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**INSURANCE REGULATORY AUTHORITY**

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**GUIDELINES TO THE INSURANCE INDUSTRY ON IMPLEMENTATION OF  
THE PROCEEDS OF CRIME AND ANTI-MONEY LAUNDERING ACT AND  
PREVENTION OF TERRORISM ACT**

***August 2016***

## **THE INSURANCE ACT (CAP 487)**

### **GUIDELINES TO THE INSURANCE INDUSTRY ON IMPLEMENTATION OF THE PROCEEDS OF CRIME AND ANTI-MONEY LAUNDERING ACT AND PREVENTION OF TERRORISM ACT**

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## **1.0. Authorisation**

IN EXERCISE of the powers conferred by section 3A(a), (b) and (g) of the Insurance Act, the Insurance Regulatory Authority in consultation with the Financial Reporting Centre, issues the guideline set out below for compliance by the insurance industry. These guidelines should be read together with The Proceeds of Crime and Anti Money Laundering Act, 2009, The Proceeds of Crime and Anti Money Laundering Act Regulations, 2013, Prevention of Terrorism Act, 2012 and Prevention of Terrorism (Implementation of the United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2013

## **2.0. Introduction**

The insurance industry is at potentially at risk of being misused for money laundering and financing of terrorism activities. The products and services offered in the insurance industry can provide an opportunity for these criminal activities. As a result, an insurer or an insurance intermediary can be involved knowingly or unknowingly in money laundering and /or financing of terrorism activities thus exposing it to legal, operational and reputational risks.

The Insurance Regulatory Authority, pursuant to its mandate to regulate, supervise and develop the insurance industry has developed guidelines to combat money laundering and financing of terrorism in the insurance industry.

Internationally, initiatives to prevent the misuse of financial systems by persons laundering money and financing terrorism led to the formation of the Financial Action Task Force (FATF). FATF is an intergovernmental policy making body which sets standards, develop and promotes policies to combat money laundering and terrorism financing. In 2012, FATF revised and issued 40 recommendations on combating money laundering and terrorism financing. These are recognized as the global standards on combating money laundering and terrorism financing.

The International Association of Insurance Supervisors (IAIS), of which the Authority is a member, recognizes the FATF recommendations as the guiding principles on anti-money laundering and combating financing of terrorism.

The Authority is required to circulate the United Nations sanctions list to the reporting institutions under its purview for information and necessary action. The Authority is also mandated to ensure that reporting institutions comply with the

Prevention of Terrorism(Implementation of the United Nations Security Council Resolutions on Suppression of Terrorism) Regulations ,2013.

### 3.0. Definitions

**Act** means The Proceeds of Crime and Anti-Money Laundering Act No. 9 of 2009.

**Authority** means Insurance Regulatory Authority.

**Beneficiary** refers to the beneficiary to the insurance contract.

**Centre** refers to the Financial Reporting Centre

**Customer** refers to the policy holder or prospective policy holder.

**FATF** refers to Financial Action Task Force

**Insurance institution** refers to insurance and reinsurance companies licensed under the Insurance Act, Cap 487.

**Money Laundering** means the act of a person who:

(a) knows or ought reasonably to have known that the property is or forms part of the proceeds of crimes and;

(i) enters into any agreement or engages in any arrangement or transaction with anyone in connection with that property, whether that agreement, arrangement or transaction is legally enforceable or not; or

(ii) performs any other act in connection with such property, whether it is performed independently or with any other person,

Whose effect is to:

➤ conceal or disguise the nature, source, location, disposition or movement of the said property or the ownership thereof or any interest which anyone may have in respect thereof; or

➤ enable or assist any person who has committed or commits an offence, whether in Kenya or elsewhere to avoid prosecution; or

➤ remove or diminish any property acquired directly, or indirectly, as a result of the commission of an offence;

(b) acquires, uses or has possession of property and who, at the time of acquisition, use or possession of such property, knows or ought reasonably to have known that it is or forms part of the proceeds of a crime committed by another person;

- (c) knowingly transports, transmits, transfers or receives or attempts to transport, transmit, transfer or receive a monetary instrument or anything of value to another person, with intent to commit an offence.

**Person** means any natural or legal entity.

**POCAMLA** refers to The Proceeds of Crime and Anti Money Laundering Act,2009

**POTA** refers to The Prevention of Terrorism Act,2012

**Proceeds of Crime** means any property or economic advantage derived or realized, directly or indirectly, as a result of or in connection with an offence irrespective of the identity of the offender and includes, on a proportional basis, property into which any property derived or realized directly from the offence was later successively converted, transformed or intermingled, as well as income, capital or other economic gains derived or realized from such property from the time the offence was committed.

