better managed if it were to:

    (a) treat the *intermediary* as an *introducer* in accordance with Chapter 10 of this *Handbook*; or
    (b) apply *CDD* measures to the *customer* (including the *beneficial owner* and other *key principals*) for whom the *intermediary* is acting.

45. Chapter 10 of this *Handbook* provides for the identification and verification requirements in relation to introduced *business relationships*, i.e. where an *Appendix C business* enters into a *business relationship* with the firm on behalf of one or more third parties, who are its *customers*.

9.8.2. Criteria for Establishing an Intermediary Relationship

46. When establishing an *intermediary relationship*, the firm must apply *CDD* measures to the *intermediary* to ensure that the *intermediary* is either:

    (a) an *Appendix C business*; or
    (b) a wholly owned nominee subsidiary vehicle of an *Appendix C business* which applies the policies, procedures and controls of, and is subject to oversight from, the *Appendix C business*;

excluding a trust and corporate service provider unless that trust and corporate service provider is licensed under *the Fiduciary Law*.

47. Where the condition in *Commission Rule* 9.46. is met and the *business relationship* with the *intermediary* has been assessed as being low *risk*, the firm can exercise its own judgement in the circumstances as to the level of *CDD* measures to be applied to the *intermediary*. However, at a minimum the firm must:

    (a) identify and, subject to the provisions of Section 9.6. of this *Handbook*, verify the identity of the *intermediary*; and
    (b) receive written confirmation from the *intermediary* which:

        (i) confirms that the *intermediary* has appropriate *risk*-grading procedures in place to differentiate between the *CDD* requirements for *high risk relationships* and *low risk relationships*;
        (ii) contains adequate assurance that the *intermediary* applies appropriate and effective *CDD* measures in respect of its customers, including *ECDD* measures for *PEPs* and other *high risk relationships*;
        (iii) contains sufficient information to enable the firm to understand the purpose and intended nature of the *intermediary relationship*; and
        (iv) confirms that the *account* will only be operated by the *intermediary* and that the *intermediary* has ultimate, effective control over the relevant product or service.

48. Where an *intermediary relationship* has been established, the firm must prepare and retain documentary evidence of the following:

    (a) the adequacy of its process to determine the *risk* of the *intermediary relationship* and the reasonableness of its conclusions that it is a *low risk relationship*;
    (b) that it has applied *CDD* measures to the *intermediary*; and
    (c) that the *intermediary relationship* relates solely to the provision of products or services which meet the requirements of Section 9.8.3. below.

49. In circumstances where the criteria for an *intermediary relationship* are not completely satisfied or are no longer met (for example, because the proposed *intermediary* is not an *Appendix C business* or the *risk* of the *intermediary relationship* has been assessed as being other than low) then the relationship must not be considered as an *intermediary relationship*.

50. Where the firm has determined, in accordance with *Commission Rule* 9.49., that it cannot treat an *intermediary* as the *customer*, the firm must treat the underlying customers of the *intermediary* as if they were the firm's *customers* and must apply its own *CDD* measures in accordance with the requirements of *Schedule 3* and this *Handbook.*

51. The firm should always consider whether the *risk* would be better managed if it applied *CDD* measures to the person or *legal arrangement*, including the *beneficial owner* and other *key principals*, for whom the *intermediary* is acting rather than treating the *intermediary* as its *customer*.

52. The following are examples of steps the firm could take where, in accordance with *Commission Rule* 9.50., the firm is required to apply *CDD* measures to an *intermediary's* customers:

    (a) open individual *accounts* in the names of each of the *customers* on behalf of whom the *intermediary* was acting and apply *CDD* measures to each of those *customers*, including the *beneficial owners* and other *key principals*; or

(b) open an *account* in the name of the *intermediary*, provided that the firm also receives a complete list of the underlying *customers* from the *intermediary* to allow it to apply its own *CDD* measures to those *customers*, including the *beneficial owners* and other *key principals*.

