

July 7, 2021

Dr. Victoria Saporta
Chairperson
Mr. Jonathan Dixon
Secretary General
International Association of Insurance Supervisors (IAIS)
Centralbahnplatz 2
CH-4002 Basel
Switzerland



Re: Draft Revised Application Paper on Combatting Money Laundering and Terrorist Financing

Dear Dr. Saporta and Mr. Dixon:

The Institute of International Finance (IIF) and the members of the IIF Insurance Working Group and AML Working Group are pleased to respond to the IAIS's public consultation on the Draft Revised Application Paper on Combating Money Laundering and Terrorist Financing (Draft Application Paper). The IIF and its members have long supported public and private sector efforts to prevent the misuse of the financial system for the purposes of illicit activity, and we appreciate the efforts of the IAIS to promote measures to combat money laundering (ML) and terrorist financing (TF), which threaten the integrity of the international financial system.

Overarching Comments

Limiting the Scope of the Draft Application Paper to Life Insurance

The IIF applauds the IAIS's involvement in the Financial Action Task Force (FATF) and its endorsement of the FATF 2018 Recommendations¹ (FATF Recommendations) and the FATF's Guidance for a Risk-Based Approach – Life Insurance Sector (FATF Guidance).² We strongly encourage the IAIS to limit the scope of the Draft Application Paper to the life insurance sector, consistent with the long-standing approach of the FATF. The FATF Recommendations do not apply to the non-life insurance sector. The FATF has determined that the risk of ML/TF arising through insurance channels is so insignificant in non-life (re)insurance that it would be misguided for the FATF Guidance to apply to the non-life sector.

As the IAIS acknowledges, life insurance products generally are not used as vehicles to facilitate ML/TF. The ML/TF risks of the non-life insurance and reinsurance sectors are virtually nil. The IAIS should make this clear in the title and scope of the Draft Application Paper. We propose as a title, *IAIS Revised Application Paper on Combating Money Laundering and Terrorist Financing in the Life Insurance Sector*, and we propose to delete any references therein to non-life insurers or reinsurers or to their products in the IAIS guidance and in any case studies.

¹ <https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>

² <https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/RBA-Life-Insurance.pdf>

While the IAIS acknowledges in the introduction to the Draft Application Paper that its AML/CFT guidance is directed primarily to life insurers and intermediaries, we believe a more targeted approach would be consistent with the FATF Recommendations and FATF Guidance and would reflect a risk-based, proportionate approach, which, ultimately, would better allocate insurers' and supervisors' AML/CFT resources.

We encourage the IAIS to promote the use of national risk assessments by jurisdictional authorities to identify life insurance lines of business that may warrant an exclusion from AML/CFT requirements. For example, as noted below, in certain jurisdictions, pure protection life policies, some group policies and life reinsurance and retrocession contracts are not covered by jurisdictional AML/CFT rules.

Avoiding Duplication and Layering of Requirements

We encourage a targeted approach that focuses the IAIS's guidance on aspects of AML/CFT frameworks and policies that are particularly pertinent to the life insurance sector, as opposed to general guidance that may be duplicative of the FATF Recommendations or FATF Guidance. The IAIS could provide helpful value-added advice to life insurers by targeting aspects of risk assessment, due diligence and internal controls that require a different approach than is taken by other financial services firms. Similarly, tailoring the case studies to situations that have been identified by insurance supervisors as having led to the misuse of life insurance products to advance financial crime would provide a useful 'red flags' guide to life insurers.

Paragraph 6 of the Draft Application Paper states that the IAIS guidance is "intended to complement jurisdictionally specific requirements and guidance." When an institution has implemented a robust ML/TF program that meets current standards and supervisory expectations, the insurer should not be expected to adopt additional AML/CFT measures. IAIS guidance provides added value where a jurisdiction does *not* have a mature AML/CFT regime and relevant AML/CFT guidance. We suggest the rewording of Paragraph 6 as follows:

"This Application Paper is directed primarily to life insurers and intermediaries and is based on ICP 22, taking into account the FATF Recommendations and the Guidance. It is intended to assist in establishing appropriate AML/CFT practices where jurisdictional guidance is insufficient to adequately support life insurers and intermediaries in the management of ML/TF risks."

