



**ISLE OF MAN  
FINANCIAL SERVICES AUTHORITY**

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**Authorised Insurers (Non-Life),  
Registered Insurance Managers, and  
Registered Insurance Intermediaries  
(General Business)  
Sector Specific AML/CFT Guidance Notes  
October 2019**

Whilst this publication has been prepared by the Financial Services Authority, it is not a legal document and should not be relied upon in respect of points of law. Reference for that purpose should be made to the appropriate statutory provisions.

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## Contents

1. Foreword.....	3
2. Introduction .....	3
3. Who is your customer?.....	3
3.1. Diagram 1 .....	4
3.2. Diagram 2 .....	5
3.3. Diagram 3 .....	6
4. Paragraph 20 – Insurance exemptions .....	6
5. Higher risk .....	9
5.1. General higher risk indicators .....	9
5.2. Higher risk matters.....	11
6. Kidnap and ransom insurance .....	12
7. Assignments and transfer of ownership.....	12
8. Cooling off/cancellation periods.....	12
9. Beneficial Ownership and control .....	12
10. Payments out .....	12

## 1. Foreword

For the purposes of this sector specific guidance:

- Authorised Insurers refers to businesses authorised under paragraph 8 of the Insurance Act 2008;
- Registered Insurance Managers refers to businesses registered under paragraph 25 of the Insurance Act 2008; and
- Registered Insurance Intermediaries (General Business) refers to businesses registered under paragraph 25 of the Insurance Act 2008.

Interpretation of these terms can be found in paragraph 54 of the Insurance Act 2008.

## 2. Introduction

The purpose of this document is to provide some guidance specifically for the non-life insurance sector in relation to anti-money laundering and countering the financing of terrorism (“AML/CFT”). This document should be read in conjunction both with [the Anti-Money Laundering and Countering the Financing of Terrorism Code 2019](#) (“the Code”) and the main body of the [AML/CFT Handbook](#). It should be noted that although guidance is not law, however it is persuasive. Where a person follows guidance this would tend to indicate compliance with the legislative provisions, and vice versa.

This document covers unique money laundering and financing of terrorism (“ML/FT”) risks that may be faced by the sector and provides further guidance in respect of approaches to customer due diligence where it may vary across between sectors.

The Authority recommends that relevant persons familiarise themselves with these documents and other typology reports concerning the non-life insurance sector. Also, some case studies are included to provide context to the risks of the sector.

The Island’s [National Risk Assessment](#) (“NRA”) is being refreshed at the time of writing and this document will be updated in due course following the publication of the NRA findings which is anticipated to take place in late 2019

