
SECTION 4

IDENTIFICATION AND VERIFICATION OF IDENTITY

4.1

INTRODUCTION

The purpose of this Section of the Handbook is to establish what identification information should be requested and whose identity should be verified. This Section also provides exemptions and concessions to these requirements in certain scenarios.

Guidance is also provided in this Section on:

- (a) the timing of verification procedures;
- (b) the means by which verification can be performed; and
- (c) what to do when it is not possible to complete identification or verification of identity.

4.2

OBLIGATION TO IDENTIFY AND VERIFY THE IDENTITY OF CUSTOMERS

As with CDD requirements, under paragraphs 6 and 9 of the Codes identification and verification of identity requirements apply at the outset of a customer relationship or one off transaction.

Where there is a change in the underlying principals or third parties on whose behalf a customer acts or there is a change in the beneficial ownership and control of a customer, licenceholders should treat these persons as new relationships. Both the CDD and identification and verification requirements must be applied.

Under paragraph 7 of the Codes "Continuing Business Relationships", CDD information and verification of identity may be required on existing clients in certain circumstances. Whether or not CDD and verification procedures will need to be completed on existing clients in these circumstances will depend upon whether the licenceholder has already obtained the relevant information and documentation at the beginning or during the course of the relationship previously and whether, if it has been obtained, it is satisfactory.

Licenceholders will need to examine the information and documentation they already hold to determine whether it is necessary to make further enquiries either of the customer concerned or from other sources.

If the information and documentation has not already been obtained, or that obtained is unsatisfactory licenceholders must take steps to obtain such information or documentation.

The requirements at paragraph 7 of the Codes do not require licenceholders to provide information regarding their suspicions to the customer.

If a licenceholder is in doubt regarding the tipping off provisions, they should contact the FCU for guidance.

Licenceholders must apply identification and verification of identity procedures in the following circumstances:

- (a) A change in identification information of a customer;
- (b) An absence of meaningful originator information on wire transfers (see Section 5.3 for more specific information on the requirements relating to wire transfers); or
- (c) In respect of wire transfers, where a one-off payment in excess of Euro 1000 is to be made at the request of a non-account holding customer (see Section 5.3.3 for more specific information).

Such circumstances might also involve a broader review of CDD information / documentation held as outlined at Section 3.1 of the Handbook.

Determining that a customer is who they claim to be is a combination of being satisfied that:

- (a) a person or entity exists on the basis of appropriate identification information; and
- (b) the customer is that person or entity by verifying the information from reliable independent source documents or other data.

Below are the key principles that licenceholders should follow.

- (a) Identifying customers and verifying identity is generally a cumulative process with more than one document or data source being required to verify all of the necessary components. Licenceholders will need to be prepared to accept a range of documents and data. However, licenceholders must be aware that some documents are more easily forged than others.
- (b) In carrying out CDD procedures on customers, their affairs and their transactions, licenceholders should ensure that any documents in a foreign language are adequately translated into English, so that the true significance of the document can be appreciated. Where customers put forward documents with which a licenceholder is unfamiliar, either because of origin, format or language, the licenceholder must take reasonable steps to verify that the document is indeed genuine. This may include contacting the relevant authorities. A copy of the translation of the document in question must be obtained and kept with the identification evidence.
- (c) Nationality and/or citizenship should be established for standard and higher risk customers to ensure that the applicant for business is not a national or citizen of a nation which is subject to sanctions by the United Nations or any other official body or relevant government which would prohibit such business being transacted. Nationality normally reflects a person's relationship with their state of origin while citizenship may reflect a country where they have the right to reside.
- (d) Any photocopies of documents showing photographs and signatures should be plainly legible. In face-to-face situations, licenceholders should ensure employees check that a photograph represents a good likeness of the customer.
- (e) In circumstances where an account holder appoints another person as an account signatory e.g. an expatriate appointing a member of his family, or company directors appointing a non-director as a signatory, or granting a power of attorney in favour of an individual, full identification procedures should also be carried out on the new account signatory or attorney.
- (f) Irrespective of the type of business relationship, or whether the customer is a natural or legal person, where any doubt arises as to the identity or address of a customer in the course of a business relationship, licenceholders should re-verify the identity and address of the customer in accordance with the relevant procedures in this Section of the Handbook.
- (g) Where any of the relevant information or documentation cannot be obtained in accordance with 4.13 of the Handbook, licenceholders should not enter into the business relationship with the applicant. In such circumstances, all documentation that has been obtained should be retained for at least 5 years from the relevant date as required by the Paragraph 17 of the Codes.
- (h) Where a licenceholder has knowledge, or reason to be suspicious, of money laundering or terrorist financing by an applicant and the business relationship has not proceeded, a suspicious transaction report must be made in accordance with the legislation. This requirement is irrespective of the type of customer.

4.2.1 Guarding against Fraud

Licenceholders must identify persons that have purported authority to act on behalf of a customer. For example, account signatories and those to whom powers of attorney have been granted, see 4.7.1 for the approach to be taken when there are numerous signatories. They must verify the authority of such persons to act and, where necessary, take reasonable measures to verify the person's identity.

Licenceholders must obtain the power of attorney (or other authority) that provides the individuals representing the applicant for business with the right to act on his/her behalf. Licenceholders must undertake identification and verification procedures for any individuals acting on behalf of the applicant for business in the normal way, unless it is possible to benefit from the concession described in Section 4.9.

Licenceholders must understand the nature of the relationship between any such individuals and the applicant for business.

4.2.2 Photocopying and certifying UK passports

Previously, photocopies of UK passports had to be in black and white only so that they could not be mistaken for actual passport pages. This is no longer required and licenceholders may accept either colour or black and white copies of UK passports when verifying the identity of individuals.

4.3

ONE-OFF TRANSACTIONS AND EXEMPTED ONE-OFF TRANSACTIONS

As defined in paragraphs 2 and 9 of the Codes, a "one-off transaction" means any transaction other than a transaction carried on in the course of an established business relationship between a licenceholder and a customer.

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:

- (a) Euros 3,000 (or the equivalent thereof) in the case of a one-off transaction entered into in the course of bookmaking or casino businesses;
- (b) Euros 1,000 (or the equivalent thereof) in the case of a one-off transaction entered into in the course of money transmission services; or
- (c) Euros 15,000 (or the equivalent thereof) in any other case.

It is the view of the Commission that the establishment of a mortgage does not constitute a one-off transaction.

FSC licenceholders must be vigilant at all times that the total of a series of linked transactions does not exceed the exempted limits of Euros 1,000 or Euros 15,000 respectively, where business is being accepted under the exempted one-off transactions provisions. Where the limit of Euros 1,000 for money transmission services or Euros 15,000 in other cases is exceeded, full CDD procedures must be applied immediately.

The Commission recognises the difficulty in defining a time scale that linked transactions may fall within, and views the previous UK standard of 3 months being adopted as the minimum acceptable standard.

However, licenceholders would be wise to adopt a flexible attitude on this issue and not apply this approach too rigidly, as an inflexible approach on linked transactions will give money launderers and those who wish to evade the CDD requirements the opportunity to structure transactions accordingly.