**Regulations** refers to The Proceeds of Crime and Anti Money Laundering Act Regulations,2013and Prevention of Terrorism(Implementation of the United Nations Security Council Resolutions on Suppression of Terrorism) Regulations ,2013

**Reporting Institution** means a financial institution and a designated non-financial business and profession as defined in the POCAMLA and POTA.

Terrorism Acts -as defined in the Prevention of Terrorism Act,2012 and the Prevention of Terrorism(Implementation of the United Nations Security Council Resolutions on Suppression of Terrorism) Regulations ,2013

### 3.1. **Vulnerabilities in the Insurance Industry**

3.1.1. The insurance industry is vulnerable to money laundering and financing of terrorism in a number of ways. The Authority brings to the attention of the industry some of the transactions or products that may be vulnerable to money laundering and financing of terrorism. The industry will be required to take more precaution in these transactions.

3.1.2. Life policies may become vulnerable in that when it matures or is surrendered, funds become available to the policyholder or other beneficiary and such beneficiary may sometimes be changed possibly against payment before maturity or surrender in order that payments can be made by the insurer to a new beneficiary. A policy might be used as collateral to purchase other financial instruments. These investments in themselves may be merely

one part of a sophisticated web of complex transactions with their origins elsewhere in the financial system.

3.1.3. Examples of the type of insurance contracts that are vulnerable as a vehicle for laundering money are products such as:

- (a) unit-linked or non-unit-linked single premium contracts;
- (b) purchased annuities;
- (c) lump sum top-ups to an existing life contract; and
- (d) lump sum contributions to personal pensions contracts.

3.1.4. General insurance business may be vulnerable for money laundering and financing of terrorism through inflated and bogus claims e.g. by arson or other means causing fake claims to be made to recover part of the invested illegitimate claim.

3.1.5. Re-insurance may be used for money laundering and financing of terrorism by establishing fictitious (re)insurance companies and reinsurance intermediaries fronting arrangements and captives, or by misuse of normal reinsurance transactions which may include the deliberate placement via the insurer of the proceeds of crime with a reinsurance institution in order to disguise the source of funds;

3.1.6. Insurance intermediaries being an important channel of distribution and the link between the insurer and the customers may be used for money laundering and financing of terrorism by either failing to carry out due diligence or being established to facilitate illegal transactions.

3.1.7. Premium financing by non-regulated financial institutions can be used as an avenue for money laundering and financing of terrorism where the insured uses illegal funds to repay the premium loan with an intention of receiving clean funds upon occurrence of the risk and compensation by the insurer. The finances used for premium financing may also be from an illegal source and are being laundered by advancing loans to policyholders or prospective policyholders.

### 3.2. **Stages of Money Laundering**

3.2.1. Despite the variety of methods employed, the laundering process is accomplished in three stages. The stages of anti-money laundering may occur in any order and may not necessarily be in the order provided.

3.2.2. These stages, described below, may comprise numerous transactions by the launderers that could alert an institution of the criminal activity;

(a) **Placement** – the physical disposal of the initial proceeds derived from an illegal activity. It entails the physical movement of cash or property away from the location where it was illegally obtained and its placement in the legitimate financial system.

(b) **Layering** – separating illicit proceeds from their source by creating complex layers of financial transactions designed to disguise the audit trail and provide anonymity. This may include a scenario where a single premium investment accompanied by a request for a letter of guarantee or followed by surrender or loan and unit trust investments shortly followed by repurchase.

(c) **Integration** – the provision of apparent legitimacy to criminally derived wealth. If the layering process has succeeded, an integration scheme places the laundered proceeds back into the economy in such a way that they re-enter the financial system appearing as normal business funds. This may be obtaining assets e.g. through investment in a policy, obtaining payment by way of cheque or electronic payment from the insurer and reinvestments in other instruments.

#### **4.0. Role of the Authority**

4.1. 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 in the form prescribed in the Schedule:

Provided that the supervisory body may complete the applicable parts of the form with or without such modifications as may be necessary.

4.2. The Authority shall, in accordance with the law, handle the Designations and Sanctions list upon receipt.



## **5.0. Policies and Procedures to Combat Money Laundering and Financing of Terrorism**

- 5.1. These guidelines will apply to insurance and reinsurance companies licensed under the Insurance Act, Chapter 487 Laws of Kenya. The guidelines highlight methods of prudent customer identification, record keeping, identification of suspicious activities and reporting such activities to the Centre for further investigation.

