



Insurance  
Regulatory  
Authority

*Bima Bora kwa Taifa*

**I R A**



**STAKEHOLDERS WORKSHOP – DRAFT AML  
/CFT GUIDELINE 2016**

**TERESA MBURU – HEAD ,SPECIAL  
SERVICES SECTION**

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# **DRAFT GUIDELINE ON ANTI MONEY LAUNDERING & COMBATING TERRORISM FINANCING**

# Scope of presentation

- Vulnerability of the insurance industry
- Provisions – revised AML-CFT Guideline
- Q and A

# Vulnerabilities in the insurance industry

- The industry is vulnerable to money laundering and terrorism financing in a number of ways;
- Products
  - ❖ Unit linked products
  - ❖ Single premium contracts
  - ❖ Individual pension products
- Premium financing arrangements
  - ❖ Non regulated entities
  - ❖ Finances used for premium financing
- Reinsurance arrangements
  - ❖ fictitious reinsurance arrangements
  - ❖ fictitious reinsurance intermediaries

# Vulnerabilities in the insurance industry

- Insurance intermediaries
  - ❖ Agents
  - ❖ brokers
- Customers
  - ❖ High risk customers
  - ❖ Politically exposed persons
  - ❖ Corporate customers
  - ❖ Trust Funds
- Technology
  - ❖ Ecommerce
- Geographical distribution
  - ❖ High risk and non cooperative jurisdictions as identified by FATF
  - ❖ Secrecy jurisdictions/tax havens
  - ❖ Source/transit/destination countries

## THE REVISED AML/CFT GUIDELINE –KEY PROVISIONS

### 1) Role of the Insurance Regulatory Authority

The Authority and its staff shall, in accordance with section 36 of the Act

- Report to the Centre any suspicious transaction that the supervisory body or its staff may encounter within the normal course of its duties.
- Handle the Designations and Sanctions list and circulate the same to the reporting institutions (insurance companies) immediately upon receipt.

## **THE REVISED AML/CFT GUIDELINE –KEY PROVISIONS**

### **2) The Responsibilities of the Board and Management**

- Establish policies and procedures to ensure the effective prevention, detection, reporting and control of possible ML & TF activities
- Review the policies and procedures once every two years and from time to time
- Communicate the policies and procedures to staff
- Monitoring of compliance – Internal audit and compliance functions
- Register with the FRC and comply with the annual reporting requirement

## THE REVISED AML-CFT GUIDELINE –KEY PROVISIONS

- Report to the Centre any cash transactions exceeding US\$ 10,000 or its equivalent in any other currency
- Appoint a Money Laundering Reporting Officer according to the requirements stipulated in Regulation 10 of The Proceeds of Crime and Anti Money Laundering Regulations, 2013
- Develop a group policy on anti-money laundering and combating financing of terrorism and extend this to all its branches and subsidiaries where applicable outside Kenya



## THE REVISED AML-CFT GUIDELINE –KEY PROVISIONS

### 3) Risk Based Approach

- Customer risk assessment
  - Characteristics of low risk customers
  - Characteristics of high risk customers
- Appropriate risk rating should be assigned to customers
- Effective action to mitigate ML & TF risks

## THE REVISED AML-CFT GUIDELINE –KEY PROVISIONS

- ❑ In relation to country risk, customers with residence in or connection with high risk jurisdictions e.g.;
- Those that have been identified by the FATF as jurisdictions with strategic AML deficiencies;
- Countries subject to sanctions, embargos or similar measures issued by, for example, the UN,
- Countries which are vulnerable to corruption; and
- Those countries that are believed to have strong links to terrorist activities
- Sources of data - UN, the IMF, the World Bank, the FATF, among others and the insurance institution's own experience

## THE REVISED AML-CFT GUIDELINE –KEY PROVISIONS

### 4) Customer acceptance

- Customer acceptance policies and procedures
- Create and maintain a risk profile of each customer
- Details of customers and nature of business
- Corporate customers
- Means and types of payment

## THE REVISED AML-CFT GUIDELINE –KEY PROVISIONS

### 5) Legitimacy of Source of funds

- Insurance institutions shall put in place measures to establish legitimacy of source of funds
- Documentary evidence shall be provided and proper records maintained
- Policies in to set the maximum cash transaction limits that customers can undertake

