

# **MINERALS INCOME INVESTMENT FUND (MIIF)**

## **ANTI-MONEY LAUNDERING/ COMBATING FINANCING OF TERRORISM (AML/CFT) POLICY, PROCEDURES AND PROGRAMME MANUAL**

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## INTRODUCTION

In 2020, the Parliament of the Republic of Ghana passed the Anti-Money Laundering Act, 2020 (Act 1044) (the **AML Act**). The AML Act repealed the Anti-Money Laundering Act, 2008 (Act 749) as amended. To provide practical guidance to the application of the AML Act, the Anti-Money Laundering Regulations 2011 (L.I. 1987) (the **AML Regulations**) was passed (together, the **AML Laws**).

In April 2019, the Securities and Exchange Commission (SEC) and the Financial Intelligence Centre (FIC) developed a manual to guide Capital Market Operators (CMOs) to enhance their monitoring and surveillance systems with a view to preventing, detecting and responding appropriately to money laundering and financing of terrorism risks and similar risks in the financial market (the **SEC/FIC manual**).

In order to ensure that adequate policies and procedures are available to guide the Minerals Income Investment Fund (**MIIF** or the **Fund**) and staff in complying with the provisions of the AML Laws and the SEC/FIC manual, this Anti-Money Laundering/Combating Financing of Terrorism (AML/CFT) Policy Procedures and Programme Manual (the **Manual**) has been developed to provide an abridged version of the above-mentioned documents.

The business of MIIF may require it to directly receive funds from other parties or invest funds into projects, utilise funds for trade purposes or engage in trade and financing transactions which could expose the Fund to money laundering and terrorism financing risks. The purpose of this Manual is to manage the risks associated with the laundering of the proceeds of crime and provide protection against fraud, reputational and other risks associated with same.

Consequently, all MIIF Staff are required to adopt a risk-based approach in the identification and management of the AML/CFT risks in line with the requirements of this Manual, the AML Laws and the SEC/FIC manual.

Additionally, this Manual is MIIF's means of stating its commitment to comply with AML/CFT obligations under the law and regulatory directives and to actively prevent any transaction that otherwise facilitates criminal activity or terrorism.

This Manual is structured in three (3), namely Part A, Part B and Part C.

## PART A

### 1. DEFINITION OF TERMS

Term	Definition
Applicant for Business	The person or company seeking to establish a 'business relationship' such as MIIF investing directly or indirectly, co-investment with MIIF an occasional client undertaking a 'one-off' transaction whose identity must be verified.
Beneficial owner	Beneficial owner refers to the natural person(s) who ultimately owns or controls a client and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.
Beneficiary	Beneficiary includes those natural persons, or groups of natural persons who receive charitable, humanitarian or other types of assistance.
Business Relationship	Business relationship is any arrangement between the CMOs and the applicant for business whose purpose is to facilitate the carrying out of transactions between the parties on a frequent, habitual or regular basis.
CMOs	Means any person (individual or corporate) duly registered by the SEC to perform specific functions in the Capital Market
Correspondent Institution	Means any formal relationship(s) established for a foreign financial institution to provide regular services to effect transactions in securities
Cross-border transaction	Means any transaction where the originator and beneficiary operators are located in different jurisdictions. This term also refers to any chain of transactions that has at least one cross-border element.
Designated offences	Section 63 of the AML Act defines an unlawful activity to includes the following:  (a) a serious offence; (b) participation in an organized criminal group and racketeering; (c) terrorism, including terrorist financing; (d) trafficking in human beings and migrant smuggling; (e) sexual exploitation, including sexual exploitation of children;

	<ul style="list-style-type: none"> <li>(f) illicit trafficking in narcotic drugs and psychotropic substances;</li> <li>(g) illicit trafficking in arms;</li> <li>(h) illicit trafficking in stolen and other goods;</li> <li>(i) corruption and bribery;</li> <li>(j) fraud;</li> <li>(k) counterfeiting currency;</li> <li>(l) counterfeiting and piracy of products;</li> <li>(m) environmental crime;</li> <li>(n) murder, grievous bodily injury/ causing unlawful harm;</li> <li>(o) kidnapping, illegal restraint and hostage-taking;</li> <li>(p) robbery or theft;</li> <li>(q) smuggling;</li> <li>(r) tax offences;</li> <li>(s) extortion;</li> <li>(t) forgery;</li> <li>(u) piracy;</li> <li>(v) insider trading and market manipulation; and</li> <li>(w) any other similar offence or related prohibited activity punishable with imprisonment for a period of not less than twelve (12) months;</li> <li>(x) any activity that occurred in another country, which constitutes an offence in that country, and which would have constituted an unlawful activity had it occurred in the Republic of Ghana; and</li> <li>(y) a contravention of a law in relation to a serious offence, participation in an organised criminal group and racketeering and terrorism and terrorist financing which occurs in the country or elsewhere.</li> </ul>
<p>Designated non-financial businesses and professions (DNFBP)</p>	<p>DNFBP means:</p> <ul style="list-style-type: none"> <li>(a) Casinos (which also includes internet casinos).</li> <li>(b) Real estate agents.</li> <li>(c) Legal practitioners, notary public and accountants – this refers to sole practitioners, partners or employed professionals within professional firms. This is not inclusive of “internal” professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to measures that would combat money laundering.</li> <li>(d) Trust and Company Service providers refers to all persons or businesses that are not covered elsewhere under these Recommendations, and which as a business, provide any of the following services to third parties: <ul style="list-style-type: none"> <li>(i) acting as a formation agent of legal persons;</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>(ii) acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;</li> <li>(iii) providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement; and</li> <li>(iv) acting as (or arranging for another person to act as) a trustee of an express trust.</li> <li>(e) Acting as (or arranging for another person to act as) a nominee shareholder for another person.</li> </ul>
Domestic transfer	<p>Means any wire transfer where the originator and beneficiary institutions are both located in Ghana.</p> <p>This term therefore refers to any chain of wire transfers that takes place entirely within Ghana's borders, even though the system used to effect the wire transfer may be located in another jurisdiction.</p>
False disclosure	<p>Means a misrepresentation of the value of currency or bearer negotiable instruments being transported, or a misrepresentation of other relevant data which is requested for in the disclosure or otherwise requested by the authorities.</p>
Funds Transfer	<p>Means any transaction carried out on behalf of an originator (both natural and legal) through CMOs by electronic means with a view to making an amount of money available to a beneficiary through other CMOs. The originator and the beneficiary may be the same person.</p>
Legal persons	<p>Means a body corporate, foundations, partnerships, associations, or any similar bodies that can establish a permanent client relationship with CMOs or otherwise own property.</p>
Money Laundering	<p>A person commits an offence of money laundering if the person knows or ought to have known that property is, or forms part of, the proceeds or unlawful activity and the person(a) converts, conceals, disguises or transfers the property for the purpose of concealing or disguising the illicit origin of property; or assisting any person who is involved in the commission of the unlawful activity to evade the legal consequences of the unlawful activity;(b) conceals or disguises the true nature, source, location, disposition, movement or ownership of, or rights to, the property; or (c) acquires, uses or takes possession of the property</p>



	knowing or suspecting at the time of receipt of the property that the property is, or forms part of the proceeds of unlawful activity.
Non profit/Non-Governmental Organizations	Means a legal entity or organization that primarily engages in raising or disbursing funds for charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of good works.
Originator	Means the account holder, or where there is no account, the person (natural or legal) that places the order with the CMOs to perform the Capital Market Transaction.
One-off Transaction	Means any transaction carried out other than in the course of an established business relationship. It is important to determine whether an applicant for business is undertaking a one-off transaction or whether the transaction is or will be a part of a business relationship as this can affect the identification requirements.
Payable through account	Means correspondent accounts that are used directly by third parties to transact business on their own behalf.
Physical presence	Means meaningful mind and management located within a country. The existence simply of a local agent or low-level Staff does not constitute physical presence.
Relevant authority	Means any persons or organization which has mandate over your activity as a person.
Risk	All references to risk in this Manual refer to the risk of money laundering and/or terrorist financing.
Settlor	Means person(s) or companies who transfer ownership of their assets to trustees by means of a trust deed. Where the trustees have some discretion as to the investment and distribution of the trust's assets, the deed may be accompanied by a non-legally binding letter setting out what the settlor wishes to be done with the assets.
Shell bank	Means a bank that has no physical presence in the country in which it is incorporated and licensed, and which is unaffiliated with a regulated financial services group that is subject to effective consolidated supervision.
Suspicious Transaction	Under this Manual, a suspicious transaction may be defined as one which is unusual because of its size, volume, type or pattern or

	otherwise suggestive of known money laundering methods. It includes such a transaction that is inconsistent with a client's known, legitimate business or personal activities or normal business for that type of account or that lacks an obvious economic rationale.
Terrorist	Means any natural person who: (a) commits, or attempts to commit, terrorist acts by any means, directly or indirectly, unlawfully and willfully; (b) participates as an accomplice in terrorist acts; (c) organizes or directs others to commit terrorist acts; or (d) contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act.
Terrorist act	<p>Terrorist acts include but are not limited to:</p> <p>(a) An act which constitutes an offence within the scope of, and as defined in one of the following treaties: Convention for the Suppression of Unlawful Seizure of Aircraft (1970), Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971), Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973), International Convention against the Taking of Hostages (1979), Convention on the Physical Protection of Nuclear Material (1980), Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988), Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988), Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (1988), and the International Convention for the Suppression of Terrorist Bombings (1997); International Convention for the Suppression of the Financing of Terrorism (1999); and</p> <p>(b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a</p>

	population, or to compel a government or an international organization to do or to abstain from doing any act.
Terrorist financing (TF)	TF means the collection or provision or attempted collection or provision, by any means, directly or indirectly, of funds or other assets with the intention that they should be used or in the knowledge that they are to be used in whole or in part to carry out a terrorist act.
Terrorist financing offence	TF offence refers not only to the primary offence or offences, but also to ancillary offences.
Terrorist organization	Means any group of terrorists that: <ul style="list-style-type: none"> <li>(a) commits, or attempts to commit, terrorist acts by any means, directly or indirectly;</li> <li>(b) participates as an accomplice in terrorist acts;</li> <li>(c) organizes or directs others to commit terrorist acts; or</li> <li>(d) contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act.</li> </ul>
Trustee	Trustees, include paid professionals or companies or unpaid persons who hold the assets in a trust fund separate from their own assets and any person in a professional capacity who administers a trust or acts as trustees but does not include a person who provides trust services as a nominee. They invest and dispose of them in accordance with the settlor's trust deed, taking account of any Letter of Wishes. There may also be a protector who may have power to veto the trustees' proposals or remove them, and/or a custodian trustee, who holds the assets to the order of the managing trustees.
Unique identifier	A unique identifier refers to any unique combination of letters, numbers or symbols that refer to a specific originator.
The FATF Recommendations	The FATF Recommendations refers to the Forty (40) Recommendations and the Nine (9) Special Recommendations on Terrorist Financing.