## **6.0. Responsibilities of the Board and Management**

It is the responsibility of the board of directors and management of insurance institutions to;

- 6.1. Establish policies and procedures to ensure the effective prevention, detection, reporting and control of possible money laundering and terrorism financing activities.
- 6.2. Review the policies and procedures once every two years and from time to time as may be necessary to ensure compliance with the Law. Any changes on the policies and procedures will be filed with the Authority within thirty days of effecting the changes.
- 6.3. Communicate the policies to all staff whether in local or overseas branches, departments or subsidiaries and develop instruction manuals setting out procedures for:
- Customer acceptance and identification
  - Customer due diligence
  - Record-keeping
  - Recognition and reporting of suspicious transactions
  - Staff screening and training



- Establishing legitimacy of source of funds
- 6.4. Comply with relevant legislations and seek actively to promote close co-operation with law enforcement authorities.
  - 6.5. Instruct their internal audit or compliance departments to verify, on a regular basis, compliance with policies, procedures and controls against money laundering and terrorism financing.
  - 6.6. Regularly review the policies and procedures on combating money laundering and terrorism financing to ensure their effectiveness. Assess and ensure that the risk mitigation procedures and controls are working effectively.
  - 6.7. Register with the Centre and comply with the annual reporting requirement
  - 6.8. Report to the Centre any cash transactions exceeding US\$ 10,000 or its equivalent in any other currency.
  - 6.9. 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.
  - 6.10. 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.

## **7.0. Risk-Based Approach**

- 7.1. Where customers are assessed to be of higher money laundering and terrorist financing risks, insurance institutions shall take enhanced measures to manage and mitigate those risks. Correspondingly, where the risks are lower, simplified measures may be applied. Simplified measures include reducing the frequency of customer identification updates or reducing the degree of ongoing monitoring and scrutinizing transactions, based on a reasonable monetary threshold.
- 7.2. An insurance institution shall identify, assess and take effective action to mitigate money laundering and terrorist financing risks and adopt a holistic

- approach to the Risk Based Approach and should avoid a silo approach when assessing the relationship between risks.
- 7.3. An insurance institution may assess the money laundering and terrorist financing risks of individual customers by assigning appropriate risk rating to their customers.
- 7.4. While there is no agreed upon set of risk factors and no one single methodology to apply these risk factors in determining the appropriate risk rating of customers, an insurance institution shall consider the following factors:
- 7.5. In relation to country risk, customers with residence in or connection with high risk jurisdictions for example:
- (a) those that have been identified by the Financial Action Taskforce, as jurisdictions with strategic AML deficiencies;
  - (b) countries subject to sanctions, embargos or similar measures issued by, for example, the United Nations;
  - (c) countries which are vulnerable to corruption; and
  - (d) those countries that are believed to have strong links to terrorist activities.
- 7.6. In assessing country risk associated with a customer, consideration may be given to data available from the United Nations, the International Monetary Fund, the World Bank, the Financial Action Taskforce, among others and the insurance institution's own experience or the experience of other group entities, where the insurance institution is part of a group, which may have indicated weaknesses in other jurisdictions.
- 7.7. The following are examples of customers who might be considered to carry lower money laundering risks:
- (a) customers who are employment or with a regular source of income from a known legitimate source which supports the activity being undertaken;
  - (b) the positive reputation of the customer, e.g. a well-known, reputable public or private company, with a long history that is well documented by independent sources, including information regarding its ownership and control; and,
  - (c) a public entity

7.8. Some customers, by their nature or behaviour might present a higher risk of money laundering and terrorist financing. Factors might include:

- (a) a politically exposed person, or the public profile of the customer indicating involvement with, or connection to, politically exposed persons;
- (b) complexity of the relationship, including use of corporate structures, trusts and the use of nominee accounts where there is no legitimate commercial rationale;
- (c) a request to use numbered accounts or undue levels of secrecy with a transaction;
- (d) involvement in cash-intensive businesses;
- (e) nature, scope and location of business activities generating the funds or assets, having regard to sensitive or high-risk activities;
- (f) where the origin of wealth cannot be easily verified; or
- (g) retail participants tend to have a greater level of money laundering and terrorist financing risk associated to them in contrast to wholesale customers who usually will have a regulatory status and an established business. Persons engaged in money laundering and financing of terrorism will tend to avoid licensing obligations and regulatory scrutiny preferring the opacity of private corporations and trusts.

## **8.0. Customer Acceptance**

8.1. Insurance institutions will develop customer acceptance policies and procedures that aim to identify the types of customers or beneficiaries that are likely to pose a higher than average risk of money laundering and financing of terrorism activities.

8.2. Prior to the establishment of a business relationship, insurance institutions will assess the characteristics of the required product, the purpose and nature of the proposed business relationship and any other relevant factors in order to create and maintain a risk profile of the customer. Based on this assessment, insurance institutions will decide whether or not to accept the business relationship.

