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Guidelines on Anti Money Laundering programme for Insurers

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Guidelines on Anti Money Laundering programme for Insurers

1. Background:

- 1.1 The Prevention of Money Laundering Act, 2002 brought into force with effect from 1st July 2005, is applicable to all the financial institutions which include insurance institutions. The application of anti-money laundering measures to non-depository financial institutions generally, and to the insurance companies in particular, has also been emphasized by international regulatory agencies as a key element in combating money laundering. Establishment of anti money laundering programs by financial institutions is one of the central recommendations of the Financial Action Task Force and also forms part of the Insurance Core Principles of the International Association of Insurance Supervisors (IAIS). Accordingly, the Authority has decided to put in place the following regulatory guidelines/instructions to the Insurers, Agents and Corporate agents as part of an **Anti Money Laundering Programme (AML)** for the insurance sector.
- 1.2 Insurers offer a variety of products aimed at transferring the financial risk of a certain event from the insured to the insurer. These products include life insurance contracts, annuity contracts, non-life insurance contracts, and health insurance contracts. These products are offered to the public through trained agents of the insurance companies and also through a number of alternate distribution channels like direct marketing, bancassurance etc. The guidelines are therefore of importance to the agents and corporate agents also, to the extent indicated in the guidelines.
- 1.3 The obligation to establish an anti-money laundering program applies to an insurance company, and not to its agents, and other intermediaries. Hence the responsibility for guarding against insurance products being used to launder unlawfully derived funds or to finance terrorist acts, lies on the insurance company, which develops and bears the risks of its products.

2. What is Money Laundering?

- 2.1 Money Laundering is moving illegally acquired cash through financial systems so that it appears to be legally acquired.
- 2.2 There are three common stages of money laundering as detailed below which are resorted to by the launderers and insurance institutions which may unwittingly get exposed to a potential criminal activity while undertaking normal business transactions: -
 - Placement - the physical disposal of cash proceeds derived from illegal activity;
 - Layering - separating illicit proceeds from their source by creating complex layers of financial transactions designed to disguise the source of money, subvert the audit trail and provide anonymity; and
 - Integration - creating the impression of apparent legitimacy to criminally derived wealth.
- 2.3 If the layering process has succeeded, integration schemes place the laundered proceeds back into the economy in such a way that they re-enter the financial system appearing to be normal business funds. Financial institutions such as insurers are therefore placed with a statutory duty to make a disclosure to the authorized officer when knowing or suspecting that any property, in whole or in part, directly or indirectly, representing the proceeds of drug trafficking or of a predicated offence, or was or is intended to be used in that connection is passing through the

institution. Such disclosures are protected by law, enabling the person with information to be able to disclose the same without any fear. Insurance institutions likewise need not fear breaching their duty of confidentiality owed to customers.

3. AML Program:

In order to discharge the statutory responsibility to detect possible attempts of money laundering or financing of terrorism, every insurer needs to have an AML program which should, at a minimum, include:

- 3.1 Internal policies, procedures, and controls;
- 3.2 Appointment of a Principal compliance officer;
- 3.3 Recruitment and training of employees/agents;
- 3.4 Internal Control/Audit;

The above key elements of the AML programme are discussed in detail below:

3.1 Internal policies, procedures, and controls:

Each insurance company has to establish and implement policies, procedures, and internal controls which would also integrate its agents in its anti-money laundering program as detailed below:

3.1.1 Know Your Customer (KYC):

Considering the potential threat of usage of the financial services by a money launderer, insurance company should make reasonable efforts to determine the true identity of **all customers** requesting for its services. Hence effective procedures should be put in place to obtain requisite details for proper identification of new customers.