## THE REVISED AML-CFT GUIDELINE –KEY PROVISIONS

### 6) Customer due diligence

➤ Due diligence to individual/natural customers - evidence of identity

➤ Due diligence to corporate customers

Low risk/high risk corporate customers

➤ Unincorporated business

➤ Trust accounts

➤ On going due diligence on existing customers/beneficiaries

➤ Non face to face transactions

## THE REVISED AML-CFT GUIDELINE –KEY PROVISIONS

### 7) New Technologies

- Reasonable measures to prevent the use of new technologies for money laundering and terrorism financing activities
- Money laundering risk assessment
  - new products
  - new business practice
  - new technology
- Document risk assessment and should be availed on request

## THE REVISED AML-CFT GUIDELINE –KEY PROVISIONS

### 8) Life Insurance Related Business

- carry out extra CDD on beneficiaries as soon as the beneficiary or beneficiaries are identified as a ;
- specifically named natural or legal persons or legal arrangements, taking the name of the person
- obtaining sufficient information concerning the beneficiary to satisfy itself that it will be able to establish the identity of the beneficiary at the time of the pay out.

## THE REVISED AML-CFT GUIDELINE –KEY PROVISIONS

### 9) Carrying on Due Diligence by intermediaries

- reliance on insurance intermediaries to perform customer due diligence procedures
- the ultimate responsibility for knowing the customer or beneficiary always remains with the insurer
- satisfactory evidence of the identity and legal existence of the persons applying to do business with it
- all requirements imposed by law relating to records and documentation are met.
- all customer records shall remain up to date, relevant and easily accessible



## THE REVISED AML-CFT GUIDELINE –KEY PROVISIONS

- The insurance intermediary will submit such information to the insurer upon request and without delay
- The insurance intermediary shall not engage in a business relationship with a client who fails to provide evidence of their existence
- Insurance intermediaries shall adopt a risk based approach where they employ enhanced customer due diligence for high risk category of customers
- Option to undertake and complete their own verification of the customer and beneficial owner if they have any doubts about the ability of the insurance intermediary to undertake appropriate due diligence

## THE REVISED AML-CFT GUIDELINE –KEY PROVISIONS

### 10) Tipping Off

- Information which is suspicious or indicates possible money laundering or terrorism financing activity shall not be disclosed to unauthorised persons
- Such information shall be reported to the FRC as required.
- It is an offence to tip off under Section 8 of the POCAMLA

### 11) Record Keeping

- Maintenance of customer records for at least 7 years
- Types of records to be maintained
- Records should be up to date and relevant

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## **THE REVISED AML-CFT GUIDELINE –KEY PROVISIONS**

### **12) Recognition and reporting of suspicious transactions**

- Mechanisms of detection and reporting of suspicious transactions to FRC
- Register of reported suspicious transactions
- Transactions which are suspect to be related to money laundering and terrorism financing activities

### **13) Staff screening and training**

- Fit and proper requirements for staff in key positions
- Maintenance of records
- Training of directors, management and staff

## THE REVISED AML-CFT GUIDELINE –KEY PROVISIONS

### 14) Combating Financing of Terrorism

- maintain a database of names and particulars of listed persons in the UN sanctions list and such lists as may be issued
- information contained in the database is updated and relevant, and made easily accessible to its employees at the head office, branches or subsidiary
- conduct regular checks on the names of new customers, as well as regular checks on the names of existing customers and potential customers, against the names in the database

## THE REVISED AML-CFT GUIDELINE –KEY PROVISIONS

### 15) Penalty – Offences

Contravention of POCAMLA Regulations

- Fine not exceeding Kes.5 million
- Imprisonment – term not exceeding 3 years
- Both

Contravention of POTA Regulations

- Fine not exceeding Kes.3 million
- Imprisonment –term not exceeding 7 years
- Dealing with, facilitate any transaction, provide financial services or any other service to property owned/controlled by terrorist groups, term not exceeding 20 years.

### 16) Submission of Quarterly Return

Purpose – monitoring of compliance



**THANK YOU**