8.3. In assessing the risk profile of a customer or beneficiary, insurance institutions will consider the following factors;

- (a) nature of the insurance policy, which is susceptible to money laundering and terrorism financing risks, such as single premium policies;

- (b) origin of the customer or beneficiary such as place of birth, residency, the place where the customer's or beneficiary's business is established, the location of any other party the customer conducts business with such as high risk and non-cooperative jurisdictions designated by the FATF or those known to the insurance institution to lack proper standards in the prevention of money laundering and terrorism financing;
- (c) nature of the customer's or beneficiary's business, which may be particularly susceptible to money laundering and terrorism financing risks, such as money changers or casinos that handle large amounts of cash;
- (d) for a corporate customer or beneficiary, unduly complex structure of ownership for no good reason;
- (e) means of payment as well as type of payment such as cash, wire transfer, third party cheque without any apparent connection with the prospective customer or beneficiary; and
- (f) any other information that may suggest that the customer or beneficiary is of high risk.

## **9.0. Legitimacy of Source of Funds**

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

## **10.0. Customer Due Diligence**

### **10.1. General Provisions**

- 10.1.1 Insurance institutions will conduct due diligence of their customers before and after entering into business relationship. The Board of directors will be

required to formulate policies on the information required from customers that will take into consideration the risk profile of customers.

10.1.2. Insurance institutions will not keep anonymous accounts or accounts in obviously fictitious names. Insurance institutions will be required to undertake the following measures in regard to the principle of due diligence;

- (a) identify the customer and verify the customer's identity using reliable, independent source documents, data or information;
- (b) identify the beneficiary and verify the identity of the beneficiary such that the insurance institution is satisfied that it knows who the beneficial owner is. For legal persons and arrangements, insurance institutions should understand their ownership and control structure;
- (c) obtain information on the purpose and intended nature of the business relationship between the customer and the insurance institution; and
- (d) conduct on-going due diligence and scrutiny i.e. perform on-going scrutiny of the transactions and accounts throughout the course of the business relationship to ensure that the transactions being conducted are consistent with the insurance institution's knowledge of the customers or beneficiary, their businesses and risk profile, including, where necessary, identifying the source of funds.
- (e) insurance institutions may apply simplified due diligence in respect of a customer where there is no suspicion of money laundering and:
  - i. where the risk profile of the customer is low
  - ii. there is adequate public disclosure in relation to the customers; or
  - iii. there are adequate checks and controls from the customer's country of origin or the source of the funds.

10.1.3. Insurance institutions will take reasonable steps to satisfy themselves as to the true identity of their customers or beneficiaries which should be objective and reasonable.

- 10.1.4. If claims, commissions, and other monies are to be paid to persons or companies other than the customers or beneficiaries, then the proposed recipients of these monies should also be the subject of identification and verification.
- 10.1.5. Insurance institutions will pay special attention to all complex, unusually large transactions and all unusual patterns of transactions which have no apparent economic or visible lawful purpose.
- 10.1.6. Where the insurance institution is unable to satisfy itself on the identity of the customer or beneficiary, it will not commence business relationship or perform the transaction and will consider making a suspicious transaction report as required under the Act.
- 10.1.7. Where the insurance institution has already commenced the business relationship and is unable to satisfy itself on the identity of the customer or beneficiary, it will consider terminating the business relationship, if possible, and making a suspicious transaction report as required under the Act.

## **10.2. Due Diligence to Individual/Natural Customer**

- 10.2.1. Insurance institutions will institute effective procedures for obtaining satisfactory evidence of the identity of individual customers or beneficiaries including obtaining information about:
  - (a) true name or name(s) used,
  - (b) identity card or passport or birth certificate or driving licenses or any other official means of identification,
  - (c) current permanent address,
  - (d) date of birth,
  - (e) nationality; and
  - (f) occupation/business.And this information will be evidenced in the relevant copies of the documents taken after the verification of the original copies.
- 10.2.2. If there is doubt about whether an identification document is genuine, contact will be made with relevant government authority in custody of such information.
- 10.2.3. Insurance institutions will maintain the current residential address of their customers at all times of the tenure of the policy.

- 10.2.4. Insurance institutions will also identify the source of funds of customers or beneficiaries if the customers or beneficiaries are assessed to be of high risk based on the factors set out.