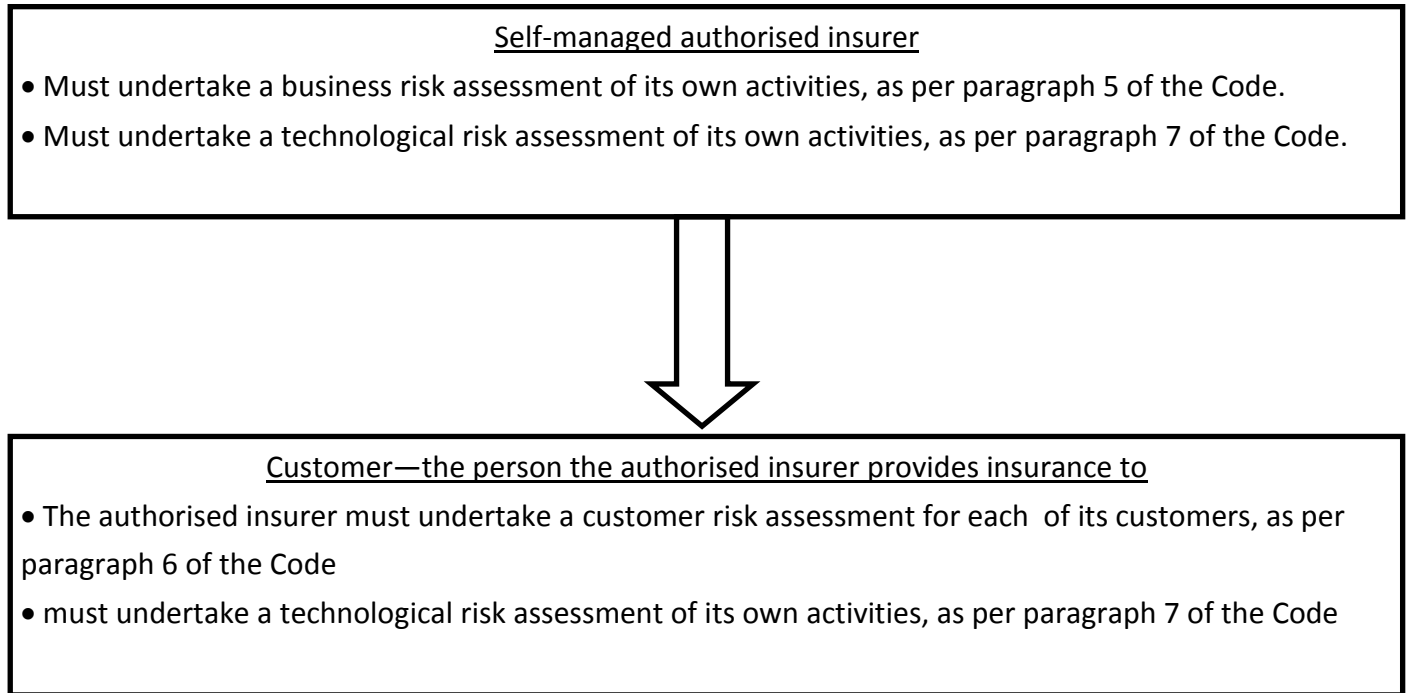
## 3. Who is your customer?

Each relevant person must comply with the requirements of Part 3 (Risk Based Approach) of the Code and undertake business and technological risk assessments of their own business and customer risk assessments of each of their customers. Guidance regarding identifying who is the customer for different types of business can be found below.

