5 IDENTIFICATION MEASURES: RELIANCE ON OBLIGED PERSONS

5.1 OVERVIEW OF SECTION

1. In some strictly limited cases, a relevant person may meet its obligation to apply identification measures under Articles 13 and 15 of the Money Laundering Order and AML/CFT Codes of Practice by placing reliance on measures that have already been applied by another party (referred to as an "obliged person") to find out the identity of a mutual customer and to obtain evidence of identity.

2. In order to consider what reliance might be placed on an obliged person, a relevant person will first need to determine what elements of identity must be found out and what evidence of identity is to be obtained for its customer. It will do so in accordance with Article 3 of the Money Laundering Order and AML/CFT Codes of Practice set in Sections 3, 4 and 7, and will take into account the relevant person's risk assessment for the customer. Once it has determined what identification measures it is to apply, a relevant person can then consider whether those measures have already been applied by an obliged person.

3. Where an obliged person has met its customer, who is resident in the same country as the obliged person, the measures that it has taken to find out identity and to obtain evidence of identity will be different to the identification measures that must be applied by the relevant person in a case where the relevant person is resident in a different country to the obliged person and customer, and where it has not met its customer. Even in a case where the relevant person and obliged person have met a customer and are resident in the same country, the measures taken by the obliged person may still differ to those to be applied by the relevant person to the extent that other factors are different, for example the nature of the product or service to be provided.

4. The effect of this is that the obliged person may not have found out all of the same information on identity as the relevant person needs, and may have obtained evidence of identity using different documents, data or information. This means that, in practice, the scope to place reliance may sometimes be quite limited, and that it may be necessary for a relevant person to find out more information on identity and obtain evidence for that aspect of identity itself.

5. However, it is not necessary that the obliged person will have found out identity or obtained evidence of identity exactly in line with policies and procedures applied by the relevant person, since guidance in Section 4 provides that there are different ways in which to apply identification measures. Also, where the obliged person is outside Jersey, different requirements and guidance will be applicable.

6. Where an obliged person meets the requirements outlined in Article 16 of the Money Laundering Order, a relevant person is permitted to place reliance on the obliged person to have found out the identity and to have obtained evidence of the identity of: (i) the relevant person's customer; (ii) any beneficial owner or controller of that customer; (iii) any third party for which that customer is acting; (iv) any beneficial owner or controller of a third party for whom that customer is acting; and/or (v) any person purporting to act on behalf of that customer.

7. It is not possible to place reliance on an obliged person to obtain information on the purpose and intended nature of a business relationship or one-off transaction, nor to apply on-going monitoring during a business relationship.

4. Further, Article 16 of the Money Laundering Order cannot be applied in any case where a relevant person suspects money laundering or financing or terrorism, in any case where a relevant person considers that there is a higher risk of money laundering or financing of terrorism (see Section 5.1.14.10 Identification and verification of identity in intermediary and introduced relationships).

8. ), or where the obliged person has a relevant connection to a country or territory that is subject to a FATF call to apply enhanced CDD measures (see Section 7.5).
9. Whilst the information on identity found out by the obliged person must be provided to the relevant person immediately before establishing a relationship or carrying out a one-off transaction, a relevant person is not also required to immediately obtain evidence of identity. Evidence of identity may be held by an obliged person, so long as the relevant person is satisfied that the obliged person will provide the evidence that it holds on request and without delay. However, it is not uncommon for evidence of identity to be called for at the same time as information on identity is provided by the obliged person.

10. Inter alia, an obliged person may be:

2. **Overview** of the Money Laundering Order requires a relevant person to determine whether the applicant for business is acting for any third party (underlying customer), and if so, requires the relevant person to identify and take reasonable measures to verify the identity of the third party (underlying customer) and its beneficial owners and controllers. Such relationships are referred to as **intermediary relationships**, as no direct relationship between the relevant person and the underlying customer arises; the business relationship is instead between the relevant person and the intermediary. Intermediary relationships differ from **introduced (also known as referred) relationships**, as with introduced relationships, the underlying customer does form a direct relationship with the relevant person.