- i. A list of documents to be verified at the time of accepting the risk for compliance with KYC requirement for individuals and others is given in **Annexure I**. It is mandatory to obtain any one of the documents to clearly establish the customer identity consistent with risk profile in respect of all new insurance contracts (Please also see 3.1.3 below).
- ii. The degree of due diligence to establish KYC could be decided by the insurers where premium is below Rs. 1 lakh per annum. However, premium of Rs. 1 lakh per annum in case of individual policies should be considered as a threshold for exercising detailed due diligence, what ever be the payment mode (Please see 3.1.3 below).
- iii. Remittance of premium is an important stage of entering into contract, hence, cash transactions need more diligence and care (Please also see para 3.1.8)
- iv. Customer information should be collected from all relevant sources, including from agents.
- v. Insurance premium paid by persons other than the person insured should be looked into to establish insurable interest.
- vi. The insurer should not enter into a contract with a customer whose identity matches with any person with known criminal background or with banned entities and those reported to have links with terrorists or terrorist organizations (A list of such entities would be sent to the insurance companies shortly).
- vii. Besides verification of identity of the customer at the time of initial issuance of contract, KYC should also be carried out at the claim payout stage and at times when additional top up remittances are inconsistent the customers known profile.

3.1.2 When should KYC be done?

i. Knowing New Customers:

- a. In case of new contracts, KYC should be done before the issue of every new contract.
- b. In case of non face to face business which includes Tele calling, Internet Marketing, Logging in of business or payment of premiums/lump sums at branches, collection of documentation be completed for premiums exceeding Rs. 1 lakh per person per annum within 15 days of issue of policy.

ii. Knowing Existing Customers:

It has been decided that the process of AML should be applied for the policies coming into force on or after 01.04.2004. Since Insurers, invariably collect considerable background of the policyholder as also the beneficiary before entering into contracts no major constraints are expected in this exercise, in respect of the existing contracts. KYC in case of existing customers should therefore be carried out based on the limits fixed for new policies on all contracts/relevant transactions in case of the existing policies.

3.1.3 KYC and Risk Profile of the Customer

In the context of the very large base of insurance customers and the significant differences in the extent of risk posed by them, the companies are advised to classify the customer into high risk and low risk, based on the individual's profile and product profile, to decide upon the extent of due diligence.

- i. For the purpose of risk categorization, individuals (other than High Net Worth) and entities whose identities and sources of wealth can be easily identified and transactions in whose accounts by and large conform to the known profile may be categorized as low risk. Illustrative examples of low risk customers could be salaried employees whose salary structures are well defined, people belonging to lower economic strata of the society, Government departments and Government owned companies, regulators and statutory bodies etc., In such cases, the policy may require that only the basic requirements of verifying the identity and location of the customer are to be met. Notwithstanding above, in case of continuing policies, if the situation warrants, as for example if the customer profile is inconsistent with his investment through top-ups, a re-look on customer profile is to be carried out.
- ii. For the high risk profiles, like for customers who are non-residents, high net worth individuals, trusts, charities, NGO's and organisations receiving donations, companies having close family shareholding or beneficial ownership, firms with sleeping partners, politically exposed persons (PEPs), and those with dubious reputation as per available public information who need higher due diligence, KYC and underwriting procedures should ensure higher verification and counter checks. In this connection insurers are also advised to carry out the appropriate level of due diligence keeping the observations at 3.1.5 in view.

3.1.4 Products to be covered:

The AML requirements focus on the vulnerability of the products offered by the insurers to any of the process of money laundering. Some vulnerable products are illustrated in **Annexure II**. Based on the vulnerability criterion and after examining the product and business coverage it has been decided that the following categories of products/business lines may be exempted from the purview of AML requirements:

- i. Standalone medical/health insurance products.
- ii. Reinsurance and retrocession contracts where the treaties are between insurance companies for reallocation of risks within the insurance industry and do not involve transactions with customers.
- iii. Group insurance businesses which are typically issued to a company, financial institution, or association and generally restrict the ability of an individual insured or participant to manipulate its investment.
- iv. Term life insurance contracts, in view of the absence of cash surrender value and stricter underwriting norms for term policies (especially those with large face amounts)

3.1.5 Sources of Funds:

It is imperative to ensure that the insurance being purchased is reasonable. Accordingly, customer's source of funds, his estimated net worth etc., should be documented properly and the advisor and/or employee shall obtain income proofs as in **Annexure III**, to establish his need for insurance cover. Proposal form may also have questionnaires/declarations on sources of fund, and details of bank accounts. Large single premiums should be backed by documentation, to establish source of funds.