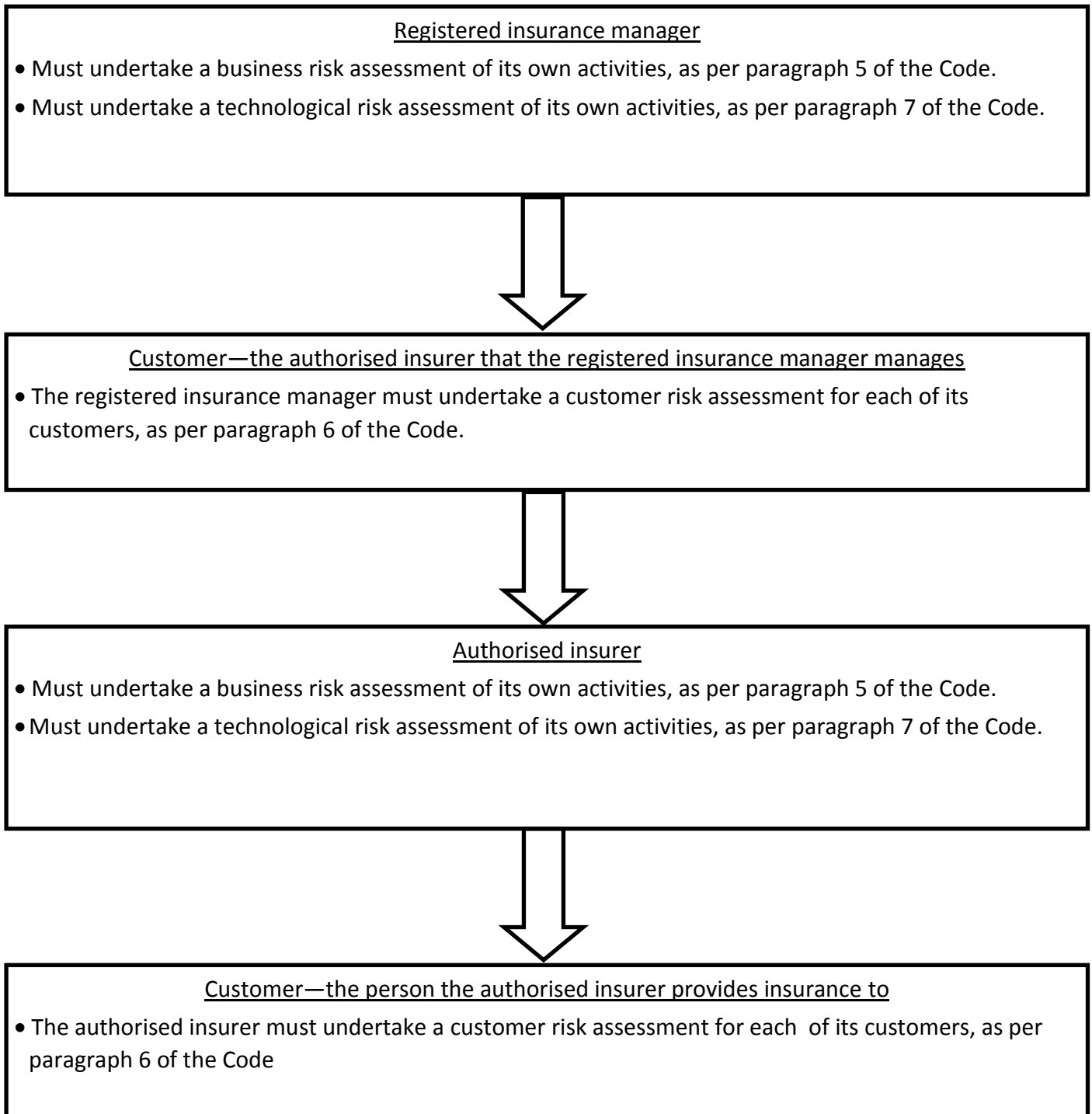
A per paragraph 6 (Customer risk assessment) of the Code, customer risk assessments must be carried out for every customer. Guidance in relation to conducting risk assessments is provided in Part 3 of the AML/CFT Handbook.

The IOMFSA has prepared diagrams to assist in assessing who is your customer in this sector.