9.8.3. Qualifying Products and Services

53. For an *intermediary* to be considered as the *customer* of the firm, the *intermediary relationship* must be for the provision of one of the following products and services:

(a) Investment of life company *funds* to back the life company's policyholder liabilities where the life company opens an *account* (see Section 9.8.3.1. below);
(b) Undertaking various restricted activities by a POI licensee, as part of its relationship falling within the scope of *the POI Law*, with another regulated *FSB* where the *funds* (and any income) may not be returned to a third party unless that third party was the source of *funds* (see Section 9.8.3.2. below); ~~or~~
(c) Investments into a CIS or NGCIS (for example, by a discretionary or advisory investment manager or custodian) acting in its own name and as the registered owner of the shares or units of the CIS (see Section 9.8.3.3. below); or
~~(c)~~(d) The offering of insurance products to another regulated *FSB* by a Guernsey licensed insurer, as part of its relationship falling within the scope of The Insurance Business (Bailiwick of Guernsey) Law, 2002 as amended. ~~,~~

9.8.3.1. Investment of Life Company Funds

54. Where the firm is licensed under *the Banking Law* and provides services to a life insurance company through the opening of an *account* for the investment of *funds* to back the life company's policyholder liabilities, the firm can treat the life insurance company as its *customer*.

55. Where the firm is licensed under *the POI Law* and a life insurance company is investing its policy holder *funds* into a CIS authorised or registered by *the Commission* or an NGCIS, the firm can treat the life insurance company as its *customer*.

56. If the *account* or investment has a policy identifier then the firm must require an undertaking from the life company that it is the legal and beneficial owner of the *funds* and that the policyholder has not been led to believe that he or she has rights over an *account* or investment in *the Bailiwick*.

9.8.3.2. Investment Activity

57. Where the firm is licensed under *the POI Law* and undertakes various restricted activities within the scope of its licence as part of its relationship with another regulated *FSB*, the firm can treat that regulated *FSB* as its *customer*.

58. Where the firm utilises these provisions, any *funds* received from the *intermediary* (and any income resulting from the investment of such) must not be returned to a third party, unless that third party was the source of the *funds* and the firm is *satisfied* that the involvement of the third party does not pose an increased *ML* or *FT risk*.

9.8.3.3. Investments into Collective Investment Schemes

59. Where the firm has been nominated in accordance with Paragraph 4.57. and an investment is made into a CIS or NGCIS (referred to in this section as a "CIS") by an *intermediary*, for example, a discretionary or advisory investment manager or custodian acting in its own name

and as the registered owner of the shares as set out in Section 4.8.2. of this *Handbook*, the *nominated firm* can treat the *intermediary* as its *customer*.

60. Investments made into a CIS via an *intermediary* as described under *Commission Rule* 4.70.(b)-(c), where the identity of the underlying investors is not disclosed to the CIS or the *nominated firm*, is common practice within the fund sector across the world and is recognised within guidance issued by IOSCO, the Basel Committee on Banking Supervision and in the European Supervisory Authorities' ("ESAs") Risk Factors Guidelines issued under the Fourth Anti-Money Laundering Directive.

61. Notwithstanding the above, the ability for an underlying investor to invest into a CIS on an undisclosed basis increases the *risk* of a CIS being abused for *ML* or *FT* purposes. This is particularly relevant where there are a very limited number of investors in a CIS who could exercise control over the assets of that CIS, either through ownership or by other means. In this respect it is possible for an individual person or family office to hold, via an *intermediary* or *intermediaries*, more than 25% of the shares/units or voting rights of a CIS, or exercise control through other means, which as identified under *the Bailiwick's* Beneficial Ownership regime, would classify the underlying investor as a *beneficial owner*, but their identity would not be known.

62. The *nominated firm* should be aware that certain types of CIS, such as hedge funds, real estate and private equity funds, tend to have a smaller number of investors which can be private individuals as well as institutional investors, for example, pension funds or funds of funds. CISs that are designated for a very limited number of high-net-worth individuals or family offices can have an inherently higher *risk* of abuse for *ML* and/or *FT* purposes as compared to retail or institutional funds. In such cases, underlying investors are more likely to be in a position to exercise control over the CIS and use the CIS as a personal asset holding vehicle.

