

## MARKET BULLETIN

REF: Y4417

<b>Title</b>	Spanish Anti Money Laundering Requirements
<b>Purpose</b>	To inform Lloyd's Managing Agents of local Anti Money Laundering compliance requirements in relation to writing life insurance in Spain on a Freedom of Services basis
<b>Type</b>	Event
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<b>Deadline</b>	With immediate effect
<b>Related links</b>	See Appendix

## INTRODUCTION

Lloyd's International Regulatory Affairs and Lloyd's Iberia have recently undertaken a review of Spanish anti money laundering ("AML") legislation, including the recently implemented Third EU Money Laundering Directive.

Following discussions with SEPBLAC<sup>1</sup>, the Spanish regulator responsible for the supervision and implementation of AML legislation, Lloyd's Iberia has drafted guidance ("the guidance") specifically for Lloyd's syndicates writing life insurance in Spain on a freedom of services basis. The guidance identifies the legal requirements that must be implemented to comply with the legislation. The content of the guidance and the summary below are therefore specific to the AML requirements for managing agents underwriting life insurance in Spain and not to general AML requirements in Spain.

The guidance is attached at Appendix 1 and a summary of the key features is set out overleaf.

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<sup>1</sup> SEPBLAC is the Spanish acronym for the "Servicio Ejecutivo de la Comisión de Prevención del Blanqueo de Capitales e Infracciones Monetarias"; i.e, the Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences.

## SUMMARY OF KEY GUIDANCE POINTS

### Scope of the Legislation

- There is a range of Spanish legislation relevant to AML, which the guidance collectively refers to as the “ML Regulations”. In addition AML provisions appear in other pieces of legislation and criminal law such as the Spanish Criminal Code, referred to as “Additional Regulations” in the guidance. Both the ML Regulations and Additional Regulations contain AML provisions applicable to managing agents writing life insurance in Spain.
- Spanish legislation also compels individuals such as directors, managers, officers and employees of an entity involved in underwriting life insurance to comply with money laundering obligations. Managing agents must therefore ensure that relevant senior executives and staff are aware of their individual liability under these obligations.
- Managing agents are also liable for any breaches of Spanish AML legislation committed by agents or representatives e.g coverholders and intermediaries acting on their behalf. This may also apply to brokers where they are preparing insurance documentation on behalf of the insurer. Therefore managing agents should determine if their AML policies should be extended to apply to these entities and if so, ensure that such policies are communicated and complied with appropriately.

### Managing agents specific requirements

- Managing agents writing life insurance in Spain are required to comply with the following AML requirements. These are:
  - Written AML policies including procedures relating to customer due diligence (“CDD”), reporting, record keeping, internal control, risk management, compliance and communication. Existing policies must be amended to contain a section on compliance with the Spanish AML requirements. **A copy must be provided to Lloyd’s.** See “Reporting” below. Further details of how to comply are contained in the guidance.
  - CDD and verification processes must be undertaken both at the formation of and during a business relationship. Verification must be completed before the transaction is finalised. Beneficiaries of life insurance policies must also be subjected to the same verification processes. If CDD cannot be completed, the transaction must not proceed. How to comply and relevant exemptions are detailed in the guidance.
  - Records must be retained by managing agents for **10 years** from the date on which the life insurance was completed or declined.

## Reporting

- Managing Agents must comply with AML reporting to SEPBLAC through the Lloyd's MLRO. Lloyd's MLRO, Sean McGovern, has delegated responsibility to the Managing Director of Lloyd's Iberia, Juan Arsuaga, who for the purpose of Spanish AML requirements is the "Lloyd's designated MLRO".
- Managing agent's MLROs are required to decline and report suspicious activity to the Lloyd's designated MLRO, who will then report on to SEPBLAC.
- The Managing agent's MLRO must also make monthly reports to Lloyd's designated MLRO of any transactions of cash or monetary movements of or in excess of EUR 30,000 or transactions with or by individuals or companies resident or domiciled in a listed offshore tax haven jurisdiction. Lloyd's designated MLRO will then report on to SEPBLAC. If no such transactions are reported, Lloyd's MLRO will submit a nil return report to SEPBLAC every 6 months.
- Managing agency staff must not disclose to the client or any third parties that a report has been made to SEPBLAC or that an investigation is or may be underway.