3. However, in certain circumstances where the risk of money laundering and the financing of terrorism may be lower, such as where the intermediary (or introducer) itself is subject to legal requirements to combat money laundering and financing of terrorism equivalent to those in place in Jersey, and is supervised for compliance with those requirements, the permits reduced or simplified due diligence measures to be carried out on the intermediary, or reliance to be placed on the intermediary or introducer to have conducted aspects of customer due diligence.

4. This section sets out the circumstances where reduced or simplified measures may be applied or where reliance may be placed:

- Where the applicant for business— an intermediary— is a certain type of regulated person or carries on an equivalent business to certain categories of regulated business (covered by **of the Money Laundering Order**); and
- Where the relationship involves either an intermediary or introducer that is a carrying on a financial services business that is overseen for AML/CFT compliance in Jersey, or a person who carries on equivalent business (covered by **of the Money Laundering Order**).

Intermediate relationships

5. Intermediate relationships may cover a single underlying customer or more than one customer, including a pool of customers. Relationships established by an intermediary on behalf of a single customer, including relationships involving sub-accounts for each underlying customer, are described in the Handbook as **designated relationships**. A relationship established by an intermediary on behalf of more than one customer is described in the Handbook as a **pooled relationship**.

6. Examples of intermediary relationships may include:

- Trustees establishing relationships with other persons carrying on financial services businesses on behalf of express trusts.
- Stock-brokers and investment management firms acting as nominees for underlying investors.

7. Some examples of pooled relationships include:

- Overseas banks (typically Swiss banks) that place pooled deposits on a fiduciary basis with Jersey banks.
- Open-ended or closed-ended investment companies, trustees of unit trusts, and general partners of limited partnerships that wish to establish banking facilities for a collective investment fund.
- Client accounts operated by trust companies, investment managers, lawyers and accountants.

Introduced relationships
8. An introduced relationship is where an introducer has an established relationship with a customer and wishes to introduce that customer to another person carrying on a financial services business. Here, it is the investment advisor who arranges for a customer who is the applicant for business, and who seeks to form a direct relationship with a relevant person. The customer will therefore have two direct relationships, one with the introducer and one with the relevant person to which he has been introduced.

9. Examples of introducers include:
   - Investment advisors who arrange for their customers to invest in a financial product provided by another relevant person carrying on a financial services business, where the investment is to be held in the name of the customer and not that of the investment advisor.
   - A trust and company services provider who arranges for establishes a bank or investment account, for example, to be established in the name of a client company, and not in the name of the trust and company services provider.
   - The qualified member of a trust or foundation that is incorporated under the, to the extent that the foundation wishes to form a business relationship or carry out a one-off transaction with another relevant person, e.g. to open a bank account.

A relevant person will remain responsible for the satisfactory performance of all elements of identification measures. Outsourcing

10. However, where the measures taken by a relevant person are reasonable, it will have a defence should the obliged person fail to have performed satisfactory measures.

11. Outsourcing arrangements are not included within the scope of this section, as these are distinct from introduced and intermediary relationships in which reliance is placed on an obliged person. In an outsourcing arrangement, the customer will have a direct relationship with a relevant person and not with the delegate carrying on the outsourced activity. Although the delegate may have substantial contact with the customer, the customer is a customer of the relevant person and not of the delegate. The delegate will be carrying on the outsourced activity for the relevant person according to the terms of a contract with the relevant person. An example of a typical outsourcing arrangement is where a trustee of a collective investment fund outsources the management of the fund to a third party.

13. Where information on identity found out or evidence of that identity is passed by an obliged person to a relevant person in order to comply with requirements to counter money laundering and the financing of terrorism, the Data Protection (Jersey) Law 2005 restricts the use of the information to that purpose, except where another condition for processing personal data applies.