4.4

IDENTIFICATION AND VERIFICATION OF IDENTITY REQUIREMENTS

4.4.1 Natural Persons

The following requirements are relevant to situations where an individual is the applicant for business or where the applicant for business is a group of individuals. They also apply to situations where an individual is:

- (a) an underlying principal of an applicant for business;
- (b) acting on behalf of an applicant for business; or
- (c) is a third party on whose behalf an applicant for business is acting.

Licenceholders should treat applicants for business who are sole traders or partnerships in the same way as personal applicants. In this case, the identity of each person who is a signatory must be established and verified.

Identification Information

Identification information that must be collected in respect of all personal customers and other natural persons who need to be identified is comprised of the following:

- (a) Legal name, any former names (e.g. maiden name) and any other names used.
- (b) Permanent residential address including postcode if applicable.
- (c) Date of Birth.
- (d) Place of Birth
- (e) Nationality.
- (f) Gender

For standard and higher risk customers an official personal identification number or other unique identifier contained in an un-expired official document must also be obtained

Other information that may be collected taking a risk-based approach

- (a) Occupation and name of employer/source of income.
- (b) Details of any public or high profile positions held.

4.4.2 Verifying the identity of direct personal customers

Licenceholders must:

- (a) verify the identity of the individual. The elements of identity which must be verified comprise:
 - (i) For all customers, their name and date of birth.
 - (ii) For standard and higher risk customers their nationality, place of birth and national identification number;
- (b) verify the residential address (including postcode if applicable) of the individual;
- (c) verify the authority of any individuals purporting to act on behalf of an applicant for business and take reasonable measures to verify their identity.

Identity and address should each be verified. Methods of verifying identity and residential address include:

Identity

- (a) Current valid passport bearing the photograph of the applicant.
- (b) Current national identity card bearing the photograph of the applicant.
- (c) Armed Forces ID card bearing the photograph of the applicant.
- (d) Current valid provisional or full driving licence bearing the photograph of the applicant.
- (e) Known employer ID card bearing a photograph of the applicant (lower risk relationships and transactions only).
- (f) Birth certificate (infants and minors only).
- (g) Independent data sources, including electronic sources (lower risk relationships and transactions only).

Licenceholders should note that "Proof OF Age" cards are not acceptable as the sole means of verifying identity for AML/CFT purposes. However, in the cases outlined in section 4.4.3 where the customer does not have a passport or driving licence or other official document, they may form part of a cumulative approach to verifying identity.

Licenceholders should exercise caution regarding International Drivers' Permits/ International Drivers' Licences. These can be obtained from unauthorised and unscrupulous operators on the Internet who do not conduct any identification checks on the applicant for the Permit/Licence, and are marketed, for example, as a means of falsifying identity, avoiding driving fines and bans, and avoiding taking a driving test.

International Drivers' Permits can be genuine documents, but only when issued by competent national authorities to the holder of a valid domestic driving permit (i.e. national full driving licence) issued for use in the country of residence. The Permit effectively converts a national licence for international use in other countries where the national licence is not recognised. An International Driver's Permit is not a stand-alone document.

Residential address

- (a) A recent account statement (i.e. no more than 6 months old) from a recognised bank, building society or credit card company or the most recent mortgage statement from a recognised lender.
- (b) Photographic driving licence or national identity card containing current residential address if the document has not been used to verify identity.
- (c) A recent rates, council tax or utility bill (recent in respect of utility bills is considered to be no more than 6 months old). Utility bills received electronically are not acceptable. Mobile telephone bills are not acceptable as evidence of address under any circumstances.
- (d) Correspondence from an official independent source such as a central or local government department or agency.
- (e) Independent data sources, including electronic sources.
- (f) A record of a personal visit by a member of the licenceholder's staff to the applicant's residential address.
- (g) Lawyer's confirmation of property purchase, or legal document recognising title to property.
- (h) Tenancy agreement (lower risk relationships and transactions only).
- (i) Checking a telephone directory (face-to-face low risk relationships only).

A non-residential address for a natural person is not acceptable under any circumstances. A "care of" address is also generally unacceptable other than on fully explained, clearly documented and time-limited basis. Such situations should be closely monitored by the licenceholder.

4.4.2.1 Independent electronic data sources

Independent electronic data sources can provide a wide range of confirmatory material without involving a customer, and are becoming increasingly accessible. However, where a licenceholder is seeking to verify identity (in a lower risk situation) or address using an independent electronic data source, an understanding of the depth, breadth and quality of the data accessed will be important.

Licenceholders should also guard against the greater risk of identity fraud when identification documents which bear a photograph of the applicant cannot be obtained and matched against the customer in a face-to-face environment. In such circumstances, licenceholders must consider whether one or more of the identity fraud checks set out in Section 4.5 should be applied.

Where a licenceholder intends to use electronic data sources conducted by commercial agencies, it should ensure that the agency is registered with a data protection agency in the European Economic Area. Licenceholders should also satisfy themselves that the agency:

- (a) uses a range of positive information sources that can be called upon to link a customer to both current and historical data;
- (b) accesses negative information sources such as databases relating to fraud and deceased persons;
- (c) accesses a wide range of alert data sources; and
- (d) has transparent processes that enable a licenceholder to know what checks have been carried out, and what the results of these checks are.

Licenceholders should also ensure that:

- (a) the source, scope and quality of the data are satisfactory. At least two matches of each component of an individual's identity or address must be obtained; and,
- (b) processes allow the business to capture and store the information used to verify identity and/or address.

4.4.2.2 Recording the evidence

Whichever method of the above is followed, in all cases either an original document or a certified copy of the relevant document or documents should be retained on file to evidence that verification has been undertaken.

Licenceholders must be able to produce evidence of the verification procedures followed, and the documentary evidence arising from such procedures.

4.4.3 Persons without standard identification documentation

Certain customers may be considered as less than standard risk, such as the elderly, the disabled, students and minors, and they may not be able to produce the usual types of verification of identity documents, i.e. a driving licence or passport. In the main, such customers are local residents. In the case of the elderly and the disabled, the business relationship may be limited to the receipt of social security benefits; in the case of minors, the business relationship may be limited to periodic savings deposits linked to events such as birthdays or Christmas. Such business relationships would appear to represent a less than standard risk of money laundering activity.

To ensure that such customers are not unfairly prevented from accessing the financial services system in these circumstances, the Commission recommends that licenceholders adopt a flexible, common sense approach to the CDD process. Such customers are generally able to provide an original or certified copy of documents other than a passport or driving licence, preferably featuring a photograph, which cumulatively give licenceholders comfort regarding the identity of the customer.

The Commission recommends that licenceholders adopt a similarly flexible approach for such customers with regard to verification of name and address. Such customers are normally able to provide a number of alternative documents indicating their address which cumulatively give licenceholders comfort regarding the name and address of the customer.

However, the Commission would only expect such procedures to be applied in the limited circumstances described above, and that in each case there should be a review and sign-off procedure undertaken by a member of staff of suitable seniority within the licenceholder.

Although such customers are likely to represent less than standard risk, licenceholders should be mindful of, and vigilant for, any change in account activity which may alter the risk profile of the relationship. Such relationships must therefore be monitored adequately. The measures taken and the circumstances of each case must be recorded on an individual basis and records maintained in accordance with the Handbook.