The Draft Application Paper should reflect that insurers routinely carry out customer risk assessments as a key part of their underwriting activities and maintain robust internal procedures and controls to detect potential insurance fraud risk factors, which are very similar to potential ML/TF risk factors. To avoid imposing potentially duplicative compliance measures, supervisors should be encouraged to consider how insurers' fraud detection and risk assessment processes and internal controls can be employed to detect ML/TF risk.

The fact that an insurer chooses to diversify its risk by entering into reinsurance transactions should not trigger additional AML/CFT oversight obligations.

Alignment with Developing FATF Guidance

We encourage the IAIS to carefully align the Draft Application Paper with developing FATF Recommendations and FATF Guidance. Divergence from emerging FATF guidance can have a detrimental

impact on effectively addressing domestic and international financial crime. Ensuring convergence with the letter and spirit of what has been agreed at the FATF, and focusing on effective implementation, will make it harder for criminals to exploit gaps in AML/CFT protections in one jurisdiction. This will help eliminate one of the incentives criminals have to channel their operations through jurisdictions they know are less resilient than others.

Adopting a Risk-Based Approach

The IIF endorses the Risk-Based Approach (RBA) taken by the FATF in its Recommendations and Guidance and reflected in the Draft Application Paper. We believe that a consistent and coordinated RBA is essential to implementing the FATF Recommendations and guidance in a manner that minimizes the risks of regulatory fragmentation and promotes the adoption of appropriate and proportionate measures to address ML and TF risks. The IAIS should strongly encourage supervisors to adopt the RBA.

Facilitating Information Sharing

The Draft Application Paper identifies several areas where information is required on the beneficial owner or beneficiary of an insurance policy. The Draft Application Paper should acknowledge and address the challenges that life insurers face in determining the accuracy of information in beneficial ownership registries and in addressing other weaknesses in the completeness, transparency, reliability, and access to information in public or commercial databases. The FATF is consulting on amendments to strengthen Recommendation 24 on transparency and beneficial ownership, noting that countries are still not fully addressing the need to ensure that beneficial ownership information is available and up to date.³

The Draft Application Paper should clarify that the information contained in beneficial ownership registries is sufficient to satisfy the identification of beneficial owners, and that responsibility for keeping registries up-to-date lies with governments and law enforcement agencies, not the life insurance sector. The IAIS should emphasize the need to require legal entities themselves to provide complete and verifiable information to public authorities for inclusion in accessible registries.⁴

It would also be helpful for the IAIS to reflect more extensively on the use of Legal Entity Identifiers (LEI) to enhance transparency when considering beneficial ownership information. LEIs provide for the unambiguous identification of legal entities. LEI tools could be very effectively leveraged by law enforcement and regulators to identify the entity that owns a structure or to monitor activity. Incorporating further use of LEIs into beneficial ownership registries as a required field and encouraging their use would aid in securing further reliable information and in enhancing customer due diligence (CDD) generally.

The Draft Application Paper should also place greater emphasis on the broader importance of being able to share information concerning financial crime matters within an institution and between the public and private sectors (with appropriate recognition of the data privacy/protection concerns, which are not mutually exclusive). To facilitate this, the IAIS should work with its international counterparts, including the FATF, to address the legal and regulatory barriers to such data exchange (particularly cross-border) and explore mechanisms for public/private cooperation and partnership among the insurance sector,

³ <https://www.fatf-gafi.org/publications/fatfrecommendations/documents/white-paper-r24.html>

⁴ <https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-transparency-beneficial-ownership.pdf>

regulators, and law enforcement. This should include consideration of how public/private partnerships can assist in addressing information sharing barriers.