## 2. ANTI-MONEY LAUNDERING REPORTING OFFICER (AMLRO)

Regulation 5 (1) of AML Regulations states that each accountable institution shall appoint a person of senior status as an Anti-Money Laundering Reporting Officer who shall perform the following functions:

- (a) Develop an AML/CFT Compliance Programme;
- (b) Receive and vet suspicious transaction reports from Staff;
- (c) File suspicious, attempted and cash transaction reports with the FIC;
- (d) Render "nil" reports with the FIC, where necessary to ensure compliance;
- (e) Ensure that the CMOs compliance programme is implemented;
- (f) Coordinate the training of Staff in AML/CFT awareness including detection methods and reporting requirements;
- (g) Serve as liaison officer with for the Board of Directors and FIC and a point-of contact for all employees on issues relating to Money Laundering and Terrorist Financing; and
- (h) Perform any other duties relevant to the ALMRO's function.

The AMLRO shall be the Internal Auditor of the company and report directly to the Chief Executive Officer.

### **3. STATEMENT ON COOPERATION WITH RELEVANT AUTHORITIES**

It is the policy of MIIF to comply promptly with all requests made pursuant to the law and shall provide information to the FIC and other relevant government agencies on AML/ CFT matters.

Where there is a request for Information on Money Laundering and Terrorist Financing, MIIF will do the following in accordance with Regulation 42 of AML Regulations.

- (a) Search immediately through the institution's records to determine whether it maintains or has maintained any account for or has engaged in any transaction with each individual, entity or organization named in the request.
- (b) Report promptly to the requesting authority, the outcome of the search; and
- (c) Protect the security and confidentiality of such requests.

The provision of any information to the relevant authority will be done by the AMLRO.

### **4. SCOPE OF OFFENSIVE PROCEEDS**

MIIF will ensure that its Staff are adequately trained and equipped to be able to identify and report on Money Laundering or attempted Money Laundering activities and related proceeds derived from but not limited to the following activities to FIC:

- (a) Participation in an organized criminal group and racketeering;
- (b) Terrorism, including terrorist financing;
- (c) Trafficking in human beings and migrant smuggling;
- (d) Illegal mining;
- (e) Illegal tree felling and environmental degradation;
- (f) Sexual exploitation, including sexual exploitation of children;
- (g) Illicit trafficking in narcotic drugs and psychotropic substances;
- (h) Illicit arms trafficking;
- (i) Illicit trafficking in stolen and other goods;
- (j) Corruption and Bribery;
- (k) Fraud;
- (l) Counterfeiting currency;
- (m) Counterfeiting and piracy of products;
- (n) Environmental crime;
- (o) Murder, grievous bodily injury;
- (p) Kidnapping, illegal restraint and hostage taking;
- (q) Robbery or theft;
- (r) Smuggling;
- (s) Extortion;
- (t) Forgery;
- (u) Piracy;
- (v) Insider trading and market manipulation; and
- (w) Tax evasion and other tax offences.

## **5. STATEMENT ON MIIF'S CONFIDENTIALITY POLICY**

MIIF's Secrecy and Confidentiality Policy shall not in any way, inhibit the implementation of the requirements in the AML Laws, giving the relevant authorities the power to access information to properly perform their functions in combating Money Laundering and financing of terrorism. This includes the sharing of information between relevant

authorities, either domestically or internationally; and the sharing of information between MIIF and other CMOs, where this is required or necessary.

The sharing of any such information shall be done after the necessary consultations have been done with the relevant officials of MIIF.

## **PART B**

### **6. ELEMENTS OF KYC POLICY**

MIIF shall not keep numbered or anonymous accounts, or accounts in fictitious names, provided that where nominee accounts are maintained, details of the beneficial owners shall be provided on request and the information so provided shall be kept as part of the records on the account.

MIIF shall undertake Corporate Due Diligence (CDD) measures when:

- (a) A business relationship is established;
- (b) Monitor cash transactions above the threshold of Fifty Thousand Ghana Cedis (GHS 50,000) or its equivalent in foreign currency, including where the transaction is carried out in a single operation or several operations that appear to be linked within operators (even when different accounts are used), between operators or over a period of time; and
- (c) Monitor transactions that are wire transfers, including those applicable to cross-border and domestic transfers between CMOs and when credit or debit cards are used as a payment system to support investments or trade.
- (d) There is a suspicion of Money Laundering or Terrorist Financing, regardless of any exemptions or any other thresholds referred to in this Manual; or
- (e) There are doubts about the veracity or adequacy of previously obtained clients identification or / and incorporation data.

#### **6.1 Application and KYC forms completion by Clients**

As a basic requirement, before commencement of any business relationship between MIIF and any entity/ institution (the Client), the following information on the nature of the business the Client intends to undertake shall be documented through the completion of the appropriate application form. The application form shall seek to establish the following:

- (a) Purpose of establishing business relationships.
- (b) Nature of activity to be undertaken.

- (c) The source of funds of the entity.
- (d) Details of business activities and sources of income of the senior management and decision makers of the company.
- (e) All Clients' information obtained shall be verified using reliable, independently sourced documents, data or information. Clients' information shall be verified using the **Incorporation documents, Charter documents, Certificate of incorporation, Subsidiaries lists, Certificates of good standing and tax authority (if applicable), Jurisdictions where the company and its subsidiaries conduct business, List of current officers and directors, List of all security holders (common, preferred, options, warrants).**

No document shall be accepted for the purpose of Client's identity verification unless the document has not expired at the time of establishing a relationship with the Client. In respect of Clients that are legal persons, MIIF shall ensure the following;

- (a) Verify any person purporting to have been authorized to act on behalf of such a Client by obtaining evidence of his/her identity and verifying the identity of such a person as indicated above.
- (b) Verify the status of the legal person by obtaining proof of incorporation by requesting the Client to submit **certified true or notarised copies of the Certificate of Incorporation, Commencement of Business and license** provided by the regulatory body of the Client. The certification should be done by the issuing authority of the document or a Notary Public.
- (c) Understand the ownership and control structure of such a Client; and
- (d) Determine the natural persons who ultimately own (especially those with more than 5% interest) or control the Client.

For companies, natural people are those who own the controlling interests and comprise the mind and management of the company.

For Trusts – The natural persons are the settlor, the trustee and person exercising effective control over the trust and the beneficiaries.

***Where the Client or the owner of the controlling interest is a public company subject to regulatory disclosure requirements (i.e., a public company listed on a recognized securities market) it is not necessary to identify and verify the identity of the shareholders of such a public company.***

Verification of data and documents obtained from the Client shall be guided by the requirements above.

## **6.2 Continuous due diligence (CDD)**

- (a) MIIF will conduct continuous due diligence on the business relationships established with Clients. The continuous due diligence process shall include:

- (i) Scrutinizing the conduct and transactions undertaken by the Client throughout the course of the relationship to ensure that the transactions being conducted are consistent with MIIF's knowledge of the Client, its business and risk profiles, and the source of funds.
  - (ii) Ensuring that documents, data or information collected under the CDD process are kept up-to-date and relevant by undertaking reviews of existing records, particularly the records in respect of higher-risk business relationships or Clients' categories.
- (b) Clients shall be assigned Business Development Managers or Officers under any of the Business Development Units at MIIF. These Managers or Officers will be responsible for the management of the relationship with the Client. The Business Development person will become the point person for the Client, including CDD continuous review processes.

***MIIF shall not commence business relation or perform any transaction, or in the case of existing business relation, shall terminate such business relation if the Client fails to comply with the Client's due diligence requirements. Where such a situation occurs, the AMLRO shall be informed immediately, who will perform further investigation after which an STR process may commence.***

## **7. CLASSIFICATION OF CLIENTS**

- (a) MIIF Clients will be classified into high risk, medium risk or low risk groups.
- (b) MIIF will adopt an enhanced CDD process for higher risk category of Clients, business relationships or transactions. Similarly, simplified CDD process is adopted for lower risk categories of Clients, business relationships or transactions.
- (c) For determining a Client's risk profile, the following are examples of high-risk clients that MIIF shall consider exercising greater caution when approving the opening of account or when conducting transactions:
  - (i) Non-resident clients (companies);
  - (ii) Clients from locations known for its high crime rate (e.g., drug production, trafficking, environmental degradation, smuggling);
  - (iii) Clients from or in countries or jurisdictions which do not or insufficiently apply the Financial Action Task Force (FATF) Recommendations (such as jurisdictions designated as Non-Cooperative Countries and Territories (NCCT) by the FATF or those known to the reporting institution to have inadequate AML/CFT laws and regulations);
  - (iv) Politically Exposed Persons (PEPs) and persons/ companies related to them;



- (v) Complex legal arrangements such as unregulated investment vehicles/special purpose vehicles (SPV); including Shell Banks; or
  - (vi) Companies that have nominee-shareholders;
  - (vii) Companies not listed on any major or recognized stock exchange.
- (d) Upon determining Clients as “high-risk”, the MIIF shall undertake enhanced CDD process on the clients which shall include enquiries on:
- (i) The purpose for investing or establishing the relationship;
  - (iii) The level and nature of trading activities intended;
  - (iv) The ultimate beneficial owners;
  - (v) The source of funds; and
  - (vi) Board approval for establishing the relationship.
- (e) Where a Client is of low-risk category, MIIF shall apply reduced or simplified CDD measures when identifying and verifying the identity of their clients and the beneficial-owners.
- (f) There are low risks in circumstances where:
- (i) The risk of Money Laundering or Terrorist Financing is lower.
  - (ii) Information on the identity of the Clients and the beneficial owner of a client is publicly available.
  - (iii) Adequate checks and controls exist elsewhere in public institutions.
- (g) The following may be considered to be low risk Clients:
- (i) Other CMOs provided they are subject to requirements for the combat of Money Laundering and Terrorist Financing which are consistent with the provisions of the SEC manual on anti-money laundering and are supervised for compliance with them;
  - (ii) Public companies (listed on a securities market or similar situations) that are subject to regulatory disclosure requirements;
  - (iii) Government ministries and parastatals /enterprises/agencies;
  - (iv) Insurance policies for pension schemes if there is no surrender- value clause and the policy cannot be used as collateral;
  - (v) A pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction

from wages and the scheme rules do not permit the assignment of a member's interest under the scheme; and

- (vi) Beneficial-owners of pooled-accounts held by Designated Non- Financial Businesses and Professions (DNFBPs) provided that they are subject to requirements to combat Money Laundering and Terrorist Financing consistent with the provisions of AML Laws.
- (h) MIIF shall apply simplified or reduced CDD measures to Clients' resident abroad only if such Clients are in countries that have effectively implemented the FATF Recommendations.
- (i) MIIF shall adopt CDD measures on a risk sensitive basis. To this end, MIIF shall determine in each case whether the risks are lower or not, having regard to the type of Clients, product, transaction, investment or the location of the Clients.