## Training

- Managing agents must have guidance and training in place for staff to understand the AML requirements regarding Spanish life insurance. Due to the specific Spanish AML requirements, it is recommended that training is undertaken on an annual basis.
- Managing agents must be able to recognise suspicious transactions relating to life insurance in Spain. They should, amongst other things, look out for complex, large or unusual transactions with no obvious economic or legal purpose.

## Monitoring

- Managing agents must appoint an independent external auditor to annually review their AML written procedures, systems and controls, must be made available for SEPBLAC to review if requested.
- Lloyd's Iberia should be sent a copy of the annual audit report once completed and Lloyd's Iberia also require to be updated on any amendments to a managing agent's AML procedures or changes to its appointed MLRO or auditor.

## Penalties

- A variety of penalties can be levied against entities and their legal representatives for non compliance with the Spanish ML regulations. Dependent on the nature of the breach, these could range from a warning to a significant fine.

## Appendices

- Appendix 1 – Guidelines for prevention of Money Laundering and for the financing of Terrorism for Lloyd's Syndicates writing Life Insurance in Spain

If further information on this subject is required, please contact:

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## **Appendix 1**

# **GUIDELINES FOR PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM FOR LLOYD'S SYNDICATES WRITING LIFE BUSINESS IN SPAIN**

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## I. INTRODUCTION

### What is Lloyd's?

Lloyd's is not an insurance company but a specialist insurance market based in the United Kingdom (UK) and regulated by the Financial Services Authority (FSA), under the Financial Services and Markets Act 2000. Lloyd's is licensed to underwrite insurance and/or reinsurance business in more than 200 countries and territories worldwide, including Spain.

With regard to Spain, Lloyd's or "Lloyds Association of Underwriters" is licensed to write insurance business on both establishment and freedom of services basis. The authorisation for freedom of services extends to life and all classes of non-life business except death insurance. The license for establishment extends to all classes except life, assistance and death insurance. Lloyd's does not therefore write life insurance business on an establishment basis.

Lloyd's structure is unique in the sense that it is not an insurance company but a partially mutualised market where insurance business is conducted by groups of Lloyd's members, known as "**Syndicates**". Each Syndicate operates as an individual entity within the Lloyd's market, with its own commercial, compliance and internal policies but within the Lloyd's framework. Therefore, although holding a single license, Lloyd's does not operate as a single insurer.

With regard to the anti-money laundering practices, each Lloyd's Syndicate has their own compliance policies to prevent money laundering in accordance with the applicable UK legislation and the Lloyd's standards.

With the purpose of supervising, controlling, managing and organising the Lloyd's market, **the Society and Corporation of Lloyd's** was incorporated under UK Parliament Act in 1871.

Lloyd's Iberia Representative, S.L.U. ("**Lloyd's Iberia**") is the Spanish subsidiary of the Corporation of Lloyd's, whose function is to provide services to Lloyd's Syndicates in Spain.

## Legal framework

### Money Laundering Regulation

Spanish legislation, which impacts upon the prevention of money laundering and financing of terrorism, currently consists of:

- a) Act 10/2010, on prevention of money laundering and terrorism's finance (hereinafter, AML- Act on Money Laundering)
- b) Royal Decree 925/1995, approving the Regulations developing Act 19/1993 on certain measures for prevention of money laundering, amended under Royal Decree 54/2005. This Royal Decree remains partially in force until the enactment of a new regulation which will develop the AML<sup>2</sup>
- c) Act 12/2003 on the blocking of financing of terrorism, as amended by the AML.
- d) Organic Law 4/2003, completing the law on prevention and blocking of terrorism's finance, amending both Organic Law 6/1985 the Judiciary Act, and Act 29/1988, governing the contentious-administrative jurisdiction.
- e) Royal Decree 1080/1991, specifying the countries or territories referred to in Article 2, section 3, paragraph 4 of Act 17/1991 on Urgent Tax Measures and Article 62 of Act 31/1990 on the National Budget for 1991.
- f) Order ECO 2652/2002, implementing the obligation to report transactions involving certain companies to the Executive Service of the Commission for Prevention of Money Laundering and Monetary Offences.
- g) Order EHA/2619/2006, implementing certain obligations for prevention of money laundering on the part of those companies performing currency exchange business activities or management of transfers to and from other countries.
- h) Order EHA/2444/2007, implementing the Regulations of Act 19/1993 on certain measures for prevention of money laundering, approved under Royal Decree 925/1995, in connection with the external expert's report on internal procedures and bodies in charge of oversight and reporting established measures to prevent money laundering.
- i) Instructions, letters and circulars issued by SEPBLAC with the assistance of the Spanish Banking Association to implement the aforementioned laws and regulations and to transpose the applicable recommendations of the FATF.