14. A customer may be an individual (or group of individuals) or legal person. Section 4.3 deals with a customer who is an individual (or group of individuals), Section 4.4 deals with a customer (an individual or legal person) who is acting for a legal arrangement, and Section 4.5 deals with a customer who is a legal person.

15. Throughout this section, references to “customer” include, where appropriate, a prospective customer (an applicant for business). A customer is a person with whom a business relationship has been formed or one-off transaction conducted.

STATUTORY REQUIREMENTS

4.10.1 Assessment of risk where reliance placed on intermediaries and introducers

OVERVIEW

16. In some strictly limited circumstances, Article 16 of the Money Laundering Order provides that a relevant person may be considered to have applied the identification measures specified in Article 3(2)(a), (b) and (c) where such measures (or similar identification measures that satisfy former FATF Recommendation 5) have already been applied by a person who is known to be, or in respect of whom there are reasonable grounds for belief is, an obliged person, i.e.:

- A relevant person in respect of whom the Commission discharges supervisory functions that is overseen for AML/CFT compliance in Jersey; or
17. Reliance must always subject to a number of conditions.

18. The first condition (Article 16(3)(a) of the Money Laundering Order) is that the obliged person consents to being relied upon.

19. The second condition (Article 16(3)(b) of the Money Laundering Order) is that identification measures have been applied by the obliged person in the course of an established business relationship or one-off transaction.

20. The third condition (Article 16(3)(b) of the Money Laundering Order) is that the relevant person obtains adequate assurance in writing that the obliged person:
   - has applied the identification measures specified in Article 3(2)(a) to (c) of the Money Laundering Order (or, in the case of an obliged person outside Jersey, similar identification measures that satisfy former FATF Recommendation 5);
   - has not itself relied upon another party to have applied any of those measures;
   - has not applied simplified identification measures; and
   - is required to keep, and does keep, evidence of identity for all of its customers.

21. The fourth condition (Article 16(3)(c) of the Money Laundering Order) is that, to the extent that reliance is placed on the obliged person to find out information on identity, the obliged person immediately provides in writing the information found out as a result of it having applied the identification measures specified in Article 3(2)(a) to (c) of the Money Laundering Order (or in the case of an obliged person outside Jersey, similar identification measures that satisfy former FATF Recommendation 5).

22. To the extent that reliance is placed on an obliged person to keep hold of the evidence obtained under identification measures, the fifth condition (Article 16(3)(d) of the Money Laundering Order) is that the relevant person obtains adequate assurance in writing that the obliged person will:
   - Keep that evidence until agreed otherwise with the relevant person; and
   - Provide to the relevant person at its request, and without delay, the evidence.

23. The sixth condition (Article 16(4) of the Money Laundering Order) is that, immediately before placing reliance, the relevant person assesses the risk of placing reliance and makes a written record as to the reason why it is appropriate for it to place reliance on an introduced introducer to have conducted identification measures that have been applied to the obliged person, having regard to: (i) the risk that must be considered by a similar person in respect of money laundering or financing of terrorism; and (ii) risk that an obliged person will fail to provide the relevant person with evidence without delay if requested to do so by the relevant person. See Section 5.1.1 introduced where below.

24. To the extent that reliance is placed on an introducer to have conducted an obliged person, Article 16(5) of the Money Laundering Order states that a relevant person must conduct tests in such manner and at such intervals as the relevant person deems appropriate in all the circumstances in order to establish whether the obliged person:
   - has appropriate policies and procedures in place to apply the identification measures; This section set out in Article 13(1) and Article 15 of the Money Laundering Order (or, in the case of an obliged person who is outside Jersey, similar identification measures that satisfy the FATF Recommendations in respect of identification measures);
   - does keep the evidence of identity; and
   - will provide that evidence without delay if requested to do so.

