Market Bulletin

LLOYD'S

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FROM:	Lloyd's Compliance Officer
LOCATION:	86/G3
EXTENSION:	6633
DATE:	22 August 2003
REFERENCE:	Y3122
SUBJECT:	MONEY LAUNDERING
SUBJECT AREA(S):	Legal developments and practical guidance
ATTACHMENTS:	Money Laundering Guidance
ACTION POINTS:	**Underwriting agents and approved run-off companies to note contents and to circulate to staff**
DEADLINE:	**Effective now**

The fight against financial crime remains at the top of the agenda for both the government and the FSA and the purpose of this bulletin is to, therefore, bring to the Market's attention the recent developments in anti-money laundering legislation (particularly the Proceeds of Crime Act 2002 (PoCA)) and to give some practical examples of how money laundering in the insurance industry may occur.

PoCA received royal assent on 24 July 2002 and Part 7 which deals with money laundering offences and defences came into force on 24 February 2003. PoCA has significantly widened the scope of anti-money laundering legislation by consolidating the previous legislative framework and creating a set of general offences relating to dealings with proceeds of **all** crimes. The Market should familiarise itself with the new legislative framework and how it will impact on its activities.

The attached guidance explains:

- money laundering and its stages;
- the differentiation between regulated and non-regulated sector in PoCA;
- primary and related money laundering offences;
- defences available including the concept of obtaining 'appropriate consent';
- reporting procedures for suspicious transactions;

- training requirements for staff; and
- areas of vulnerability in the insurance industry and factors which may give rise to suspicions (including actual examples of suspicious transaction reports made by the Lloyd's Market).

Any suspicious transaction reports from underwriting agents and approved run-off companies should be referred by their Money Laundering Reporting Officer (MLRO) to John Baker, Lloyd's MLRO and Compliance Officer, for onward transmission to the National Criminal Intelligence Service.

This bulletin has been sent to all underwriting agents and approved run-off companies to note its content **and to circulate to all staff**. The bulletin has also been sent to the market associations and accredited Lloyd's brokers for information.

If you have any questions on this bulletin please contact John Baker (extension 6633, john.g.baker@lloyds.com) or Andy Wragg (extension 6387, andy.p.wragg@lloyds.com).

John Baker
Lloyd's Compliance Officer

Money Laundering Guidance

Whilst general insurance is considered to be low risk, no financial sector is completely immune from the money laundering process so underwriting agents must not become complacent. Insurance entities are the target of money laundering operations because of the variety of services and investment vehicles offered that can be used to conceal the source of money. In addition, general insurance will become more vulnerable to potential money laundering due to the fact that this area of financial services is not subject to much of the detailed rules. Money laundering poses significant financial and reputational risks to Lloyd's and to the insurance industry as a whole. Examples of money laundering threats in the Lloyd's context can be found at Appendix 1 (*page 11*).

Definition of Money Laundering

Money laundering is a term used to describe the techniques, procedures or processes used to convert illegal funds obtained from criminal activities into other assets in such a way as to conceal their true origin so that it appears the money has come from a legitimate or lawful source.

Under the Proceeds of Crime Act 2002 (PoCA), the act of money laundering is defined as concealing criminal property[1]; arranging, by whatever means, the acquisition, retention, use or control of criminal property; or acquiring, using or being in possession of criminal property.

Stages of Money Laundering

The money laundering process can be broken down into 3 stages, which often overlap:

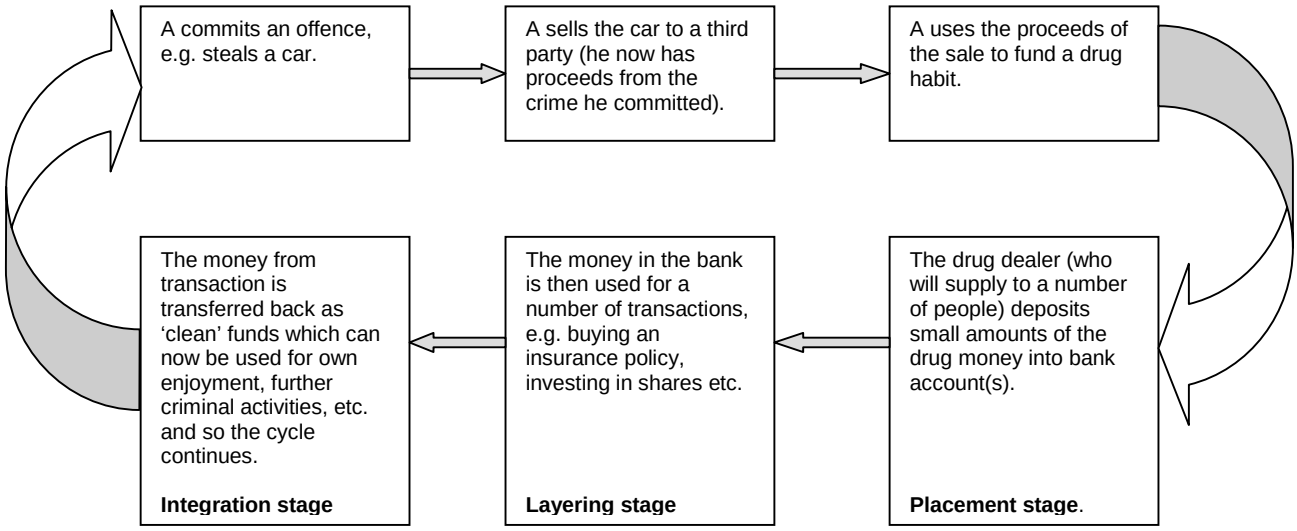
1. ***Placement***
   This is the physical disposal of criminal proceeds. In most cases, the proceeds normally take the form of cash which the criminal will attempt to place into the financial system. Placement can be achieved in a variety of ways and it is only limited by the criminal's own ingenuity. Money launderers are employing increasingly sophisticated techniques.

