

MARKET BULLETIN

REF: Y4818

Title	Spanish Anti-Money Laundering Requirements
Purpose	To inform Lloyd's Managing Agents of amended local Anti-Money Laundering compliance requirements in relation to writing life insurance in Spain on a freedom of services basis
Type	Event
From	Juan Arsuaga, Managing Director of Lloyd's Iberia
Date	8 August 2014
Deadline	With immediate effect
Related links	See Appendix 1

Executive Summary

This Market Bulletin replaces Market Bulletin Y4417 previously issued to the Market by Lloyd's and sets out the anti-money laundering ('AML') requirements which apply to writing life insurance in Spain on a freedom of services basis.

Spain has subsequently enacted Royal Decree 304/2014, which amends previous AML legislation. As such, this guidance identifies the legal requirements of the legislation, and sets out the specific AML requirements applicable to Managing Agents underwriting life insurance in Spain. The guidance is attached in Appendix 1, and a summary of the key features is set out below.

The key changes include:

- The requirement for Managing Agents writing life business in space to **carry out a risk assessment analysing their risk of exposure to money laundering in Spain,**

- The introduction of a requirement for AML policies to include a **specific customer admission policy**,
- A requirement for beneficiaries of life insurance policies **to undergo a verification process prior to any indemnity payment, or exercise of right of redemption, down payment or pledge**,
- A requirement that the Managing Agent's MLRO notify Lloyd's of **any transaction involving the transfer of funds to or from a listed offshore tax haven jurisdiction if the transfer exceeds EUR 30,000, irrespective of the residence of the parties involved**.

Managing Agents writing Spanish life insurance business should read and familiarise themselves with the revised guidance, and ensure they have updated their AML procedures. A copy of their updated AML procedures must be provided to Lloyd's.

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 "AML 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 AML 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 AML 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:
 - Written AML policies including procedures relating to customer due diligence (“CDD”), a specific customer admission policy, 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 of updated AML policies 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 prior to any indemnity payment or the exercise of any right of redemption, down payment or pledge. 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 policy was completed or declined.

Reporting

- Managing Agents must comply with AML reporting to SEPBLAC through Lloyd’s MLRO (Money Laundering Reporting Officer). 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, with the exception of the amounts charged or debited into the customer's account. They will also notify the transactions with or by individuals or companies resident or domiciled in a listed offshore tax haven jurisdiction as well as any transactions involving transfer of funds to or from such jurisdictions, wherever the residence of the parties involved was, if the transfer exceeds EUR 30,000. 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 annual training in place for staff to understand the AML requirements regarding Spanish life insurance business.
- 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, and the annual audit report must be made available to SEPBLAC if requested. Lloyd's has appointed a single external expert (Apreblanc SA) to act on behalf of all Syndicates writing Spanish life business. Each Syndicate will enter into separate agreements with the Lloyd's external expert.
- 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 AML 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

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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

I. Introduction

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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 Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA), 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 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 financing of terrorism (hereinafter, AML- Act on Money Laundering)
- b) Royal Decree 304/2014, approving the Regulation developing Act 10/2010 on certain measures for prevention of money laundering and financing of terrorism.
- 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 financing of terrorism, 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/1964/2010, 28 May, amending Order ECO/2652/2002, 24 October, implementing the obligation to report transactions involving certain countries to the Executive Service of the Commission.
- h) Ruling of 10 August 2012, of the Directorate General of Treasury and Financial Policy, releasing the Resolution dated 17 July 2012, of the Commission for the Prevention of Money Laundering and Monetary Offences, regarding the jurisdictions setting up requirements as provided under Spanish law regarding the prevention of money laundering and financing of terrorism.
- i) 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.
- j) Instructions, letters and circulars issued by the 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 of the above legislation together will be referred to as the "**AML Regulations**")

In order to comply with the AML Regulations, each Managing Agent who underwrites Spanish life insurance business must update their AML written procedures to comply with the provisions of the Spanish law.

Additional Regulations

In addition to the AML Regulations, Spanish legislation provides for AML 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 Regulations.
- Order EHA/1439/2006, regulating declaration of movements of payment means in the area of money laundering prevention.
- 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)¹ **for people entering or leaving Spain** and also the monitoring of incoming and outgoing funds and investments abroad².

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 imprisonment of the offender and/or 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 other that is imposed on the individual generating illicit funds. The offender shall also be condemned where the crime from which the assets are obtained or even the punishable acts under section 301 of the Criminal Code are committed abroad, either fully or partially.

