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ROYAL MONETARY AUTHORITY OF BHUTAN



**Anti-Money Laundering and Countering of Financing
of Terrorism Guideline for Insurance Companies**

2020

1. INTRODUCTION

- 1.1 This guideline is issued in pursuant to Section 45 of the Anti-Money Laundering and Countering of Financing of Terrorism (AML/CFT) Act of Bhutan 2018.
- 1.2 This guideline shall be cited as the “**Anti-Money Laundering and Countering of Financing of Terrorism (AML/CFT) Guideline for Insurance Companies 2020**”.
- 1.3 In addition, the insurance companies are also to comply with the Anti-Money laundering and Countering of Financing of Terrorism (AML/CFT) Rules and Regulations 2018 and amendment thereof.

2. MONEY LAUNDERING (ML) AND FINANCING OF TERRORISM (TF)

- 2.1 Money laundering is the processing of the proceeds of crime to disguise their illegal origin. Once these proceeds are successfully ‘laundered’, a person is able to enjoy these monies without revealing their original source.
- 2.2 Financing of terrorism can be defined as the willful provision or collection, by any means, directly or indirectly, of funds with the intention that the funds would be used, or in the knowledge that they are to be used, to facilitate, or carry out terrorist acts. Terrorism can be funded from the legitimate income.
- 2.3 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 policies, annuity policies, non-life insurance contracts, and health insurance contracts and other products. These products are offered to the public through trained agents of the insurance companies. This guideline is therefore of important to the agents and corporate agents as well, to the extent indicated in the guideline.
- 2.4 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.
- 2.5 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. Law protects such disclosures, 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. VULNERABILITIES IN INSURANCE

3.1 Life insurance and non-life insurance can be used in different ways by money launderers and terrorist financiers. The vulnerability depends on factors such as (but not limited to) the complexity and terms of the policy, distribution, method of payment (cash or bank transfer). Insurers shall take these factors into account when assessing this vulnerability. This means they shall prepare a risk profile of the type of business in general and of each business relationship.

3.2 When a life insurance policy matures or is surrendered, funds become available to the policyholder or other beneficiaries. The beneficiary to the policy may be changed possibly against payment, before maturity or surrender, in order that payments are made by the insurer to a new beneficiary. A policy might be used as security 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.

3.3 Examples of the type of life insurance policies that are vulnerable as a vehicle for laundering money or terrorist financing are products, such as:

- single premium life insurance policies that store cash value
- fixed and variable annuities

3.4 Non-life insurance money laundering or terrorist financing can be seen through inflated or totally bogus claims:

- by arson or other means causing a bogus claim to be made to recover part of the invested illegitimate funds;
- cancellation of policies for the return of premium by an insurer's cheque/any other mode of payment;
- overpayment of premiums with a request for a refund of the amount overpaid; and
- under-insurance, where a criminal can say that he received compensation for the full amount of the damage, when in fact he did not.

3.5 Terrorism can be facilitated through property and casualty coverage through the use of worker's compensation payments to support terrorists awaiting assignment and primary coverage and trade credit for the transport of terrorist materials.

3.6 Money laundering and the financing of terrorism using reinsurance could occur either by establishing fictitious reinsurance companies or reinsurance intermediaries, fronting arrangements and captives, or by the misuse of normal reinsurance transactions. Examples include:

- the deliberate placement through the insurer of the proceeds of crime or terrorist funds with reinsurers in order to disguise the source of funds;
- the establishment of bogus reinsurers, which can be used to launder the proceeds of crime or to facilitate terrorist funding; and
- the establishment of bogus insurers, which can be used to place the proceeds of crime or terrorist funds with legitimate reinsurers.

3.7 Insurance intermediaries independent or otherwise are important for distribution, underwriting, and claims settlement. They are often the direct link to the policyholder and therefore intermediaries shall play an important role in anti-money laundering and combating the financing of terrorism. The same principles that apply to insurers shall generally apply to insurance intermediaries. In addition to the responsibility of intermediaries, customer due diligence ultimately remains the responsibility of the insurer involved.

4. MANAGEMENT OF MONEY LAUNDERING (ML) AND TERRORIST FINANCING (TF) RISKS

All Insurance Companies as cited in Section 51 of the AML/CFT Act of Bhutan 2018 shall establish a risk-based approach (RBA) to prevent and detect ML and TF.

The RBA is expected to identify, assess and understand the ML/TF risks facing insurance companies and take AML/CFT measures commensurate with those risks in order to mitigate them effectively.