2. ***Layering***
   This is the separation of criminal proceeds from their source by the creation of layers of transactions designed to disguise the audit trail and provide the appearance of legitimacy. Again, this can be achieved in a variety of ways and it is the primary stage at which insurers can get inadvertently involved in money laundering.

3. ***Integration***
   Providing the layering process has been successful, integration places the criminal proceeds back into the economy in such a way that they appear to be legitimate funds or assets.

[1] *Criminal Property* is defined as a person's benefit from criminal conduct (see below) or represents such a benefit and the alleged offender knows or suspects that the property constitutes such a benefit.
Criminal conduct constitutes an offence in any part of the UK or if it took place abroad, it would constitute an offence in the UK if it occurred there.

The following is a basic illustration of the stages of money laundering:



Money Laundering and the Law

The current legislative framework for money laundering consists of:

- The Proceeds of Crime Act 2002 (Part 7)
- The Terrorism Act 2000 (sections 18-23)
- The Money Laundering Regulations 2003
- FSA Money Laundering Sourcebook

Proceeds of Crime Act 2002

The provisions in Part 7 of PoCA replace the existing provisions on money laundering contained in the Drug Trafficking Act 1994 (sections 49-52) and the Criminal Justice Act 1988 (sections 93A-93D). PoCA largely consolidates this legislation and unifies it by replacing the parallel drug and non-drug criminal laundering offences with single offences that do not distinguish between the proceeds of drug trafficking and other crimes.

Regulated/Non-Regulated Sector

PoCA introduces the definition of "Regulated Sector" and for the purposes of the Lloyd's market, long term life insurance[2] and members' agents' activities are caught by the definition but general insurance is not. The purpose of distinguishing between those who fall outside the regulated sector and those that are caught by it is that the offence of "failure to disclose" (*see pages 4 & 5*) introduces an obligation on those working in the regulated sector to report suspicions of money laundering to the National Criminal Intelligence Service (NCIS).

[2] Business which consists of effecting or carrying out contracts of long term insurance by a person who has received official authorisation pursuant to Article 6 or 27 of the First Life Directive.

Primary Offences

There are three primary offences under PoCA and they apply to **all** Lloyd's market participants, including those doing general insurance business.

Concealing (s.327)
Where someone knows or suspects that property constitutes someone's benefit from criminal conduct or it represents such a benefit (in whole or in part, directly or indirectly) then he commits an offence if he conceals, disguises, converts, transfers or removes that criminal property from England and Wales, Scotland or Northern Ireland.

Arranging (s.328)
An offence is committed by a person if he enters into or becomes concerned in an arrangement which he knows or suspects facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person.

Acquisition, use and possession (s.329)
An offence is committed if someone, knowing or suspecting that property constitutes a person's benefit from criminal conduct (in whole or in part, directly or indirectly) acquires, uses or has possession of the property.

Penalties
A person guilty of an offence under section 327, 328 or 329 is liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both, or, on conviction on indictment, to imprisonment for a term not exceeding 14 years or to a fine or both.

Defences

The above three primary offences have the following 'defences' available:

1. An **authorised disclosure** was made (either under internal arrangements to a Money Laundering Reporting Officer (MLRO) or to law enforcement) before the act that would constitute a primary offence was carried out **and appropriate consent** to proceed was obtained (*see 'Obtaining Consent' on page 8 for further details on how to obtain consent*).