63. Personal asset holding vehicles should not be authorised/registered under *the POI Law*, as Paragraph 1(1)(b) of Schedule 1 to *the POI Law* states, inter alia:

> 'a CIS is any arrangement relating to property of any description (including money)…in which the investors do not have a day-to-day control over the management of the property to which the arrangement relates (whether or not they have any right to be consulted or give directions)'.

64. However, the *nominated firm* should be aware that an authorised or registered CIS could have, or may develop over time, the attributes of a personal asset holding vehicle.

65. Where the *nominated firm* wishes to utilise the *intermediary* provisions in respect of a CIS which is designated for a very limited number of investors, the *nominated firm* must have assessed the risk of the CIS being used by those investors as a personal asset holding vehicle as low. The conclusions of this assessment must be documented and reviewed on a periodic basis.

66. In conducting its assessment in accordance with *Commission Rule* 9.65. above, the *nominated firm* should consider factors such as the manner in which the shares or units of the CIS are distributed; the powers afforded to the share/unit holders of the CIS and their ability to influence any decision making; and details of any unusual connections between share/unit holders, board members and other parties connected with the CIS.

67. The assessment undertaken by the *nominated firm* could form part of its *relationship risk assessment* of the particular CIS, or be undertaken and recorded as a separate assessment.

68. Where the CIS targets institutional investors, as opposed to individuals, or retail investors through professional intermediaries, the risk of the CIS becoming a personal asset holding vehicle, for

which a small group of individuals would be considered *beneficial owners* under *the Bailiwick's* Beneficial Ownership regime, is likely to be low.

69. Similarly, a CIS could be established by an *Appendix C business* as an in-house scheme for that *Appendix C business'* customers and for which the *Appendix C business* would be acting as the *intermediary* (i.e. the registered share/unit holder). Even in these cases, the *nominated firm* could, after reasonable enquiries about the CIS' distribution and operation, determine that the risk of that CIS being used as a personal asset holding vehicle is low.

70. Where the *nominated firm* has assessed that the risk of a CIS being used as a personal asset holding vehicle is other than low, it must not treat an *intermediary* as its *customer* and must look through the *intermediary relationship* to apply *CDD* measures (including *ECDD* and *enhanced measures* as applicable) to the *intermediary's* underlying customers, including the *beneficial owners* and other *key principals*.

9.8.3.4. Insurance Activity

Where the firm is licensed under The Insurance Business (Bailiwick of Guernsey) Law, 2002 as amended and offers insurance products within the scope of its licence as part of its relationship with another regulated *FSB*, the firm can treat that regulated *FSB* as its *customer*.

71. Where the firm utilises these provisions, any *funds* received from the *intermediary* (and any income resulting from the investment of such) must not be returned to a third party, unless that third party was the source of the *funds* and the firm is *satisfied* that the involvement of the third party does not pose an increased *ML* or *FT risk*.

9.9. Pooled Bank Accounts

~~71.~~72. *Banks* often accept pooled deposits on behalf of *FSBs* and other professional firms. These *accounts* may contain the *funds* of more than one underlying customer and are generally held on an undisclosed basis.

~~72.~~73. Where the firm is licensed by *the Commission* under *the Banking Law* and has identified an *account* operated by it on behalf of one of the following types of *account* holder, the firm may treat this party as its *customer*:

(a) an *account* in the name of a fiduciary licensed by *the Commission*, or supervised by an equivalent authority in the Bailiwick of Jersey, or a wholly owned subsidiary of such a business which meets the requirements of Paragraph 9.73. below, where:

(i) the holding of *funds* in the *account* is on a short-term basis; or
(ii) the holding of *funds* in the *account* relates to the provision of treasury/cash management services by the fiduciary on behalf of its customers;

(b) an *account* in the name of a firm of lawyers or estate agents registered with *the Commission*, or supervised by an equivalent authority in the Bailiwick of Jersey, where the holding of *funds* in the *account* is on a short-term basis and is necessary to facilitate a transaction;