3.1.6 Defining Suspicious Transactions (including Suspicious Cash Transactions):

The AML program envisages submission of Suspicious Transaction Reports (STR)/Cash Transactions Reports (CTR) to a Financial Intelligence Unit-India (FIU-IND) set up by the Government of India to track possible money laundering attempts and for further investigation and action. It is extremely difficult to give an exhaustive list of suspicious transactions. An illustrative list of such transactions is however, provided in **Annexure IV**. Suspicious activity monitoring programs should be appropriate to the company and the products it sells.

3.1.7 Reporting of Suspicious Transactions:

Insurance companies should report the suspicious transactions immediately on identification. When such transactions are identified post facto the contract, a statement may be submitted to FIU-IND within 3 working days of identification in the prescribed formats.

3.1.8 Monitoring and Reporting of Cash Transactions:

With a view to ensuring that premiums are paid out of clearly identifiable sources of funds, it has been decided that remittances of premium by cash should not exceed Rs. 50,000/-. It would be advisable for the companies to evolve even lower thresholds for cash transactions. It is further advised that:

- i. Premium/proposal deposits beyond Rs. 50,000 should be remitted only through cheques, demand drafts, credit card or any other banking channels.
- ii. For integrally related transactions, premium amount greater than Rs. 50,000 in a calendar month should be examined more closely for possible angles of

- money laundering. This limit will apply at an aggregate level considering all the roles of a single person-as a proposer or life assured or assignee.
- iii. Insurance companies have to report integrally connected cash transactions above Rs. 10 lakhs per month to FIU-IND by 15th of next succeeding month

3.1.9 Verification at the time of redemption/surrender:

- i. In life insurance business, no payments should be allowed to 3rd parties except in cases like superannuation/gratuity accumulations and payments to legal heirs in case of death benefits. All payments, should be made after due verification of the bona fide beneficiary, through account payee cheques.
- ii. Free look cancellations needs particular attention of insurer especially in client/agents indulging in free look surrender on more than one occasion.
- iii. AML checks become more important in case the policy has been assigned by the policyholder to a third party not related to him (except where the assignment is to Banks/FIs/Capital Market intermediaries regulated by IRDA/RBI/SEBI)

3.1.10 Record Keeping:

The insurer/agents/corporate agents are required to maintain the records of types of transactions mentioned under Rule 3 of PMLA Rules 2005 and the copies of the Cash/Suspicious Transactions reports submitted to FIU as well as those relating to the verification of identity of clients for a period of 10 years.

- i. Sharing of information on customers may be permitted between different organisations such as banks, insurance companies, Income tax authorities, local government authorities on request. Records can also be in electronic form.
- ii. Insurance institutions should implement specific procedures for retaining internal records of transactions both domestic or international, to enable them to comply swiftly with information requests from the competent authorities. Such records must be sufficient to permit reconstruction of individual transactions (including the amounts and types of currency involved (if any) so as to provide, if necessary, evidence for prosecution of criminal activity. In the case of long term insurance, full documentary evidence is usually retained based on material completed at the initiation of the proposal of the contract, together with evidence of processing of the contract up to the point of maturity.
- iii. Companies should retain the records of those contracts, which have been settled by claim (maturity or death), surrender or cancellation, for a period of at least 10 years after that settlement.
- iv. In situation where the records relate to ongoing investigations, or transactions which have been the subject of a disclosure, they should be retained until it is confirmed that the case has been closed where practicable, insurance institutions are requested to seek and retain relevant identification documents for all such transactions and to report the offer of suspicious funds.
- v. In case of customer identification data obtained through the customer due diligence process, account files and business correspondence should be retained for at least 10 years after the business relationship is ended.