   A disclosure is authorised if:

   (a) the disclosure is to a constable, a customs officer or a nominated officer (i.e. firm's MLRO) by the alleged offender that property is criminal property; *and*
   (b) the disclosure is made using the NCIS disclosure form; *and either*
   (c) the disclosure is made before the alleged offender does the prohibited act; *or*
   (d) the disclosure is made after the prohibited act and there is good reason for his failure to make the disclosure before he did the act and the disclosure is made on his own initiative and as soon as it is practicable for him to make it.

2. The defendant intended to make an authorised disclosure and had a reasonable excuse for not doing so.

3. 3. The act in question was done for enforcement of a provision of PoCA or other relevant act relating to criminal conduct or benefit from criminal conduct. This provision is aimed primarily at police officers and other enforcement agencies taking possession of criminal property pending an investigation/trial.

4. Section 329 also has the additional defence of "adequate consideration". Consideration is regarded to be 'inadequate' if it is significantly less than the value of the property received or the value of its use or possession.

Whilst there is no requirement on employees falling outside the regulated sector to make a disclosure to an MLRO/NCIS, if a person knows or suspects in relation to s.327, s.328 and s.329 ('prohibited acts') and does not make a proper disclosure, s/he will not be able to rely on that fact as a defence should it become necessary to do so.

Please note that those outside of the regulated sector may make a voluntary disclosure of a suspicion that another is engaged in money laundering. Such a disclosure (under s.337) is known as a **protected disclosure** and can be made to NCIS as long as the following criteria are fulfilled:

1. the information came to the discloser in the course of their trade, profession, business or employment; and

2. the information causes the discloser to know or suspect (or have reasonable grounds for knowing or suspecting) that another person is engaged in money laundering.

Related Offences

In addition to the three primary offences, there are also the following related offences under PoCA:

Failure to disclose – Regulated Sector (s.330*)*
This offence of failing to disclose introduces a new objective test:

The person who failed to make the disclosure knew or suspected or had reasonable grounds to know or suspect that another person was engaged in money laundering.

This new test means that the 'failure to disclose' offence will be committed where a person should have had reasonable grounds for knowing or suspecting that another person is engaged in money laundering, even if they do not actually know or suspect. This duty to disclose, however, is restricted to persons who receive information in the course of a business in the regulated sector.

The rationale behind this new stricter test is that persons carrying out activities in the regulated sector should be expected to exercise a higher level of diligence in handling transactions than those employed in other businesses.

Defences
Defences available to the individual for failing to report in the regulated sector are:

1. He had a reasonable excuse for not disclosing the information;

2. He, as an employee, did not receive adequate training concerning the identification of transactions which may be indicative of money laundering.

In addition to the above, the court may also take into account relevant guidance issued by a "Supervisory Authority" and approved by HM Treasury when determining whether an offence has been committed (*see section on Lloyd's: Supervisory Authority, page 6, for further details*).

Failure to disclose – other Nominated Officers (s.332)
"Nominated Officers", i.e. underwriting agents' MLROs, must assess the validity of a suspicious report made to them and if, after validating it, they know or suspect that it is suspicious (or have reasonable grounds to know or suspect if they are within the regulated sector), must make a disclosure to the Lloyd's MLRO/NCIS as soon as possible. MLROs will be committing an offence under s.332 if they fail to make a necessary disclosure to NCIS following a disclosure by an employee of the firm.

In cases where it is decided not to make a disclosure, a file note should be made of the initial concern and the reasons for not disclosing. It may be that as time goes by a succession of more minor issues may arise and eventually there may be sufficient grounds for making a disclosure.

Please note: The requirement to disclose extends to transactions which have been turned away due to suspicious circumstances.

Penalties
A person guilty of an offence of failure to disclose is liable, on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or to both, or, on conviction on indictment to imprisonment for a term not exceeding five years or a fine or to both. Failure to disclose may also give rise to the offence of money laundering (*see 'Primary Offences' on page 3*) which carries a maximum penalty of fourteen years' imprisonment.

Tipping Off – Applies to all (ss.333 and 342)
It is an offence for any person if he knows or suspects that a disclosure has been made, to take any action likely to prejudice an investigation by informing or tipping off the person who is the subject of a disclosure, or anyone else involved, that a disclosure has been made or that law enforcement authorities are carrying out or intending to carry out a money laundering investigation.

Where it is known or suspected that a suspicious transaction report has already been disclosed to NCIS, Lloyd's MLRO or the underwriting agent's MLRO, and further enquiries need to be made, great care should be taken to ensure that customers do not become aware that their names have been brought to the attention of the authorities. Lloyd's MLRO is available for consultation where there is uncertainty on how to proceed.