25. Under Article 16(6)(b) of the Money Laundering Order, testing should take into consideration whether a customer may be prevented, by application of law, from providing information or evidence, e.g. secrecy legislation.
26. Where, as a result of a test carried out, a relevant person is not satisfied that the obliged person has appropriate policies and procedures in place, keeps evidence, or will provide it without delay if requested to do so, in that particular case, Article 16(7) of the Money Laundering Order requires identification measures to be applied in line with Article 13(1)(a) or 13(1)(c)(ii) of the Money Laundering Order.

27. Article 16(8)(a) of the Money Laundering Order provides that a written assurance will be adequate if it is reasonably capable of being regarded as reliable and a relevant person is satisfied that it is reliable.

28. Article 16(8)(b) of the Money Laundering Order provides that written assurances may be provided each time that reliance is placed or through a more general arrangement with an obliged person that has an element of duration, e.g. terms of business.

29. Article 16(9) of the Money Laundering Order states that a relevant person may not rely on an obliged person where it suspects money laundering or financing of terrorism, considers there is an additional risk that there is a higher risk of money laundering financing of terrorism on the basis of a risk assessment carried out under Article 16(4), or where the obliged person has a relevant connection to a country or territory that is subject to a FATF call to apply enhanced CDD measures.

30. Notwithstanding that reliance may be placed on an obliged person, Article 16(10) of the Money Laundering Order states that a relevant person will remain liable for any failure of the obliged person to apply identification measures.

31. To the extent that reliance is placed on an obliged person, a relevant person must be able to demonstrate that the conditions required by the Money Laundering Order are met.

32. All evidence of identity passed by the obliged person to a relevant person (on request) must be confirmed by the obliged person as being a true copy of either an original or copy document held on its file.

33. A relevant person may demonstrate that it has obtained adequate assurance in writing from an obliged person under Article 16(3)(b)(i) of the Money Laundering Order that it has applied identification measures specified in Article 3(2)(a), (b) or (c), or measures that otherwise satisfy former FATF Recommendation 5, where the obliged person:
   - provides information on identity that it has found out using an information template, such as that published in Appendix C; and
   - explains what evidence of identity it has obtained.

34. An assurance that addresses the matters listed in paragraph 33 above will be considered to be reasonably capable of being regarded as reliable under Article 16(8)(a)(i) of the Money Laundering Order.

35. Where, as a result of Article 16(8)(b) of the Money Laundering Order, a relevant person has a more general arrangement with an obliged person, such as terms of business, that more general arrangement may be used to explain what evidence of identity will routinely be obtained by the obliged person.

36. A relevant person may demonstrate that an obliged person will provide evidence of identity without delay where it is made available within 5 working days of a request.

5.1.1 Assessment of risk

OVERVIEW

37. The risk factors that are set out in this section will also be relevant to a customer risk assessment that is conducted under Section 3.3.4.1 in the cases highlighted at Section 4.4 (paragraphs 66) and Section 4.5 (paragraphs 105).
STATUTORY REQUIREMENTS

13. In certain cases, **Immediately before relying upon an obliged person, Article 16(4) of the Money Laundering Order** provides for reliance to be placed on intermediaries and introducers to have applied identification measures in order to meet a relevant person’s obligations under of the Money Laundering Order. In order to place such reliance, a relevant person must have conducted an assessment as to whether it is appropriate to place reliance.

14. In certain cases, of the Money Laundering Order provides that **requires** a relevant person **not** apply the requirement in of the Money Laundering Order to identify and verify the identity of the intermediary’s underlying customer. It may be applied only where a relevant person has conducted to conduct an assessment as to whether it is appropriate to do so, having regard to two risks.

REGULATORY REQUIREMENTS

15. In order to avoid applying identification measures under or to rely on measures that have been conducted by an intermediary or introducer under, a relevant person must first assess the risk in avoiding applying such measures or placing reliance. Where appropriate, it should take additional measures to manage its risk.

GUIDANCE NOTES

**Risk assessment – factors to consider**

39. One or more of the following factors: The first is the higher risk of money laundering or financing of terrorism should an obliged person fail to:

- Apply the necessary identification measures to its customer(s);
- Provide adequate, accurate and current information to the relevant person; or
- Keep evidence of identity until such time as the obliged person has provided the relevant person with that evidence, or has been notified that the relevant person no longer requires that evidence to be kept.