### **10.3. Due Diligence to Corporate Customers**

- 10.3.1. The following documents or information will be obtained in respect of corporate customers or beneficiaries;
- (a) Evidence of registration or incorporation
  - (b) memorandum and articles of association (if insurance institution considers necessary having regard to the risk of the particular customer);
  - (c) Evidence conferring authority to those persons to act on behalf of the body corporate as well as the identification information of those persons;
  - (d) A copy of the latest annual returns submitted in respect of the body corporate in accordance with the law under which it is established.
- 10.3.2. A company may be considered to be of low risk if;
- (a) the company is listed in any stock exchange in East Africa.
  - (b) The company is owned by the Government of Kenya.
  - (c) the company acquires an insurance policy for pension schemes which does not have surrender clause and the policy cannot be used as collateral; or
  - (d) the company acquires a pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages.
  - (e) the company is regulated by a supervisory body as defined in the Act.
- 10.3.3. Where a listed company is effectively controlled by an individual or a small group of individuals, insurance institutions will consider whether it is necessary to verify the identity of such individual(s).
- 10.3.4. Insurance institutions will exercise special care in initiating business transactions with companies that have nominee shareholders. Satisfactory evidence of the identity of beneficiaries of such companies will be obtained.

### **10.4. Un-incorporated Business**



In the case of partnerships and other unincorporated businesses whose partners are not known to the insurance institution, satisfactory evidence will be obtained of the identity of at least two partners and all authorized signatories designated to sign insurance contracts.

## **10.5. Trust Accounts**

Where trusts or similar arrangements are used, particular care will be taken in understanding the substance and form of the entity. Where the customer is a trust, the insurance institution will verify the identity of the trustees, any other person exercising effective control over the trust property, the settlors and the beneficiaries. Verification of the beneficiaries will be carried out prior to any payments being made to them.

## **10.6. High Risk Customers**

10.6.1. Insurance institutions will apply an enhanced due diligence in respect of high risk customers or beneficiaries. Some examples of high risk customers or beneficiaries are:

- (a) customers or beneficiaries assessed to be of high risk based on the factors set out in the preceding paragraphs,
- (b) customers of non-face-to-face transactions,
- (c) Customers from high risk and non-cooperative jurisdictions as identified by FATF.

10.6.2. For high risk customers, the following additional measures will be applied to enhance due diligence;

- (a) obtaining senior management approval for establishing business relationship;
- (b) obtaining comprehensive customer profile information e.g. purpose and reasons for entering the insurance contract, business or employment background and source of funds;
- (c) assigning a designated staff to serve the customer who bears the responsibility for customer due diligence and ongoing

- monitoring to identify any unusual or suspicious transactions on a timely basis;
- (d) requisition of additional documents to complement those which are otherwise required; and
- (e) certification by appropriate authorities and professionals of documents presented.

## **10.7. On-Going Due Diligence on Existing Customers or Beneficiary**

10.7.1. Insurance institutions will conduct on-going due diligence on existing customers and particularly will pay attention to all requested changes to the policy or exercise of rights under the terms of the contract. Enhanced due diligence will be conducted on high risk customers.

10.7.2. Some of the transactions after the establishment of business relation that will require the enhanced due diligence include;

- (a) there is change in beneficiaries for instance, to include non-family members, request for payments to persons other than beneficiaries;
- (b) there is significant increase in the amount of sum insured or premium payment that appears unusual in the light of the income of the policy holder;
- (c) there is use of cash or payment of large single premiums;
- (d) there is payment or surrender by a wire transfer from or to foreign parties;
- (e) high frequency of changes in a policy;
- (f) there is payment by banking instruments which allow anonymity of the transaction,
- (g) there is change of address or place of residence of the policy holder or beneficiary,
- (h) there are lump sum top-ups to an existing life insurance contract,
- (i) there are lump sum contributions to personal pension contracts,
- (j) there are requests for prepayment of benefits,
- (k) there is use of the policy as collateral or security for instance, unusual use of the policy as collateral unless it is clear that it is required for financing of a mortgage by a reputable financial institution,

- (l) there is change of the type of benefit for instance, change of type of payment from an annuity into a lump sum payment,
- (m) there is early surrender of the policy or change of the duration where this causes penalties or loss of tax relief,
- (n) the insurance institution is aware that it lacks sufficient information about the customer or beneficiary; or
- (o) there is suspicion of money laundering.

### **10.8. Non-Face-To-Face Transactions**

- 10.8.1. Where possible insurance institutions will carry out face to face interview to conduct due diligence particularly for high risk customers.
- 10.8.2. Where face-to-face interview is not conducted, for example where the transactions are conducted via the internet, insurance institutions will apply equally effective customer identification procedures and on-going monitoring standards as for face-to-face customers.
- 10.8.3. Insurance institutions will carry out the following specific measures to mitigate the risk posed by such customers of non-face-to face transactions;
  - (a) certification of identity documents presented by suitable certifiers,
  - (b) requisition of additional documents to complement those required for face-to-face customers,
  - (c) completion of on-line questionnaires for new applications that require a wide range of information capable of independent verification such as confirmation with a government department,
  - (d) independent contact with the customer by the insurance institution,
  - (e) requiring the payment of insurance premiums through an account in the customer's name with a bank,
  - (f) more frequent update of the information on customers of non-face-to-face transactions; or

- (g) in the extreme, refusal of business relationship without face-to-face contact for high risk customers.