The Information Commissioner has issued guidance which addresses the perceived conflict between the tipping off offence on the one hand, and the individual's right of access to his personal data under the Data Protection Act 1998 and the obligations on financial institutions on the other (see http://www.hm-treasury.gov.uk/media//9A770/money_laundering.pdf for further information).

Penalties
A person guilty of tipping off is liable, on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or to both, or, on conviction on indictment to imprisonment for a term not exceeding five years or a fine or to both.

Lloyd's: Supervisory Authority

Under PoCA, the Council of Lloyd's is listed as a "Supervisory Authority". Therefore, relevant money laundering guidance issued by Lloyd's and approved by HM Treasury can be taken into account by the court when determining whether a money laundering offence has been committed by someone in the regulated sector only. Lloyd's will be seeking HM Treasury's approval and will advise the market once it has been obtained.

HM Treasury has approved the Joint Money Laundering Steering Group's guidance notes. They are available from:

Joint Money Laundering Steering Group
Pinners Hall
105-108 Broad Street
London
EC2N 1BX

Terrorism Act 2000

Sections 18 to 23 of the Terrorism Act 2000 refer to the money laundering offences that can be committed in relation to terrorist funding. For example, s.18 states that a person commits an offence if he enters into or becomes concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property. An offence contrary to s.18 would be committed if a person did not know, but should reasonably have suspected, that the funds he was involved with were terrorist finds. This objective test is similar to that applying to the regulated sector under PoCA, although in this case the test applies to everyone, without restriction.

The offences and penalties under the Terrorism Act 2000 are broadly the same as in PoCA, although it is worth noting that a separate area within NCIS exists to handle referrals relating to terrorist activities. Any referrals of this nature should be forwarded to the Lloyd's MLRO in the usual manner.

Money Laundering Regulations 2003

These Regulations replace the Money Laundering Regulations 1993 and 2001 and lay down anti-money laundering requirements on persons who carry on "relevant business". Members' agents' activities are caught by the definition of "relevant business" and they should, therefore, ensure full compliance with the Regulations which specifically refer to the need to obtain evidence of identity from clients and also reinforce the need to train employees at all levels within an organisation. Lloyd's, however, expects all underwriting agents to follow the spirit of the Regulations where possible.

FSA Money Laundering Sourcebook

One of the statutory objectives of the FSA is the reduction of financial crime and in order to help meet this objective, the FSA issued its Money Laundering Sourcebook in December 2001.

This Sourcebook applies to all members' agents but has been specifically disapplied to general insurance business and managing agents (under their current FSA authorisations).

Members' agents must therefore take appropriate steps to ensure full compliance with the Sourcebook. Failure to do so may result in criminal prosecutions and/or civil penalties being imposed by the FSA. Press reports show that fines have already been imposed by the FSA on a number of firms for failing to have adequate systems and controls to identify and report suspicious transactions.

Members' agents handling applications for new corporate members must have client identification procedures in place as set out in the FSA's Money Laundering Sourcebook. Whilst managing agents are not subject to the Sourcebook, Lloyd's recommends that they follow the spirit of the rules and use them to adopt appropriate procedures and set minimum standards (where possible).

Recognising Suspicious Transactions

Underwriting agents are under both statutory and regulatory obligations to recognise and report suspicious transactions. This means any matter that comes to their attention in the course of their business which in their opinion gives rise to knowledge or suspicion of money laundering.

What is "suspicion"?
Suspicion has been defined by the courts as being beyond mere speculation and based on some foundation. A person who considers a transaction to be suspicious would not be expected to know the exact nature of the criminal offence or that the funds in question had arisen from the criminal act.

What is "knowledge"?
Knowledge has been defined by the courts as:

- actual knowledge;
- knowledge of circumstances that would indicate facts to an honest and reasonable person;
- failing to adequately assess the facts available which would put an honest an reasonable person on enquiry;
- wilful negligence, i.e. failing to make adequate enquiries which an honest and reasonable person would make; and
- wilful blindness, i.e. turning a blind eye to the obvious.

It is not possible to provide a comprehensive list of suspicious transactions, although they will often be characterised as being inconsistent with the customers' or policyholders' known and legitimate business objectives. Appendix 2 (*page 13*) gives assistance as to what can be regarded as suspicious but there is also an element of common sense as to what looks unusual or abnormal in the context of your normal business activities. Lloyd's MLRO can be contacted for further advice.

Reporting Suspicious Transactions

All staff of underwriting agents should report information that comes to their attention in the course of their business activities, which in their opinion gives rise to knowledge or suspicion of money laundering. Whilst this is an express obligation on employees within the regulated sector and underwriting agents' appointed MLROs, failure to make a disclosure by those operating outside the regulated sector means that they cannot rely on the statutory defence of disclosure if they are subsequently charged with a primary money laundering offence under PoCA.