In the absence of documentary verification of identity or address, alternative ways of satisfying the requirements could include obtaining:

- (a) A letter from the head of the household at which the individual resides confirming that the applicant lives at that address, setting out the relationship between the applicant and the head of household, together with evidence that the head of household resides at the address.

(b) A letter from a known nursing home or residential home for the elderly confirming residence of the applicant.

(c) A letter from a director or manager of a known Isle of Man employer that confirms residence at a stated Isle of Man address, and indicates the expected duration of employment. In the case of a seasonal worker, the worker's residential address in his/her country of origin should also be obtained and, if possible, also verified.

(d) In the case of a student, a letter from a principal of a known university or college that confirms residence at a stated address. The student's residential address in the Isle of Man should also be obtained.

4.4.4 Guarding against the exclusion of overseas residents

On occasions, an individual resident abroad may be unable to provide evidence of residential address using the sources set out in Section 4.4.2 of the Handbook. Examples of such individuals include residents of countries without postal deliveries and virtually no street addresses, who rely upon post office boxes or employers for delivery of mail. In such circumstances, the Commission recommends licenceholders adopt a flexible approach. The usefulness of documents such as utility bills as evidence of name and address may be of limited value. Licenceholders should seek verification through other means which cumulatively give comfort of the name and address of the applicant. The types of alternative methods used to verify name and address and the extent of measures taken must be determined taking into account the risk assessment required by Paragraph 3 of the Codes, in particular, any factors indicating that the relationship may pose a higher than standard risk. In each case there must be a review and signoff procedure undertaken by a member of staff of suitable seniority within the licenceholder.

Identification procedures should provide for alternative means of verifying an individual's residential address where an individual has a valid reason for being unable to produce more usual documentation and who would otherwise be excluded from accessing financial services and products in the Isle of Man. Alternative ways of verifying address may include obtaining:

(a) A suitably certified copy of a national identity card that includes residential address.

(b) A letter from a director or manager of a verified known overseas employer that confirms residence at a stated overseas address (or provides detailed directions to locate a place of residence).

There may also be circumstances where a customer's address is temporary accommodation and where normal address verification documents are not available. For example, an expatriate on a short term contract in the Middle East. Licenceholders should adopt flexible procedures to obtain verification by other means, e.g. copy of contract of employment, or banker's or employer's written confirmation.

4.5

IDENTIFICATION AND VERIFICATION OF INDIVIDUALS NON-FACE TO FACE

Licenceholders must apply equally effective customer identification procedures for non-face-to-face relationship as for those available for interview. Where identity is verified remotely through documentary evidence, licenceholders will generally be unable to determine that the customer it is dealing with actually relates to the documentary evidence. Consequently, there is an increased risk of identity fraud.

The Codes require licenceholders to take adequate measures to compensate for any risk associated with non-face to face relationships. To guard against this increased risk of identity fraud when a customer relationship is established remotely a licenceholder must either:

(a) Obtain copies of documents that have been certified by a suitable certifier; or

(b) If suitably certified copy documents cannot be obtained, address can be verified using electronic data sources, and at least one of the following checks must be undertaken and recorded prior to full activation of the relationship:

(c) Require payment for the product or service to be drawn from an account in the customer's name at a credit institution in an equivalent jurisdiction.

(d) Send a letter by registered post to validate the address of the customer and ensure that the account is not activated until the signed acknowledgement of receipt is returned.

(e) Make a "physical" validation, e.g. an initial telephone call by a member of staff of the financial services business to a telephone number that has been independently validated.

(f) Requisition additional documents to complement those required for face-to-face customers.

(g) Internet sign-on following verification procedures where the customer uses security codes, tokens and/or other passwords which have been provided by mail (or secure delivery) to the named person at an independently verified address.

4.5.1 Suitable certifiers and the certification procedure

Use of an independent suitable certifier guards against the risk that documentation provided does not correspond to the customer whose identity is being verified. However, for certification to be effective, the certifier will need to have seen the original documentation and have met the individual face-to-face.

Suitable persons to certify verification of identity documents include:

(a) a member of the judiciary, a senior civil servant, or a serving police or customs officer;

(b) an officer of an embassy, consulate or high commission of the country of issue of documentary verification of identity;

(c) a lawyer or notary public who is a member of a recognised professional body;

(d) an actuary who is a member of a recognised professional body;

(e) an accountant who is a member of a recognised professional body;

(f) a company secretary who is a member of a recognised professional body;

(g) a director, company secretary or manager of a business regulated on the Isle of Man or an external regulated business as defined in the Code.

The certifier must sign and date the copy document (printing his/her name clearly in capitals underneath) and clearly indicate his/her position or capacity on it and provide his contact details. The certifier must state that it is a true copy of the original, that the photograph is a true likeness of the individual concerned.

Where on an exceptional basis, a licenceholder has notification from the certifier that they are unable to provide the full certification wording for identity documents, then agreement to accept "certified as a true copy of the original" or similar wording for identity documents may be used.

It is stressed that this is purely on an exceptional basis only and is not to be used on a generic basis or to circumvent obtaining fully certified documents.

The certifier may complete a covering letter or document, which is then attached to the copy identification document(s) i.e. the certification is not written on the copy identification document itself as long as the covering letter or document contains the information specified in the paragraph above, and it is clear in the letter itself that it refers to the attached document beyond any doubt.

In order to comply with the Codes licenceholders must satisfy themselves as to the suitability of a certifier based on the assessed risk of the business relationship and the reliance to be placed on the certified documents. In determining the certifier's suitability, a licenceholder may consider factors such as the stature and track record of the certifier, previous experience of accepting certifications from certifiers in that profession or jurisdiction, the adequacy of the AML/CFT framework in place in the jurisdiction in which the certifier is located and the extent to which the AML/CFT framework applies to the certifier.

Licenceholders must exercise 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.

In any circumstances where a licenceholder is unsure of the authenticity of certified documents, or that the documents do relate to the customer, one or more of the checks contained in Section 4.5 must be undertaken and recorded.

In respect of intra-group business, staff of the introducing group company must have sight of original documents and take photocopies for forwarding to the Isle of Man licenceholder. Directors, the company secretary and managers of the introducing group company who are known to the licenceholder can certify such documents, following the above certification procedure.

4.6

IDENTIFICATION AND VERIFICATION OF TRUSTEES AND EXPRESS TRUSTS

Paragraph 5 of the Codes provides for specific requirements where the applicant for business is a legal arrangement defined as an express trust or any other arrangement which has similar legal effect (such as a fiducie, treuhand or fideicomiso).

Express trusts cannot form business relationships themselves. Where a trustee of an express trust is the applicant for business or is an underlying principal of an applicant for business, or is a third party on whose behalf an applicant for business is acting, the requirements below must be followed.