(all the above legislation together will be referred to as the "**ML Regulations**")

As a result of the AML, each Syndicate's ML written procedures shall be properly adapted, as required, to the provisions of this Spanish law.

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<sup>2</sup> According to the new AML, this new regulation should be approved in one year; i.e. in 2011

## Additional Regulations

In addition to the ML Regulations, Spanish law provides for anti-money laundering obligations in other areas of law, such as: (i) currency and monetary instruments and (ii) criminal. The relevant legislation on this matter is currently contained in:

### *a) Flows of currency and monetary instruments*

- Act 19/2003 on the legal regime for movement of capital and financial transactions with other countries, as amended by the AML.
- Order EHA/1439/2006, regulating declaration of movements of payment means in the area of prevention of money laundering
- Royal Decree 1816/1991 financial transactions with other countries

The relevant legislation on this matter mainly comprises reporting obligations regarding cash or monetary instruments (from EUR 10,000 above)<sup>3</sup> **for people entering or leaving Spain** and also the monitoring of incoming and outgoing funds and investments abroad<sup>4</sup>

### *b) Criminal: Organic Law 10/1995, approving the Criminal Code.*

Money laundering is listed (section 301) in the Spanish Criminal Code as an offence that, **only if committed in Spain**, could lead to the imprisonment of the offender and/or to fines. Typically, the offender would be anyone acquiring, converting or transferring assets knowing that they have been obtained criminally. Additionally, it applies to anyone performing any other act to conceal the illicit origin of the assets or to avoid liability, criminal or otherwise that is imposed on the individual generating the illicit funds.

## Application scope of Spanish legislation

The scope of application of the ML Regulations and the Additional Regulation to the Lloyd's market and its participants can be summarised as follows:

- Non-life insurance falls outside the ML Regulations but within the Additional Regulation re: (i) the offence under Spanish Criminal Code and (ii) the obligations to report and monitor currency movements and monetary instruments, which does apply to **ALL** Lloyd's market and participants;

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<sup>3</sup> Spanish law requires **anyone entering or leaving Spain** to report to the Custom Authorities any import and export of cash or monetary instruments amounting to EUR 10,000 or higher. Any unreported currency or monetary instruments can be seized by a custom officer and returned upon payment of a fine, provided they are not suspicious of being linked to money laundering or terrorist financing.

Similar reporting requirements are established for cash or monetary flows of EUR 100,000 or higher within the whole territory of Spain.

<sup>4</sup> Spanish law establishes a monitoring system which requires **individuals and companies** to declare the amount, origin and destination of incoming and outgoing funds and investments abroad.



- Life insurance falls within the ML Regulations and the Additional regulation.
- Individual liability. According to Spanish law, the individuals subject to the Money Laundering duties would be the directors, managers, officers and employees in any way involved in the life business written in Spain. Therefore, Managing Agents writing life business in Spain must ensure that their ML policies are observed by senior executives and staff.

It is for each Managing Agent writing life insurance to determine and, where appropriate, extend the scope of application of their own Money Laundering policies to any correspondent or participant in their Spanish business. It is worth noting that Managing Agents would be liable for any breach of the Money Laundering duties in respect of transactions that may be executed through attorneys, agents or representatives (such as coverholders, insurance intermediaries) when writing businesses in Spain. With regard to insurance brokers, it is certain that they are not, strictly speaking, the insurer's representatives. In fact, the brokers have their own reporting duties before SEPBLAC. However, in some circumstances they may prepare the insurance documentation on behalf of the insurer.

Therefore, it is recommended for each Managing Agent writing life insurance to put in place the appropriate measures to ensure that, not only coverholders and agents but also brokers are aware and comply with all the ML internal policies of each agent (who are the final liable and responsible party of ML policies before the SEPBLAC).

## II. THE SPANISH MONEY LAUNDERING SUPERVISOR

The Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences (SEPBLAC, in Spanish acronym) is the Spanish financial intelligence unit. Its primary mission is to receive and analyse reports of suspicious and unusual transactions. It also carries out, in general terms, supervisory and inspection functions of the anti-money laundering system.