Internal reports should be made to the underwriting agent's appointed MLRO who should, in turn, report to Lloyd's MLRO for onward transmission to NCIS. It may be unclear where suspicions arise surrounding a transaction or series of transactions, whether or not the transaction involves money laundering. In such circumstances Lloyd's MLRO should be contacted for advice.

Obtaining consent to proceed with a transaction (PoCA)

If an authorised disclosure is made in relation to a suspicious transaction which has not yet been carried out then consent to proceed with the transaction can be requested from NCIS. Appropriate consent to proceed with a transaction can be provided by Lloyd's MLRO but only where a disclosure has been made by him to NCIS and:

- NCIS' consent has been obtained; *or*
- 7 working days have expired without a response being received from NCIS; *or*
- Consent was refused by NCIS but a 31-day period has expired without notification that law enforcement has taken further action to restrain the transaction.

All MLROs will commit an offence under s.336 if they give consent to an employee to carry out a prohibited act (i.e. a primary offence) if they do not obtain consent from NCIS in accordance with the above requirements.

All disclosures and requests should be made to Lloyd's MLRO for onward transmission to NCIS.

Money Laundering Reporting Officers (MLROs)

Each underwriting agent must have a duly appointed MLRO to act as the focal point for all activity relating to money laundering. The MLRO is also responsible for implementing effective anti-money laundering procedures and staff training (*see page 9*) and monitoring compliance with such procedures and report annually to the board. In accordance with the FSA rules on approved persons, "money laundering oversight" is a controlled function and as such, all members' agents appointed MLROs must first obtain FSA approval for the role.

It is important that an MLRO understands the legislation and has the full support of his firm in carrying out his responsibilities. This is particularly important as MLROs have specific criminal offences that are targeted against them under sections 331, 332 and 336 of PoCA.

Lloyd's MLRO

Under PoCA, there is a requirement to appoint a "Nominated Officer" (i.e. MLRO) who is under a duty to make disclosures to NCIS. Lloyd's has appointed John Baker, Lloyd's Compliance Officer, as the MLRO to receive disclosures from underwriting agents' MLROs in order that disclosures are made direct to NCIS.

If an underwriting agent's MLRO has any questions or concerns about money laundering, these should be addressed to Lloyd's MLRO.

Implementing written policies/procedures to combat money laundering

It is for each firm's MLRO to determine what level of training is appropriate for their firm's activities. There is, however, a danger that staff can easily ignore suspicions or turn a blind eye to something that is clearly not right and it is the responsibility of the MLRO to ensure that these activities, which may not be viewed sympathetically by a jury, are reduced as much as possible.

All underwriting agents should therefore adopt written procedures to cover the following:

- Recognition and reporting obligations – guidance to staff on the kinds of transactions that might arouse suspicions and what internal reporting is necessary;
- Staff training and awareness; and
- Record keeping.

Written internal policies, procedures and controls should deal effectively with the threat of money laundering and financial crime within each organisation. In order to devise a suitable policy, underwriting agents should identify their own business risks by assessing:

- the risks posed by the products they offer;
- the channels through which business is conducted; and
- the countries in which business is done.

Staff training and awareness

Underwriting agents (even if outside the regulated sector) should have an appropriate ongoing training programme to ensure that all relevant staff are aware of the basic requirements of the law and the firm's own internal policies and procedures to identify and deal with suspicious transactions. The purpose of this training should be aimed at improving staff understanding and awareness of money laundering and the risks of committing a primary or related offence.

All training programmes should be provided as often as necessary to address gaps created by movement of employees within the firm and staff turnover, however, they must be done at least once every 2 years. The method of delivery of training and information is not set and will, therefore, vary depending on the size of the underwriting agent and the nature of its operation.

Underwriting agents should ensure that all training and provision of information to staff is properly documented and records retained. 7.3.3G of the FSA's Money Laundering Sourcebook states that records kept in accordance with SYSC 3.2.20R should include the dates when anti-money laundering training was given, the nature of the training, and the names of the staff who received the training.

Record keeping requirements

Transactions must be retained for 5 years from the date on which the transaction was completed or declined. This is an essential component of the audit trail process. If law enforcement agencies investigating a money laundering case cannot link criminal funds passing through the financial systems with the original criminal money, confiscation of the laundered funds cannot be made.

Nothing in these requirements overrides or supersedes any record retention requirements as set out in the Lloyd's Byelaws, Codes of Practice or the FSA Handbook.

Queries and assistance

Any failure to understand the anti-money laundering legislation will leave professionals, whether or not they fall under the regulated sector, vulnerable to investigation and prosecution. It is therefore imperative that the whole of an organisation, from top to bottom, understands, supports and acts on the new legislation. The appointed MLRO must also have the capability, and be provided with the resources and support, to make the necessary decisions for their firm and any disclosures to Lloyd's and ultimately NCIS.