4.6.1 Identification information required for a trust

- (a) Name of trust.
- (b) Date of establishment.
- (c) Official identification number where applicable (e.g. tax identification number or registered charity number).
- (d) Identification information of trustee(s) or other persons controlling or having power to direct the activities of the applicant in line with the guidance for individuals and legal persons.
- (e) Mailing address(es) of trustee(s) (or other persons controlling the applicant).
- (f) Identification information of any persons whose wishes the trustees may be expected to take into account.
- (g) Identification information of any other parties including the protector(s) and enforcer(s).
- (h) Identification information of any person(s) purporting to act on behalf of the trustee(s) in line with the guidance for individuals and legal persons.
- (i) Identification information of any person by whom binding obligations may be imposed on the applicant in line with the guidance for individuals and legal persons.
- (j) Identification information of settlor(s) (or other person making the arrangement) in line with the guidance for individuals and legal persons.
- (k) Identification information of known beneficiaries in line with the guidance for individuals and legal persons. Known beneficiaries means those persons or that class of persons who can, from the terms of the trust instrument, be identified as having a reasonable expectation to benefit from the trust capital or income.

Other information that may be collected taking a risk-based approach

- (a) Identification information of any other beneficiaries and persons who are the object of a power that the trustee has identified as presenting a higher risk in line with the guidance for individuals and legal persons.

4.6.2 Verifying the trust and placing reliance on the Trustees

A licenceholder must verify the name and date of establishment of the express trust.

A licenceholder must also verify the legal status of the applicant for business to ensure that satisfactory evidence of the appointment of the trustee, and the nature of its duties is obtained. The most direct method of satisfying this requirement is to review the appropriate parts of the trust deed.

A licenceholder must verify the identity of the following:

(a) the trustee(s) or other persons controlling or having power to direct the activities of the applicant in line with the guidance for individuals and legal persons. Identification evidence can be waived for any trustee(s) who could be treated as acceptable applicants under paragraph 6(5) of the Codes;

(b) any person(s) whose wishes the trustees may be expected to take into account;

(c) any other parties including the protector(s) and enforcer(s);

(d) any person(s) purporting to act on behalf of the trustee(s) and verify that that person is authorised to do so (see 4.7.1 of the Handbook for the approach to be taken when there are numerous signatories). In order to verify that the person is authorised a licenceholder may obtain a copy (certified in accordance with Section 4.5.1) of the resolution of the board of the trustee (or other authority) that provides any individuals representing the trustee with the right to act on the trustee's behalf;

(e) any person(s) by whom binding obligations may be imposed on the applicant and verify that that person is authorised to do so;

(f) the settlor(s) (or other person making the arrangement) i.e. the initial settlors and any persons subsequently settling funds into the trust;

(g) beneficiaries at the time they come to benefit from the trust. This includes where payments are made directly to beneficiaries and when payments are made to the trustees, licenceholders must establish whether the payment is intended for a beneficiary of a trust and if so obtain verification documents. These payments can not be treated as exempted one-off transactions; and

(h) any potential beneficiaries that the trustee has identified as presenting higher risk, including those presenting increased money laundering, terrorist financing, reputational or other risk.

The Commission also considers that due to the potential risks of money laundering and/or terrorist financing, licenceholders should also identify and verify the identity of third parties before making any payments to them. This would include loans or payments arising as a result of powers of revocation being exercised in respect of a trust.

A licenceholder must require the trustee to notify it of any changes to the above.

4.7

IDENTIFICATION AND VERIFICATION OF LEGAL PERSONS

Paragraph 5 of the Codes provides for specific requirements where the applicant for business is a legal person which includes any body corporate or unincorporated which is capable of establishing a permanent customer relationship with a licenceholder or otherwise own property. This includes entities such as foundations, anstalts, partnerships, associations or any similar bodies.

The Commission is aware that some licenceholders may consider an application from a legal person formed and administered by regulated Corporate Service Providers ("CSPs") as direct corporate business where the CSP is providing directors, a secretary (or their equivalents) and other management services. Nevertheless, despite the corporate entity concerned being a separate legal person in its own right, licenceholders must "lift the corporate veil" and know the identity of the underlying customer, i.e. the beneficial owner / founder / dedicator / beneficiaries etc.

For corporations and partnerships the principal requirement is to look behind the institution to identify those who have control over the business and the company's / foundation's / partnership's assets, including those who have ultimate control and ultimate principal ownership. For corporations, particular attention must be paid to principal shareholders, founders, dedicators, signatories, or others who inject a significant proportion of the capital or financial support, or otherwise exercise control. Paragraph 5 of the Codes does not provide a

concession for companies / foundations where services are provided by CSPs. Licenceholders must still obtain CDD information and documentation for the directors and signatories of companies and the persons with sufficient interest in foundations (or equivalent in non-Isle of Man established foundations) where services are provided by CSPs.

Where the owner is another legal person or trust, the objective is to undertake reasonable measures to look behind that legal person or trust and to verify the identity of the principals. What constitutes control for this purpose will depend on the nature of the institution, and may rest in those who are mandated to manage funds, accounts or investments without requiring further authorisation, and who would be in a position to override internal procedures and control mechanisms.

Where the business relationship with the applicant entity does not proceed, all relevant documentation should be retained for at least 5 years as required by the Codes. Where a suspicion of money laundering or terrorist financing has arisen a report must be made to the FCU.

Licenceholders must also verify that any person purporting to act on behalf of a corporate customer is authorised to do so.

Licenceholders must conduct periodic checks to ensure the corporate information held is correct and up to date, such as conducting company searches, or seeking copies of resolutions appointing directors or noting the resignation of directors. The frequency of such checks for particular business relationships will be determined from the risk assessment required by the Codes.

4.7.1 Identification information required for Legal Persons

- (a) Name of entity.
- (b) Any trading names.
- (c) Date and country of incorporation/registration/establishment.
- (d) Official identification number.
- (e) Whether listed and where.
- (f) Registered office address and in respect of foundations the business address.
- (g) Principal place of business/operations (if different from registered office).
- (h) Mailing address (if different from registered office).
- (i) Name of regulator (if applicable).
- (j) Identification information on the underlying principals i.e. persons exercising control over the management of the legal person and any person(s) having power to direct the activities of the legal person. This will include directors and account signatories or persons in equivalent roles such as, in respect of foundations, council members, enforcer(s), person(s) appointed under the foundation rules (or equivalent in non-Isle of Man established foundations).
- (k) Identification information of any person(s) purporting to act on behalf of the legal person or by whom binding obligations may be imposed on the legal person, in line with the guidance for individuals. This will include persons holding powers of attorney.
- (l) Obtain identification information on the beneficial owners i.e. any individual who ultimately owns or controls the customer, or on whose behalf a transaction or activity is being conducted. For legal persons not listed on a recognised stock exchange, this includes (but is not restricted to) any natural person who ultimately owns or controls (whether directly or indirectly) 25% or more of the shares or voting rights in the legal person.

For all legal persons (including those listed on a recognised stock exchange) this includes any natural person (whether as an individual, group of individuals or through another corporate entity or trust) who otherwise exercises control over the management of the legal person. This includes persons with less than 25% of the shares or voting rights but who nevertheless hold a controlling interest.

For a stock exchange to be considered as "recognised" the entities listed on it must be subject to appropriate disclosure requirements. For entities listed within Europe, this means regulated markets within the meaning of the Directive on Markets in Financial Instruments 2004/39/EC. For entities listed outside Europe, this means regulated markets subject to disclosure requirements consistent with the aforementioned Directive.

