Insurance Europe comments on the revised FATF Recommendations

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On 16 February 2012, the Financial Action Task Force (FATF) released its revised FATF recommendations, with the objective to make it more difficult and less profitable for criminals around the globe to launder proceeds of crime and finance terrorist activities. Below are some general and more specific comments by Insurance Europe on the revised recommendations.

1. General comments

Insurance Europe wishes to commend the FATF for the way in which it has conducted the process leading to the revision of its recommendations. In particular, we are convinced that the direct involvement of interested parties through consultations and open hearings has resulted in the new recommendations being more practical in the number of areas and in their enhanced readability.

Insurance Europe is especially pleased about the particular attention paid to the life insurance industry in the revised recommendations and about the clear recognition that some terms have a different meaning in life insurance as compared to other financial sectors such as banking and that the requirements should be different.

Insurance Europe is also pleased with the specific FATF Recommendation to apply a risk-based approach directly in its recommendations rather than only as guidance. This fundamental and essential approach will provide insurers with the flexibility they need to ensure that resources are allocated in the most effective way to address identified and prioritised risks in the right order and with the most adequate response. Although insurance is a relatively low-risk industry compared to other sectors of the financial services industry, insurers are committed to contributing to the fight against terrorism financing and money laundering; this participation can however only be effective if the insurance companies' resources are allocated to the situations presenting a higher risk.

The low Money Laundering / Terrorist Financing (ML/TF) risk of insurance is reflected in the definition of "Financial Institution" in the Glossary to the FATF Recommendations. This definition includes life insurance, but appropriately does not include other types of insurance as they do not have investment or cash value. Unfortunately many jurisdictions have deviated from this FATF guidance and have swept all types of insurance into their rule-based AML requirements, resulting in a significant and unnecessary compliance burden for insurers.

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2. Specific comments on some of the revised recommendations

Recommendation 1 – Assessing risks and applying a risk based approach

The clarification concerning the Risk Based Approach (RBA) is highly welcomed. As mentioned above, this should help market participants to prioritise and allocate their resources in the most efficient way. As a result, life insurers will be in a position to adjust their approach, based on the country assessment and on their own risk assessment, thereby focussing on those activities that could form a possible threat for money laundering.

However, for the RBA to work in practice is it also important that the national authorities understand and embrace it. Experience shows that this is not always the case and rather that some authorities feel more comfortable with a 'box ticking' approach, which is seen as the way to cover all the risks. Insurance Europe therefore believes that education will be needed on the application of the RBA in practice. It is important for the FATF to assess the implementation of the RBA in the country assessments.

Recommendation 10 – Customer Due Diligence (CDD)

This revised standard identifies situations when financial institutions should be required to undertake CDD measures. Insurance Europe is satisfied with the inclusion in the interpretive note of a subtopic on CDD for beneficiaries of life insurance policies, which provides a clear indication that the verification of the identity of the beneficiary should occur at the time of the pay-out. This correctly reflects the fact that the beneficiary nominated in a life insurance policy which in many countries is not mandatory or could change multiple times during the duration of the policy, only plays a role if the insured event occurs, for example in case of the death of the insured. In other words the beneficiary plays no role at the conclusion of the contract and during the duration of the life insurance contract, but only if the insured event occurs.

Consequently, an insurance company shall not fall under the requirement to identify and verify the identity of the beneficiary and the beneficial owner of the beneficiary until such time there will be a pay-out to the beneficiary.

A clear definition of non-face-to-face business could have avoided that intermediated business, such as the insurance sector, be potentially considered as higher risk – which is certainly not the FATF's intention. It is our understanding that the non-face-to-face business covers sales through channels which are genuinely non-face-to-face, such as the internet and telemarketing. Contrary to this, the use of intermediaries, such as agents, brokers or banks does not automatically lead to an increase in risk and is not regarded as non-face-to-face. Therefore, where a provider receives business via an intermediary, who has seen and verified the client face to face, then the relationship with the provider should also be classified as face to face

Furthermore, Insurance Europe does not favour the inclusion of absolute amounts, which could lead to situations were certain policies are considered low risk in year x and higher risk in year x+1.

Finally, Insurance Europe would favour additional clarification on how to interpret "financial institutions should fully understand the nature of the business of its customers" and "the senior managing official".

Recommendation 12 – Politically Exposed Persons (PEPs)

Insurance Europe is supportive of the inclusion that insurance companies should take reasonable measures to determine whether the beneficiaries of a life insurance policy are PEP up to the time of pay-out of a policy. Insurance Europe understands that the risk based approach is applied on this article by the inclusion of "reasonable measures" which should mean proportionate to the level of risk. Unfortunately, it is still unclear how to identify PEPs, especially for close associates. Indeed, seen the wide scope of people falling under the notion of PEPs, it is very difficult to determine whether all the people falling under the scope are truly PEPs. Insurance Europe believes that current CDD measures are more than sufficient and that the RBA is adequate to detect unusual situations. In addition practical solutions should be developed in the guidelines.

Recommendation 18 – Internal Controls and Foreign branches and subsidiaries

Insurance Europe highly appreciates the reference to the home country in the revised recommendation.

Recommendations 24 & 25 – transparency and beneficial ownership of legal persons and arrangements

Insurance Europe wishes to stress the importance of a correct implementation of the RBA as a condition for countries wishing to comply with this recommendation. Ensuring that countries require companies to take reasonable measures to obtain and hold up to date information on the companies' beneficial ownership additional guidelines would be highly welcomed.

Recommendation 34 – Guidance and feedback

Insurance Europe very much welcomes this recommendation as feedback by the authorities can provide useful indicators for companies own risk assessment. Currently the FIUs provide quite limited feedback.