If you have any questions or require assistance with any matters relating to money laundering please contact John Baker, Lloyd's MLRO or his assistant on:

John Baker
Telephone: 020 7327 6633
Facsimile: 020 7327 5417

Andy Wragg
Telephone: 020 7327 6387
Facsimile: 020 7327 5988

General email: mlro@lloyds.com

A list of sources for information on money laundering has been included at appendix 3 (*page 16*).

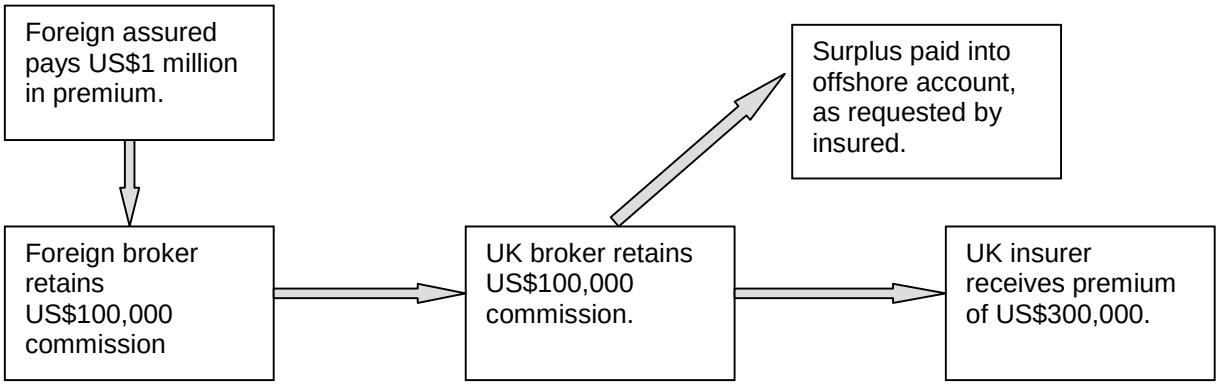
APPENDIX 1

EXAMPLES OF MONEY LAUNDERING IN THE INSURANCE INDUSTRY

The following examples are actual occurrences of potential money laundering cases in the insurance industry. Some of the details have been changed for the purposes of illustration.

Example 1

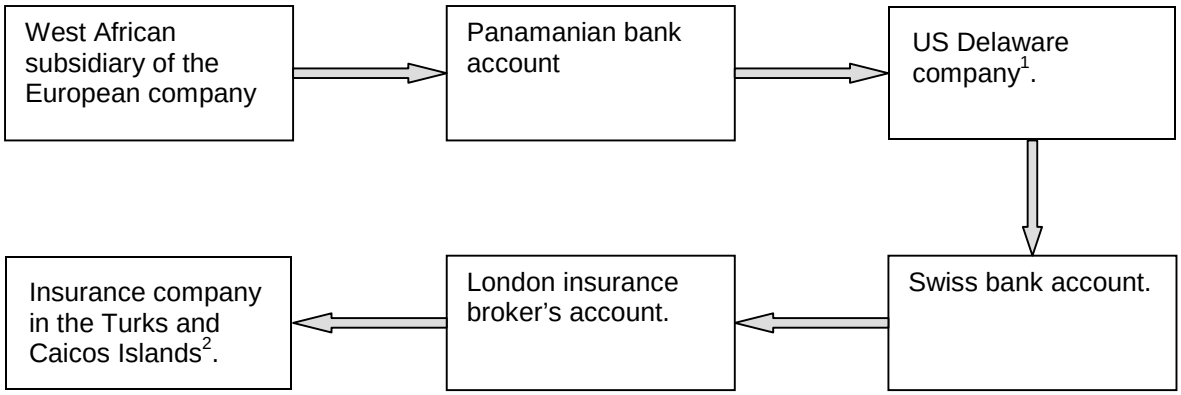
In this situation, a foreign insured overpaid his premium by US$500,000. The insurer was only expecting US$300,000 and the 2 brokers involved in the placement only took US$100,000 commission. The insured requested that the surplus was paid into an offshore account instead of getting a cheque back.



Example 2

A director of a European company requested a policy and also claims settlement to cover a loss on a warehouse that had occurred the year before. The director was happy to ensure that the amount of premium would cover the loss which was valued at 7.5 million Euro. Surprisingly, the transaction was successfully completed. This initial request by the director should have raised enough suspicion to warrant a referral to NCIS.