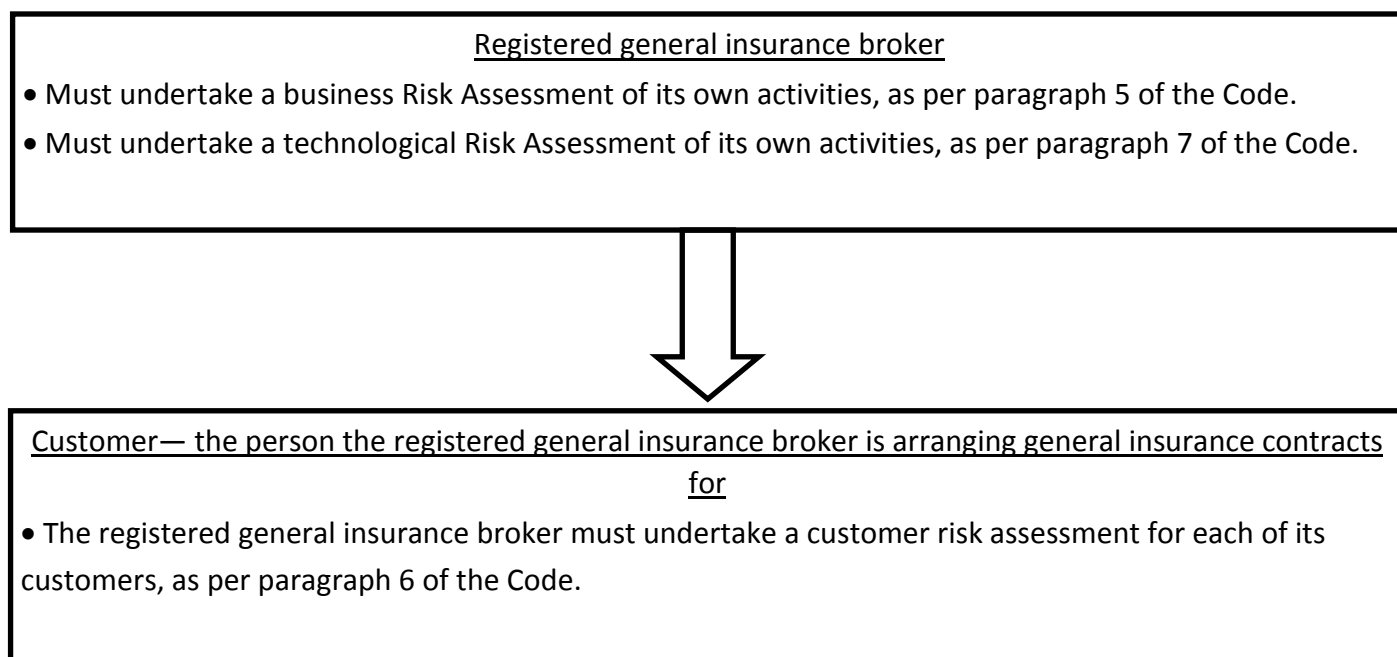
### 3.1. Diagram 1



### 3.2. Diagram 2



### 3.3. Diagram 3



## 4. Paragraph 20 – Insurance exemptions

### 20 Insurance

- (1) This paragraph applies to —
  - (a) an insurer; and
  - (b) an insurance intermediary.
- (2) An insurer or insurance intermediary need not comply with Part 4 if the contract of insurance is a contract where —
  - (a) the annual premium is less than €1,000 or the single premium, or series of linked premiums, is less than €2,500; or
  - (b) there is neither a surrender value nor a maturity (for example, term insurance).
- (3) In respect of a contract of insurance satisfying sub-paragraph (2) an insurer or insurance intermediary may, having paid due regard to the risk of ML/FT, consider it appropriate to comply with Parts 4 and 5 (if applicable) but to defer such compliance unless a claim is made or the policy is cancelled.
- (4) If —
  - (a) a claim is made under a contract of insurance that has neither a surrender value nor a maturity value (for example on the occurrence of an insured event); and
  - (b) the amount of the settlement is greater than €2,500,

- the insurer or insurance intermediary must identify the customer or claimant and take reasonable measures to verify the identity using reliable, independent source documents, data or information.
- (5) An insurer or insurance intermediary need not comply with sub-paragraph (4) if a settlement of the claim is to —
    - (a) a third party in payment for services provided (for example to a hospital where health treatment has been provided);
    - (b) a supplier for services or goods; or
    - (c) the customer where invoices for services or goods have been provided to the insurer or insurance intermediary,
 and the insurer or insurance intermediary believes the services or goods to have been supplied in respect of the insured event.
  - (6) If —
    - (a) a contract of insurance is cancelled resulting in the repayment of premiums; and
    - (b) the amount of the settlement is greater than €2,500, the insurer or insurance intermediary, must comply with Parts 4 and 5 (if applicable).
  - (7) Sub-paragraphs (2), (3) and (5) do not apply if —
    - (a) the customer is assessed as posing a higher risk of ML/FT; or
    - (b) the insurer or insurance intermediary has identified any suspicious activity.
  - (8) If the insurer or insurance intermediary has identified any suspicious activity the relevant person must make an internal disclosure.