## **8. TIMING OF VERIFICATION OF CLIENT DETAILS**

- (a) MIIF shall obtain satisfactory evidence that it is dealing with a real person (natural, corporate or legal), by obtaining and verifying adequate identification evidence. Where reliance is being placed on a third party to identify or confirm the identity of the applicant, the overall legal responsibility for obtaining satisfactory identification evidence rest with MIIF. MIIF shall to this end insist on normal identification procedures for every Client as contained in this Manual.
- (b) MIIF shall verify the identity of the Client, beneficial-owner and occasional Clients before or during the course of establishing a business relationship or conducting transactions for them.
- (c) MIIF shall complete the verification of the identity of the Client and beneficial owner following the establishment of the business relationship, only when:
  - (i) This can take place as soon as reasonably practicable;
  - (ii) It is essential not to interrupt the normal business conduct of the clients; and
  - (iii) The Money Laundering risks can be effectively managed.
- (d) Examples of situations where it may be essential not to interrupt the normal conduct of business are:
  - (i) Securities transactions: In the securities industry, companies and intermediaries may be required to perform transactions very rapidly, according to the market conditions at the time the client is contacting them, and the performance of the transaction may be required before verification of identity is completed.

- (ii) Non face-to-face business.
- (e) Where a Client is permitted to utilize the business relationship prior to verification, MIIF shall adopt risk management procedures concerning the conditions under which this may occur. These procedures include a set of measures such as a limitation of the number, types and/or amount of transactions that can be performed and the monitoring of large or complex transactions being carried out outside the expected norms for that type of relationship.

## **9. REFUSAL/FAILURE TO COMPLETE CDD BY CLIENT**

- (a) Where a Client refuses or fails to complete the CDD process by refusing to provide certain mandatory information and documents, MIIF shall:
  - (i) not commence business relations; or
  - (ii) consider rendering a suspicious transaction report to the FIC after the appropriate investigations have been carried out.
- (b) Where MIIF has already commenced the business relationship, MIIF shall terminate the business relationship and render suspicious transaction reports to the FIC.

## **10. CDD ON EXISTING CLIENTS AND INVESTMENTS**

- (a) MIIF shall apply the CDD requirements to existing business relationships on the basis of materiality and risk and shall continue to conduct due diligence on such existing relationships at appropriate times. The appropriate time for the conduct of CDD procedures by MIIF shall include when:
  - (i) A transaction of significant value takes place,
  - (ii) A Client's documentation standards change substantially,
  - (iii) There is a material change in the way that the business is operated, for example due to frequency of operation, change in Board and change in the type (s) of products and / or market strategy.
  - (iv) The institution becomes aware that it lacks sufficient information about an existing Client.
- (b) MIIF shall ensure that all its clients and / or business relationships are properly identified in accordance with the criteria indicated in this manual for both new and existing Clients.

- (c) The Clients' identification records shall be made available to the AML/CFT Compliance Officer, other appropriate Staff and relevant authorities upon request.

## **11. SPECIAL CONSIDERATIONS FOR POLITICALLY EXPOSED PERSONS (PEPS)**

- (a) MIIF shall in addition to performing CDD measures, put in place appropriate risk management systems to determine whether a potential Client or existing Clients or the beneficial owner is a PEP by insisting that Client disclose their employment details.
- (b) PEPs, in this Manual refers to individuals who are or have been entrusted with prominent public functions both in Ghana and foreign countries and those associated with them.
- (c) Examples of a PEP includes, but is not limited to the following:
  - (i) Head of State;
  - (ii) Minister of State;
  - (iii) Politicians;
  - (iv) High ranking political party officials;
  - (v) A legal entity belonging to a PEP;
  - (vi) Senior public officials;
  - (vii) Senior judicial officials;
  - (viii) Senior military officials;
  - (ix) Chief Executive of Stated Owned Enterprises; and
  - (x) Family member or close associate of a PEP.
- (d) Additionally, MIIF Staff should exercise extra care and curiosity in establishing business relationships with Clients who are PEPs.
- (e) Where MIIF enters into a business relationship with PEPs, MIIF shall conduct enhanced ongoing monitoring of that relationship. In the event of any transaction that is abnormal, MIIF shall flag the account and report immediately to the FIC.
- (f) Where MIIF has an existing business relationship with a Client who is subsequently found to be or becomes a PEP, MIIF shall obtain Management's approval in order to continue the business relationship.
- (g) MIIF shall report all anomalies it discovers in connection with the business of its Clients who are PEPs to the FIC.

## **12. RELIANCE ON INTERMEDIARIES AND THIRD PARTIES ON CDD FUNCTIONS**

- (a) Where MIIF relies on a third party for documentation relating to CDD for non-face-to-face relationship and transaction, it shall be included in the MoU or Agreement signed with the third party to the effect that the third party shall immediately provide the necessary information in event of Money Laundering concerning property which has been laundered or which constitutes proceeds from, instrumentalities used in and intended for use in the commission of Money Laundering and financing of terrorism or other predicate offences.
- (b) MIIF shall satisfy itself that copies of identification data and other relevant documentation relating to the CDD requirements will be made available by the third party upon request without delay. This should be incorporated into the MoU or Agreement signed with the third party.
- (c) MIIF shall be satisfied that the third party is a regulated institution with measures in place to comply with requirements of CDD before entering into any partnership /collaboration with the institution involving product and service offerings.
- (d) MIIF shall also ensure that adequate KYC provisions are applied to the third party in order to get account information for competent authorities as and when required.

## **13. MAINTENANCE OF RECORDS ON TRANSACTIONS**

MIIF shall be guided by the following policies in respect of records keeping on Clients and transactions:

- (a) Maintain all necessary records of transactions, both domestic and international, for at least five (5) years following completion of the transaction (or longer if requested by the SEC and FIC in specific cases). This requirement applies regardless of whether the account or business relationship is ongoing or has been terminated.
- (b) All other records covering equity investments shall remain until MIIF exits the investment. MIIF shall however maintain the records for at least five (5) years after exit.
- (c) Maintain records of the identification data, account files and business correspondence for at least five (5) years following the termination of an account or business relationship (or longer if requested by the SEC and FIC in specific cases).

- (d) Ensure that all Clients' transaction records and information are made available on a timely basis to the SEC and FIC.
- (e) Some of the necessary components of transaction-records to be kept include Clients' and beneficiary's names, addresses (or other identifying information normally recorded by the intermediary), the nature and date of the transaction, the type and amount of currency involved, the type and identifying number of any account involved in the transaction.

#### **14. COMPLEX AND UNUSUALLY LARGE TRANSACTIONS**

- (a) It is the responsibility of all MIIF Management and Staff involved in processing and approving Client transactions to pay special attention to all complex, unusually large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose.
- (b) Such transactions or patterns of transactions include:
  - (i) Significant transactions relative to a relationship;
  - (ii) Transactions that exceed certain limits. This will be monitored by an AML monitoring program which will interface with the other clients' management software of the firm;
  - (iii) Very high account turnover inconsistent with the size of the account balance; and
  - (iv) Transactions which fall out of the regular pattern of the account's activity.
- (c) The AMLRO shall examine as far as possible the background and purpose for such transactions and set forth their findings in writing to the SEC and FIC.
- (d) Any finding from above shall be kept available for SEC, FIC, and other relevant authorities and auditors for at least five (5) years.

#### **15. COMPLIANCE, MONITORING AND RESPONSE TO SUSPICIOUS TRANSACTIONS**

##### **15.1 Institutional Policy**

- (a) MIIF shall disseminate to the relevant Staff, a checklist of transactions of various patterns of conduct that have been known to be suggestive of Money Laundering.
- (b) When any Staff of MIIF detects any "red flag" or suspicious Money Laundering activity, the Staff is required to immediately inform the AMLRO who will then investigate the activity or transaction and report to FIC if necessary.

- (c) MIIF shall promptly constitute a "Review Panel" under the supervision of the AMLRO. Every action taken shall be recorded. The composition of the Review Panel shall be proposed by the AMLRO and approved by the Chief Executive Officer.
- (d) MIIF Staff shall maintain confidentiality in respect of such investigation and any suspicious transaction report that may be filed with the relevant authority. This policy is to avoid any breach of the provision of the Anti-Money Laundering Act which criminalizes the act of "tipping off" (i.e., doing or saying anything that might tip off someone else that he is under suspicion of Money Laundering).
- (e) Where MIIF suspects or has reason to suspect that funds are the proceeds of a criminal activity or are related to terrorist financing, a suspicious transaction report shall be submitted to the FIC within twenty-four (24) hours after the knowledge or suspicion was formed. All suspicious transactions, including attempted transactions, shall be reported regardless of the amount involved. This requirement applies regardless of whether the transactions involve tax matters or other things.
- (f) MIIF Directors, Officers and Employees (permanent and temporary) are prohibited from disclosing the fact that a report is required to be filed with the relevant authorities.