For example, in the context of the London Stock Exchange, this would include the Main Market but would not include the Alternative Investment Market.

(m) In respect of foundations, which are legal persons but which resemble trusts in many ways, licenceholders must also obtain identification information on the registered agent, founder(s), dedicator(s), assignee(s), all known beneficiaries and potential beneficiaries presenting a higher risk (or equivalent in non-Isle of Man established foundations). It is also necessary to obtain identification information on any other person(s) with a sufficient interest, including a person who in the view of the High Court, can reasonably claim to speak on behalf of an object or purpose of the foundation and a person who the High Court determines to be a person with a sufficient interest under section 51(3) of the Foundations Act 2011 (or equivalent in non-Isle of Man established foundations).

Provided there is no suspicion of money laundering or terrorist financing, where there are numerous directors / council members and/or signatories, licenceholders may determine those individuals to be identified using a risk based approach. Licenceholders should identify the signatories and, where different, directors of the applicant as follows:

- (a) For standard risk business, at least two of the signatories and, where different, two directors.
- (b) For business deemed to be of higher risk, all the directors and signatories.

For a CSP this concession applies in respect of a company which is its applicant for business but not in respect of a client company / foundation to which it provides regulated activities. CSPs must ensure that where any person is to act as a director, secretary or signatory of a client company or is a person with a sufficient interest in respect of a foundation, they are identified (unless such services are to be provided by the CSP licenceholder).

4.7.2 Verifying the identity of the legal person

Where a company is listed on a recognised stock exchange or is a wholly owned subsidiary of such a company, paragraph 6(6)(d) of the Codes provides the concession that it may be treated as an Acceptable Applicant. This means that verification of identity requirements do not have to be undertaken on the company itself or on certain associated persons.

However, licenceholders must take reasonable measures to establish whether there is effective control of the listed company or its wholly owned subsidiary by an individual, group of individuals or another corporate entity or trust. If this is the case, then those controllers must be considered as beneficial owners and reasonable measures taken to verify their identity.

The concession from verifying identity in respect of companies listed on a recognised stock exchange and their wholly owned subsidiaries does not apply:

- (a) whenever there is a suspicion of money laundering or terrorist financing;
- (b) where a licenceholder becomes aware of anything which causes them to doubt the identity or bona fides of the applicant for business or beneficial owner; or
- (c) where the new business relationship poses a higher risk as assessed by the risk assessment.

In addition, where the concession cannot be applied due to the above circumstances licenceholders must conduct enhanced customer due diligence as required under paragraph 8 of the Codes.

For all legal persons that are not listed on a recognised stock exchange (or their wholly owned subsidiaries) and for legal persons where the concession from verifying identity does not apply, licenceholders must verify the following:

- (a) Name;
- (b) Official identification number;
- (c) Date and country of incorporation;
- (d) Registered office address / business address of the legal person; and
- (e) Address of the principal place of business where this is different to the registered office / business address.

Acceptable means of verifying identity include:

- (a) Obtaining the Certificate of Incorporation or equivalent e.g. a certified copy of the partnership agreement or a Certificate of Establishment for a foundation (where it is impractical or impossible to obtain sight of the original, licenceholders may accept a copy certified in accordance with Section 4.5.1);
- (b) Reviewing a copy of the latest report and accounts if available (audited, where possible);
- (c) Conducting and recording an enquiry by a business information service, or an undertaking from a reputable and known firm of lawyers or accountants confirming the documents submitted;
- (d) Undertaking a company registry search, including confirmation that the institution has not been, or is not in the process of being dissolved, struck off, wound up or terminated;
- (e) Utilising independent electronic data sources;
- (f) Personal visit to the principal place of business. Whichever method(s) is/are used, all of the required information must be verified.

Whichever method(s) is/are used, all of the required information must be verified.

4.7.3 Verifying the identity of associated persons

The following underlying principals and beneficial owners must have their identity verified.

Where a legal person is not listed on a recognised stock exchange or is not a wholly owned subsidiary of such a listed entity -

- (a) any natural person who ultimately owns or controls (whether directly or indirectly) 25% or more of the shares or voting rights in the legal person.
- (b) any person(s) having power to direct the activities of the legal person. This includes directors and account signatories or persons in equivalent roles, such as, in respect of foundations, council members, enforcer(s), person(s) appointed under the foundation rules (or equivalent in non-Isle of Man established foundations). Where there are numerous directors / council members and/or signatories, the guidance on determining who should be identified and their identity verified at 4.7.1 may be followed; and
- (c) any person(s) purporting to act on behalf of the legal person or by whom binding obligations may be imposed on the legal person.

For all legal persons -

- (a) any natural person (whether as an individual, group of individuals or through another legal person or legal arrangement) who exercises effective control of the company or over the management of the company. This includes persons with less than 25% of the shares or voting rights but who nevertheless hold a controlling interest.
- (b) In respect of foundations, licenceholders must verify the identity of the:
 - registered agent;

- founder(s);
- dedicator(s);
- assignee(s);
- beneficiaries at the time they come to benefit from the foundation. This includes where payments are made directly or indirectly to beneficiaries. Licenceholders must establish whether the payment is intended for a beneficiary and if so obtain verification documents. These payments cannot be treated as exempted one-off transactions;
- any potential beneficiaries presenting a higher risk, including those presenting increased money laundering, terrorist financing, reputational or other risk;
- any other person(s) with a sufficient interest, including a person who in the view of the High Court, can reasonably claim to speak on behalf of an object or purpose of the foundation and a person who the High Court determines to be a person with a sufficient interest under section 51(3) of the Foundations Act 2011 (or equivalent in non-Isle of Man established foundations).

In the case of a CSP carrying out regulated activities, the above includes any person who is to act as a director, secretary or signatory of a client company or a person with a sufficient interest in a foundation (unless such services are to be provided by the CSP licenceholder.)

In the case of associations, clubs, societies, charities, church bodies, institutes, mutual and friendly societies, co-operative and provident societies, those with ultimate control will often include members of the governing body or committee plus executives. In the case of central and local government departments and agencies, this will include persons exercising control or significant influence over the department or agency.

Licenceholders must obtain an appropriately certified copy of the board resolution or power of attorney (or other authority) that provides the individuals representing the corporate customer with the right to act on the institution's behalf.

4.7.3.1 Bearer Shares

Licenceholders must take particular care to record the details of bearer shares received or delivered other than through a recognised clearing or safe custody system, including the source and destination.

To reduce the opportunity for bearer shares to be used to obscure information on beneficial ownership, the Commission expects all licenceholders to immobilise bearer shares and take them into safe custody. A third party who meets the criteria to be a person in paragraph 6(6) of the Codes, and who gives the licenceholder an undertaking that he will not release the bearer shares or allow their transfer of ownership without the prior knowledge of the licenceholder can hold the shares on behalf of the licenceholder.

Should a prospective or existing customer refuse to allow the immobilisation of the bearer shares, the licenceholder must not proceed any further with the business relationship, and must consider making a suspicious transaction report to the FCU.