40. The second is the risk that an obliged person will fail to provide the relevant person with evidence without delay if requested to do so by the relevant person.

41. Article 16(4) of the Money Laundering Order requires a relevant person to prepare a written record of the reason why it is appropriate to place reliance on an obliged person.

AML/CFT CODE OF PRACTICE

42. In a case where, for a particular business relationship, testing under Article 16(5) of the Money Laundering Order highlights that an obliged person: (i) has not applied the necessary identification measures; (ii) does not provide adequate, accurate and current information; (iii) does not keep evidence of identity for as long as is necessary; or (iv) will not provide that evidence without delay when requested to do so, a relevant person must review the basis upon which it has placed reliance on that obliged person for other relationships (if any) in order to determine whether it is still appropriate to do so.

GUIDANCE NOTES

43. Immediately before relying upon an obliged person, a relevant person may demonstrate that it has had regard for the higher risk assessment for an intermediary or introducer of money laundering and financing of terrorism, and risk that an obliged person will fail to provide the relevant person with evidence of identity without delay if requested to do so where it considers the following factors:

- The stature and regulatory track record of the intermediary or introducer obliged person.
- The adequacy of the framework to combat money laundering and financing of terrorism in place in the jurisdiction country or territory in which the intermediary or introducer obliged person is based and the period of time that the framework has been in place.
- The adequacy of the supervisory regime to combat money laundering and terrorist financing of terrorism to which the intermediary or introducer obliged person is subject.
• The adequacy of the identification measures applied by the obliged person to combat money laundering and financing of terrorism in place at the intermediary or introducer.

44. A relevant person may demonstrate that it has considered the adequacy of identification measures applied by an obliged person where it takes one or more of the following steps:

- Reviews previous experience gained from existing relationships connected (if any) with the intermediary or introducer.
- The nature of the business conducted by the intermediary or introducer. Relevant factors include:
  - obliged person, in particular the geographic location of the customer base;
  - the general nature of the customer base, e.g. whether institutional or private client;
  - the risk appetite of the intermediary or introducer: adequacy and
  - the nature of the services which the intermediary or introducer provides to its customers.
- Whether relationships are conducted by the intermediary or introducer accuracy of information on a face to face basis.
- Whether specific relationships are fully managed by an introducer.
- The extent to which the intermediary or introducer itself relies on third parties to identify its customers and to hold evidence of identity or to conduct other due diligence measures, and whether such third parties are relevant persons or carry out an equivalent business found out by the obliged person and whether that information is current.
- Whether or not specific intermediary or introduced relationships involve PEPs or other higher risk relationships.

Additional measures

17. Where, having assessed risk, a relevant person determines that additional measures are required, these may include all, or some, of those listed below:

- Making specific enquiries of the intermediary or introducer to determine the adequacy of measures to combat money laundering and financing of terrorism in place.
- Reviewing the relevant policies and procedures to combat money laundering and financing of terrorism in place at the intermediary or introducer.
- Where the intermediary or introducer is a member of a financial services group, makes enquiries concerning the extent to which group standards are applied to and assessed by the intermediary’s or introducer’s compliance function or group’s internal audit function.

5.2 GROUP RELIANCE

OVERVIEW

- Conducting (or commissioning from an external expert) periodic sample testing of the adequacy of the intermediary’s or introducer’s policies and procedures to combat money laundering and financing of terrorism, whether through onsite visits, or through requesting specific customer due diligence information and/or copy documentation to be provided.
- Requesting specific customer due diligence information and/or copy documentation to be provided, to confirm that the intermediary or introducer is able to satisfy any requirement for such information and documentation to be available without delay at the request of the relevant person.
Where an intermediary or introduced relationship presents higher money laundering or financing terrorism risk, considering whether it is appropriate to rely solely upon the information provided by the intermediary or introducer, and whether additional customer due diligence information and/or documentation is required.