3.1.11 Compliance Arrangements:

- i. A detailed AML Policy should be drawn up encompassing aspects of Customer acceptance policy, Customer Identification procedure, Monitoring of transactions, Risk management framework as evolved by the insurer. The policy should have the approval of the board and duly filed with IRDA for information. The policy should be reviewed annually and changes effected based on experience.
- ii. **Responsibility on behalf of the agents and corporate agents:**

The guidelines place the responsibility of a robust AML program on the insurers. Nonetheless, it is necessary that the following steps are taken to strengthen the level of control on the agents and corporate agents engaged by the insurers:

- a. A list of rules and regulations covering performance of agents and corporate agents must be put in place. A clause should be added making KYC norms mandatory and specific process document can be included as part of the contracts.
- b. Services of defaulting agents who expose the insurers to AML related risks on multiple occasions should be terminated and the details reported to IRDA for further action.
- c. Insurance Company when faced with a non-compliant agent or corporate agent should take necessary action to secure compliance, including when appropriate, terminating its business relationship with such an agent/corporate agent.

3.2 Appointment of Principal Compliance Officer:

3.2.1 Appointment:

The companies should designate a Principal Compliance Officer under AML rules. The name of the principal compliance officer should be communicated to IRDA and FIU immediately.

3.2.2 Responsibilities:

- i. The Principal Compliance Officer should ensure that the Board approved AML program is being implemented effectively, including monitoring compliance by the company's insurance agents with their obligations under the program;
- ii. He should ensure that employees and agents of the insurance company have appropriate resources and are well trained to address questions regarding the application of the program in light of specific facts.

3.3 Recruitment and Training of employees/agents

3.3.1 As most part of the insurance business is through agents/corporate agents which brings in non face to face business relationships with the policyholders, the selection process of agents/corporate agents should be monitored carefully. The committee monitoring the agents should monitor sales practices followed by agents and ensure that if any unfair practice is being reported then action is taken after due investigation; Periodic risk management reviews should be conducted to ensure company's strict adherence to laid down process and strong ethical and control environment. Insurance companies should have adequate screening procedures when hiring employees.

Instruction Manuals on the procedures for selling insurance products, customer identification, record-keeping, acceptance and processing of insurance proposals, issue of insurance policies should be set out.

- 3.3.2 The concept of AML should be part of in-house training curriculum for agents.
- 3.3.3 The following training requirements are considered essential based on the class of employees.
 - i. New employees: A general appreciation of the background to money laundering, and the subsequent need for identifying and reporting of any suspicious transactions to the appropriate designated point should be provided to all new employees who will be dealing with customers or their transactions, irrespective of the level of seniority.
 - ii. Sales/Advisory staff: Members of staff who are dealing directly with the public (whether as members of staff or agents) are the first point of contact with potential money launderers and their efforts are therefore vital to the strategy in the fight against money laundering. It is vital that "front-line" staff is made aware of the insurance institution's policy for dealing with non-regular customers particularly where large transactions are involved, and the need for extra vigilance in these cases.
 - iii. Processing staff: Those members of staff who receive completed proposals and cheques for payment of the single premium contribution must receive appropriate training in the processing and verification procedures.
 - iv. Administration/Operations supervisors and managers: A higher level of instruction covering all aspects of money laundering procedures should be provided to those with the responsibility for supervising or managing staff.
 - v. Ongoing training: It will also be necessary to make arrangements for refresher training at regular intervals to ensure that staff does not forget their responsibilities. This might be best achieved by a twelve or six-monthly review of training. Timing and content of training packages for various sectors of staff will need to be adapted by individual insurance institutions for their own needs.
 - vi. Records of training imparted to staff in the various categories detailed above should be maintained.

3.4 Internal Control/Audit:

Insurance companies' internal audit/inspection departments should verify on a regular basis, compliance with policies, procedures and controls relating to money laundering activities. The reports should specifically comment on the robustness of the internal policies and processes in this regard and make constructive suggestions where necessary, to strengthen the policy and implementation aspects. Exception reporting under AML policy should be done to Audit Committee of the Board.