(c) a client money *account* in the name of a firm licenced under *the POI Law*, or subject to equivalent licensing and oversight by an authority in the Bailiwick of Jersey, where the *funds* are subject to the Licensees (Conduct of Business) Rules 2016 or equivalent legislation in the Bailiwick of Jersey; or

(d) a client money *account* in the name of a firm licenced under *the IMII Law*, or subject to equivalent licensing and oversight by an authority in the Bailiwick of Jersey, where the *funds* are subject to the Insurance Managers and Insurance Intermediaries (Client Money) Regulations 2008 or equivalent legislation in the Bailiwick of Jersey.

~~73.~~74. The requirements referred to in Paragraph 9.72.(a) above are that the wholly owned subsidiary:

(a) has no customers which are not customers of the fiduciary in *the Bailiwick* or Bailiwick of Jersey; and
(b) applies the same AML and CFT policies, procedures and controls as the fiduciary in *the Bailiwick* or Bailiwick of Jersey.

~~74.~~75. For the purposes of Paragraphs 9.72.(a)(i) and (b) above, *funds* are considered to have been held on a 'short-term' basis where they are held, undisclosed, for no longer than 40 days.

~~75.~~76. Where the firm is licensed by *the Commission* under *the Banking Law* and holds deposits on a fiduciary basis on behalf of an overseas *bank* falling within the definition of an *Appendix C business*, the firm should treat the overseas *bank* as its *customer* in accordance with Section 9.6. of this *Handbook*.

9.9.1. Establishing a Pooled Banking Relationship

~~76.~~77. Where the firm operates an *account* falling within the provisions of Paragraph 9.72. and the *business relationship* with the *account* holder has been assessed as being low *risk*, the firm can exercise its own judgement as to the level of *CDD* measures to be applied to the *account* holder in the particular circumstances. However, as a minimum the firm must:

(a) identify and, subject to the provisions of Section 9.6. of this *Handbook*, verify the identity of the *account* holder; and
(b) receive written confirmation from the *account* holder which:

(i) confirms that the *account* holder has appropriate *risk*-grading procedures in place to differentiate between the *CDD* measures appropriate for *high risk relationships* and those for *low risk relationships*;
(ii) contains adequate assurance that the *account* holder applies appropriate and effective *CDD* measures in respect of its customers (and the *beneficial owners* and other *key principals*), including *ECDD* measures for *PEPs* and other *high risk relationships*;
(iii) contains sufficient information to enable the firm to understand the purpose and intended nature of the relationship; and
(iv) confirms that the *account* will only be operated by the *account* holder and that the *account* holder has ultimate effective control over the relevant product or service.

~~77.~~78. Where a *business relationship* has been established with an *account* holder for the provision of a pooled *account*, the firm must prepare and retain documentary evidence of the following:

(a) the adequacy of its processes to determine the *risk* of the *business relationship* with the *account* holder and the reasonableness of its conclusions that it is a *low risk relationship*;
(b) that it has applied *CDD* measures in respect of the *account* holder; and
(c) that the *business relationship* with the *account* holder relates solely to the provision of an *account* falling within Paragraph 9.72.(a)-(d) above.

~~78.~~79. Where the firm operates a pooled *account* on behalf of an *account* holder which:

(a) does not fall within Paragraph 9.72.(a)-(d) above; or

(b) has been assessed as being other than low *risk*, for example, because the firm has concerns in respect of the manner in which a pooled *account* is being operated,

then the firm must not treat the *account* holder as its *customer* and must apply its own *CDD* measures on the underlying *customers* (including the *beneficial owners* and other *key principals*) within the pooled *account* in accordance with the requirements of *Schedule 3* and this *Handbook*.

~~79.~~80. The firm should always consider whether the *risk* would be better managed if the firm applied *CDD* measures on the *customer*, *beneficial owner* and other *key principals* for whom the *account* holder is acting rather than treating the *account* holder as the *customer*.