## **10.9. New Technologies**

- 10.9.1. Insurance institutions shall take reasonable measures to prevent the use of new technologies for money laundering purposes.
- 10.9.2. Insurance institutions shall conduct a money laundering risk assessment—
  - (a) prior to the introduction of a new product, new business practice or new technology for both new and pre-existing products;
  - (b) so as to assess money laundering risks in relation to—
    - (i) a new product and a new business practice, including a new delivery mechanism; and
    - (ii) new or developing technologies for both new and preexisting products.
- 10.9.3. The outcome of such assessment shall be documented and be availed to the Centre or the reporting institution's supervisory authority upon request.

## **11.0 Life Insurance Related Business**

For life or other investment-related insurance business, insurance institutions shall, in addition to the customer due diligence measures required for the customer and the beneficial owner, conduct the following customer due diligence measures on the beneficiaries of life insurance and other investment related insurance policies, as soon as the beneficiary or beneficiaries are identified or designated, for a beneficiary—

- (a) that is identified as specifically named natural or legal persons or legal arrangements, taking the name of the person;
- (b) that is a legal arrangement or designated by characteristics or by category such as spouse or children, at the time that the insured event occurs or by other means such as under a will, obtaining sufficient information concerning the beneficiary to satisfy the financial institution that it will be able to establish the identity of the beneficiary at the time of the pay-out.

The information collected shall be recorded and maintained in accordance with the requirements.

## **12.0 Carrying on Due Diligence by the Intermediaries**

12.1 Insurance institutions may rely on insurance intermediaries to perform customer due diligence procedures. However, the ultimate responsibility for knowing the customer or beneficiary always remains with the insurer. Insurance institutions will therefore satisfy themselves as to the adequacy of customer due diligence procedures conducted by the insurance intermediaries.

12.2 Where the insurance institutions rely on the intermediary for due diligence, they will immediately obtain the necessary information concerning the relevant identification data and other documentation pertaining to the identity of the customer or beneficiary from the insurance intermediary.

12.3 The insurance intermediary shall obtain satisfactory evidence of the identity and legal existence of the persons applying to do business with it. The evidence shall be verified by reliable documents or other verifiable and independent means.

12.4 The insurance intermediary shall ensure that all requirements imposed by law relating to records and documentation are met. All customer records shall remain up to date, relevant and easily accessible.

12.5 The insurance intermediary will submit such information to the insurer upon request and without delay.

12.6 The insurance intermediary shall monitor on a continuous basis its business relationship with its customers.

12.7 The insurance intermediary shall not engage in a business relationship with a client who fails to provide evidence of their existence. The insurance intermediary shall not keep anonymous accounts or accounts in fictitious names of their clients.

- 12.8 Insurance intermediaries shall adopt a risk based approach where they employ enhanced customer due diligence for high risk category of customers.
- 12.9 Insurance institutions will 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.

### **13.0 Tipping Off**

Insurance institutions which obtain information which is suspicious or indicates possible money laundering or terrorism financing activity shall not disclose such information to unauthorised persons and shall report to the Centre as required.

### **14.0 Record Keeping**

- 14.1 Insurance institutions will maintain customer records for at least seven years after the end of the business relationship and ensure that it is easy to retrieve relevant information without delay.
- 14.2 The records to be maintained will include;
- (a) the risk profile of each customer or beneficiary;
  - (b) data obtained through the customer due diligence process such as name, address;
  - (c) the nature and date of the transaction;
  - (d) the type and amount of currency involved;
  - (e) the policy details, the statements of account and business correspondence; and
  - (f) the copies of official identification documents such as passports, identity cards or similar documents;
- 14.3 Insurance institutions will ensure that all documents collected through the process of due diligence are kept up-to-date and relevant by undertaking reviews of existing records, particularly for the high risk category of customers.
- 14.4 Insurance institutions will ensure that they have in place adequate procedures to;

- (a) provide initial proposal documentation including, where applicable, the customer financial assessment, analysis of needs, details of the payment method, illustration of benefits, and copy of documentation in support of verification,
- (b) retain all records associated with the maintenance of the contract post sale, up to and including maturity of the contract; and
- (c) provide details of the maturity processing and claim settlement which will include completed discharge documentation.