Application scope of Spanish legislation

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

- Non-life insurance falls outside the AML Regulations but within the Additional Regulation regarding: (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 participants;
- Life insurance falls within the AML Regulations and the Additional regulation.

¹ 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 suspected 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.

² 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.

- Individual liability. According to Spanish law, individuals subject to the Money Laundering duties would be directors, managers, officers and employees in any way involved in the life insurance business written in Spain. Therefore, Managing Agents writing life business in Spain must ensure that their AML 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 AML 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 AML duties in respect of transactions that may be executed through attorneys, agents or representatives (such as coverholders or insurance intermediaries) when writing business in Spain. With regard to insurance brokers, it is certain that they are not, strictly speaking, insurers' representatives. In fact, brokers have their own reporting duties to the SEPBLAC. However, in some circumstances they may prepare insurance documentation on behalf of insurers.

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

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.

SEPBLAC's details are:

Bank of Spain
SEPBLAC
Alcalá 48
28014 Madrid
Spain.

SEPBLAC's website (www.sepblac.com) provides useful information on AML matters.

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

III. MONEY LAUNDERING GUIDANCE

Introduction

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

The purpose of the AML 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 AML procedures to this AML Guidance and to applicable Spanish regulations. They should also inform Lloyd's MLRO (as defined below) that such adaptation has been effected.
- to provide a single and coordinated communication and reporting system to Lloyd's in order to fulfil anti-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 ("**Lloyd's MLRO**"). Lloyd's MLRO will be responsible for complying with communication and reporting duties to the SEPBLAC under Spanish AML regulations.
 - A centralised communication system will be established between Lloyd's MLRO and each Managing Agent writing life business in Spain.

Risk Analysis

The duty

Managing Agents writing life business in Spain should carry out an analysis of the risk exposure of money laundering in Spain.

How to comply with the duty

Managing Agents should draft a report analysing the risk bearing in mind the type of customer, the type of product, the distribution channel or the premium amount.

Such analysis shall support the AML procedures as defined in its written AML policies to comply with the regulations and shall be revised on an annual basis or in any event that may cause a change of risk.

Duty to have in place written money laundering policies.

The duty

Managing Agents writing life business in Spain must have adequate and appropriate written policies and procedures about customer 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 financing of terrorism in Spain.

How to comply with the duty

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

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

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

The Spanish endorsement should be approved by the management body and should indicate its scope (i.e. Spanish life business); how the employees will be informed as well as the update / change history including the reason for change. Also, the Spanish endorsement should detail the following procedure /policies:

- Customer due diligence measures and regular updating procedures
- Customer admission policy
- List of suspicious transactions
- Internal and external procedures regarding reporting of suspicious transactions
- Procedures of detection of suspicious transactions and analysis thereof
- Training policy
- Procedure for the manual approval and regular reviews
- Document keeping procedure

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

Also, information on the structure and functioning of each Syndicate's written anti-money laundering policies should be available to SEPBLAC.

SEPBLAC is authorised to review and, where appropriate, to propose the implementation of any change and amendment to the internal AML 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 insurance policyholders) must be suitably identified. Identification duties

also apply in cases where the insurance business was not completed nor finalised³. The identification duties are extended to any beneficiary if there are indications that the customers are not acting on their behalf.

How to comply with the duty

Each Managing Agent's AML policy 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 cannot be fulfilled must not be concluded.**

The documents to be collected from Spanish policyholders will be: an ID card (DNI, in Spanish) for the Spanish or a Residence card, Passport and/or other official foreign identification document depending on the customer's home country⁴ which must contain a photograph. For corporate bodies, any official document⁵ mentioning the corporation's legal name, type of business, domicile, identification of directors, bylaws and a Tax Identification Number. Such documents may also be directly obtained from the relevant Companies House.

The customer shall be requested to provide the original documents along with the copies.

The identification procedure shall not be limited to identifying the customer but shall be extended to identifying the real owner of the funds as defined pursuant to the Act 10/2010. In the case of legal corporations the customer shall be requested to provide a signed statement including the beneficial owners' information and control or property structure thereof.

The CDD policy must include procedures for obtaining information about the purpose and intended nature of the business relationship and establishing measures for customers on a risk-based approach. The documentation shall be obtained, based on the customer's risk, from the customer directly or from any reliable external source.

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 procedure shall be more demanding in case of new customers.

³ With regards to life insurance business, the verification of the policyholder's identity must take place **before** the completion of the policy, while the verification of the beneficiary's identity may take place as soon as they are designated or, in any case, prior to payment of the premium / before exercising the beneficiary's rights under the policy.