## **15.2 Internal controls, compliance and audit**

- (a) As part of MIIF's policies and programs against Money Laundering and Terrorist Financing, the following activities shall be championed by the AMLRO:
  - (i) Develop for approval by Management, internal policies, procedures and controls, including appropriate compliance management arrangement and adequate screening procedures to ensure high standards when hiring employees.
  - (ii) Undertake on an ongoing basis employee training program, to ensure that employees are kept informed of new developments, including information on current Money Laundering and Terrorist Financing techniques, methods and trends; and that there is a clear explanation of all aspects of AML/CFT laws and obligations, and in particular, requirements concerning CDD and suspicious transaction reporting.
- (b) MIIF shall ensure that it adequately resources the Internal Auditor to undertake an independent audit function to test compliance with the procedures, policies and controls relating to Money Laundering and Terrorist Financing.

- (c) It is a policy of MIIF to ensure the independence of the AMLRO in the discharge of his/her duties. To this end, the AMLRO reports to the Board and shall be reviewed by only the Chief Executive Officer or his appointed representative of an Executive Committee (EXCO) position and the Head of Legal and Compliance Department.

## **16. STATEMENT ON SHELL BANKS**

- (a) These are banks which have no physical presence in any country. Shell banks are prohibited from operating in Ghana as provided in the Companies Act, 2019 (Act 992) and other relevant legislation.
- (b) MIIF shall not therefore establish relationships with high-risk foreign banks (e.g., offshore banks) with no physical presence in any country or with companies that permit their accounts to be used by such banks.

## **17. SUSPICIOUS TRANSACTIONS “RED FLAGS”**

### **17.1 Potential Transactions Perceived or Identified as Suspicious**

- (a) All Staff are required to regard the following as potential suspicious transaction red flags:
  - (i) Transactions involving high-risk countries vulnerable to Money Laundering, subject to this being confirmed.
  - (ii) Transactions involving shell companies/banks.
  - (iii) Transactions with correspondents that have been identified as higher risk.
- (b) Large transaction activity involving monetary instruments such as traveler’s cheques, bank drafts, money order, particularly those that are serially numbered.
- (c) Transaction activity involving amounts that are just below the stipulated reporting threshold or enquiries that appear to test an institution’s own internal monitoring threshold or controls.

### **17.2 Terrorist Financing “Red flags”**

Terrorist financing ‘red flags’ occur when:



- (a) Persons involved in a transaction share an address or phone number, particularly when the address is also a business location or does not seem to correspond to the stated occupation (e.g., student, unemployed, or self-employed).
- (b) Securities transaction by a non-profit or charitable organization, for which there appears to be no logical economic purpose or for which there appears to be no link between the stated activity of the organization and other parties in the transaction.
- (c) Large volume of securities transactions through a business account, where there appears to be no logical business or other economic purpose for the transfers, particularly when this activity involves designated high-risk locations.
- (d) The stated occupation of the Client is inconsistent with the type and level of account activity.
- (e) Multiple personal and business accounts or the accounts of non-profit organizations or charities that are used to collect and channel securities to a small number of foreign beneficiaries.
- (f) Funds generated by a business owned by persons of the same origin or by a business that involves persons of the same origin from designated high-risk countries.

### **17.3 Other Unusual or Suspicious Activities – Employees**

These may include but not limited to:

- (a) Employee exhibits a lavish lifestyle that cannot be justified by his/her salary.
- (b) Employee failure to comply with approved operating guidelines.
- (c) Employee's reluctance to take a vacation.
- (d) Client uses a personal account for business purposes.

### **17.4 Attention to higher risk countries**

- (a) MIIF shall give special attention to business relationships and transactions with persons (including legal persons and other CMOs) from or in countries which do not or insufficiently apply the FATF Recommendations.

- (b) The list of countries who do not or insufficiently apply the FATF Recommendation will be monitored regularly by the **AMLRO and communicated to Staff every quarter.**
- (c) MIIF shall report, as stated below, transactions that have no apparent economic or visible lawful purpose. The background and purpose of such transactions shall, as far as possible, be examined and written findings made available to assist competent authorities such as the SEC, FIC, auditors and law enforcement agencies (LEAs) to carry out their duties.
- (d) Where MIIF conduct business with foreign institutions which do not continue to apply or insufficiently apply the provisions of FATF Recommendations, MIIF shall take the following measures:
  - (i) MIIF shall develop stringent requirements for identifying Clients and enhancement of advisories, including jurisdiction-specific financial advisories to MIIF for identification of the beneficial owners before business relationships are established with individuals or companies from that jurisdiction;
  - (ii) Enhance relevant reporting mechanisms or systematic reporting of cross border securities transactions on the basis that financial transactions with such countries are more likely to be suspicious; and
  - (iii) Warn non-financial sector businesses that transactions with natural or legal persons within that country might run the risk of Money Laundering, limiting business relationships or financial transactions with the identified country or persons in that country.

## **18. AML/CFT EMPLOYEE-EDUCATION AND TRAINING PROGRAMME**

- (a) MIIF shall have a comprehensive employee education and training program not only to make employees fully aware of their obligations but also to equip them with relevant skills required for the effective discharge of their AML/CFT tasks.
- (b) The timing, coverage and content of the employee training program shall be tailored to meet the perceived needs of the various units/ Departments in MIIF.
- (c) Subject to statutory requirements, the AMLRO shall submit quarterly reports to the Board on MIIF's level of compliance.
- (d) The employee training programs required shall be developed under the guidance of the AMLRO in collaboration with Management. The basic elements of the employee training program are expected to include:
  - (i) AML regulations and offences;

- (ii) The nature of Money Laundering;
  - (iii) New development on current trends, methods and techniques in relation to Money Laundering, Terrorist Financing, tax evasion or any other unlawful activity;
  - (iv) Money Laundering 'red flags' and suspicious transactions, including trade-based Money Laundering typologies;
  - (v) Reporting requirements;
  - (vi) Client/ Investment due diligence;
  - (vii) Risk-based approach to AML/CFT; and
  - (viii) Record keeping and retention policy.
- (e) MIIF shall submit its Annual AML/CFT Employee training program to the Board not later than the 31st of December every financial year for the subsequent year.

## **19. PROTECTION OF STAFF WHO REPORT VIOLATIONS**

- (a) MIIF shall also adequately make it possible for employees to report any violations of the institution's AML/CFT compliance program to the AMLRO. Where the violations involve the AMLRO or other Compliance Officers, employees are required to report such to a designated higher authority such as the Head, Internal Audit and Risk Management/ Chief Executive Officer.
- (b) MIIF shall inform its employees in writing to make such reports confidential and assure them of protection against victimization that could result from same.

## **20. ADDITIONAL AREAS OF AML/CFT RISKS**

- (a) MIIF shall regularly review, identify and record other areas of potential Money Laundering risks.
- (b) MIIF shall review its AML/CFT frameworks from time to time with a view to determining their adequacy and identifying other areas of potential risks not covered by the AML/CFT Compliance Manual.

## **21. TESTING FOR THE ADEQUACY OF THE AML/CFT COMPLIANCE**

- (a) MIIF shall regularly subject its AML/CFT Compliance Program to independent-testing or require its internal audit function to determine its adequacy, completeness and effectiveness.

- (b) MIIF shall ensure that any independent testing conducted in respect of this Manual shall be performed by qualified AML/CFT experts.
- (c) Report of compliance shall be submitted to SEC and FIC by 31st December in the year of the review. Any identified weaknesses or inadequacies shall be promptly addressed by the Management of MIIF.

## **22. FORMAL BOARD APPROVAL OF THE AML/CFT COMPLIANCE**

- (a) The ultimate responsibility for AML/CFT compliance is placed on the Board of MIIF. The Board therefore has the final authority in determining the adequacy of this Manual.
- (b) The Board shall approve the Manual for implementation.
- (c) All subsequent updates to the Manual shall also be approved by the Board.
- (d) Quarterly reports on the AML/CFT-compliance status of MIIF shall be presented to the Board for its information and necessary action.

## **23. TERRORIST FINANCING OFFENCES**

- (a) Terrorist Financing offences extend to any person who willfully provides or collects funds by any means, directly or indirectly, with the unlawful intention that they shall be used or in the knowledge that they are to be used in full or in part to carry out a terrorist act.
- (b) Terrorist Financing offences are extended to any funds whether from a legitimate or illegitimate source. Terrorist financing offences therefore do not necessarily require that the funds are used to carry out or attempt a terrorist act or be linked to a specific terrorist act. Attempt to finance terrorist/terrorism and to engage in any of the types of conduct as set out above is also an offence.
- (c) Terrorist Financing offences are predicate offences for Money Laundering and therefore apply, regardless of whether the person alleged to have committed the offence is in the same country or a different country from the one in which the terrorist/ terrorist organization is located, or the terrorist act occurred or is expected to occur.

## **24. CULTURE OF COMPLIANCE**

MIIF shall ensure that a comprehensive AML/CFT compliance program exists to guide its compliance efforts and to ensure the diligent implementation of this Manual through

regular training and re-training programs, punishment of Staff that break the provisions of this Manual, recognize those who uphold the contents of the Manual, etc.

### **PART 3**

## **25. GUIDANCE ON KNOW YOUR CUSTOMER (KYC)**

- (a) MIIF shall not establish a business relationship until all relevant parties to the relationship have been identified and the nature of the business they intend to conduct ascertained.
- (b) Once an on-going business relationship is established, any inconsistent activity should be examined to determine whether or not there is an element of Money Laundering for suspicion.

### **25.1 Duty to obtain identification evidence**

- (a) MIIF shall satisfy itself that a prospective Client is who he/she claims to be.
- (b) Where the Client is acting on behalf of another or the investment to be made by MIIF shall be held in the name of another entity, then MIIF shall verify the identity of both the Client(s) and the agent/trustee **unless the Client is a Ghanaian regulated CMO.**
- (c) MIIF shall obtain evidence in respect of its Clients.
- (d) MIIF shall identify all relevant parties to the relationship from the onset by obtaining satisfactory identification evidence as provided in this Manual.