14.5 Retention may be by way of original documents or in any electronic form accepted as evidence under the Evidence Act, Chapter 80, Laws of Kenya.

## **15.0 Recognition and Reporting of Suspicious Transactions**

- 15.1 Insurance institutions will develop relevant mechanism of detection of suspicious transactions and report such transactions to the Centre.
- 15.2 The mechanism developed should detect patterns of unusual or suspicious activity, particularly in relation to high risk customers.
- 15.3 The mechanism used for monitoring purposes should identify transactions that are unusual either in terms of amount or type of transaction or other relevant risk factors.
- 15.4 Suspicious transactions may fall in any of the following categories and as provided in Annexure 1;
  - (a) any unusual financial activity of the customer in the context of the customer's own usual activities,
  - (b) any unusual transaction in the course of some usual financial activity,
  - (c) any linked transactions that are not ordinarily linked,
  - (d) any unusual or disadvantageous early redemption of an insurance policy,
  - (e) any unusual employment of an intermediary in the course of some usual transaction or financial activity,
  - (f) any unusual method of payment; or
  - (g) any involvement of any person subject to international sanctions.



- 15.5 Due diligence once started by an insurance institution will be pursued either to conclusion or refusal and if a customer does not pursue an application it may be considered to be suspicious transaction.
- 15.6 Insurance institutions will report to the Centre all the suspicious transactions immediately and maintain a register of all the reported transactions.
- 15.7 Insurance institutions may refrain from carrying out transactions which they suspect to be related to money laundering and terrorism financing.
- 15.8 Insurance institutions which obtain or become aware of information which is suspicious or indicates possible money laundering and terrorism financing activities will not disclose such information except to report it to the Centre as required.
- 15.9 Any officer of an insurance institution who discloses information regarding suspicious transactions and the disclosure is likely to prejudice the investigation commits an offence under the Act.

## **16.0 Combating the Financing of Terrorism**

- 16.1 Insurance institutions shall, upon receipt from the Authority, keep updated the various resolutions passed by the United Nations Security Council (UNSC) on counter terrorism and such other relevant Resolutions which require sanctions against individuals and entities belonging or related to the Taliban and the Al-Qaida organization among others.
- 16.2 Insurance institutions shall maintain a database of names and particulars of listed persons in the UN Sanctions List and such lists as may be issued under Regulation 13 of the Prevention of Terrorism (Implementation of the United Nations Security Council Resolutions on Suppression of Terrorism) Regulations 2013 in relation to the domestic list by the Counter Financing of Terrorism Inter-Ministerial Committee.
- 16.3 Insurance institutions shall ensure that the information contained in the database is updated and relevant, and made easily accessible to its employees at the head office, branches or subsidiary.

- 16.4 Upon receipt of the designations or sanctions list from the Authority, insurance institutions shall 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. If there is any name match, insurance institutions shall take reasonable and appropriate measures as required by the Prevention of Terrorism (Implementation of the United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2013.

## **17.0 Staff Screening and Training**

### **17.1 Screening**

17.1.1 Insurance institutions will develop internal procedures for assessing whether employees taking up key positions meet fit and proper requirements in respect to:

- (a) verification of the identity of the person involved; and
- (b) verification whether the information and references provided by the employee are correct and complete.

17.1.2 Key positions include senior management with the responsibility for supervising or managing staff, and for auditing the system and employees who deal with:

- (a) new business and the acceptance – either directly or via intermediaries – of new policyholders, such as sales persons
- (b) the collection of premiums; and
- (c) the settlement and payments of claims.

17.1.3 Insurance institutions will maintain records on the identification data of the employees in key positions. The records will demonstrate due diligence performed in relation to the fit and proper requirements.

### **17.2 Training of Staff**

17.2.1 Insurance institutions will train their staff on;

- (a) the nature and processes of money laundering and terrorism financing, including new developments and current money laundering and terrorism financing techniques, methods and trends;
- (b) the underlying legal obligations contained in the relevant laws; and
- (c) Their anti-money laundering and combating of terrorism policies and systems, including particular emphasis on verification and the recognition of suspicious customers or transactions and the need to report suspicions to the money laundering reporting officer.

17.2.2 Those staff who deal with new business and acceptance, settlement and payment of claims and collection of premiums will in addition to being made aware of their legal responsibilities and the anti-money laundering and combating financing of terrorism policies and procedures, in particular the client acceptance policies and all other relevant policies and procedures, the requirements of verification and records, the recognition and reporting of suspicious transactions.