The SEPBLAC's details are:

Bank of Spain  
SEPBLAC  
Alcalá 48  
28014 Madrid  
Spain.

The SEPBLAC's website ([www.sepblac.com](http://www.sepblac.com)) provides useful information on anti-money laundering matters.

Any request for information should be promptly and properly attended by Lloyd's and/or the concerned Lloyd's Syndicate and will be replied always via the designated Lloyd's MLRO before the SEPBLAC.

### III. MONEY LAUNDERING GUIDANCE

#### Introduction

Lloyd's has drafted general guidelines on Spanish anti-money laundering regulations ("**ML Guidance**") to be implemented by any Managing Agent writing life insurance in Spain on a freedom of services basis.

The purpose of the ML Guidance is:

- to identify the legal requirements and duties to be implemented and observed by Lloyd's Syndicates writing life insurance in Spain. Each Managing Agent must review and, where appropriate, adapt their written Money Laundering procedures to this ML Guidance and to applicable Spanish regulations. They should also inform the Lloyd's MLRO (as defined below) that such adaptation has been effected.
- to provide a single and coordinated communication and reporting system for Lloyd's in order to fulfil the money laundering duties in Spain. In this regard:
  - The Corporation of Lloyd's will designate an individual representative before the SEPBLAC, who will act as the Lloyd's Money Laundering Reporting Officer ("**The Lloyd's MLRO**"). The Lloyd's MLRO will be responsible for complying with communication and reporting duties with the SEPBLAC under Spanish ML regulations.
  - A centralised communication system is established between the Lloyd's MLRO and each Managing Agent writing life business in Spain.

#### Duty to have in place written money laundering policies.

##### *The duty*

Managing Agents writing life business in Spain must have adequate and appropriate policies and procedures in writing about customers due diligence, reporting, record keeping, internal control, risk assessment, risk management, compliance management and communication in order to forestall and prevent operations related to money laundering or terrorism financing in Spain.

##### *How to comply with the duty*

The Managing Agent's written Money Laundering procedures should lay out (i) the money laundering duties; (ii) the internal procedures and policies to prevent money laundering and (iii) the internal structure to ensure compliance of such measures. Internal ML structure shall be independent (setting up a sort of "*Chinese wall*") from any internal audit department or unit from an operational perspective.

Agents writing life business in Spain must endorse a Spanish section to their existing written handbook or procedures. The Spanish endorsement should be available to the SEPBLAC through the designated Lloyd's MLRO.

Syndicates writing life insurance in Spain should confirm to the Corporation and the Lloyd's MLRO that they adapted their money laundering policies by endorsing a Spanish section to their existing Money Laundering handbooks and internal policies.

Each Syndicate must have appointed a Money Laundering Reporting Officer (MLRO) in the United Kingdom, who is responsible for implementing the Money Laundering procedures, monitor compliance and communication with the Lloyd's MLRO.

Also, information on the structure and functioning of each Syndicate's Money Laundering written processes should be available to the SEPBLAC

The SEPBLAC is authorised to review and, where appropriate, to propose the implementation of any change and amendment to the Money Laundering internal structure and processes in connection with the Spanish business.

## Customers Due Diligence ("CDD")

### *The duty*

Not only when establishing a business relationship but also during the relationship, the customers (i.e. life insurances' policyholders and insureds) must be suitably identified. Identification duties apply even in the case where the insurance business was not completed nor finalised<sup>5</sup>. The identification duties are extended to any beneficiary if there are indications that the customers do not act on their behalf.

### *How to comply with the duty*

Each Managing Agent's Money Laundering Procedure must have a CDD policy (*Customer Due Diligence*) and an express policy for acceptance of customers, including guidance on how an appropriate identification procedure is set out. It is advisable to mention that relationships/transactions where the CDD measures can not be fulfilled must not be concluded.

The documents to be collected from Spanish policyholders / insureds will be<sup>6</sup>: copy of the ID card (DNI, in Spanish), Residence card, Passport and/or any foreign official identification document with photography. For corporate bodies, any official document<sup>7</sup> mentioning the corporation's legal name, form, domicile and business purpose.

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<sup>5</sup> With regards to life insurance business, the verification of the policyholder's identity must take place **before** the conclusion of the business, while the verification of the beneficiary's identity may take place either on/before payment of the premium or on/before exercising the beneficiary's rights under the policy.