⁴ Only for EU or EEA customers.

⁵ (*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 AML legislation sets out, inter alia, (i) a simplified CDD, where there is a reasonable ground to believe that customers, transactions or products fall 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”); high risk geographical areas or types of risks regarding certain businesses 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 AML Regulations) to meet the CDD requirements although ultimate responsibility shall remain with the Managing Agent. A written agreement with the third party is required in order to detail the duties of the parties.

In addition, legislation imposes the duty to apply CDD measures not only to all new customers and applicants but also to existing customers, on a risk based approach.

Such measures shall be applicable to existing customers upon their purchasing of new products or in the event of any relevant transaction regarding the volume or complexity thereof.

If the CDD measures regarding the business relationship could not be implemented such relationship shall be terminated. For that purpose, the manual should include the procedure for the termination of the business relationship and the need to maintain records of terminated relationships. 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 policy. The Spanish regulations allow simplified due diligence measures ⁶ to be applied in respect of the following customers, so long as a record is kept:

- Domestic public authorities of the EU countries or countries which impose equivalent requirements to those laid down in the Spanish AML Regulations and subsidiaries;
- Credit or financial institutions domiciled within the EU or located in a country, which imposes equivalent requirements to those laid down in the Spanish AML Regulations and subsidiaries;
- 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 the EU legislation.
- The CDD rules will not apply in respect of the following products: life insurance policies where the annual premium does not exceed EUR 1,000 or a 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.* pension schemes among others) or collective insurances covering companies' commitments to provide pension schemes to their employees and beneficiaries, provided that requirements set out in Spanish AML legislation and regulations on pension schemes and pension funds are met.

⁶ Except the obligation to identify the customer and the continuous monitoring of the transactions, which are mandatory in any case.

- Life policies covering the risk of death only, including those policies that include, as a complementary cover, pecuniary indemnity due to permanent or partial disability, either total or complete, or temporary incapacity, serious illness and dependency.
- Electronic money, when the amount does not exceed EUR 250.

Customer admission policy

The duty

Managing Agents should have appropriate customer admission policies with increased precautionary measures in case of higher-than-average risked customers.

How to comply with the duty

The manual should detail the Syndicate's customer admission policy. Customers should be classified in accordance with the risk categories; specific measures shall be defined to request information and documents in any case, as well as the authorisation level required for admission

Record-keeping and custody of documents

The duty

The Spanish AML 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, rather than the broker or any other insurance intermediary that may be used, writing life insurance in Spain are responsible for keeping the records.

Managing Agents must keep a copy of the customers' identification documents as well as those documents supporting the CDD measures and the life business written (risk questionnaires, contract of insurance, premium receipts, bank transfer, indemnities, etc). Documents will be kept on individual files. Documents shall be stored either in optical, magnetic or electronic format,

The original documents, records or copies evidencing the transactions, the transacting parties, and the business relationships shall also be kept for at least ten years.

The record-keeping procedure must identify the individuals in charge of the task.

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 13th 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 AML legislation provides for the use of suitable software and tools to carry out the money laundering risk analysis.

An analysis procedure shall be set forth to determine the person liable for such analysis, the alert system and IT listings to detect suspicious transactions and a record of analysed transactions including the arrangements made and the steps taken (drafting of written reports and conclusions for any special analysis done: do not report the transaction, keep monitoring or report to Lloyd's). A database or register of transaction subject to a special check should be kept.

Details of the consultation process of international lists of persons and entities involved in terrorism should be provided.

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 Transactions: 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 with the form and terms as provided in the applicable Spanish legislation.

Regular reporting: Managing Agents via Lloyd's MLRO - must report on a monthly basis, in the case of transactions with cash or monetary movements⁷ up to EUR 30,000 except the amounts charged or debited into the customer's account or transactions with or by individuals or companies resident or domiciled in a listed offshore tax haven jurisdiction. They will also notify the transactions with or by individuals or companies resident or domiciled in a listed offshore tax haven jurisdiction as well as any transaction involving transfer of funds to or from such jurisdictions, wherever the residence of the parties involved

⁷ 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.

is, if the transfer exceeds EUR 30,000. Managing Agents should also report any transaction involving any means of payment subject to mandatory declaration as per article 34 of the AML Law. This relates to movements within Spain of means of payment for an amount of EUR 100,000 or more and incoming or outgoing cross-border movements of means of payment for an amount of EUR 10,000 or more.

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.