17.2.3 The directors and management will in addition be trained on the following:

- (a) their responsibility regarding anti money laundering policies and procedures;
- (b) their responsibility regarding combating financing of terrorism policies and procedures;
- (c) relevant laws, including the offences and penalties arising;
- (d) internal reporting procedures, and
- (e) the requirements for verification and record keeping.

17.2.4 The Money Laundering Reporting Officer should receive in-depth training concerning all aspects of relevant legislation, guidelines and policies and procedures on the detection, deterrence and prevention of money laundering.

## **18.0 Submission of Returns**

Insurance institutions will file with the Authority on a quarterly basis a return on compliance with the guidelines within thirty (30) days after the end of the quarter in a prescribed format.

## 19.0 Effective Date

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## 20.0 Enquiry

Enquiries on any aspect of these guidelines shall be referred to;

**Address:** Chief Manager, Technical  
Insurance Regulatory Authority,  
P.O. Box 43505-00100,  
**Nairobi**

**Telephone:** +254 20 4996000

**Facsimile:** +254 20 2710126

**Email:** [commins@ira.go.ke](mailto:commins@ira.go.ke)

## ***Annex 1***

### **INDICATORS OF SUSPICIOUS TRANSACTIONS**

1. A request by a customer to enter into an insurance contract(s) where the source of the funds is unclear or not consistent with the customer's apparent standing.
2. A sudden request for a significant purchase of a lump sum contract with an existing customer whose current contracts are small and of regular payments only.
3. A proposal which has no discernible purpose and a reluctance to divulge a "need" for making the investment.
4. A proposal to purchase and settle by cash.
5. A proposal to purchase by utilizing a cheque drawn from an account other than the personal account of the proposer.
6. The prospective client who does not wish to know about investment performance but does enquire on the early cancellation/surrender of the particular contract.
7. A customer establishes a large insurance policy and within a short time period cancels the policy, requests the return of the cash value payable to a third party.
8. Early termination of a product, especially in a loss.
9. A customer applies for an insurance policy relating to business outside the customer's normal pattern of business.
10. A customer requests for a purchase of insurance policy in an amount considered to be beyond his apparent need.

11. A customer attempts to use cash to complete a proposed transaction when this type of business transaction would normally be handled by cheques or other payment instruments.
12. A customer refuses, or is unwilling, to provide explanation of financial activity, or provides explanation assessed to be untrue.
13. A customer is reluctant to provide normal information when applying for an insurance policy, provides minimal or fictitious information or, provides information that is difficult or expensive for the institution to verify.
14. Delay in the provision of information to enable verification to be completed.
15. Opening accounts with the customer's address outside the local service area.
16. Opening accounts with names similar to other established business entities.
17. Attempting to open or operating accounts under a false name.
18. Any transaction involving an undisclosed party.
19. A transfer of the benefit of a product to an apparently unrelated third party.
20. A change of the designated beneficiaries (especially if this can be achieved without knowledge or consent of the insurer or the right to payment could be transferred simply by signing an endorsement on the policy).
21. Substitution, during the life of an insurance contract, of the ultimate beneficiary with a person without any apparent connection with the policy holder.
22. The customer accepts very unfavourable conditions unrelated to his health or age.
23. An atypical incidence of pre-payment of insurance premiums.

24. Insurance premiums have been paid in one currency and requests for claims to be paid in another currency.
25. Activity is incommensurate with that expected from the customer considering the information already known about the customer and the customer's previous financial activity. (For individual customers, consider customer's age, occupation, residential address, general appearance, type and level of previous financial activity. For corporate customers, consider type and level of activity.)
26. Any unusual employment of an intermediary in the course of some usual transaction or formal activity e.g. payment of claims or high commission to an unusual intermediary.
27. A customer appears to have policies with several institutions.
28. A customer wants to borrow the maximum cash value of a single premium policy, soon after paying for the policy.
29. The customer who is based in non-co-operative countries designated by the FATF from time to time or in countries where the production of drugs or drug trafficking may be prevalent.
30. The customer who is introduced by an overseas agent, affiliate or other company that is based in non-co-operating countries designated by the FATF from time to time or in countries where corruption or the production of drugs or drug trafficking may be prevalent.
31. A customer who is based in Kenya and is seeking a lump sum investment and offers to pay by a wire transaction or foreign currency.
32. Unexpected changes in employee characteristics, e.g. lavish lifestyle or avoiding taking holidays.
33. Unexpected change in employee or agent performance, e.g. the sales person selling products has a remarkable or unexpected increase in performance.



- 34. Consistently high activity levels of single premium business far in excess of any average company expectation.
- 35. The use of an address which is not the client's permanent address, e.g. utilization of the salesman's office or home address for the dispatch of customer documentation.
- 36. Any other indicator as may be detected by the insurance institutions from time to time.

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