

Insurance Europe response to the FATF consultation on the risk-based approach guidance for the life insurance sector

Insurance Europe welcomes the FATF's initiative to update its RBA Guidance for the Life Insurance Sector, as well as the opportunity to provide feedback. While it is common knowledge that life insurance products do not lend themselves easily to ML/TF, European insurers are dedicated to play their role in the global effort for AML/CFT.

The RBA is essential in the context of AML/CFT since it ensures an allocation of AML/CFT resources that is adapted and proportionate to the given risk and its mitigation, thus also ensuring the effectiveness of the actions undertaken by a company as part of its AML/CFT measures. Insurance Europe therefore fully supports the statements found in paragraphs 22 (page 11) and 53 (page 21) of the draft guidance.

■ **Comments on Section II: Guidance for private sector**

Insurance Europe is very supportive of the updated guidance for the private sector and would simply share the following observations:

- Paragraph 46 (page 20): The second bullet point on "*legislative and supervisory approach*" does not necessarily reflect insurers' obligations in all jurisdictions. Indeed, in jurisdictions where insurers are only allowed to outsource their due diligence measures to persons who are subject to the same AML/CFT regulations, they may rely on the intermediaries' qualifying status without the need to verify the policies and procedures in place (although the insurer remains liable for the due diligence).
- Paragraph 54 (page 21): The notion of "*related parties*" (which first appears in Table 2 after paragraph 45) is not defined and seems very extensive. CDD measures apply in principle to customers, persons acting on their behalf, beneficial owners and beneficiaries of life insurance policies. It may therefore be useful to include examples of "*related parties*" in the relevant sections on CDD (pages 21-25).
- Paragraph 60 (page 22): The beneficiary of the life insurance policy is not the insurer's client and the client can change the beneficiary at any time during the term of the contract. It is therefore important for the reasonable measures mentioned in this paragraph (to detect if the beneficiaries are PEPs) to be implemented at the time of payment of the benefit. Insurance Europe would suggest adding a sentence to this effect: "*These measures could be implemented at the time of payment of the benefit.*"
- Paragraph 74 (page 24): The wording is not clear and Insurance Europe would suggest the following wording as more appropriate in the context of a RBA: "*The obligation to report suspicious transactions does not discharge a life insurer or an intermediary of their other AML/CFT obligations.*"

■ **Comments on the inclusion of an annex on non-life insurance**

Insurance Europe understands that this new Guidance's aim is to implement the approach promoted in the FATF 2012 Recommendations, which sought to generalise the RBA in AML/CFT. Insurance Europe believes that the inclusion of an annex on non-life insurance runs counter to the very principle underpinning the RBA: to ensure AML/CFT compliance resources are allocated where they are most needed. Life insurance itself is already a very low risk and there is still no evidence that non-life insurance is being used for AML/CFT other than through fraud, which is and should continue to be dealt with as such by insurers and authorities.

Whilst Insurance Europe understands a few jurisdictions have decided to apply AML/CFT requirements to non-life insurance, it is essential to note that the FATF Recommendations themselves do not apply to non-life insurance. It therefore follows that it should not be included here, especially since this guidance makes it clear there is no plan to extend the FATF Recommendations' scope in this way.



Including provisions on non-life insurance in the guidance can actually lead to confusion. This guidance is destined not just for the life insurance sector but also for the supervisory authorities overseeing it. We therefore have strong concerns that this could be construed as an invitation to consider applying AML/CFT requirements to the non-life sector, whilst this would effectively undermine the very goal of these provisions by wasting AML/CFT resources on areas where the ML/TF risk is close to non-existent.

Beyond the issue of the allocation of compliance resources, it should also be noted that the differences in scope of the AML/CFT requirements from jurisdiction to jurisdiction creates issues for those lines of (non-life) insurance which are inherently international (commercial lines, group lines) and where the main actors are usually multinational companies.

As mentioned earlier, the FATF's definition for "financial institution" includes "life insurance and other investment related insurance" but excludes non-life insurance. Any discussion on guidance for non-life insurance should be subordinated to a thorough discussion having taken place on the FATF Recommendations in which this definition can be found. It warrants a much wider consultation of the private sector than that which has taken place so far with this guidance.

Insurance Europe notes that the annex on non-life insurance confirms that non-life products are only useful for ML/TF purposes when used fraudulently, as evidenced by the sole example provided in Box A. This example also fails to demonstrate any link between ML/TF and the (non-life insurance) product itself. We also note it is acknowledged in the guidance itself that, where non-life insurance has been used for ML/TF purposes, this will have been done at the insurer's expense and the insurer will have the appropriate controls in place to prevent such a financial loss. This effectively renders AML/CFT useless in these scenarios.

Finally, Insurance Europe notes that the Guidance's introduction refers to the IAIS Insurance Core Principles (footnote 8) which cover both life and non-life insurance activities. However, these are in fact under review and it is therefore perhaps best to avoid referencing these in this guidance.

In conclusion, Insurance Europe would recommend removing this annex from the guidance altogether.

■ **Comments on the inclusion of an annex on reinsurance**

Insurance Europe notes that, just as is the case for non-life insurance, reinsurance was included in annex of the guidance despite the fact it is not covered by the FATF 2012 recommendations. As explained for non-life insurance, any discussion on FATF guidance for reinsurance should be subordinated to a discussion on the FATF Recommendations' definition for "financial institutions", which still excludes reinsurance.

In any event, it must be noted that reinsurers are farther removed from the insurance transaction which may potentially be used for ML/TF purposes. This remoteness makes conducting due diligence on these entities much more difficult, thus requiring more AML/CFT resources without added value, since the reinsurance transaction itself is not initiated by the original client but rather by a regulated financial institution. The fact that a financial entity chooses to diversify its risk portfolio should not trigger additional oversight obligations.

Insurance Europe would therefore also recommend removing the annex on reinsurance from the draft guidance.

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