<sup>6</sup> A new list of reliable "identification documents" will be approved probably in 2011. In the meantime, the list of documents established in Royal Decree 925/1995 remains in force.

<sup>7</sup> (i.e. Deed of incorporation or similar document from the country of origin and subsequent amendments of those documents, as duly registered with the Companies House; tax identification document, powers of attorney, as duly registered in countries where notarised deeds do not exist,, reliable supporting documents proving the legal existence of the company).

The CDD policy must include procedures for obtaining information about the purpose and intended nature of the business relationship and establish measures for customers on a risk-based approach. Significantly, the Spanish ML Regulations give the discretion to determine the extent of CDD measures on a risk sensitive basis, depending on the type of customer, business relationship, product or transaction. However, the Managing Agent must be able to demonstrate to SEPBLAC that the extent of CDD measures is appropriate in view of the risks of money laundering and terrorism financing.

The CDD policy must also provide an ongoing monitoring system on any established business relationship in Spain to ensure that transactions are consistent with the customer's business and risk profile and that data, information and documentation is kept up to date for the purpose of applying CDD measures.

The AML legislation sets out, inter alia, (i) a simplified CDD, where there are reasonable grounds for believing that customers, transactions or products falls within certain categories; (ii) an enhanced CDD which includes enhanced regular monitoring duties, on a risk-sensitive basis, in any situation where there is a perceived risk of money laundering and in non face-to-face transactions (where the customer has not been physically present for identification purposes); or in respect of a business relationship or occasional transaction with a politically exposed person ("PEP"); and (iii) reliance on third parties for carrying out CDD where Managing Agent shall be permitted to rely on third parties (as defined in the ML Regulations) to meet the CDD requirements although ultimate responsibility shall remain with the Managing Agent.

Details of the above are to be further defined in the future regulation developing the AML requirements.<sup>8</sup>

In addition, legislation imposes the duty to apply CDD measures not only to all new customers and applicants but also to existing customers. Managing Agents must implement the CDD measures to existing customers within a period of five years from 30 April, 2010 or immediately, if they take out a new insurance.

Exemptions: The CDD rules will not apply in respect of the following customers:

- Domestic public authorities of the EU countries or countries which impose equivalent requirements to those laid down in the Spanish ML Regulations;
- Credit or financial institutions domiciled within the EU or located in a country, which imposes equivalent requirements to those laid down in the Spanish ML Regulations;
- Listed companies whose securities are admitted to trading on a regulated market within the EU or countries which are subject to disclosure requirements consistent with EU legislation.

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<sup>8</sup> With regard to life business, it is foreseen that simplified CDD will apply to life contracts of insurance covering the risk of death only.

- The CDD rules will not apply in respect of the following products: life insurances where the annual premium does not exceed EUR 1,000 or the single premium is no more than EUR 2,500;
- Employment benefits' instruments (as defined in Article 51 Act 35/2006, Individual Income Tax -i.e. among others, pension schemes,-) or collective insurances covering the companies' commitments to provide pension schemes to their employees and beneficiaries, provided that requirements set out in Spanish ML legislation and regulations on pension schemes and pension funds are met.
- Electronic money, in the manner to be established by the future regulation developing the AML.

## Record-keeping and custody of documents

### *The duty*

The Spanish ML regulations provide that records must be retained for **ten (10) years** from the date on which the life insurance was completed or declined.

### *How to comply with the duty*

Managing Agents writing the Spanish life insurance are responsible for keeping the records rather than the broker or any other insurance intermediary that may be used.

Managing Agents must keep a copy of the customers' identification documents as well as those documents supporting the life business (risk questionnaires, contract of insurance, premium receipts, bank transfer, indemnities, etc).

## Recognising suspicious transactions

### *The duty*

Managing Agents must have systems and controls in place to detect suspicious transactions in connection with life business in Spain. Suspicious transactions may be any activity that, because of its nature, may be related to money laundering or terrorism financing, in particular complex or unusually large transactions as well as unusual patterns of transactions which have no apparent economic or visible lawful purpose.

### *How to comply with the duty*

Managing Agents must prepare a list of factors and transactions which may give rise to a suspicion. The list must be updated and reviewed regularly. Lloyd's market bulletin Y4161 of 13<sup>th</sup> June 2008 set out some factors which might give rise to a suspicion. The majority of them may be applicable to Spanish life insurance business so consultation is recommended.