Paragraph 20 of the Code allows an insurer or insurance intermediary to either not undertake the requirements of Parts 4 and 5 of the Code (if applicable) or to defer such compliance provided certain criteria are met. The insurer must ensure appropriate monitoring takes place where any exemptions are used so that they are able to identify if these criteria are no longer being met.

Paragraph 20 only exempts an insurer or insurance intermediary from the requirements of Parts 4 and 5 of the Code (if applicable), the requirement under paragraph 6 (Customer risk assessment) to conduct a risk assessment for each customer always applies.

Type of business	What CDD is required?
<p>Annual single premium is less than €1,000</p> <p>or</p> <p>Series of linked premiums is less than €2,500</p>	<ul style="list-style-type: none"> <li>• Could use paragraph 20(2) and not comply with Part 4</li> <li>• Could use paragraph 20(3) and defer compliance with Parts 4 and 5 unless a claim is made or the policy is cancelled</li> <li>• Can't use paragraph 20(2) or (3) if the customer is assessed as posing a higher risk of ML/FT</li> <li>• Can't use paragraph 20(2) or (3) if suspicious activity is identified</li> </ul>
<p>Annual single premium is more than €1,000</p> <p>or</p> <p>Series of linked premiums is more than €2,500</p>	<ul style="list-style-type: none"> <li>• Paragraph 20 does not apply and Parts 4 and 5 (if applicable) must be complied with</li> </ul>
No surrender or maturity value	<ul style="list-style-type: none"> <li>• Could use paragraph 20(2) and not comply with Part 4</li> <li>• Could use paragraph 20(3) and defer compliance with Parts 4 and 5 unless a claim is made or the policy is cancelled</li> <li>• Can't use paragraph 20(2) or (3) if the customer is assessed as posing a higher risk of ML/FT</li> <li>• Can't use paragraph 20(2) or (3) if suspicious activity is identified</li> </ul>
Surrender value or maturity value	<ul style="list-style-type: none"> <li>• Paragraph 20 does not apply and Parts 4 and 5 (if applicable) must be complied with</li> </ul>

Type of payment	What CDD is required?
Amount of settlement of less than €2,500 under a contract of insurance that has neither a surrender value nor a maturity value	<ul style="list-style-type: none"> <li>• No CDD is required to be undertaken, as per paragraph 20(4)</li> <li>• Can't use paragraph 20(4) if the customer is assessed as posing a higher risk of ML/FT</li> <li>• Can't use paragraph 20(4) if suspicious activity is identified</li> </ul>
Amount of settlement of more than €2,500 under a contract of insurance that has neither a surrender value nor a maturity value	<ul style="list-style-type: none"> <li>• CDD is required to be undertaken, as per paragraph 20(4)</li> </ul>



<p>Amount of settlement of more than €2,500 paid to</p> <p>(a) A third party in payment for services provided;</p> <p>(b) A supplier for services or goods; or</p> <p>(c) The customer where invoices for services or goods have been provided under a contract of insurance that has neither a surrender value nor a maturity value</p>	<ul style="list-style-type: none"> <li>• No CDD is required to be undertaken, as per paragraph 20(5)</li> <li>• Can't use paragraph 20(5) if the customer is assessed as posing a higher risk of ML/FT</li> <li>• Can't use paragraph 20(5) if suspicious activity is identified</li> </ul>
<p>Cancellation of a contract of insurance resulting in an amount of settlement of less than €2,500</p>	<ul style="list-style-type: none"> <li>• No CDD is required to be undertaken, as per paragraph 20(6)</li> <li>• Can't use paragraph 20(6) if the customer is assessed as posing a higher risk of ML/FT</li> <li>• Can't use paragraph 20(6) if suspicious activity is identified</li> </ul>
<p>Cancellation of a contract of insurance resulting in an amount of settlement of more than €2,500</p>	<ul style="list-style-type: none"> <li>• Parts 4 and 5 (if applicable) must be complied with, as per paragraph 20(6)</li> </ul>

Where the customer has been assessed as posing a higher risk of ML/FT paragraph 20(7) disapplies paragraphs 20(2), (3) and (5), which give the exemptions. Therefore, the insurer or insurance intermediary must undertake the requirements of Part 4 and 5 and cannot defer them.