Proliferation Finance

We support the wider efforts of the IAIS to mitigate proliferation finance (PF) risk. However, the Draft Application Paper should recognize that the links between life insurance and PF risks are extremely tenuous, if not non-existent, and that any PF risks in the non-life insurance sector typically are addressed through existing AML/CFT rules, guidance, and compliance programs. Since any PF risks arise solely in the non-life insurance sector, PF should be out of scope for the Draft Application Paper.

Importantly, the FATF reviewed comments received on its March 2021 *Public Consultation on FATF Guidance on Proliferation Financing Risk Assessment and Mitigation* and finalized guidance during its June 2021 Plenary meeting.⁵ We encourage the IAIS to consider whether additional guidance on PF for the non-life insurance sector is necessary in light of the recent FATF PF guidance. Any further non-life insurance sector guidance should be subject to a specific IAIS consultation.

The IIF and the Wolfsberg Group responded to a Public Consultation on FATF Guidance on Proliferation Financing Risk Assessment and Mitigation last year.⁶

Specific Comments

Section 2: Money Laundering, Financing of Terrorism and Targeted Financial Sanctions in [Life] Insurance

Paragraph 12, which addresses PF, provides that screening for sanctions is not subject to an RBA. As noted above, we believe that PF should be out of scope for the Draft Application Paper. If and when PF is addressed by the IAIS, we would revise this Paragraph to state that, while compliance with sanctions is not subject to an RBA, the manner in which that compliance is achieved, including but not limited to the scope, method and frequency of sanctions screening, can be subject to an RBA.

An insurer's RBA should reflect the relatively lower risks of ML/TF in the life insurance sector. Insurers should be guided to develop systems, controls and processes that align closely to the ML/TF risks to which they are exposed. Accordingly, we recommend the addition of the following sentence at the end of Paragraph 13:

"When developing an RBA to AML/CTF, insurers should design systems, controls and processes that reflect the relatively low ML/TF risks associated with the life insurance sector."

Given the relatively low ML/TF risks in the life insurance sector, we caution the IAIS against categorically treating certain life insurance products and product features, such as those listed in Paragraph 14, as high risk. Many of these products and product features are quite common in the life insurance sector and should not automatically require greater AML/CFT compliance measures. Some of these product features, such as those "with provisions that allow a policy to be cancelled within a stipulated timeframe and the premiums paid to be refunded" (Bullet 9) may be legally required in some jurisdictions. Automatically

⁵ <https://www.fatf-gafi.org/publications/financingofproliferation/documents/proliferation-financing-risk-assessment-mitigation.html>

⁶ https://www.iif.com/Portals/0/Files/content/Regulatory/09_04_2020_iif_wolfsberg_response_letter.pdf

categorizing certain features and products as high risk would be disproportionate and contrary to the RBA and may unintentionally divert life insurers' focus from the actual ML/TF risk at hand. Instead of focusing on individual products and features, we urge the IAIS to take a holistic approach when assessing ML/TF risk, for instance by focusing on the customer's behavior over time or unusual transaction patterns.

Section 4: Identification and Assessment of Risks

We encourage the IAIS to take a holistic view of the identification of customer-related, product-related and delivery channel-related life insurance AML/CFT risks rather than a separate identification of each potential source of risk, as these sources are interrelated and interconnected. A holistic approach would involve a more efficient use of resources and is more likely to mitigate the possibility that potential sources of ML/TF risk are missed and makes it is less likely that a life insurer adopts a 'tick box' compliance exercise.

Section 5: Customer Risk Assessment

Paragraph 35 deviates from the FATF Recommendations and FATF Guidance by considering the customer's country of origin and nationality in developing a customer risk profile. Consideration of an individual's country of origin and nationality as part of a customer's risk profile is highly problematic and potentially violative of legislation and rules in some jurisdictions. Existing guidance from the FATF focuses on the jurisdiction in which the customer operates, and not on an individual's country of origin or nationality.