When conducting its money laundering risk analysis, Managing Agents should consider consulting the Money Laundering Typologies (catalogue) for Insurance entities, as

published by the Spanish Commission of Prevention on Money Laundering in 2005. A Spanish version is available at Lloyd's Iberia.

Additionally, Spanish ML legislation provides for the use of suitable software and tools to carry out the money laundering risk analysis.

## Reporting duties

### *The duty*

Managing Agents writing life business in Spain have certain reporting duties, which will be complied with through the designated Lloyd's MLRO.

Reporting Suspicious Transaction: Managing Agents must report any suspicious transaction in connection with life insurance business in Spain. The report of suspicious transactions should be drafted in accordance to the form and terms as provided in the applicable Spanish legislation.

Regular reporting: Managing Agents via the Lloyd's MLRO - must report on a monthly basis, in the case of transactions with cash or monetary movements<sup>9</sup> up to EUR 30,000 or transactions with or by individuals or companies resident or domiciled in a listed offshore tax haven jurisdiction<sup>10</sup>. In the event that there are no transactions requiring monthly reporting, a nil return will be sent half-yearly, in January and July, and cover the transactions carried out within the previous six month period.

It is worth noting that the future regulation which will develop the AML legislation will provide new timescales, methods and transactions.

### *How to comply with the duty*

Reporting Suspicious Transaction: If the Managing Agent identifies a suspicious transaction in Spain, it will be **immediately** reported to its MLRO, who, in turn, will report to the Lloyd's MLRO for onward notification to the SEPBLAC. For this purpose, Syndicates may have their own suspicious transaction reporting form for employees to complete. The information to capture is the following:

- Subject / transaction details.
- Risk details.
- Reason for suspicion.

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<sup>9</sup> Physical movement of coins, banknotes, cheques, travellers' cheques or other documents payable to the bearer issued by lending institutions, excepting transactions for payment to or from the Customer's account.

<sup>10</sup> Transactions with or by individuals or entities that are residents or act on behalf of residents in territories or countries classed as offshore tax havens (and also expanded to Egypt, Filipinas, Guatemala, Indonesia, Mianmar, Nigeria y Ukraine) and any transactions involving transfers of funds to such territories or countries, regardless of the place of residence of the parties to the transaction, where the amount of such transactions is in excess of €30,000 or the equivalent in foreign currency.

A model form of reporting of suspicious transaction is attached as Annex I.

**Regular reporting:** A Managing Agents MLRO will report to the Lloyd's MLRO on a **monthly** basis about the transactions carried out within the previous month with cash or monetary movements up to EUR 30,000 or transactions with or by individual or companies resident or domiciled in a listed offshore tax haven jurisdiction.

The information to disclose is the following:

- Subject / transaction details
- Risk details

Monthly reporting will be carried out by Lloyd's MLRO within the first two weeks of every month by using a computer application (namely, DMO "*Declaración Mensual Obligatoria*") to be provided by SEPBLAC upon request of Lloyd's MLRO.

If no transactions were reported, the Lloyd's MLRO will submit a nil return in January and July.

## Declination of suspicious transactions

### *The duty*

Managing Agents must decline suspicious transactions (those transactions that qualify as such pursuant to the result of a money laundering risk analysis carried out by the Agent - see "*Recognising suspicious transactions*" above-). If this was not possible or was likely to frustrate the efforts to obtain/retain customers, there is an urgent reporting duty to SEPBLAC.

### *How to comply with the duty*

Managing Agents must have in place suitable procedures to decline life insurance business which may be treated as suspicious transactions.

If the transaction has been declined, the Managing Agents MLRO will report immediately to the Lloyd's MLRO, who in turn will report the SEPBLAC. The following information will be provided in the report:

- Subject / transaction details.
- Risk details.
- Reason for suspicion.

## Prohibition of disclosure

### *The duty*

A Managing Agent's directors and employees shall not disclose to the concerned customer or to third parties the fact that certain information was reported to SEPBLAC or that a money laundering or terrorism financing investigation is being or may be carried out.



*How to comply with the duty*

Managing Agents must have in place suitable procedures to comply with this duty, in particular through the training programmes.

**Training programs***The duty*

Managing Agents should have appropriate ongoing training to ensure that relevant staff are aware of the basic requirements of Spanish ML regulations and the Spanish section within their own Money Laundering internal policies.