If there is suspicious activity identified, the concession no longer applies, an internal disclosure must be made and the insurer or insurance intermediary must undertake the requirements of Part 4. Also, EDD should be undertaken in line with paragraph 15, unless the insurer or insurance intermediary reasonably believes conducting EDD will tip off the customer.

## 5. Higher risk

### 5.1. General higher risk indicators

As with the basic elements of a risk assessment, discussed under Part 3 of the AML/CFT Handbook, the following activities may increase the risk of the relationship. Just because an activity / scenario is listed below it does not automatically make the relationship high risk, the customer's rationale / nature / purpose of the business relationship etc. should be considered in all cases.

If a business is unable to obtain a satisfactory explanation from a customer in the event of the following situations, features, or activities, or any other features which cause it concerns, it should be determined whether this is suspicious or unusual activity. As stated in paragraph 13 (Ongoing monitoring) of the Code:

In the event of unusual activity, the relevant person must:

- perform appropriate scrutiny of the activity;
- conduct enhanced due diligence (“EDD”) in accordance with paragraph 15 of the Code; and
- consider whether to make a disclosure and in the event of a suspicion of ML/FT an internal disclosure must be made.

If a scenario is identified as suspicious appropriate steps must be taken as set out in paragraph 15 of the Code which state the relevant person must:

- conduct enhanced due diligence, unless the relevant person believes conducting enhanced customer due diligence will tip off the customer; and
- make an internal disclosure.

Please refer to Part 7 of the AML/CFT Handbook for further detail of the Island’s suspicious reporting regime.

This list of higher risk indicators is by no means exhaustive, and relevant persons should be vigilant for any transactions where suspicion may be aroused and take appropriate measures.

- Applications from potential customers in jurisdictions where a comparable product could be provided ‘closer to home’ and the reason for choosing the Isle of Man cannot be understood.
- Being asked to insure something that is not insurable, and where the rationale for the insurance cannot be understood.
- Customers looking to take out policies with values that appear inconsistent with their insurance needs.
- The customer acts in a hurry, does not analyse an offer, is not interested in charges and costs, chooses the most expensive offer, which may not be the most appropriate one.
- Acceptance of premiums that appear to exceed the customer’s means or very unfavourable provisions or riders.
- Difficulties and delays in gaining CDD information and documentation.
- The relationship is controlled by a third party, or there are multiple indicators of third party deposits or payments.
- Overpayment of premiums and unwillingness to take it for a next premium instalment.
- One or several overpayments of the policy followed by requests that any reimbursement be paid to a third party.
- A natural person paying premiums from the account of a legal person.

- Multiple payments of premiums from different accounts that do not exceed a reportable threshold.
- Atypical incidence of pre-payment of premiums.
- Large cash or other forms of anonymous transactions.
- Cancellation and request for the refund to be paid to a third party.
- Requests to cancel the insurance policy without a valid explanation.
- Unconditional acceptance of a lower amount of reimbursement.
- Reimbursement in a currency different to the original premium.
- Apparently legitimate claims which occur with abnormal regularity.
- A change of ownership/assignment of a policy just prior to a loss occurring.
- Claims requested to be paid to persons not naturally associated with the claim.
- Claims requested to be paid to persons other than the insured or legitimate third parties.
- Withdrawal of a claim when an insurer requests additional information.
- Transactions involving undisclosed parties.
- Customer places an unusual emphasis on the necessity for secrecy.
- Use of intermediate corporate vehicles or other structures that have no apparent rationale, that unnecessarily increase the complexity of ownership, or otherwise result in a lack of transparency.
- The company has new ownership and the background and appearance of the new owners does not harmonise with the company profile, or the financial activities of the customer suddenly changes after the change of ownership.
- Customers that are legal entities whose structure makes it difficult to identify the ultimate beneficial owner.
- Sudden changes in the activity of the customer that are unusual and not in line with their known profile.