The RBA process shall be dynamic, with risk assessments and mitigation measures being refreshed on an on-going basis.

5. AML/CFT 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/CFT program as cited in Section 54 of the AML/CFT Act of Bhutan 2018 which at a minimum should cover:

- Customer Due Diligence (CDD);
- the detection of unusual or suspicious transactions and the reporting obligation;
- the communication of these policies, procedures and controls to the employees;
- appropriate compliance management arrangements;
- record keeping arrangements;
- an ongoing employee training program; and
- an adequately resourced and independent audit function to test compliance (e.g. through sample testing) with these policies, procedures, and internal controls.

5.1 Provision of Copies to RMA

A reporting entity must provide to the RMA a copy of its AML/CFT Program within 3 months of the commencement of this guideline and within one month of any review of the program conducted in accordance with sub-section 5.2.

5.2 Review of Programs

A reporting entity must conduct a review of its AML/CFT Program within two years of the lodgment of its AML/CFT Program and every two years thereafter.

5.3 Compliance Reports

A reporting entity shall provide to the RMA every six months a report on the actions taken by it to give effect to its AML/CFT Program.

6. CUSTOMER DUE DELIGENCE (CDD)

6.1 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 as cited in Part VI of the AML/CFT Rules & Regulation 2018. Hence effective procedures shall be put in place to obtain requisite details for proper identification of the customers.

6.2 Prior to providing a financial service to a customer, a reporting entity shall cite the identification documentation as per Section 107, Part VI of the AML/CFT Rules & Regulations 2018 and record the specified information in relation to that customer and retain a copy of the documents.

6.3 The insurer shall conduct on-going due diligence on the business relation with the customer to ensure that the transaction are consistence with the firm's knowledge of customer's business risk and source of income as per Section 108 Part VI of the AML/CFT Rules & Regulations 2018.

6.4 Insurance premium paid by persons other than the person insured shall be looked into to establish insurable interest.

6.5 The insurer shall not enter into a contract with a customer whose identity matches with any person as listed by the Domestic Designation Committee (DDC) with banned entities and those reported to have links with terrorists or terrorist organizations http://www.mohca.gov.bt/?page_id=2320

6.6 Besides verification of identity of the customer at the time of initial issuance of policy, CDD shall also be carried out at the claim payout stage and at times when additional top up remittances are inconsistent with the customers known profile.

7. IDENTIFICATION OF BENEFICIAL OWNERS AND LEGAL PERSONS

For the purposes of this guidance paper the expression 'beneficial owner' applies to the owner/controller of the policyholder as well as to the beneficiary to the policy, also:

- i. Where the customer is a company, the insurer shall, apart from identifying the customer, also identify the directors of the company;
- ii. Where the customer is a partnership or a limited liability partnership, the insurer shall, apart from identifying the customer, also identify the partners;
- iii. Where the customer is any other body corporate or unincorporated, the insurer shall, apart from identifying the customer, also identify the persons having executive authority in that body corporate or unincorporated; and
- iv. For beneficiaries of life insurance policies, refer to Section 114 & 115, Part VI of AML/CFT Rules & Regulations 2018.

8. RISK PROFILE OF THE CUSTOMER

8.1 In the context of 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 required:

- i) For the purpose of risk categorization, individuals 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. Where there are low risks, it may be appropriate for an insurer to apply simplified verification procedures. These procedures, of course, must still be sufficient for the institution to achieve the goal of verification- establishing a reasonable belief that it knows the true identity of its customer. In addition, refer to Section 59-66, Part V of AML/CFT Rules & Regulations 2018; and
- ii) For the high-risk profiles, like for customers who are non-residents, high net worth individuals, trusts, charities, NGOs and organizations 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 enhanced due diligence and underwriting procedures shall ensure higher verification and counter checks.

8.2 Enhanced due diligence is called for with respect to higher risk categories. Decisions taken for establishing relationships with higher risk customers shall be taken by senior management. For detail refer to Section 123-125, Part VI of AML/CFT Rules & Regulations 2018.

9. VERIFICATION AT THE TIME OF REDEMPTION/SURRENDER

9.1 In life insurance business, no payments shall be allowed to third parties, except in cases like superannuation/gratuity accumulations and payments to legal heirs in case of death

benefits. However, exception to the third party, payment shall be as directed by the court orders. All payments, shall be made after due verification of the bona-fide beneficiary and as per the court order through banking channels.