4.8

EMPLOYEE PENSION SCHEMES

Paragraph 12(6) of the Codes provides the concession that where the product or service is a pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme, the relevant person may treat the employer, the trustee and any other person who has control over the business relationship including the administrator or the scheme manager, as the applicant for business. Licenceholders need not, if they think fit, comply with the provisions of paragraph 5(2)(c) of the Codes.

This means that where a licenceholder deems it appropriate in respect of the above types of applicants for business, licenceholders are not required to determine whether the applicant for business is acting on behalf of

another person, identify and verify the identity of that other person. It is only necessary to conduct customer due diligence on the applicant for business itself.

4.8.1 Conditions when the Employee Pension Schemes concession does not apply

The Employee Pension Schemes concession is removed in certain circumstances. Paragraph 12(9) of the Codes include the circumstances:

- (a) whenever there is a suspicion of money laundering or terrorist financing; or
- (b) where a licenceholder becomes aware of anything which causes them to doubt the identity or bona fides of the applicant for business or beneficial owner.

Where there are such suspicions or doubts, licenceholders must conduct enhanced CDD.

In addition, the Employee Pension Schemes concession does not apply under paragraph 12(10) of the Codes where the applicant for business poses a higher risk of money laundering or terrorist financing as assessed by the required risk assessment and licenceholders must conduct enhanced CDD.

4.9

IDENTIFICATION AND VERIFICATION OF IDENTITY OF REGULATED LICENCEHOLDERS (ACCEPTABLE APPLICANTS)

Under paragraphs 6(5) and 6(6) of the Codes where a licenceholder has reasonable grounds for believing that an applicant for business is:

- (a) A person regulated by the Commission or the IPA; or
- (b) A nominee company (defined as a wholly owned subsidiary which complies with paragraphs 2.7 or 3.1 of the Financial Services (Exemption) Regulations 2009) of a person regulated by the Commission or the IPA; or
- (c) An Isle of Man advocate, legal professional or qualified accountant; or
- (d) A person who acts in the course of external regulated business and is regulated under the law and regulations of a country that is included in Schedule 2 of the Codes (as amended). External regulated business is defined at paragraph 2 in the Codes. For the purposes of determining whether or not a potential applicant for business may be eligible under this paragraph, licenceholders must ensure that the applicant for business is regulated or supervised for AML/CFT purposes by an authority (either governmental or a professional body) which is empowered to regulate or supervise such business. It is not sufficient for the potential applicant for business to only be regulated or supervised for non-AML/CFT purposes; or
- (e) A nominee company (defined as a wholly owned subsidiary which complies with regulations equivalent to paragraphs 2.7 or 3.1 of the Financial Services (Exemption) Regulations 2009) of an external regulated business; or
- (f) A company listed on a recognised stock exchange or a wholly owned subsidiary of such a company

there is no requirement to verify the identity of the applicant for business or its management when they are acting in the capacity of the applicant for business. Such applicants are referred to as Acceptable Applicants.

For a stock exchange to be considered as "recognised" the entities listed on it must be subject to appropriate disclosure requirements. For entities listed within Europe, this means regulated markets within the meaning of the Directive on Markets in Financial Instruments 2004/39/EC. For entities listed outside Europe, this means regulated markets subject to disclosure requirements consistent with the aforementioned Directive.

For example, in the context of the London Stock Exchange, this would include the Main Market but would not include the Alternative Investment Market.

The licenceholder must know the identity of the applicant for business i.e. licenceholders must obtain identification information as described at 4.4.1 in respect of individuals, 4.6.1 in respect of trusts and 4.7.1 in respect of legal persons. Licenceholders must also know the nature and intended purpose of the relationship.

Licenceholders must obtain and retain documentation establishing that the applicant is entitled to benefit from the concession. An Acceptable Applicant's Certificate may be used for this purpose. A template is provided at Appendix D.

In respect of the Acceptable Applicant concession for companies listed on a recognised stock exchange or wholly owned subsidiaries of such companies, licenceholders must take reasonable measures to establish whether there is effective control of the listed company or its wholly owned subsidiary by an individual, group of individuals or another corporate entity or trust. If this is the case, then those controllers must be considered as beneficial owners and reasonable measures taken to verify their identity.

Under paragraphs 3(4), 6(8) and 6(9) of the Codes the Acceptable Applicants concession does not apply in the following circumstances:

- (a) where the applicant for business poses a higher risk as assessed by the required risk assessment.
- (b) where a licenceholder has reason to believe that a country, albeit one listed in Schedule 2 of the Codes (as amended), does not apply, or insufficiently applies the FATF Recommendations to the applicant's business;
- (c) whenever there is a suspicion of money laundering or terrorist financing; or
- (d) where a licenceholder becomes aware of anything which causes them to doubt the identity or bona fides of the applicant for business or beneficial owner.

In addition, where the Acceptable Applicant concession cannot be applied because the applicant for business poses a higher risk of money laundering or terrorist financing licenceholders must also conduct enhanced CDD as required under paragraph 8 of the Codes.

Where there is suspicion of money laundering or terrorist financing as described at (c) above or doubt as described at (d) above, licenceholders must carry out enhanced CDD as required under paragraph 8 of the Codes.

The Commission is aware that for administrative purposes, life companies sometimes use policy identifiers when investing funds to back the life company's policyholder liabilities. For the avoidance of doubt, where the life company is the legal and beneficial owner of the funds and the policy holder has not been led to believe that they have rights over the account or investment, the life company is the applicant for business.

4.10

RELIANCE ON OTHER FINANCIAL SERVICES BUSINESSES TO IDENTIFY AND VERIFY IDENTITY: "ELIGIBLY INTRODUCED" RELATIONSHIPS

Paragraph 11 of the Codes allows licenceholders to place reliance on an introducer to obtain CDD information and verification required by Sections 4.4 to 4.7. These circumstances are known as "eligibly introduced" relationships.

Under paragraph 11(8) and 11(14) of the Codes, the ultimate responsibility for ensuring that CDD procedures requirements are met, remains with the licenceholder.

This concession does not apply to outsourcing or agency relationships i.e. where the agent is acting under a contractual arrangement with the financial institution to carry out its CDD functions.

The concession also does not apply if the conditions of paragraphs 11(11) or 11(12) of the Codes are met.

4.10.1 Eligibility status for Eligible Introducers

An Eligible Introducer is one of the following:

- (a) a person holding a financial services licence issued under section 7 of the Financial Services Act 2008.
- (b) any person carrying on insurance business or acting as an insurance manager within the meaning of the Insurance Act 2008.

(c) the trustee of a retirement benefits scheme that is authorised under the Retirement Benefits Schemes Act 2000.

(d) a retirement benefit schemes administrator who is registered under the Retirement Benefits Schemes Act 2000.

(e) an advocate within the meaning of the Advocates Act 1976, a registered legal practitioner within the meaning of the Legal Practitioners Registration Act 1986 or an accountant carrying out business in or from the Isle of Man, where the licenceholder is satisfied that the rules of the introducer's professional body embody requirements equivalent to the Codes.