## 5.2. Higher risk matters

Paragraph 15(5) of the Code mandates certain circumstances where a customer must be rated as higher risk. Apart from these matters the IOMFSA does not generally mandate which customer or sectors must be viewed as higher risk. The IOMFSA does not have any objection to a regulated entity having higher risk customers provided that they have been adequately risk rated in accordance with the regulated entity's procedures and any mitigating factors have been documented.

As per paragraph 15(3) of the Code relevant persons must conduct Enhanced Due Diligence where a customer has been assessed as posing a higher risk of ML/FT.

Further information about the customer risk assessment and the treatment of higher risk customers can be found in the Handbook and in the [Notes on customer risk assessments](#).

## 6. Kidnap and ransom insurance

The payment of a ransom generate proceeds of crime, and these monies may be used for terrorist of proliferation financing. The FATF report into Organised Maritime Piracy and Related Kidnapping for Ransom<sup>1</sup> notes that when there is advanced notification to the relevant authority of a ransom payment this can greatly assist in the investigation. Conversely, when payments are not reported this can make it difficult to track the funds and determine how they are laundered or used, especially if the ransom is paid in cash. It is important that registered persons comply with the Code requirements in relation to external disclosures if they are involved in a ransom payment.

## 7. Assignments and transfer of ownership

When a policy is assigned the assignee becomes the customer and the requirements of Part 4 and 5 of the Code (if applicable) must be complied with.

## 8. Cooling off/cancellation periods

Where a customer takes up the right to decline to proceed with a contract during a cooling off or cancellation period (where this is permitted by the prevailing regulations and rules under which the contract was sold), the circumstances surrounding the request to cancel must be considered and if they are viewed as suspicious then this suspicion must be reported. That being the case, suspicion reporting procedures should be followed as set out in Part 7 of the AML/CFT Handbook.

Further information about making payments out can be found at section 10 of this document.

## 9. Beneficial Ownership and control

The Code's definition of beneficial owner differs from the definition in the Beneficial Ownership Act 2017 and the definition of controller in the Insurance Act 2008.

The requirements of paragraph 12 (Beneficial ownership and control) of the Code must be complied with regardless of the size of structure that the customer is a part of. Guidance regarding complying with the beneficial ownership and control requirements of the Code can be found in the AML/CFT Handbook.

## 10. Payments out

When making payments a relevant person should be mindful of the requirements of paragraphs 12(7) (below) and 20 (above) of the Code.

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<sup>1</sup> <http://www.fatf-gafi.org/publications/methodsandtrends/documents/organisedmaritimepiracyandrelatedkidnappingforransom.html>

12 (7) Subject to paragraph 21(1) and without limiting sub-paragraphs (2) to (6), the relevant person must not, in the case of a customer that is a legal person or a legal arrangement, make any payment or loan to, or on behalf of, a beneficial owner of that person or for the benefit of a beneficiary of that arrangement unless it has —

- (a) identified the recipient or beneficiary of the payment or loan;
- (b) on the basis of materiality and risk of ML/FT, verified the identity of the recipient or beneficiary using reliable, independent source documents, data or information; and
- (c) understood the nature and purpose of that payment or loan in accordance with paragraph 13.

Any payment out to a policyholder as a result of such a right being exercised should normally be to the source account from which the monies were originally sent. If the payment out is to be by cheque it must be payable to the policyholder and marked 'account payee only'.

Under certain circumstances payment may be made to a third party account, for example a client money account, or payment to the original account may be impossible, for example if the account has subsequently been closed. In these circumstances an insurer must be satisfied with the connection between the payee and the policyholder, and must also consider whether the payment request is suspicious, in which case, suspicion reporting procedures must be followed as set out in Part 7 of the AML/CFT Handbook.