



REF: IRDA/F&I/CIR/AML/99/06/2010

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TO

THE CEOs OF ALL INSURERS

CIRCULAR

Anti Money Laundering (AML) Guidelines

A review of AML guidelines has been carried out to address various issues identified out of inspections carried out, interactions with FIU-IND and FATF's Mutual Evaluation and Assessment process.

2. The following amendments to/ clarifications on the guidelines are issued:

a. **Know Your Customer (KYC):**

Various queries have been raised by insurers on who can be termed as customer(s) for the purposes of AML guidelines. Keeping the objective of the PMLA and AML guidelines in view, it is hereby clarified that details of the person who funds/pays for an insurance contract, either as beneficial owner or otherwise become relevant and important. Stipulations under clause 3.1 of the AML guidelines will therefore have to be applied to such persons. The term customers also refer to the Proposer/policyholder; Beneficiaries and Assignee for the purposes of AML guidelines.

At any point in time during the contract period, where an insurance company is no longer satisfied that it knows the true identity of the customer, an STR should be filed with FIU-IND.

There have been queries on whether due diligence requirements under clause 3.1.1 (ii) are to be applied on 'other than individual entities'. It is clarified that reference to 'individual policies' is to be read to mean 'individual' business. (As 'group' insurance business falls under clause 3.1.4 and is not covered under AML guidelines). It is emphasized that no distinction be made between 'individuals' and 'other than individual entities' for the purposes of clause 3.1.1.

b. **Guidance on 'Detailed due diligence':**

Guidance has been sought on what constitutes detailed due diligence under clause 3.1.1 (ii) of the AML guidelines. Conducting detailed due diligence would mean having measures and procedures which are more rigorous and robust than normal KYC. These measures should be commensurate to the risk. While it is not

intended to be exhaustive, the following are some of the reasonable measures in carrying out detailed due diligence:

- More frequent reviews of the customers activities/profile/transactions
- Application of additional measures like gathering information from publicly available sources or otherwise
- Review of the proposal/contract by a senior official of the insurance company etc.,

It is further clarified that detailed due diligence should not be limited to merely documenting income proofs. Measures so laid down should be in such a way that it would satisfy competent authorities (Regulatory/enforcement authorities), if need be at a future date, that due diligence was in fact observed by the insurer in compliance with the guidelines and the PML Act based on the assessed risk involved in a transaction/contract.

c. **Reduced Customer Due Diligence (CDD) measures:**

It is reiterated that while deciding on the extent of due diligence to be carried out on any customer, risk profile of the product and the customer should be taken into consideration as indicated at clause 3.1.3 of the AML guidelines.

Notwithstanding the above, detailed due diligence measures should be applied in the event where there are suspicions of money laundering or terrorist financing, or where there are factors to indicate a higher risk.

d. **Establish Sources of Funds:**

It has come to the notice of the Authority, there are instances where merely income proofs are collected as illustrated under Annexure III of the AML guidelines in compliance with clause 3.1.5. It is clarified that such documentation does not constitute establishing 'source of funds'. Insurers should take appropriate measures commensurate with the assessed risk of customer and product profile as part of their due diligence measures which may include:

- conducting independent enquiries on the details collected on /provided by the customer where required,
- consulting a credible database public or other, etc.,

Relevant records and details must be maintained in such a way that it enables verification at a later date and support the fact of having established sources of funds involved in the insurance contract.

e. **Assignments to entities regulated by RBI, SEBI, IRDA:**

Reference is drawn to clause 3.1.9 (iii) of the AML guidelines. Notwithstanding the existing stipulation where AML checks gain relatively lesser importance in cases where the policy has been assigned to entities regulated by IRDA/RBI/SEBI, insurers are required to ensure that no vulnerable cases go undetected. Especially where there is suspicion of money laundering or terrorist financing, or where there are factors to indicate a higher risk, AML checks will

have to carried out on such assignments and STR should be filed with FIU-IND, if necessary.

f. **Stand on FATF deficient countries:**

In continuation of our circular letter ref: 30/IRDA/AML/Jan-09 dated 13th January 2009 on FATF's public statement dated 28th February 2008, it is hereby advised that special attention should be paid to business relationships and transactions, especially those which do not have apparent economic or visible lawful purpose. It is imperative to conduct detailed due diligence while taking insurance risk exposure to individuals/entities connected with countries which do not, or insufficiently apply, the FATF Recommendations. In all such cases, the background and purpose of such transactions will as far as possible, have to be examined and written findings maintained for assisting competent authorities. Agents/ Corporate agents will have to be appropriately alerted to ensure compliance with this stipulation. While using the FATF Public Statements being circulated through the Insurance councils, insurers should go beyond the FATF statements and consider publicly available information when identifying countries which do not or insufficiently apply the FATF Recommendations .


g. **Reporting of Counterfeit Currency/Forged Bank notes (CCR):**

Rule 3 (1) (C) of PMLA Rules obligates financial institutions to report to FIU-IND the following:

'all cash transactions where forged or counterfeit currency notes or bank notes have been used as genuine and where any forgery of a valuable security or a document has taken place facilitating the transactions'

Insurance companies should therefore report such transactions within 7 days of identification to FIU-IND

3. This circular is being issued in exercise of powers conferred under section 14 (1) (e) of the Insurance Regulatory and Development Authority Act, 1999 and would be effective immediately. Insurance Companies shall ensure strict compliance.


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