### **25.2 Nature and Level of the Business**

- (a) MIIF shall obtain sufficient information on the nature of the business that its Client intends to undertake, including the expected or predictable pattern of transactions.
- (b) Information obtained during any meeting, discussion or other communication with the Client shall be recorded and kept in the Client's file to ensure, as far as practicable, that current clients' information is readily accessible to the Anti-Money Laundering Reporting Officers (AMLRO) or relevant regulatory bodies.

### **25.3 Applying Commercial Judgment**

- (a) MIIF shall adopt a risk-based approach to the 'Know Your Client' requirement and decide the number of times to verify the Clients' records during the relationship, the identification evidence required and when additional checks are necessary.

- (b) The identification of evidence collected at the onset shall be viewed against the inherent risks in the business or service.

## **26. ESTABLISHING IDENTITY**

The general principles for establishing the identity of both legal and natural persons and obtaining satisfactory identification evidence set out in this Manual are by no means exhaustive.

### **26.1 Identification Evidence**

- (a) MIIF shall establish the identity of the Client with a view to obtaining satisfaction that the prospective Client is who she/he claims to be.
- (b) The information obtained shall be updated when necessary. A risk-based approach shall be adopted in this exercise.
- (c) Elements of perceived risk include, source of funds, mode of payment, whether the application is done by face- to- face or by a remote medium like telephone, fax, post or internet.
- (d) The Client's identification process shall not start and end at the point of establishing the relationship but continue as far as the business relationship subsists.

### **26.2 What is Identity?**

- (a) Identity generally means a set of attributes such as names used, physical features, date of birth, and place of birth, nationality and the residential address at which the Client can be located. These are features which can uniquely identify a natural or legal person.
- (b) In the case of a natural person, the date of birth is required to be obtained as an important identifier in support of the name. It is, however, not mandatory to verify the date of birth provided by the Client.
- (c) Where an international passport/national identity card is taken as evidence of identity, the number, date and place/country of issue (as well as expiring date in the case of international passport) are required to be recorded.

### **26.3 When Must Identity be verified?**

- (a) Identity shall be verified whenever a business relationship is to be established, on account opening or during a one-off transaction or when a series of linked transactions take place.
- (b) "Transaction" in this Manual is defined to include the giving of advice. The "advice" here does not apply when information is provided about the availability of products or services nor applies when a first interview/discussion prior to establishing a relationship takes place.
- (c) Once identification procedures have been satisfactorily completed and the business relationship established, as long as contact or activity is maintained and records concerning that Client are complete and kept, no further evidence of identity is needed when another transaction or activity is subsequently undertaken.

### **26.4 Whose Identity Must Be Verified?**

- (a) Clients: Sufficient evidence of identity must be obtained by MIIF to ascertain that the Client is the very person he/she claims to be.
- (b) A person acting on behalf of others: MIIF shall obtain sufficient evidence of identities of the two (2) persons involved.
- (c) There is no obligation to look beyond the Client where:
  - (i) The Client is acting on his/her own account (rather than for a specific client or group of clients);
  - (ii) The Client is a bank, broker-dealer, fund manager or any other regulated CMO, or financial institutions; and
  - (iii) All the businesses are to be undertaken in the name of a regulated CMO or financial institution.
- (d) In other circumstances, unless the Client is a regulated CMO or financial institution acting as agent on behalf of one or more underlying clients within Ghana, and has given written assurance that it has obtained the recorded evidence of identity to the required standards, identification evidence shall be verified for:
  - (i) The named account holder/person in whose name an investment is registered;
  - (ii) Any principal beneficial owner of the company being invested in who is not the account holder or named investor;

- (iii) The principal controller(s) of an account or business relationship (i.e., those who regularly provide instructions); and
  - (iv) Any intermediate parties (e.g., where an account is managed or owned by an intermediary).
- (e) MIIF shall take appropriate steps to identify directors and all the signatories to an account.
- (f) Joint applicants/account holders - identification evidence shall be obtained.
- (g) For higher risk businesses undertaken for private companies (i.e., those not listed on the stock exchange) sufficient evidence of identity and address shall be verified in respect of:
  - (i) The principal underlying beneficial owner(s) of the company with five per cent (5%) interest and above; and
  - (ii) Those with principal control over the company's assets (e.g., principal controllers/ directors).
- (h) MIIF Staff should be alert to circumstances that might indicate any significant changes in the nature of the business or its ownership and make enquiries accordingly and to observe the additional provisions for Higher Risk Categories of clients under the AML/CFT directive in this Manual.
- (i) For a Trust, MIIF shall obtain and verify the identity of those providing funds for the Trust. They include the settlor and those who are authorized to invest, transfer funds or make decisions on behalf of the Trust such as the principal Trustees and controllers who have the power to remove the Trustees.

## 26.5 Timing of Identification Requirements

- (a) The appropriate time frame for obtaining satisfactory evidence of identity depends on the nature of the business, the geographical location of the parties and whether it is possible to obtain and verify the evidence of identity before commitments are entered into or investment is made by MIIF.
- (b) However, **any occasion when business is conducted before satisfactory evidence of identity has been obtained shall be exceptional and can only be those circumstances justified with regard to the risk.**
- (c) To this end, MIIF shall:
  - (i) Obtain identification evidence as soon as reasonably practicable after it has contact with a Client with a view to agreeing with the Client to carry out



- an initial transaction; or reaching an understanding (whether binding or not) with the Client that it may carry out future transactions; and
- (ii) Where the Client does not supply the required information as stipulated in (a) above, MIIF shall discontinue any activity it is conducting for the client; and bring to an end any understanding reached with the Client.
- (d) MIIF Staff shall observe the provision in the timing of Verification under the AML/CFT directive of this Manual.
  - (e) Subject to point 2 above, Staff may however start processing the transaction or application immediately, provided that:
    - (i) The Staff promptly takes appropriate steps to obtain identification evidence; and
    - (ii) There shall not be any transfer or payment of money out to a third party until the identification requirements have been satisfied.
  - (f) The failure or refusal by an applicant to provide satisfactory identification evidence within a reasonable timeframe without adequate explanation may lead to a suspicion that the depositor or investor is engaged in Money Laundering.
  - (g) The AMLRO shall, as a result of point 6 above, make suspicious transaction reports to FIC based on the information in its possession before the funds involved are returned to the potential Client or where they came from.
  - (h) MIIF shall respond promptly to inquiries made by SEC/FIC/Other investigative bodies of the State relating to the identity of its Clients.

## **26.6 Cancellation & Cooling-Off Rights**

- (a) Where an investor exercises cancellation rights or cooling-off rights, the sum invested must be repaid subject to some deductions, where applicable.
- (b) Since cancellation/cooling-off rights could offer a readily available route for laundering money, Staff should be alert to any abnormal exercise of these rights by an investor or in respect of business introduced through an intermediary. **In the event where abnormal exercise of these rights becomes apparent, the matter shall be treated as suspicious and reported to the Board and FIC.**

## **26.7 Redemptions/Surrenders**

In the case of redemption or surrender of an investment (wholly or partially), MIIF shall take reasonable measures to establish the identity of the investor where payment is made to:

- (a) The legal owner of the investment by means of a cheque crossed "account payee";  
or
- (b) A bank account held (solely or jointly) in the name of the legal owner of the investment by any electronic means effective for transferring funds.

## **27. IDENTIFICATION PROCEDURES**

### **27.1 General Principles**

- (a) MIIF shall ensure that it is dealing with a person (natural, artificial or legal) by obtaining sufficient identification evidence.
- (b) Where reliance is being placed on a third party to identify or confirm the identity of an applicant, the overall responsibility for obtaining satisfactory identification evidence rests with MIIF.
- (c) The procedures adopted to verify the identity of private individuals and whether identification was done face to face or remotely are required to be stated in the Client's file.
- (d) The reasonable steps taken to avoid single, multiple fictitious applications or substitution (impersonation) fraud shall be stated by the Staff in the Client's file.
- (e) An introduction from a respected Client, a person personally known to MIIF often provides comfort but must not replace the need for identification evidence requirements to be complied with as set out in this Manual.
- (f) Details of the person who initiated and authorized the introduction shall be kept in the Client's mandate file along with other records. It is therefore mandatory that MIIF's Staff shall insist on following the prescribed identification procedures for every investment the Fund makes.

### **27.2 Certification of Identification Documents**

- (a) In order to guard against the dangers of postal-interception and fraud, prospective Client or investments shall not be asked to send by post originals of their valuable personal identity documents such as international passport, identity card, driving license, etc.
- (b) Where there is no face-to-face contact with the Client and documentary evidence is required, copies certified by a Notary public/court of competent jurisdiction,

senior civil or public servant, a commissioned officer of the Ghana Armed Forces-Captain and above or persons of equivalent rank in other security services, a registered medical practitioner, a solicitor or barrister or other recognized professionals registered with their respective regulating bodies shall be obtained. The person undertaking the certification must be known and capable of being contacted if necessary.

- (c) In the case of foreign nationals, the copy of international passport, national identity card or documentary evidence of his/her address is required to be certified by:
  - (i) The embassy, consulate or high commission of the country of issue or;
  - (ii) Senior official within the account opening institution or;
  - (iii) Notary public/court of competent jurisdiction
- (d) Certified copies of identification evidence are to be stamped, dated and signed "original sighted by a Senior Officer of the MIIF Legal and Compliance Department. Where this is not possible, a copy of evidence certified as providing a good likeness of the applicant could only be acceptable in the interim, which shall not exceed the period of thirty (30) working days.

### **27.3 Recording Identification Evidence**

- (a) Records of the supporting evidence and methods used to verify identity are required to be retained for a minimum period of five (5) years after the account is closed or the business relationship ended.
- (b) Where the supporting evidence could not be copied at the time it was presented, the reference numbers and other relevant details of the identification evidence are required to be recorded to enable the documents to be obtained later. Confirmation is required to be provided that the original documents were seen by certifying either on the photocopies or on the record that the details were taken down as evidence.
- (c) Where checks are made electronically, a record of the actual information obtained or of where it can be re-obtained must be retained as part of the identification evidence. Such records will make the reproduction of the actual information that would have been obtained before less cumbersome.