*How to comply with the duty*

Managing Agents must ensure that training and provision of information to staff about Spanish life insurance business and Spanish ML guidance is properly documented.

Training about Spanish requirements shall be provided to the relevant employees in order to help them to recognise operations which may be related to money laundering or terrorism financing in Spain and to instruct them as to how to proceed in such cases.

Training shall be provided as often as necessary but it is recommended that this occur as a minimum every year.

**External expert's report***The duty*

Spanish ML regulations impose that Anti Money Laundering written procedures are subject to annual review by an external expert.

*How to comply with the duty*

Spanish sections of the Managing Agents written Anti Money Laundering procedures will be subject to annual review by an external expert.

The expert<sup>11</sup> must be experienced in Spanish ML regulations and must be independent from the Managing Agent. This means that the expert should not have rendered any other type of services to the Managing Agent 3 years before the submission of the audit report and 3 years after the review.

The expert will produce a privileged report describing the existing internal oversight measures for Spain; assessing their operational efficiency and proposing any rectification or improvement that may be advisable.

The audit report must be at SEPBLAC's disposal, which may request a copy within the following five (5) years.

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<sup>11</sup> Experts must inform the SEPBLAC about the date where they start their activities as experts as well as every six months, about the companies which they review.



## IV.- THE LLOYD'S MLRO

Lloyd's will appoint a representative for SEPBLAC, who will be the Money Laundering Reporting Officer (MLRO) for Lloyd's in Spain.

The designated person will be Sean Mc Govern (Lloyd's MLRO). The MLRO will authorise certain Spanish individuals from Lloyd's Iberia (i.e. Lloyd's representative in Spain) to act before SEPBLAC.

The main obligations of the Lloyd's MLRO are the following:

- Receipt of reports submitted by the Managing Agents MLRO.
- Communication with SEPBLAC and fulfill reporting duties, including monthly returns or nil returns. The communications will be made by the MLRO's Spanish authorised representatives.

The Managing Agents MLRO must keep fully informed the Lloyd's MLRO (or his authorised representatives) of any information that should be transmitted to the SEPBLAC or of any relevant ML investigation that is being carried in the course of compliance with its ML obligations in Spain.

The Lloyd's MLRO will not alter any referrals made to it by a Managing Agents MLRO but will report them in a timely and appropriate manner to the SEPBLAC. The Lloyd's MLRO must report within the required timescales and ensure that the Managing Agents are aware of eventual comments made by SEPBLAC, so that this information may be recorded by them as part of its money laundering controls.

Lloyd's is able to facilitate discussions with SEPBLAC to allow the Managing Agents to be guided on the quality of information provided for the purposes of fulfilling reporting obligations and also provide any feedback.

### **Duties of Managing Agents writing life business in Spain**

A) Any Managing Agent wishing to write life business in Spain, shall ensure that the following is completed **before starting to trade**:

- It will implement the Spanish AML requirements/duties and adapt its written ML policies by inserting a Spanish chapter/endorsement.
- It will provide Lloyd's with a copy of either the ML manual or the Spanish endorsement and confirm that it is duly adapted to the Lloyd's AML Guidelines.
- It will provide Lloyd's with the details of its own MLRO and the designated external expert.

B) Any Managing Agent wishing to write life business in Spain, shall observe the following:

- It will keep Lloyd's updated on any change of the ML manual, the MLRO and the external expert.

- On an annual basis, it will provide Lloyd's with a copy of the external expert's report, which will be kept at Lloyd's Iberia.

## V. INFRINGEMENTS AND SANCTIONS

Spanish ML regulations provide a specific sanctioning regime in case of infringements of the ML Regulations. Infringements may be considered as minor, serious or very serious. Sanctions depend on the type of infringement and may range between the private warnings to significant fines. Both the entity and its legal representatives may be fined.

**ANNEX I: Suspicious Transaction Reporting Form****Form (F19-1)**

Obligated Party	<b>Lloyds</b> <i>on behalf of: [Details of Syndicate]</i>
Province	
City/town	
Date of report	
Registration no.	

**Identities of parties to the transactions (customers, proxies, attorneys-in-fact)**

**Relationship with parties to the transactions**

**Description of transactions**

**Indications of money laundering**

**Actions taken and checks performed**

**Documents submitted (list of documents attached)**

<b>Lloyd's MLRO in Spain</b>