(f) a person who acts in the course of an external regulated business and is regulated or supervised under the law and regulations of a country that is included in the list at Schedule 2 of the Codes (as amended). External regulated business is defined in the Codes. For the purposes of determining whether or not a potential introducer may be eligible under this paragraph, licenceholders must ensure that the introducer is regulated or supervised for AML/CFT purposes by an authority (either governmental or a professional body) which is empowered to regulate or supervise such business. It is not sufficient for the potential introducer to only be regulated or supervised for non-AML/CFT purposes.

Licenceholders must obtain satisfactory evidence to identify the status and eligibility of introducers. Such evidence may comprise corroboration from the introducer's regulatory authority, or evidence from the introducer itself of such regulation.

If licenceholders are aware of any cases where introducers have incorrectly been treated as eligible, they must take steps to obtain suitable CDD information and verification documents in accordance with the Handbook.

4.10.2 Conditions when the Eligible Introducer concession applies

Paragraph 11 of the Codes does not introduce an exemption from a licenceholder's obligations but is merely an administrative measure that reduces or eliminates duplication of effort and documentation subject to the following conditions:

(1) The licenceholder has identified the applicant for business and beneficial owner and has obtained all the CDD information on the applicant for business and the beneficial owner at the outset before a business relationship is entered into. This information may be obtained from the Eligible Introducer.

2) The licenceholder knows the nature and intended purposes of the relationship at the outset.

(3) The licenceholder knows the source of funds and where required the source of wealth at the outset. This information may be obtained from the Eligible Introducer.

(4) The licenceholder has satisfied itself that the Eligible Introducer is regulated and supervised for, and has measures in place to comply with CDD requirements in line with the Handbook.

(5) The licenceholder has assessed the CDD procedures of the Eligible Introducer as being satisfactory as per paragraph 11(8) of the Codes. Adequate steps to determine whether CDD procedures are satisfactory may include:

- A review of the Eligible Introducer's AML/CFT policies and procedure;

- Enquiries concerning the Eligible Introducer's stature and regulatory track record and the extent to which any group standards are applied and audited;

- Independent review of the Eligible Introducer's procedures by external auditors or other experts.

(6) Under paragraph 11(9) of the Codes licenceholders must test procedures to ensure CDD information and documentation is produced upon demand and without undue delay. Testing must be conducted on a random and periodic basis.

(7) Written terms of business are in place between the Eligible Introducer and the licenceholder which comply with paragraphs 11(7) and 11(9) of the Codes requiring the Eligible Introducer to:

- (a) Verify the identity of all applicants for business and beneficial owners;
- (b) Establish and maintain a record of CDD information and verification documents for at least 5 years as per paragraph 17(1) of the Codes;
- (d) Establish and maintain records of all transactions between the -
 - (i) Eligible Introducer and the applicant for business; and
 - (ii) Licenceholder and the applicant for business if the Eligible Introducer has received copies of records relating to those transactions.

If the records are concerned with or arise out of the introduction (whether directly or indirectly) for at least 5 years as per paragraph 17(1) of the Codes;

- (e) Supply upon request copies of verification documents for applicants for business or beneficial owners and all other CDD data held by the Eligible Introducer in any particular case. This must not require the consent of the customer or a third party such as a court;
- (f) Supply copies of verification documents for applicants for business or beneficial owners and all other CDD data in any particular case where;
 - a. The Eligible Introducer is to cease trading;
 - b. The Eligible Introducer is to cease doing business with the applicant for business;
 - c. Where the licenceholder informs the Eligible Introducer that it no longer intends to rely on the terms of the Terms of Business.
- (g) Inform the licenceholder of each case where he is not required or has been unable to verify the identity of the beneficial owner or applicant for business;
- (h) Inform the licenceholder where the Eligible Introducer is no longer able to comply with the provisions of the written Terms of Business because of a change of the law applicable to the Eligible Introducer; and,
- (i) Do all such things as may be required by the licenceholder to enable the licenceholder to comply with its obligations under paragraph 11(9) of the Codes.

4.10.3 Use of Terms of Business or Eligible Introducer's Certificate ("EIC")

Licenceholders can either put written terms of business in place with an Eligible Introducer without EICs having to be produced for each client or block of clients; or licenceholders can use EICs for each client or block of clients. Whichever format is used it must comply with the requirements of the Codes.

A template for an EIC which complies with the requirement in the Codes for a written terms of business is contained in Appendix E. The EIC at Appendix E is intended as an example / template for licenceholders to use all, or part, as they see appropriate and to tailor to their individual needs, design, corporate style, identity etc.

The proforma EIC is divided into 6 sections. Section 1 must be completed for all business introduced using an EIC. Licenceholders may tailor Section 1 to their own corporate style with the use of logos etc, though the text of Section 1 must not be altered as this satisfies the Codes' requirement for written terms of business to be in place between the licenceholder and the Eligible Introducer. Sections 2, 3, 4 and 5 have been designed as a central point for identification and relationship information.

The Commission recognises that some businesses may have designed and created their own forms to obtain the relevant information. Provided all the relevant information is collected these forms will be just as acceptable to use as the example in Appendix E.

Where a "block" of business is being introduced, Section 1 of the EIC, accompanied by a schedule listing all the clients' details or relevant copies of Section 2, 3 and 4 for each client may be accepted.

4.10.4 The conditions when the Eligible Introducer concession does not apply

Under paragraphs 11(6) and 11(11) of the Codes the Eligible Introducer's concession must not be applied where:

(a) The licenceholder has reason to believe that a country, albeit one listed in Schedule 2 of the Codes (as amended), does not apply, or insufficiently applies the FATF Recommendations to the business of the Eligible Introducer. This would include where the licenceholder has reason to believe that the Eligible Introducer's supervisor does not have adequate powers to monitor and ensure compliance by the Eligible Introducers with AML/CFT requirements.

(b) The licenceholder knows or suspects that the Eligible Introducer, the customer or any third party on whose behalf the customer is acting is engaged in money laundering or terrorist financing..

(c) The licenceholder has any reason to doubt the identity of the applicant for business, the Eligible Introducer or the beneficial owner.

(d) The licenceholder has any reason to doubt the bona fides of the applicant for business, the Eligible Introducer or the beneficial owner.

(e) The licenceholder is not satisfied that CDD information or documentation will be made available upon request and without delay.

In these circumstances licenceholders must conduct enhanced CDD and consideration given as to whether the making of an STR is appropriate.

Under paragraph 11(12) of the Codes where the applicant for business poses a higher risk of money laundering or terrorist financing as assessed by the required risk assessment the Eligible Introducer's concession also does not apply and enhanced CDD is required.

4.10.5 Introductions from non-Eligible Introducers

Where applicants for business are introduced to licenceholders via non-Eligible Introducers, licenceholders must identify and verify the identity of the applicant themselves.

Licenceholders may request non-Eligible Introducers to obtain information or documentation from the applicant and pass it to the licenceholder at the outset. However, a licenceholder **cannot** rely on any form of undertaking or certificate from a non-Eligible Introducer concerning identification or verification of the applicant for business.