The route the premium took was as follows:

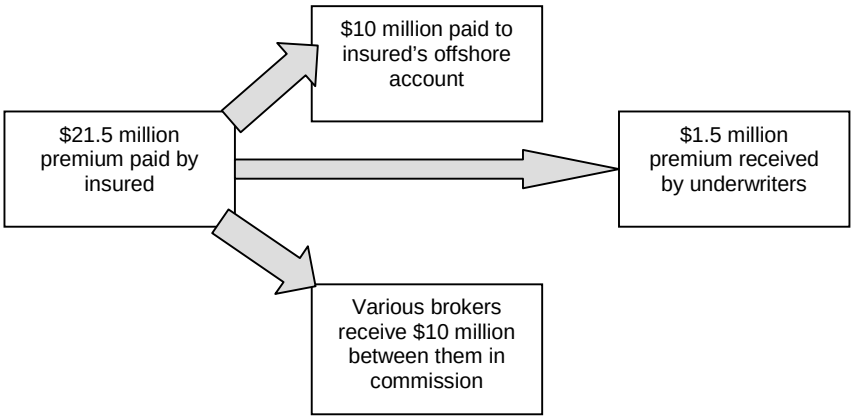


[1] This US State allows companies to have nominee directors.

[2] On the same day, the claim was paid into the director's bank account in Europe.

Example 3

In this transaction, an insured paid a total of US$21.5 million for a policy. Of that US$21.5 million, US$10 million was paid to various brokers (predominantly based in overseas jurisdictions) as commission. A further US$10 million was paid to the insured's offshore account by way of excess payment. The remaining US$1.5 million was received by underwriters as payment for the premium due under the policy. There had been a huge overpayment of US$20 million.



Example 4

An individual purchased a marine property and casualty insurance for a 'phantom' vessel. He paid large premiums on the policy and befriended agents so that regular claims were made and paid. However, in order to avoid arousing suspicion, the individual made sure that the claims were less that the premium payments so that the insurer enjoyed a reasonable profit on the policy.

Example 5

A drug-trafficker deposited money into several bank accounts and then transferred the funds to an account in another jurisdiction. The man in question then purchased a US$75,000 life insurance policy. Payment for the policy was made by two separate wire-transfers from his overseas accounts. It was purported that the funds used for payment were the proceeds of overseas investments. At the time of the drug-trafficker's arrest, the insurer had received instructions for the early surrender of the policy.

APPENDIX 2

MONEY LAUNDERING AND INSURANCE: SUSPICIOUS TRANSACTIONS

These examples may not be appropriate to certain sections or classes of business and it is, therefore, essential that the underwriting agent's whole business is reviewed to identify areas that are likely to be vulnerable to money laundering. Lloyd's MLRO is available for clarification and to provide assistance, where required.

The following is a non-exhaustive list of areas of vulnerability and the factors which may give rise to a suspicion:

1. New Business

Whilst long-standing customers may be laundering money, it is more likely to be done by a new customer using one or more application forms and false names and fictitious companies. The following situations should give rise to suspicions in the new business context:

i. A new corporate/trust client where there are difficulties and delays encountered in obtaining copies of accounts or other documents of incorporation, where required.

ii. A personal lines customer for whom verification of identity proves unusually difficult and who is reluctant to provide full details.

iii. The client is reluctant to provide any information or provides information which is difficult for the underwriting agent to verify.

iv. The client uses numerous offshore accounts, companies/structures in circumstances where the client's needs do not support such economic requirements.

v. A client with no discernible reason for using the underwriting agent's service, e.g. clients whose requirements are not in the normal pattern of, or inconsistent with, the underwriting agent's business which could be more easily serviced elsewhere.

vi. Any transaction involving an undisclosed third party.

vii. The client shows no interest in the performance/general terms of his policy but is more interested in early cancellation of the contract.

viii. Transactions which have no apparent purpose and make no obvious economic sense.

ix. A request to insure goods, assets etc. in transit to or situated in countries where terrorism, the production of drugs, drug trafficking or any organised criminal activity may be prevalent.

2. Payment

Money launderers will often have large amounts of cash that they will try to deposit into the financial system. Therefore, large and unusual payments of premiums should indicate that further due diligence is required. The following situations should give rise to suspicions:

i. The Client purchases policies for an amount which is considered to be beyond his apparent means.

ii. Overpayment of premium with a request to pay the excess to a third party.

iii. Attempts to use a third party cheque when purchasing a policy or payment in cash when the type of business transaction in question would normally be handled by cheques or other methods of payment.