Paragraph 39 focuses on the beneficiary of a life insurance policy without explaining how the designation of a particular beneficiary could increase ML/TF risks. We encourage the IAIS to recognize that the beneficiary of a life insurance policy is not the customer of the insurer and that the beneficiary can be changed over the life of the contract. Life insurers often cannot obtain information on the beneficiary of the policy. An insurer should only be required to review a beneficiary's identity against a Politically Exposed Persons (PEP) list at the time of the payment of the benefit. Moreover, we would caution against the check-box list approach taken in Paragraph 39. Guidance on developing and maintaining risk profiles and risk assessments should be proportionate and risk-based, consistent with the approach that is taken by the IAIS in the development of application papers.

Section 6: Customer Due Diligence

Paragraphs 42 and 47 use the term "accounts," which is not relevant to life insurance. The second sentence of Paragraph 42 should be reworded, "[t]hey should prohibit the issuance of life insurance policies to individuals whose identities cannot be confirmed or file a suspicious transaction report."

The last sentence of Paragraph 45 notes that the verification of a beneficiary should occur at the time of payout. We note that, in some circumstances, the level of ML/TF risk may warrant verification when the beneficiary is identified.

Paragraph 47 should recognize that it is not always feasible for insurers to terminate relationships or halt transactions already underway, such as benefit payouts or payments to beneficiaries. If such a transaction or business relationship cannot feasibly be terminated, filing a suspicious transaction report (STR) can be a suitable alternative. As such, we would suggest using "and/or" instead of "and" between the first and

second bullets of this Paragraph. We would delete the words “open the account” in this Paragraph, consistent with our comments with respect to Paragraph 42.

Paragraph 49 states that insurers and intermediaries should use appropriate available sources of information when considering whether to accept ML/TF risk. As noted above, life insurers should be able to rely on public registries and databases. The Draft Application Paper should place greater emphasis on the importance of sharing information concerning financial crime matters within an institution and between the public and private sectors (with an appropriate recognition of data privacy/protection concerns, which are not mutually exclusive) and should encourage supervisors to support efforts to reduce barriers to information sharing on ML/TF risks.

Section 7: Methods of Identification and Verification

We encourage the IAIS to explore whether specimen signatures can be replaced by a more reliable means of customer identification that could be adopted globally. If and when an alternative is identified, we would recommend removing specimen signatures from the list of personal identifying information in Paragraph 55. The use of specimen signatures is an outdated and unreliable source of customer identification, especially given the growing digitalization of the life insurance industry.

We would not include the fifth bullet of Paragraph 55 as indicative of the identity of the customer. Rather, occupation is more relevant to a customer’s source of wealth.

The suggested approach to document validation in Paragraph 58 should be reconsidered in light of an increasingly digital insurance industry and digital means of validation and authentication. The IAIS should consider and support the use of digital and biometric identifiers. More generally, we encourage the IAIS to confirm that the Draft Application Paper reflects the FATF guidance on digital identity.⁷

As noted above, it would also be helpful for the IAIS to reflect more extensively on the use of LEIs to enhance methods and tools for transparency. Incorporating further use of LEIs into beneficial ownership registries as a required field and encouraging their use would aid in securing further reliable information and in enhancing customer due diligence generally.

Section 8: Enhanced Due Diligence in Higher Risk Cases

We caution the IAIS against categorically treating certain situations as high risk. We believe this to be generally disproportionate and contrary to the RBA. Treating a broad range of transactions as high risk may unintentionally shift the life insurer’s focus from actual risk by incenting a ‘tick box’ prescriptive methodology. Generally speaking, this Section should reflect that, given the markedly lower ML/TF risk profile of the life insurance sector, life insurers do not need to employ the types of enhanced due diligence measures that are appropriate for banks and other financial intermediaries.