4. The above guidelines on establishment of an effective AML regime would be effective from 1st August 2006. Insurance Companies are therefore required to initiate various steps on the lines indicated above and file their AML policies with IRDA latest by 1st July 2006

Yours faithfully,

C.R. Muralidharan
Member (Finance)

Annexure II

Vulnerable Products:

1. Unit linked products which provide for withdrawals and unlimited top up premiums;
2. Single premium products-where the money is invested in lump sum and surrendered at the earliest opportunity;
3. Free look cancellations-especially the big ticket cases;

Note: The list is only illustrative and not exhaustive

Annexure III

Income Proofs

Standard Income proofs:

- Income tax assessment orders/Income Tax Returns
- Employer's Certificate
- Audited Company accounts
- Audited firm accounts and Partnership Deed

Non-standard Income Proofs:

- Chartered Accountant's Certificate
- Agricultural Income Certificate
- Agricultural-land details & Income assessments
- Bank Cash-flows statements, Pass-book

Note: The list is only illustrative and not exhaustive

Annexure IV

Illustrative list of Suspicious Transactions:

1. Customer insisting on anonymity, reluctance to provide identifying information, or providing minimal, seemingly fictitious information
2. Cash based suspicious transactions for payment of premium and top ups over and above Rs. 5 lakhs per person per month. It should also consider multiple DDs each denominated for less than Rs. 50,000/-
3. Frequent free look surrenders by customers;
4. Assignments to unrelated parties without valid consideration;
5. Request for a purchase of policy in amount considered beyond his apparent need;
6. Policy from a place where he does not reside or is employed;
7. Unusual terminating of policies and refunds;
8. Frequent request for change in addresses
9. Borrowing the maximum amount against a policy soon after buying it
10. Inflated or totally fraudulent claims e.g. by arson or other means causing a fraudulent claim to be made to recover part of the invested illegitimate funds
11. Overpayment of premiums with a request for a refund of the amount overpaid.

Note: The list is only illustrative and not exhaustive. For more examples on Suspicious Transactions please visit <http://www.iaisweb.org>

**List of Cash Transactions Report (CTR)/Suspicious Transactions Report (STR)
Formats**

Sl.No.	Form No.	Title of the Format	No. of Pages
1	CTRS	Summary of CTR for an Insurance Company	2
2	IAA	Annexure A-Individual details sheet for an Insurance Company	1
3	IAB	Annexure B-Legal Person/Entity Details Sheet for an Insurance Company	1
4	IAC	Annexure C-Account detail sheet for an Insurance Company	2
5	CTRI	Cash Transaction Reports (CTRs) for an Insurance Company	3
6	STRI	Suspicious Transaction Reports (STRs) for an Insurance Company	5

SUMMARY OF CASH TRANSACTION REPORTS (CTR) FOR AN INSURANCE COMPANY

Kindly fill in CAPITAL. Read the instructions before filling the form

PART 1 :DETAILS OF THE SUMMARY

- 1.1 Month and Year of Summary MM/YYYY
- 1.2 Is this a supplementary to an earlier summary? No Yes *(Tick as applicable)*
- 1.3 Date of sending original summary if this a supplementary DD/MM/YYYY

PART 2: DETAILS OF THE PRINCIPAL COMPLIANCE OFFICER

- 2.1 Name of the Insurer
- 2.2 Registration Number
- 2.3 ID allotted by FIU-IND
- 2.4 Category of the Insurer
- 2.5 Name of the Principal Compliance Officer
- 2.6 Designation
- 2.7 Address (No., Building)
- 2.8 Street/Road
- 2.9 Locality
- 2.10 City/Town, District
- 2.11 State, Country
- 2.12 Pin Code
- 2.13 Tel (with STD Code)
- 2.14 Fax
- 2.15 E-Mail

PART 3 STATISTICS FOR THE MONTH

- 3.1 Number of total branches
- 3.2 Number of branches which have sent reports (including NIL report)
- 3.3 Number of branches which have submitted CTRs (excluding NIL reports)
- 3.4 Number of original CTRs enclosed with this summary
- 3.5 Number of replacement CTRs enclosed with this summary
- 3.6 Total original CTRs reproted for the month

DO NOT FILL. FOR FIU-IND USE ONLY
 ACK.NO.
 DATE DD/MM/YYYY

Signature []
 Name []