Requiring that pooled relationships must not be used for higher risk customers, and that designated relationships with increased disclosure of information be put in place for such customers.

4.10.3 Intermediary and introduced relationships – Article 16

OVERVIEW

Where an intermediary or introducer meets the requirements outlined in Article 16A of the Money Laundering Order, in some strictly limited cases, a relevant person is permitted to place reliance on the intermediary or introducer to have conducted identification measures in respect of the relevant person's underlying or introduced customers. This means that a relevant person does not need to duplicate identification measures that will have already been applied by the intermediary or introducer.

Whilst a customer information profile containing necessary CDD information on the underlying customer and its beneficial owners and controllers must be obtained for both designated and pooled relationships with intermediaries, and applicants introduced by introducers, the relevant person accepting the relationship must be a member of the same financial group as the relevant person is satisfied that the intermediary or introducer will provide the evidence that it holds on request and without delay.

45. In the case of a trustee that is an intermediary for a trust, the underlying customer is considered to be the individuals concerned with the trust ("group person") but not also an obliged person.

When considering the relevant requirements to apply to intermediary relationships, provisions concerning lower risk products may also be relevant.

Where customer due diligence information is passed by an intermediary to a relevant person in order to comply with requirements to counter money laundering and the financing of terrorism, the relevant person must have reasonable grounds for believing that:

- the intermediary or introducer is A(1)/a relevant person that is overseen for AML/CFT compliance in Jersey; or
- the intermediary or introducer is a person who carries on equivalent business (refer to);

The relevant person must obtain a confirmation from the intermediary or introducer that:

- is in writing;

STATUTORY REQUIREMENTS

The effect of Article 16A of the Money Laundering Order permits a relevant person to rely upon an intermediary or introducer to have applied specified identification measures, where it obtains a confirmation from an intermediary or introducer on certain matters. It may do so where:

The applicant for business is an intermediary (i.e. is acting on behalf of underlying customers) that meets the conditions set out below, or apply to a group person in the same way as an obliged person.

STATUTORY REQUIREMENTS

In some strictly limited circumstances, Article 16 the applicant for business is introduced by an introducer that meets the conditions set out below.

The relevant person must have reasonable grounds for believing that:

- the intermediary or introducer is A(1)/a relevant person that is overseen for AML/CFT compliance in Jersey; or
- the intermediary or introducer is a person who carries on equivalent business (refer to).
• confirms that the applicant for business is an established customer of the introducer (where the customer relationship is introduced);
• contains adequate assurance that the intermediary or introducer has undertaken the necessary customer identification measures;
• for intermediary relationships, contains sufficient information about the third parties (underlying customers) for whom the intermediary is acting and of any beneficial owners and controllers of the third parties;
• for introduced relationships, in line with and (b) of the Money Laundering Order contains sufficient information about the applicant for business and any beneficial owners and controllers of the applicant, and also any third parties that the introduced customer provides that a relevant person may be acting for, and any person purporting considered to act on behalf of have applied the introduced customer—where reliance is placed on the introducer;
• contains adequate assurance that the intermediary or introducer is required to keep and does keep records containing the evidence of identity of:
  e. for intermediary relationships, the third parties (underlying customers) for whom the intermediary is acting (and of any beneficial owners and controllers of the third parties); or
  f. for introduced relationships, the applicant for business and any beneficial owners and controllers of the applicant, and also any third parties that the introduced customer may be acting for, and any person purporting to act on behalf of the introduced customer—where reliance is placed on the introducer; and
• contains adequate assurance that the intermediary or introducer will provide the evidence of the identity without delay at the request of the relevant person.

218. A relevant person may not rely on this concession where it suspects money laundering.

219. The ultimate responsibility for ensuring that customer identification and verification measures specified in Article 3(2)(a), (b) and (c) where such measures are adequate remains with the relevant person. In order to place reliance on an introducer or intermediary, the introducer or intermediary must have provided its consent to do so have already been applied by a group person, i.e.:

REGULATORY REQUIREMENTS
• A relevant A person who is a member of the same financial group as the relevant person; and
• Who carries on business which, if carried on in Jersey, would be financial services business.