We encourage the IAIS to focus on measures that are particularly helpful in identifying higher risk life insurance transactions, rather than on approaches that may apply more generally to financial institutions. We note that the U.S. Department of the Treasury Financial Crimes Enforcement Network has issued Frequently Asked Questions on AML and Suspicious Activity Reporting Requirements for issuers or

⁷ [https://www.fatf-gafi.org/publications/digitaltransformation/documents/opportunities-challenges-new-technologies-for-aml-cft.html?hf=10&b=0&s=desc\(fatf_releasedate\)](https://www.fatf-gafi.org/publications/digitaltransformation/documents/opportunities-challenges-new-technologies-for-aml-cft.html?hf=10&b=0&s=desc(fatf_releasedate))

underwriters of covered life insurance products⁸ that present a higher degree of risk for money laundering.⁹ These FAQs include some examples of 'red flags' that include unusual payment methods, a customer who is reluctant to provide identifying information or customers that show little concern for the investment performance of a product. As noted above, we encourage the IAIS to take a holistic view of the identification of customer-related, product-related and delivery channel-related life insurance AML/CFT risks rather than a separate identification of each potential source of risk, as these sources are interrelated and interconnected. Moreover, reviewing a single transaction without the context provided by a more holistic review of the customer's behavior over time may not give a realistic indication of whether the activity is suspicious. It could also give rise to false positives that could result in unintended financial exclusion.

We encourage the IAIS to reconsider the second bullet of Paragraph 70. Non-face-to-face life insurance business is becoming the norm with the digitalization of insurance and the expansion of direct-to-consumer markets, particularly in the wake of the global pandemic. We expect that these changes in marketing and delivery channels will continue going forward and that life insurers will adapt their risk management practices to reflect any increased risk. We encourage the IAIS to note that life insurers that conduct properly risk-based KYC and transaction monitoring can mitigate any risks of non-face-to-face business transactions. Importantly, Paragraph 4 of the FATF Guidance on Digital Identity¹⁰ (FATF Digital Guidance) notes that the International Organization for Standardization (ISO), together with the International Electrotechnical Commission (IEC) is standardizing digital ID assurance frameworks and updating ISO/IEC technical standards to develop a comprehensive global standard for digital ID systems. Paragraph 3 of the FATF Digital Guidance clarifies that non-face-to-face customer identification and transactions that rely on reliable, independent digital ID systems with appropriate risk mitigation measures in place may present a standard level of ML/TF risk and may even be lower risk. FATF notes that the use of reliable, independent digital ID systems can potentially reduce the possibility of human error in identifying and verifying the identity of a person and largely eliminates the role of subjective human judgement in authentication of a customer.¹¹

Section 9: Simplified Customer Due Diligence in Lower Risk Cases

We support the approach taken in Paragraph 76, and the IAIS's recognition that simplified CDD measures are appropriate in certain cases, especially when it can help increase access to life insurance products and improve financial inclusion. Moreover, products that are designed to "increase access for financial inclusion purposes" are often lower-value policies, thereby representing an even lower risk of ML/TF.

A greater range of life insurance transactions may be suitable for simplified CDD since life insurance by its very nature poses lower ML/TF risk than other financial services transactions. We would emphasize that the development of appropriate CDD measures at the jurisdictional level should follow the FATF Recommendations and Guidance to provide for global consistency.

⁸ Covered life insurance products are defined as: a permanent life insurance policy, other than a group life insurance policy; an annuity contract, other than a group annuity contract; and products with cash value or investment features.

⁹ https://www.naic.org/documents/committees_d_antifraud_meetingcc_faqsinsurance_103105.pdf

¹⁰ <https://www.fatf-gafi.org/publications/fatfrecommendations/documents/digital-identity-guidance.html>

¹¹ Paragraph 106 of the FATF Digital Guidance.