(Should be same as the person mentioned in PART 2

DO NOT FILL. FOR FIU-IND USE ONLY CTRS

**SUMMARY OF CASH TRANSACTION REPORTS (CTRs) FOR AN INSURANCE COMPANY
INSTRUCTIONS**

GENERAL INSTRUCTIONS

The Prevention of Money Laundering Act 2002

Under the Prevention of Money Laundering Act 2002, every Insurance company shall furnish details of:

(A) All cash transactions of the value of more than rupees ten lakhs or its equivalent in foreign currency

(B) All series of cash transactions integrally connected to each other which have been valued below Rs. 10 lakhs or its equivalent in foreign currency where such series of transactions have taken place within a month;

Provided that where the principal compliance officer of an insurance company has reason to believe that a single transaction or series of transactions integrally connected to each other have been valued below the prescribed limit so as to defeat the provisions of this section, such officer shall furnish information in respect of such transactions to the Director within the prescribed time.

How to submit

The Principal Compliance Officer should submit this summary alongwith CTRs received from branches/locations to the Director, FIU-IND.

Address: Director, FIU-IND
Financial Intelligence Unit-India
6th Floor, Hotel Samrat Chanakyapuri
New Delhi-110 021
India

EXPLANATION OF SPECIFIC TERMS

PART 1:DETAILS OF THE SUMMARY

Separate summary should be furnished for each month. Supplementary summary is required to be submitted where a summary for the month has already been submitted. In case of supplementary summary, only additional CTRs, need to be enclosed

PART 2: DETAILS OF THE PRINCIPAL COMPLIANCE OFFICER

2.3 ID allotted by FIU-IND may be left blank till the same is communicated by FIU-IND

2.4 Category of the Insurer:

"A" a public company

"B" a society registered under the Co-operative Societies Act, 1912 or under any other law for the time being in force in any State relating to co-operative societies, or

"C" a body corporate incorporated under the law of any country outside India not being of the nature of a private company

2.5 Principal Compliance Officer is the officer designated by the Insurance Company under PMLA 2002

PART 3: STATISTICS FOR THE MONTH

3.1 Number of branches of the Insurance Company

3.2 Number of branches which have sent CTRs or submitted NIL report for the month

3.3 Number of branches which have submitted CTRs for the month

3.4 Number of original CTRs should match with the original CTRs enclosed with this summary

3.5 Number of replacement CTRs should match with the replacement CTRs enclosed with this summary. All replacement CTRs received from branches should be enclosed at the end of the reports for the month.

3.6 This figure should be the cumulative total of 3.4 above for all the summaries of the month.

ALL CTRs MUST BE ENCLOSED.

**ANNEXURE-A-INDIVIDUAL DETAIL SHEET FOR FOR AN INSURANCE COMPANY
INDIVIDUAL A**

*Use separate annexure for each individual
Kindly fill in CAPITAL*

1. Name of the insurance company (with branch)
 2. Registration No.
 3. Annexure enclosed with
 - a. Cash Transaction Report
 - b. Suspicious Transaction Report
(Tick as applicable)
 4. Full name of individual
 5. Customer ID/number *(if allotted)*
 6. Name of father/spouse
 7. Occupation
 8. Date of birth *(DD/MM/YYYY)*
 9. Sex (M/F)
 10. Nationality
 11. Identification document *(Number mentioned in the identification document)*
 - A Passport
 - B Election ID Card
 - C PAN card
 - D Driving license
 - Z Other (Specify) _____
 12. Issuing authority *(Place where the document was issued)*
 13. Place of Issue
 14. PAN
- Communication address**
15. No. Building
 16. Street/Road
 17. Locality
 18. City/Town, District
 19. State, Country
 20. Pin code
 21. Tel (with STD code)
 22. Mobile number
 23. E-mail
 24. Name of Organisation/Employer
- Second Address (Permanent address/Place of work)**
25. No. Building
 26. Street/Road
 27. Locality
 28. City/Town, District
 29. State, Country
 30. Pin Code
 31. Tel (with STD code)

DO NOT FILL FOR FIU-IND USE ONLY

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