4.11

APPLICANTS FOR BUSINESS WHICH ARE COLLECTIVE INVESTMENT SCHEMES

Paragraphs 12(7) of the Codes provide a concession for licenceholders when conducting CDD on certain applicants for business which are collective investment schemes. In order to be able to apply this concession, the applicant for business must be a collective investment scheme as defined in the Collective Investment Schemes Act 2008 or is equivalent in one of the equivalent jurisdictions listed at Appendix C. In addition, either the manager or administrator of the collective investment scheme must be a regulated person or an external regulated business carrying out equivalent regulated activities in an Appendix C jurisdiction.

If these conditions are met, licenceholders do not need to identify and verify the identity of the underlying investors participating in the collective investment scheme.

4.11.1 The conditions when the collective investment schemes concession does not apply

Under paragraphs 12(9) of the Codes this concession does not apply where::

(a) The licenceholder knows or suspects that the transaction is or may be related to money laundering or terrorist financing;.

(b) There is a suspicious pattern of behaviour that causes the relevant person to know or suspect that the behaviour is or may be related to money laundering or terrorist financing;

(c) The licenceholder becomes aware of anything which causes them to doubt the identity of the applicant for business or beneficial owner;

(d) The licenceholder becomes aware of anything which causes them to doubt the bona fides of the applicant for business or beneficial owner.

In addition, in these circumstances licenceholders must conduct enhanced CDD and consider whether an STR should be made.

The collective investment schemes concession also does not apply where, as per paragraphs 12(10) of the Codes, under its risk assessment, the licenceholder has assessed the applicant for business as posing a higher risk. In these circumstances, licenceholders must conduct enhanced CDD.

4.12

POOLED CLIENTS ACCOUNTS

Where an advocate within the meaning of the Advocates Act 1976, a registered legal practitioner within the meaning of the Legal Practitioners Registration Act 1986 or an accountant carrying out business in or from the Isle of Man (referred to collectively as professional firm), where the licenceholder is satisfied that the rules of the professional body of the professional firm embody requirements and procedures that are at least equivalent to the AML/CFT Codes; or a private client stockbroker satisfying the Acceptable Applicant criteria, operates a pooled clients bank account, and the (proposed) relationship has been assessed and documented as low risk, the banking licenceholder may not need to undertake CDD procedures on the underlying customers, unless the banking licenceholder considers this course of action to be appropriate.

Banking licenceholders must be satisfied that the professional firm / private client stockbroker maintains procedures in line with the Codes and 6.6 of the Rule Book. Any steps taken by the bank to ensure it is so satisfied must be documented. In addition, banking licenceholders must obtain confirmation from the professional firm / private client stockbroker that all necessary CDD checks have been conducted by them on the underlying client base.

A licenceholder must request the following information in respect of the proposed relationship from the professional firm / private client stockbroker:

(a) The general nature of the underlying customer base for the proposed relationship, such as:

- whether institutional or private client;
- the geographical location of the customer base;
- the nature of the services that the professional firm provides to its customers; and
- whether relationships are conducted face-to-face.

(b) Their risk assessment of this customer base including whether it has any relationships with PEPs or shell banks.

Relationships involving pooled clients accounts must not include the funds of higher risk customers. Banking licenceholders must establish that the professional firm / private client stockbroker has systems in place requiring:

(a) that such accounts must not be used for higher risk customers and that designated accounts must be established for such customers; and

(b) that CDD information and documentation is provided at the outset to the banking licenceholder for all higher risk customers.

The pooled client accounts concession must also not be applied where:

- (a) A licenceholder has knowledge or suspicion that the transaction, professional firm / private client stockbroker, or any third party is related to or engaged in money laundering or terrorist financing.
- (b) The licenceholder has any reason to doubt the identity of the professional firm / private client stockbroker.
- (c) The licenceholder has any reason to doubt the bona fides of the professional firm/ private client stockbroker.

In these circumstances licenceholders must conduct enhanced CDD and consideration given as to whether the making of an STR is appropriate.

Where the pooled clients account relationship poses a higher risk of money laundering or terrorist financing as assessed by the required risk assessment, enhanced CDD is required and the pooled clients account concession is disapplied.

Relationships involving pooled clients accounts must not be abused and licenceholders must satisfy themselves that the primary motive for the use of these facilities is not for the circumvention of CDD procedures.

4.13

TIMING OF IDENTIFICATION AND VERIFICATION OF IDENTITY

Licenceholders must complete identification and verification procedures before a business relationship is entered into.

Identification information about the applicant for business and underlying principles, information about the purpose and intended nature of the business relationship and establishing the source of funds must always be obtained before the business relationship is entered into.

However, very exceptionally, where there is little risk of money laundering or terrorist financing occurring, the Codes allow verification of identity to be carried out as soon as reasonably practicable if it is essential not to interrupt the normal conduct of business (e.g. securities transactions where companies may be required to perform transactions very rapidly, according to the market conditions at the time the customer is contacting them, and the performance of the transaction may be required before verification of identity is completed). If licenceholders do not complete the identity verification process at outset then until it is completed the following controls must be applied:

- (a) senior management must authorise the establishment of any relationships benefiting from this concession and sign-off the first and each subsequent activity until identity has been verified. In this context, senior management is defined in the Codes as the "Isle of Man resident directors or key persons who are nominated to ensure the relevant person is effectively controlled on a day-to-day basis and who have responsibility for overseeing the relevant person's proper conduct." For the Commission's licenceholders this equates to the nominated resident officers of a licenceholder or those deputising for the nominated resident officers in accordance with Rule 8.22 of the Rulebook. It does not include the Money Laundering Reporting Officer ("MLRO"), Deputy MLRO or the Compliance Officer of a licenceholder;
- (b) money laundering and terrorist financing risks must be effectively managed (for example there must be no payment from the account or return of proceeds on disposal of property);
- (c) the amount, type and number of transactions must be limited and monitored; and
- (d) procedures must be in place for managing relationships where funds or assets have been received.. Such procedures must include a set of measures such as a limitation of the number, types and/or amount of transactions that can be performed and the monitoring of large or complex transactions being carried out outside of expected norms for that type of relationship.

Licenceholders must satisfy themselves that the primary motive for the use of this concession is not for the circumvention of CDD procedures.

Under paragraphs 3(4), 6(9) and 6(10) of the Codes the concession from obtaining identity verification before the relationship has commenced is not available where:

- (a) whenever there is knowledge or a suspicion of money laundering or terrorist financing; or
- (b) where a licenceholder becomes aware of anything which causes them to doubt the identity or bona fides of the applicant for business or beneficial owner; or
- (c) the new business relationship poses a higher risk as assessed by the risk assessment.

4.13.1 Failure to complete verification of identity

Verification of identity, once begun, should be pursued through to conclusion within a reasonable timeframe. If a prospective customer does not pursue an application, or verification cannot be concluded within a reasonable timeframe and without adequate explanation, paragraph 6(11) of the Codes require that the business relationship and transactions shall not proceed any further and the licenceholder must terminate that relationship. In respect of one-off transactions as per paragraph 9(10) of the Codes where CDD requirements cannot be completed the one-off transaction must not be carried out. Furthermore, a licenceholder must assess whether the circumstances are in themselves suspicious. In such circumstances licenceholders must consider making a disclosure to the FCU based on the information in their possession and, if a disclosure is made, may wish to obtain FCU consent before any funds are moved out of the account.