In certain jurisdictions, some lines of life insurance business are carved out from ML/TF requirements. For example, in the U.S. group life insurance products are not covered under AML/CFT requirements. In Switzerland, pure protection life insurance products and certain group life insurance products are not subject to local AML/CFT requirements. We encourage the IAIS to promote the use of national risk assessments by jurisdictional authorities to identify life insurance lines of business that may warrant an exclusion from AML/CFT requirements.

Section 11: Ongoing due diligence and monitoring

The first and second sentences of Paragraph 91 discuss customer due diligence and the third, fourth and fifth sentences of this Paragraph 91 address transaction monitoring. We suggest placing the text of Paragraph 91 in two different paragraphs for clarity.

Paragraph 94 should be updated to reflect FATF Recommendations for senior management *approval* of PEP relationships (see FATF Recommendation 12). Paragraph 69 of the FATF Guidance also calls for senior management approval of these relationships.

Section 12: Politically Exposed Persons

We question the need for additional guidance on PEPs in the Draft Application Paper, as this topic has been comprehensively addressed in the FATF Recommendations and Guidance. As discussed above, we strongly encourage the IAIS to focus its guidance on topics that provide helpful value-added advice to life insurers that identify where life insurers may need to take a different approach than is taken by other financial services firms.

The Draft Application Paper should recognize there are limitations to using commercially available PEP lists due to divergence in AML/CFT rules and guidance across jurisdictions and the lack of a common taxonomy for the identification of PEPs and their family members. The Draft Application Paper could benefit from a clearer discussion of how supervisors could coordinate to make PEP databases more reliable.

Section 12 should also acknowledge that PEP lists are developed and updated by government authorities. Insurers' determinations of whether a customer or a beneficiary is a PEP can only be conducted on a best-efforts basis.

We would caution against taking an overly restrictive approach to outsourcing AML/CFT functions, which may present an undue burden to insurers. Consistent with FATF Guidance, life insurers should take into consideration their distribution networks and channels when conducting a risk assessment (See Table 2) but this risk assessment should be conducted in a flexible and proportionate manner, as provided in Paragraph 45 of the FATF Guidance.

Section 15: Suspicious Transaction Reporting

We would suggest deleting the clause “among other things” in the second sentence of Paragraph 109, as it broadens the scope of STR inappropriately. We recognize that tax offenses can be predicate offenses for ML/TF violations, but this overbroad clause could be interpreted to include a wide range of unrelated offenses with no nexus to ML/TF risks.

With respect to Paragraph 110, we would delete the reference to the intermediary's database, as it is highly unlikely that an insurance intermediary would allow an insurer to have access to its database for IT and data protection reasons. We would amend this paragraph to read as follows:

110. When relying on the identification and verification work completed by insurance intermediaries, insurers should ensure that they have ready access to the CDD record(s) in order to facilitate the filing of STRs.

Section 16: Internal Controls and Foreign Branches and Subsidiaries

Section 16 assumes that the group or parent entity is regulated for AML/CFT purposes and exposed to AML/CFT risk to the same extent as the underlying life insurance entity, which often is not the case. The AML/CFT frameworks in place should reflect the level of risk and the regulatory and supervisory framework applicable to the individual entity.

Case Studies

The case studies are more exemplative of insurance fraud than of ML/TF and/or describe control failures. While fraud can be a predicate offense for ML, the case studies should focus on actual instances of ML/TF in life insurance, which are rare. We suggest that each case study identify the type of ML/TF that occurred (e.g. placement of criminal funds), how life insurance products were used for ML/TF, and the ML/TF vulnerabilities that were exploited by the criminals. As noted above, the case studies should not include non-life insurance examples.

We appreciate the opportunity to comment on the Draft Application Paper. We are available at your convenience to further discuss our response and elaborate any of the points raised herein.

Respectfully submitted,

Mary Frances Monroe
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