27.4 Documenting Evidence of Identity In order to guard against forged or counterfeit documents, care shall be taken to ensure that documents offered are originals. Copies dated and signed 'original seen' by a senior public servant or equivalent in a reputable private organization could be accepted in the interim, pending presentation of the original documents.

The following are examples of suitable documentary evidence for Ghanaian resident private individuals:

**Personal Identity Documents:**

- (a) Valid Passport
- (b) Residence Permit issued by the Immigration Authorities
- (c) Current Driving Licence issued by the Driver and Vehicle Licensing Authority (DVLA)
- (d) Birth Certificate/Sworn Declaration of Age
- (e) National Identity card

**Documentary Evidence of Address:**

- (a) Record of home visit in respect of non-Ghanaians;
- (b) Confirmation from the electoral register that a person of that name lives at that address;
- (c) Recent utility bill (e.g., Electricity Company of Ghana (ECG), Ghana Water Company Limited (GCWL), telephone etc.);
- (d) Current driving license issued by DVLA;
- (e) Bank statement or passbook containing current address;
- (f) Solicitor's letter confirming recent house purchase or search report from the Lands Commission;
- (g) Tenancy Agreement; and
- (h) Search reports on prospective client's place of employment and residence signed by a senior officer of MIIF.

**28. CHECKING TELEPHONE DIRECTORY**

Checking of a local or national telephone directory can be used as additional corroborative evidence but not as a primary check.

**29. PHYSICAL CHECKS ON PRIVATE INDIVIDUALS RESIDENT IN GHANA**

- (a) It is mandatory for MIIF to establish the true identities and addresses of its Clients and for effective checks to be carried out to guard against substitution of identities by Client.
- (b) Additional confirmation of the Client's identity and the fact that the application was made by the person identified shall be obtained through one or more of the following procedures:
  - (i) A direct mailing of account opening documentation to a named individual at an independently verified address;

- (ii) An initial deposit cheque drawn on a personal account in the Client's name by another CMO in Ghana;
  - (iii) Telephone contact with the Client prior to opening the investment account or establishing the relationship.
- (c) MIIF shall ensure that additional information concerning the nature and level of the business to be conducted and the origin of the funds to be used within the relationship are also obtained from the Client.

### **30. ELECTRONIC CHECKS**

- (a) As an alternative or supplementary to documentary evidence of identity and address, the Client's identity, address and other available information may be checked electronically by accessing other databases or sources. Each source may be used separately as an alternative to one or more documentary checks.
- (b) MIIF shall use a combination of electronic and documentary checks to confirm different sources of the same information provided by Clients.
- (c) In respect of electronic checks, confidence as to the reliability of information supplied will be established by the cumulative nature of checking across a range of sources, preferably covering a period or through qualitative checks that assess the validity of the information supplied. The number or quality of checks to be undertaken will vary depending on the diversity as well as the breadth and depth of information available from each source. Verification that the Client is the data-subject also needs to be conducted within the checking process.
- (d) Some examples of suitable electronic sources of information are as follows:
  - (i) An electronic search of the Electoral Register and biometric passport database– Give (is not to be used as a sole identity and address check);
  - (ii) Access to internal or external account database; and
  - (iii) An electronic search of public records, where available.
- (e) MIIF shall put in place internal procedures for the identification of socially but financially disadvantaged persons.
- (f) Where MIIF has reasonable grounds to conclude that an individual Client is not able to produce the detailed evidence of his identity and cannot reasonably be expected to do so, MIIF may accept as identification evidence a letter or statement from a person in a position of responsibility such as solicitors, doctors, ministers of religion and teachers who know the Client, confirming that the Client is who he says he is, and his permanent address.

- (g) Where a letter/statement is accepted from a professional person, it shall include a telephone number where the person can be contacted for verification. MIIF may verify from an independent source the information provided by the professional person.
- (h) To guard against "financial exclusion" and to minimize the use of the exception procedure, a MIIF shall include in the internal procedures the "alternative documentary evidence of personal identity and address" that can be accepted.

## **31. IDENTIFICATION PROCEDURES FOR CLIENTS NOT RESIDENT IN GHANA**

### **31.1 Private Individuals not resident in Ghana**

- (a) For prospective Clients or its management, decision makers, directors and beneficial owners who are not resident in Ghana but who make face -to- face contact, international passports or national identity cards shall generally be available as evidence of the name of the Clients.
- (b) Reference numbers, date and country of issue shall be obtained, and the information recorded in the Client's file as part of the identification evidence.
- (c) MIIF shall obtain separate evidence of the applicant's permanent residential address for the best available evidence, preferably from an official source. A "P.O. Box number" alone is not accepted as evidence of address. The applicant's residential address shall be such that it can be physically located.
- (d) Relevant evidence shall also be obtained by MIIF directly from the Client or through a reputable credit or CMO in the applicant's home country or country of residence. However, particular care shall be taken when relying on identification evidence provided from other countries. MIIF shall ensure that the Client's true identity and current permanent address are actually confirmed. In such cases, copies of relevant identity documents shall be sought and retained.

## **32. INFORMATION TO OBTAIN FROM CLIENT TO ESTABLISH IDENTITY**

### **32.1 Obtaining information on natural persons**

For natural persons the following information shall be obtained, where applicable:

- (a) Legal name and any other names used (such as maiden name);
- (b) Correct permanent address (full address shall be obtained as a Post Office box number is not sufficient);

- (c) Telephone number, fax number, and e-mail address;
- (d) Date and place of birth;
- (e) Nationality;
- (f) Occupation, public position held and name of employer;
- (g) An official personal identification number or other unique identifier contained in an unexpired official document such as passport, identification card, residence permit, social security records or driving license that bears a photograph of the Clients;
- (h) Signature.

### **32.2 Verification of information on natural persons**

- (a) MIIF shall verify information obtained from a Client in establishing his/her identity, by at least one of the following methods:
  - (i) Confirming the date of birth from an official document (e.g., birth certificate, passport, identity card, social security records);
  - (ii) Confirming the permanent address (e.g., utility bill, tax assessment, bank statement, a letter from a public authority);
  - (iii) Contacting the Client by telephone, by letter or e-mail to confirm the information supplied after an account has been opened (e.g., a disconnected phone, returned mail, or incorrect e-mail address shall warrant further investigation);
  - (iv) Confirming the validity of the official documentation provided through certification by an authorized person (e.g., embassy official, notary public).
  - (v) Such other documents of an equivalent nature may be produced as satisfactory evidence of clients' identity.
- (b) MIIF shall apply effective client identification procedures for non-face-to-face clients as for those available physically.

### **33. ASSESSMENT OF RISK PROFILE OF NATURAL PERSONS**

- (a) From the information provided, MIIF shall make an initial assessment of a Client's risk profile.

- (b) Particular attention needs to be focused on those Clients identified as having a higher risk profile. Additional inquiries made or information obtained in respect of those clients shall include the following:
  - (i) Evidence of an individual's permanent address sought through a credit reference agency search, or through independent verification by home visits;
  - (ii) Personal reference (i.e., by an existing client of the same institution);
  - (iii) Prior Client bank reference and contact with the bank regarding the Client;
  - (iv) Source of wealth;
  - (v) Verification of employment, public position held (where appropriate).
- (c) The Client acceptance policy shall not be so restrictive to amount to a denial of access by the general public to Securities transactions, especially for people who are financially or socially disadvantaged.

#### **34. OBTAINING INFORMATION ON INSTITUTIONS**

34.1 The term institution includes any entity that is not a natural person.

34.2 In considering the Client's identification guidance for the different types of institutions, particular attention shall be given to the different levels of risk involved.

34.3 For corporate entities (i.e., corporations and partnerships), the following information shall be obtained:

- (a) Registered name of institution and registered number;
- (b) Registered address and any separate principal place of institution's business operations;
- (c) Mailing address of institution;
- (d) Contact telephone and fax numbers;
- (e) Some form of official identification number, if available (e.g., Tax identification number);
- (f) The original or certified copy of the Certificate of Incorporation, Certificate to commence business and the Constitution (if available);



- (g) The resolution of the Board of Directors to open an account and identification of those who have authority to operate the account;
- (h) Nature and purpose of business and its legitimacy.
- (i) Particulars of shareholders (twenty per cent (20%) or more) and at least two (two) resident directors.

34.4 MIIF Staff shall verify the information (obtained above) by at least one of the following methods:

- (a) For established corporate entities -reviewing a copy of the latest annual report and financial statements (audited, if available);
- (b) Conducting an enquiry by a business information service or an undertaking from a reputable and known firm of lawyers or accountants in good standing confirming the documents submitted;
- (c) Undertaking a company search and/or other commercial enquiries to see that the institution has not been, or is not in the process of being dissolved, struck off, wound up or terminated;
- (d) Utilizing an independent information verification process, such as accessing public and private databases established under law;
- (e) Obtaining prior bank references;
- (f) Visiting the corporate entity; and
- (g) Contacting the corporate entity by telephone, mail or e-mail.

34.5 MIIF shall also take reasonable steps to verify the identity and reputation of any agent that opens an account on behalf of corporate Clients, if that agent is not an officer of the corporate Client.

### **35. OBTAINING AND VERIFYING INFORMATION ON CORPORATIONS/PARTNERSHIPS**

- (a) For corporations/partnerships, the principal guidance is to identify those who have control over the business and the company's/partnership's assets, including those who have ultimate control.

- (b) For corporations, particular attention shall be paid to shareholders, signatories, or others who inject a significant proportion of capital or financial support or otherwise exercise control. Where the owner is another CMO or Trust, the objective is to undertake reasonable measures to look behind that company or entity and to verify the identity of the principals.
- (c) What constitutes control for this purpose will depend on the nature of a company and may rest in those who are mandated to manage the funds, accounts or investments without requiring further authorization, and who would be in a position to override internal procedures and control mechanisms.
- (d) For partnerships, each partner shall be identified, and it is also important to identify immediate family members that have ownership control.
- (e) Where a company is listed on a recognized securities market or is a subsidiary of such a company then the company itself may be considered to be the principal to be identified. However, consideration shall be given to whether there is effective control of a listed company by an individual, small group of individuals or another corporate entity or trust. If this is the case, then those controllers shall also be considered to be principals and identified accordingly.