220. In order to place reliance on such a person must be able, Article 16A(1)(c) to demonstrate that the conditions required by (e) of the Money Laundering Order are met states that the financial group must.

221. In order to demonstrate that a relevant person has obtained sufficient information about the underlying customer, or introduced customer, a relevant person must:
• Obtain customer information profiles from the intermediary or introducer on each of the intermediary’s underlying customers, or introduced customers - in line with guidance for individuals, trustees, and legal bodies and legal arrangements – set out in. The information provided in the customer information profile will depend upon the relevant person’s assessment of the risk presented by a particular individual, trustee or legal body or legal arrangement.
• Be satisfied that the intermediary or introducer will notify the relevant person of any material changes to the customer information profile provided.

222. All evidence of identity passed by the intermediary or introducer to a relevant person (on request) must be confirmed by the intermediary or introducer as being a true copy of either an original or copy document held on its file.
223. In the event that an introducer terminates its relationship with a customer introduced to a relevant person, the relevant person must require the introducer to provide the relevant person with:

- copies of the relevant evidence of identity held; or
- an assurance that the introducer will continue to hold the necessary evidence on behalf of the relevant person until such time as is agreed.

GUIDANCE NOTES

Access to CDD information and documentation

224. A relevant person may demonstrate that an intermediary or introducer will provide CDD information and documentation in relation to underlying customers, and introduced customers, without delay where it requires relevant CDD information and documentation to be made available within 5 working days of a request.

225. Where an intermediary or introducer is located in a jurisdiction known to have restrictive secrecy provisions, a relevant person may demonstrate that it has adequate access to CDD information and documentation where it periodically requests such information or documentation to be provided (and it is provided), or otherwise obtains access to review the relevant information and documentation held by the intermediary or introducer.

Responsibility for failures in identification measures

- A relevant person will remain responsible for the satisfactory performance of all elements of identification measures. Apply CDD measures and record-keeping requirements in line with the Money Laundering Order or in line with former FATF Recommendations 5, 6 and 10;
- Maintain a programme against money laundering and financing of terrorism which includes policies and procedures by which every member of the group who carries on a financial services business (or equivalent) shares information that is appropriate for the purpose of preventing and detecting money laundering and financing of terrorism (“AML/CFT programme”); and
- Be supervised by an overseas regulatory authority in its implementation of CDD measures and record-keeping requirements and its AML/CFT programme.

49. Article 16(A)(1)(f) of the Money Laundering Order states that reliance is always subject to a number of conditions. These are outlined at paragraphs 18 to 23 above, where references to obliged person should be read as referring to group person.

50. Article 16(A)(1)(f) of the Money Laundering Order states that reliance must always be subject to testing. Provisions in this respect are outlined at paragraphs 24 to 28 however, where the measures taken are reasonable, it will have a defence should the intermediary or introducer fail to have performed satisfactory measures.

51. Article 16A(2) of the Money Laundering Order explains that a person is a member of the same financial group as another person if there is, in relation to the group, a parent company or other legal person that exercises control over every member of that group for the purposes of applying group supervision under:

- The Core Principles for Effective Banking Supervision published by the Basel Committee;
- The Objectives and Principles for Securities Regulation issued by IOSCO; or
- The Insurance Supervisory Principles issued by the IAIS.
52. A relevant person may not rely on a group person where it suspects money laundering or financing of terrorism, considers that there is a higher risk of money laundering or financing of terrorism on the basis of a risk assessment carried out under Article 16(4) of the Money Laundering Order, or where the group person has a relevant connection to a country or territory that is subject to a FATF call to apply enhanced CDD measures.

53. Notwithstanding that reliance that may be placed on a group person, a relevant person must remain liable for any failure of the group person to apply identification measures.