3. Intermediaries/Brokers

There are obviously many legitimate reasons for a client to use an intermediary and for underwriters to deal via intermediaries, for example, binding authorities. However, it should be borne in mind that the use of intermediaries does introduce further parties into the transaction thus increasing opacity, making it easier for a customer to remain anonymous, which is of course a useful tool to the money launderer. It is, therefore, important that underwriting agents conduct thorough due diligence checks on any intermediaries they use, including checking the intermediary's financial status and to ensure that it is of good standing. The following situations should give rise to suspicions and may warrant further enquiry:

i. Unnecessarily complex placing chains.

ii. Excessive profit commission paid to an intermediary who has no apparent involvement in the transaction.

iii. The unnecessary use of an intermediary in a transaction.

iv. The overseas intermediary is based in a jurisdiction which has ineffective or no money laundering legislation, or their rules are not vigorously enforced.[1]

4. Abnormal Transactions

The layering stage of money laundering is critical to the money launderer who wants to introduce numerous layers to a transaction to create opacity and disguise the audit trail. Therefore, money will pass through a number of sources, different persons and entities. The following situations should give rise to suspicions:

i. Assignment of a policy to an apparently unrelated third party.

ii. Early cancellation of policies in circumstances which appear unusual or occur for no apparent reason.

iii. Cancellation of the policy and a request for the refund to be paid to a third party (particularly where cash was tendered).

iv. Client establishes a large insurance policy and within a short period of time, cancels the policy and requests the premium to be refunded to a third party.

[1] For details on such countries, please refer to the Financial Action Task Force on Money Laundering (FATF) which produces a regularly updated list of Non-Cooperative Countries and Territories (http://www.fatf-gafi.org/NCCT_en.htm)

v. Transactions not in keeping with the normal practice in the class of business to which they relate, e.g. due to nature, size, frequency etc.

vi. A number of polices taken out by the same insured for low premiums (normally paid with cash) which are then cancelled with the return of premium made to a third party.

5. Claims

The claims process could be used in the layering and/or integration stage of the money laundering process. It is common practice for small claims to be paid without detailed investigations/enquiries being made by underwriters, thereby giving money launderers the opportunity of moving monies across borders and between entities, again increasing the level of opacity in the transactions. The following situations should give rise to suspicions in this context:

i. Claims requested to be paid to persons other than the insured.

ii. 'Legitimate' claims but they occur with abnormal regularity, e.g. regular small claims within the premium limit.

iii. A change of ownership/assignment of the policy just prior to a loss occurring.

iv. Abnormal loss ratios for the class of risk bound under a binding authority, especially where the coverholder has claims settling authority.

APPENDIX 3

GLOSSARY OF SOURCES

Joint Money Laundering Steering Group (JMLSG)
Pinners Hall
105-108 Broad Street
London
EC2N 1EX

Website: http://www.jmlsg.org.uk

The website is a service provided by the British Bankers' Association on behalf of JMLSG and contains important information about countering money laundering.

Financial Action Task Force on Money Laundering (FATF)
FATF/GAFI
2, rue André Pascal
75775 Paris Cedex 16
France

Website: http://www.fatf-gafi.org

The FATF is an inter-governmental body whose purpose is the development and promotion of policies, both at national and international levels, to combat money laundering.

The FATF is also engaged in a major initiative to identify non-cooperative countries and territories (NCCTs) in the fight against money laundering. The current list can be accessed at: http://www.fatf-gafi.org/NCCT_en.htm

The Financial Services Authority (FSA)
25 The North Colonnade
Canary Wharf
London
E14 5HS

Website: http://www.fsa.gov.uk

The FSA is charged with reducing the extent to which regulated firms are used in connection with financial crime including money laundering. The Financial Services and Markets Act 2000 gives the FSA a range of explicit powers in this area for the first time. The FSA will be monitoring regulated firms' compliance with both The Money Laundering Regulations and the FSA's Money Laundering Rules (published in January 2001). Details of FSA's publications on money laundering can be found on their website.

The National Criminal Intelligence Service (NCIS)
PO Box 8000
London
SE11 5EN

Website: http://www.ncis.co.uk

The Economic Crime Branch of NCIS performs the function of receiving and analysing the suspicious transaction reports it receives from the financial sector and disseminates these to law enforcement. This work is vital to the disruption of serious crime.

Her Majesty's Stationery Office (HMSO)

Website: http://www.legislation.hmso.gov.uk

The legislation section of HMSO contains the full text of all Public and Local Acts of the UK Parliament, the Explanatory Notes to Public Acts, Statutory Instruments and Draft Statutory Instruments. Both the full text of the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003 (statutory instrument) can be found on this site.

HM Treasury

Website: http://www.hm-treasury.gov.uk/documents/financial_services/money/fin_money_index.cfm

This website covers the work on combating money laundering carried out by the HM Treasury's Financial Systems and International Standards Branch. The website also provides access to consultation documents and guidance.