How to comply with the duty

Reporting Suspicious Transactions: If the Managing Agent identifies a suspicious transaction in Spain, it will be **immediately** reported to its MLRO, who, in turn, will report to Lloyd's MLRO for onward notification to SEPBLAC. For this purpose, Syndicates may have their own internal reporting procedures including suspicious transaction reporting form for employees to complete. The manual should include the duty to inform staff of any arrangements regarding this reporting requirement, the response deadline and the employees' right to report the transaction to Lloyd's MLRO directly in case of not receiving any response. The information to capture is the following:

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

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

Regular reporting: A Managing Agent's MLRO will report to 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 with the exception of the amounts charged or debited into the customer's account. They will also notify the transactions with or by individuals or companies resident or domiciled in a listed offshore tax haven jurisdiction as well as any transaction involving transfer of funds to or from such jurisdictions, wherever the residence of the parties involved was, if the transfer exceeds EUR 30,000.

Managing Agents should also report any transaction involving any means of payment subject to mandatory declaration as per article 34 of the AML Law. This relates to movements within Spain of means of payment for an amount of EUR 100,000 or more and incoming or outgoing cross-border movements of means of payment for an amount of EUR 10,000 or more.

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, 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 an analysis of money laundering risk carried out by the Agent -see "*Recognising suspicious transactions*" above-). If this was not possible or was likely to frustrate the investigation, there is an urgent reporting duty to SEPBLAC via Lloyd's MLRO.

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 or was completed as the completion could not be avoided or in order to avoid frustrating an investigation, Managing Agent's MLRO will report immediately to Lloyd's MLRO, who in turn will report to 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.

Managing Agent's MLRO shall keep confidential the identity of employees reporting any suspicious transaction. The manual should also provide appropriate procedures to guarantee high ethical standards when employing officers, staff and agents.

Training programs

The duty

Managing Agents should have appropriate annual training programmes to ensure that relevant staff are aware of the basic requirements of Spanish AML regulations and the Spanish section within their own AML internal policies. Level of compliance should be annually documented.

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 AML guidance is properly documented,

including the evaluation system. The manual should include, at a minimum, the content of the training courses.

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

Training shall be provided as often as necessary but it is recommended that this occurs at least every year.

Internal verification

The manual should also insert a procedure for the periodical and internal verification of the adequacy and efficiency of the measures. If the Managing Agent has an internal audit department, this is their responsibility.

External expert's report

The duty

Spanish AML regulations impose that written AML procedures are subject to annual review by an external expert.

How to comply with the duty

Spanish sections of the Managing Agent's written AML procedures will be subject to annual review by an external expert.

The expert⁸ must be experienced in Spanish AML 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; 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 six (6) years.

Lloyd's appointed a single external expert (Apreblanc SA) to act on behalf of all Syndicates writing Spanish life business. Each Syndicate will enter into separate agreements with the Lloyd's external expert. Please see market bulletin Y4674 for detailed information.

Upon the reception of the report the Managing Agent shall prepare a list of actions in order to meet the external expert's recommendation and the deadlines which, generally, shall be no longer than one year.

Lloyd's Iberia should be sent a copy of the annual audit report once completed.

⁸ Experts must inform the SEPBLAC about the date where they start their activities as experts as well as every six months, about companies which they review.

IV.- LLOYD'S MLRO

In 2010, Lloyd's appointed Sean McGovern as Money Laundering Reporting Officer (MLRO) for Lloyd's in Spain.

The MLRO authorised certain Spanish individuals from Lloyd's Iberia (*i.e.* Lloyd's representative in Spain) to act before SEPBLAC.

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

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

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

Lloyd's MLRO will not alter any referrals made to it by Managing Agent's MLRO but will report them in a timely and appropriate manner to SEPBLAC. 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 their AML 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 AML policies by inserting a Spanish chapter/endorsement. It will provide Lloyd's with a copy of either the AML manual or the Spanish endorsement and confirm that it is duly adhered 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 do the following:

- It will keep Lloyd's updated on any change in the AML manual, MLRO and external expert appointments.
- On an annual basis, it will provide Lloyd's with a copy of the external expert's report, which will be kept by Lloyd's Iberia.

V. INFRINGEMENTS AND SANCTIONS

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

ANNEX I: Suspicious Transaction Reporting Form to LLOYD'S MLRO

Form

Managing Agent	
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) _____

Managing Agent's MLRO

ANNEX II: Suspicious Transaction Reporting Form to the SEPBLAC

Form (F19-1)

Obligated Party	Lloyds <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) _____

Lloyd's MLRO in Spain