## **36. OBTAINING INFORMATION ON OTHER TYPES OF OPERATORS**

36.1 The following information shall be obtained in addition to that required to verify the identity of the principals in respect of Retirement Benefit Programmes, Mutuals /Friendly Societies, Cooperatives and Provident Societies, Charities, Clubs and Associations, Trusts and Foundations and Professional Intermediaries:

- (a) Mailing address;
- (b) Contact telephone and fax numbers;
- (c) Some form of official identification number, such as tax identification number;
- (d) Description of the purpose/activities of the account holder as stated in a formal constitution; and
- (e) Copy of documentation confirming the legal existence of the account holder such as an extract or an official search report from the appropriate regulatory institution.

### **36.2 Verification of information of other types of operators**

- (a) MIIF shall verify this information by at least one of the following:

- (b) Obtaining an independent undertaking from a legal practitioner or Chartered Accountant confirming the documents submitted;
- (c) Obtaining prior bank references; and
- (d) Accessing public and private databases or official sources.

**37. OBTAINING INFORMATION ON MUTUAL/FRIENDLY, COOPERATIVE AND PROVIDENT SOCIETIES**

Where these entities are Clients', the principals to be identified shall be considered to be those persons exercising control or significant influence over the organization's assets. This often includes Board members, executives and account signatories.

**38. OBTAINING INFORMATION ON CHARITIES, CLUBS AND ASSOCIATIONS**

- (a) In the case of accounts to be opened for charities, clubs, and societies, MIIF shall take reasonable steps to identify and verify at least two signatories along with the operator itself.
- (b) The principals who shall be identified shall be considered to be those persons exercising control or significant influence over the organization's assets. This includes members of the governing body or committee, the President, Board members, the Treasurer, and all signatories.
- (c) In all cases, independent verification shall be obtained that the persons involved are true representatives of the operators.

**39. OBTAINING INFORMATION ON TRUSTS AND FOUNDATIONS**

When opening an account for a Trust, MIIF shall take reasonable steps to verify the trustees, the settlor (including any persons settling assets into the trust), any protector, beneficiary and signatories. Beneficiaries shall be identified when they are defined. In the case of a foundation, steps shall be taken to verify the founder, the managers/directors and the beneficiaries.

**40. OBTAINING INFORMATION ON PROFESSIONAL INTERMEDIARIES**

- (a) When a professional intermediary opens a client account on behalf of a single client, that client must be identified.

- (b) Professional intermediaries will often open "pooled" accounts on behalf of a number of entities. Where funds held by the intermediary are not co-mingled but where there are "sub-accounts" which can be attributable to each beneficial owner, all beneficial owners of the account held by the intermediary shall be identified.
- (c) Where the funds are co-mingled, MIIF shall look through to the beneficial owners. However, there may be circumstances that MIIF may not look beyond the intermediary (e.g., when the intermediary is subject to the same due diligence standards in respect of its client base as the MIIF).

#### **41. OBTAINING INFORMATION ON COLLECTIVE INVESTMENT SCHEMES AND LIMITED PARTNERSHIPS**

Where such circumstances apply and an account is opened for an open or closed ended investment company (unit trust or limited partnership) also subject to the same due diligence standards in respect of its client base as MIIF, the following shall be considered as principals and MIIF shall take steps to identify them:

- (a) The fund itself;
- (b) Its directors or any controlling board (where it is a company);
- (c) Its Trustee (where it is a Unit Trust);
- (d) Its managing (general) partner (where it is a limited partnership);
- (e) Account signatories; and
- (f) Any other person who has control over the relationship such as fund administrator or manager.

#### **42. OBTAINING INFORMATION ON OTHER INVESTMENT VEHICLES**

- (a) Where other investment vehicles are involved, the same steps shall be taken as in above (where it is appropriate to do so). In addition, all reasonable steps shall be taken to verify the identity of the beneficial owners of the funds and of those who have control over the funds.
- (b) Intermediaries shall be treated as individual Clients of MIIF, and the standing of the intermediary shall be separately verified by obtaining the appropriate information itemized above.

#### **43. NON FACE-TO-FACE IDENTIFICATION**

- (a) In view of possible false identities and impersonations that may arise with non face-to-face Clients, additional measures/checks shall be undertaken to supplement the documentary or electronic evidence.
- (b) These additional measures/checks will apply whether the applicant is resident in Ghana or elsewhere and shall be particularly robust where the applicant is requiring a margin facility or other product/service that offers money transmission or third-party payments.
- (c) Procedures to identify and authenticate the Client shall be put in place to ensure that there is sufficient evidence either documentary or electronic to confirm his address and personal identity and to undertake at least one additional check to guard against impersonation and fraud.
- (d) The extent of the identification evidence required will depend on the nature and characteristics of the product or service and the assessed risk.
- (e) If reliance is being placed on intermediaries to undertake the processing of applications on the Client's behalf, checks shall be undertaken to ensure that the intermediaries are regulated for Money Laundering prevention and that the relevant identification procedures are applied. In all cases, evidence as to how identity has been verified shall be obtained and retained with the account opening records.
- (f) MIIF shall conduct regular monitoring of internet-based business/Clients. If a significant proportion of the business is operated electronically, computerized monitoring systems /solutions that are designed to recognize unusual transactions and related patterns of transactions shall be put in place to recognize suspicious transactions.
- (g) The AMLRO shall review these solutions, record exemptions and report same quarterly to the Board.

#### **44. QUASI - CORPORATE CLIENTS**

##### **44.1 Establishing Identity - Trust, Nominees and Fiduciaries**

- (a) Trusts, nominee companies and fiduciaries are popular vehicles for criminals wishing to avoid the identification procedures and mask the origin of the criminal

money they wish to launder. The characteristics of Trusts that attract the genuine clients, the anonymity and complexity of structures that they can provide are also highly attractive to money launderers.

- (b) Identification and “Know Your Clients’ Business” procedures shall be set and managed according to the perceived risk, in trust, nominees and fiduciaries accounts.
- (c) The principal objective for Money Laundering prevention via Trusts, nominees and fiduciaries is to verify the identity of the provider of funds such as the settlor, those who have control over the funds (the trustees and any controller who has the power to remove the trustees). For discretionary or offshore Trust, the nature and purpose of the Trust and the original source of funding must be ascertained.
- (d) Whilst reliance can often be placed on other CMOs that are to undertake the checks or confirm identity, the responsibility to ensure that this is undertaken rests with MIIF. The underlying evidence of identity must be made available to law enforcement agencies in the event of an investigation.
- (e) Identification requirements must be obtained and not waived for any trustee who does not have authority to operate an account and cannot give relevant instructions concerning the use or transfer of funds.

#### **44.2 Offshore Trusts**

- (a) Offshore Trusts present a higher Money Laundering risk and therefore additional measures are needed for Special Purpose Vehicles (SPVs) or International Business Companies connected to Trusts, particularly when Trusts are set up in offshore locations with strict bank secrecy or confidentiality rules. Those created in jurisdictions without equivalent Money Laundering procedures in place shall warrant additional enquiries.
- (b) Unless the Client for business is itself a regulated CMO, measures shall be taken by MIIF to identify the Trust company or the corporate service provider in line with the requirements for professional intermediaries or companies generally.
- (c) Certified copies of the documentary evidence of the identity of the principals such as settlors, controllers, etc. on whose behalf the client for business is acting, shall also be obtained.
- (d) For overseas Trusts, nominee and fiduciary accounts, where the Client is itself a CMO that is regulated for Money Laundering purposes:

- (i) Reliance can be placed on an introductory letter, certificate or license stating that evidence of identity exists for all underlying principals and confirming that there are no anonymous principals;
  - (ii) The trustees/nominees shall be asked to state from the outset the capacity in which they are operating or making the application;
  - (iii) Documentary evidence of the appointment of the current Trustees shall also be obtained.
- (e) Where the underlying evidence is not retained within Ghana, enquiries shall be made to determine, as far as practicable, that there are no overriding bank secrecy or confidentiality constraints that will restrict access to the documentary evidence of identity, should it be needed in Ghana.
- (f) Any application to open an account or undertake a transaction on behalf of another without the Client identifying their Trust or nominee capacity shall be regarded as suspicious and shall lead to further enquiries and submission of reports to the Board or SEC and FIC.
- (g) Where a CMO in Ghana is itself the client to an offshore Trust on behalf of its Clients', if the corporate Trustees are not regulated, then the Ghanaian CMO shall undertake the due diligence on the Trust itself.
- (h) If the funds have been drawn upon an account that is not under the control of the Trustees, the identity of two of the authorized signatories and their authority to operate the account shall also be verified. When the identities of beneficiaries have not previously been verified, verification shall be undertaken when payments are made to them.

#### **44.3 Powers of Attorney and Third-Party Mandates**

- (a) The authority to deal with assets under a Power of Attorney and third-party Mandates constitutes a business relationship.
- (b) Consequently, at the start of the relationship, identification evidence shall be obtained from the holders of powers of attorney and third-party mandates in addition to the clients or subsequently on a later appointment of a new attorney, if advised, particularly within one year of the start of the business relationship.
- (c) New attorney for corporate or Trust business shall always be verified. The most important requirement is for MIIF to ascertain the reason for the grant of the power of attorney.
- (d) Records of all transactions undertaken in accordance with the Power of Attorney shall be maintained as part of the client's record.

#### **44.4 Unincorporated Business/Partnerships**

- (a) Where the Client is an un-incorporated business or a partnership whose principal partners/controllers do not already have a business relationship with MIIF, identification evidence shall be obtained for the principal beneficial owners/controllers. This would also entail identifying one or more signatories in whom significant control has been vested by the principal beneficial owners/controllers.
- (b) Evidence of the trading address of the business or partnership shall be obtained.
- (c) The nature of the business or partnership shall be ascertained (but not necessarily verified from a partnership deed) to ensure that it has a legitimate purpose.
- (d) Where a formal partnership arrangement exists, a mandate from the partnership authorizing the opening of an account or undertaking the transaction and conferring authority on those who will undertake transactions shall be obtained.

### **45. CORPORATE AND INVESTMENT CLIENTS**

#### **45.1 General Principles**

- (a) Complex organizations and their structures, other corporate and legal entities are the most likely vehicles for Money Laundering. Those that usually are privately owned are being fronted by legitimate trading companies. Care shall be taken by Staff in the Legal and Compliance Department of MIIF to verify the legal existence of the Client company from official documents or sources and to ensure that persons purporting to act on its behalf are fully authorized.
- (b) Enquiries shall be made to confirm that the legal person is not merely a "brass-plate company" where the controlling principals cannot be identified.
- (c) The identity of a corporate company comprises:
  - (i) Registration number;
  - (ii) Registered corporate name and any trading names used;
  - (iii) Registered address and any separate principal trading addresses;
  - (iv) Particulars of directors;
  - (v) Owners and shareholders; and



- (vi) The nature of the company's business.
- (d) The extent of identification measures required validating this information or the documentary evidence to be obtained depends on the nature of the business or service that the company requires from MIIF. A risk-based approach shall be adopted.
- (e) In all cases, information as to the nature of the normal business activities that the company expects to undertake with MIIF shall be obtained.
- (f) Before a business relationship is established, measures shall be taken by way of company search at the Office of the Registrar of Companies and other regulatory authorities and other commercial enquiries undertaken to check that the Clients' company's legal existence has not been or is not in the process of being dissolved, struck off, wound up or terminated.

## **46. LOW RISK CORPORATE BUSINESS**

### **46.1 Public Quoted Companies**

- (a) Corporate Clients' that are listed on the securities exchange are publicly owned and generally accountable. Consequently, there is no need to verify the identity of the individual shareholders.
- (b) It is not necessary to identify the directors of a quoted company.
- (c) MIIF shall ensure that the individual officer or employee (past or present) is not using the name of the company or its relationship with the CMO for a criminal purpose.
- (d) The Board Resolution or other authority for any representative to act on behalf of the company in its dealings with MIIF shall be obtained to confirm that the individual has the authority to act. Phone calls can be made to the Chief Executive Officer of such a company to inform him of the application to open the account with the MIIF.
- (e) No further steps shall be taken to verify identity over and above the usual commercial checks where the applicant company is:
  - (i) Listed on a securities market; or
  - (ii) There is independent evidence to show that it is a wholly owned subsidiary or a subsidiary under the control of such a company.
- (f) Due diligence shall be conducted where the account or service required falls within the category of higher risk business.

## **46.2 Private /public unquoted Companies**

- (a) Where the Client is a private/public unquoted company and none of the directors or shareholders already has an account with MIIF, the following documents shall be obtained from an official or recognized independent source to verify the business itself:
  - (i) A copy of the certificate of incorporation/registration, evidence of the company's registered address and the list of shareholders and directors;
  - (ii) A search at the Registrar Generals Department (RGD) or an enquiry via a business information service to obtain the information in (a) above; and
  - (iii) An undertaking from a firm of lawyers or accountants confirming the documents submitted to MIIF.
- (b) Attention shall be paid to the place of origin of the documents and the background against which they were produced. If comparable documents cannot be obtained, then verification of principal beneficial owners/controllers shall be undertaken.

## **46.3 Higher Risk Business Relating to Private/Public unquoted Companies**

- (a) For private /public unquoted companies undertaking higher risk business (in addition to verifying the legal existence of the business) the principal requirement is to look behind the corporate entity to identify those who have ultimate control over the business and the company's assets.
- (b) What constitutes significant shareholding or control for this purpose will depend on the nature of the company. Identification evidence is required to be obtained for those shareholders with interests of five per cent (5%) or more.
- (c) The principal control rests with those who are mandated to manage the funds, accounts or investments without requiring authorization and who would be in a position to override internal procedures and control mechanisms.
- (d) Identification evidence shall be obtained for the principal beneficial owner(s) of the company and any other person with principal control over the company's assets.
- (e) Where the principal owner is another corporate entity or Trust, the objective is to undertake measures that look behind that company or vehicle and verify the identity of the beneficial owner(s) or settlors.

- (f) When MIIF becomes aware that the principal beneficial owners/controllers have changed, MIIF shall ensure that the identities of the new ones are verified.
- (g) MIIF shall identify directors who are not principal controllers and signatories to an account for risk-based approach purpose.
- (h) Where there is suspicion as a result of change in the nature of the business transacted or investment account, further checks shall be made to ascertain the reason for the changes.
- (i) Particular care shall be taken to ensure that full identification and "Know Your Clients" requirements are met if the company is an International Business Company (IBC) registered in an offshore jurisdiction.

#### **47. OCCUPATIONAL PENSION SCHEMES**

In all transactions undertaken on behalf of an Occupational Pension Scheme where the transaction is not in relation to a long-term policy of insurance, the identities of both the Principal Employer and the Trust are required to be verified.

#### **48. INTERMEDIARIES OR OTHER THIRD PARTIES TO VERIFY IDENTITY OR TO INTRODUCE BUSINESS**

##### **48.1 Who to rely upon and the circumstances**

Whilst the responsibility to obtain satisfactory identification evidence rests with MIIF, it is reasonable, in a number of circumstances, for reliance to be placed on another CMO to:

- (a) Undertake the identification procedure when introducing a Client and to obtain any additional KYC information from the Client; or
- (b) Confirm the identification details if the Client is not resident in Ghana; or
- (c) Confirm that the verification of identity has been carried out (if an agent is acting for underlying principals).

##### **48.2 Introductions from Authorized Financial Intermediaries**

- (a) Where an intermediary introduces a Client and then withdraws from the ensuing relationship altogether, then the underlying Client has become the applicant for the business.

- (b) He shall be identified in line with the requirements for personal, corporate or business Clients' as appropriate.
- (c) An introduction letter shall be issued by the introducing CMO or person in respect of each applicant for business.
- (d) To ensure that product-providers meet their obligations that satisfactory identification evidence has been obtained and will be retained for the necessary statutory period, each introduction letter shall either be accompanied by certified copies of the identification evidence that has been obtained in line with the usual practice of certification of identification documents or by sufficient details/reference numbers etc., that will permit the actual evidence obtained to be re-obtained at a later stage.

### **48.3 Correspondent Relationship**

- (a) Transactions conducted through correspondent relationships need to be managed, taking a risk-based approach. "Know Your Correspondent" procedures are required to be established to ascertain whether the correspondent CMO or the counterparty is itself regulated for Money Laundering prevention. If regulated, the correspondent, CMO is required to verify the identity of its clients in accordance with FATF standards. Where this is not the case, additional due diligence will be required to ascertain and assess the correspondent CMOs.
- (b) MIIF shall guard against establishing correspondent relationships with high-risk foreign banks (e.g., shell banks with no physical presence in any country) or with correspondent banks that permit their accounts to be used by such banks.

### **48.4 Acquisition of One CMO/Business by Another**

- (a) Where MIIF acquires the business and accounts of another CMO, it is not necessary for the identity of all the existing clients to be re-identified, provided that all the underlying clients' records are acquired with the business. It is, however, important to carry out due diligence enquiries to confirm that the acquired operator had conformed to the requirements in this Manual.
- (b) Verification of identity shall be undertaken as soon as it is practicable for all the transferred clients who were not verified by the transferor in line with the requirements for existing clients that open new accounts, where:

- (i) The Money Laundering procedures previously undertaken have not been in accordance with the requirements of this Manual;
- (ii) The procedures cannot be checked; or
- (iii) The Client's records are not available to the acquiring CMO.

## **49. RECEIVING CMOS AND AGENTS**

### **49.1 Vulnerability of Receiving Bankers and Agents to Money Laundering**

- (a) Receiving CMOs may be used by money launderers in respect of offers for sale where new issues are over-subscribed and their allocation is scaled down.
- (b) In addition, the money launderer is not concerned if there is a cost involved in laundering criminal money.
- (c) New issues that trade at a discount will, therefore, still prove acceptable to the money launderer.
- (d) Criminal funds can be laundered by way of the true beneficial owner of the funds providing the payment for an application in another person's name, specifically to avoid the verification process and to break the audit trail with the underlying crime from which the funds are derived.

### **49.2 Who shall be identified?**

- (a) Receiving CMOs shall obtain satisfactory identification evidence of new applicants, including such applicants in a rights issue where the value of a single transaction or a series of linked transactions is Fifty Thousand Ghana Cedis (GHS 50,000) or its foreign currency equivalent for individuals and Twenty-five Thousand United States Dollars (\$25,000) or its GHC equivalent for corporate body or more.
- (b) If funds to be invested are being supplied by or on behalf of a third party, it is important that the identification evidence for both the applicant and the provider of the funds are obtained to ensure that the audit trail for the funds is preserved.

### **49.3 Applications Received via Brokers**

- (a) Where the application is submitted (payment made) by a broker or an intermediary acting as agent, no steps need be taken to verify the identity of the underlying applicants. However, the following standard procedures apply:
  - (i) The lodging agent's stamp shall be affixed on the application form or allotment letter; and
  - (ii) Application/acceptance forms and cover letters submitted by lodging agents shall be identified and recorded in MIIF's records.
- (b) The terms and conditions of the issue shall state that any requirements to obtain identification evidence are the responsibility of the broker lodging the application and not the receiving CMO, in this case MIIF.
- (c) Where the original application has been submitted by a regulated broker, no additional identification evidence will be necessary for subsequent calls in respect of shares issued and partly paid.

### **49.4 Applications Received from Foreign Brokers**

If the broker or other introducer is a regulated person or institution (including an overseas branch or subsidiary) from a country with equivalent legislation and financial sector procedures, and the broker or introducer is subject to anti-money laundering rules or regulations, then a written assurance can be taken from the broker that he/she has obtained and recorded evidence of identity of any principal and underlying beneficial owner that is introduced.

### **49.5 SANCTIONS FOR NON-COMPLIANCE**

- (a) Failure to comply with the provisions contained in this Manual will attract appropriate sanctions in accordance with MIIF's disciplinary procedures.
- (b) Any disciplinary action against a Staff who does not comply with the contents of this Manual shall not absolve the Staff from any criminal prosecution that may be initiated by the State against the Staff after the necessary investigations have found the Staff culpable.
- (c) MIIF shall provide any Staff facing prosecution for aiding a Client to launder money using our products with the necessary legal assistance.