9.2 AML/CFT enhanced due diligence become more important in case the policies has been assigned by the policyholder to a third party, not related to him.

10. NEW TECHNOLOGIES

10.1 Insurers shall pay special attention to any money laundering or terrorist financing threats that may arise from new or developing technologies, including transactions through internet, which might promote anonymity.

10.2 An insurer shall put in place policies and procedures to address any specific risks associated with the use of new technologies.

10.3 An insurer shall implement the policies and procedures referred to in 10.2 when establishing customer relationships and when conducting ongoing due diligence. In addition, refer to Part X of AML/CFT Rules & Regulations 2018.

11. RELIANCE ON INTERMEDIARIES AND THIRD PARTIES

11.1 An insurer may rely on an intermediary or third party to perform CDD measures in accordance with the Part XII of AML/CFT Rules & Regulations 2018.

11.2 This guideline sets the responsibility of a robust AML/CFT program on the insurers. Nonetheless, it is necessary that the following steps be taken to strengthen the level of control on the agents engaged by the insurers:

- i) A list of rules and regulations covering performance of agents must be put in place. A clause should be added making CDD norms mandatory and specific process document can be included as part of the contracts.
- ii) Insurance company when faced with a non-compliant agent shall take necessary action to secure compliance, including when appropriate, terminating its business relationship with such an agent.
- iii) Services of defaulting agents who expose the insurers to money laundering and terrorist financing related risks on multiple occasions shall be terminated and the details reported to FID for further action within 3 working days.

12. ONGOING MONITORING AND PAYING ATTENTION TO UNUSUAL/SUSPICIOUS TRANSACTIONS

12.1 An insurer shall monitor on an ongoing basis, its business relations with customers.

12.2 An insurer shall, during the course of business relations, observe the conduct of the customer's policy and scrutinize transactions undertaken to ensure that the transactions are consistent with the insurer's knowledge of the customer, its business and risk profile and where appropriate, the source of funds. In this respect "transactions" shall be interpreted in a broad sense, meaning inquiries and applications for an insurance policy, premium payments, requests for changes in benefits, beneficiaries, duration, etc.

12.3 As per Section 131, Part VI of AML/CFT Rules & Regulations 2018, an insurer shall pay special attention to all complex or unusually large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose.

12.4 As per Section 130 of the Part VI of the AML/CFT Rules & Regulations 2018, an insurer shall take reasonable steps to inquire into the background and purpose of the transactions in Section 12.3 and document such information and its findings.

13. REPORTING OBLIGATION

Pursuant to Section 145, Part VII of the AML/CFT Rules & Regulations 2018 the reporting entities should report STRs, CTRs and other reports to the FID. This guideline establishes the specific reporting obligations.

13.1 Reporting Cash Transaction

Pursuant to Section 74 of the AML/CFT Act of Bhutan 2018, the insurance companies are required to submit the cash transaction reports as per the following:

- i) all loan repayment cash transactions above BTN 300,000
- ii) all insurance premium transactions (cash/cheque/transfers) above BTN 50,000.

13.2 Reporting of Suspicious Transaction

- i) Every insurer shall report any transaction or attempted transaction which the insurer has reasonable grounds to suspect; that funds are the proceeds of an unlawful activity or are related to terrorist financing shall be reported to FID in terms of Section 146-152, Part VII of AML/CFT Rules & Regulations 2018.
- ii) Insurance companies shall lodge with the FID a Suspicious Transaction Report (STR) in the required format via *BFIAS portal* or other mechanism as deemed required by FID. Where an obligation to lodge a STR arises the report shall be made no later than two working days after the transaction or attempted transaction has taken place.

iii) Suspicious transactions might fall into one or more of the following examples of categories. For details refer(*Suspicious Transaction Guidelines for Reporting Entities 2019*)

- any unusual financial activity of the customer in the context of his own usual activities.
- any unusual transaction in the course of some usual financial activity.
- any unusual or disadvantageous early redemption of an insurance policy.
- any unusual employment of an intermediary in the course of some usual transaction or financial activity e.g. payment of claims or high commission to an unusual intermediary.
- any unusual method of payment.

iv) Insurers shall ensure that:

- there is a clear procedure for staff to report suspicions of money laundering and the financing of terrorism without delay to the compliance officer,
- there is a clear procedure for reporting suspicions of money laundering and the financing of terrorism without delay to the FID, and
- all staff to know whom their suspicions should be reported.

14. DELIVERY OF REPORTS

Reports required to be delivered to the FID under these guidelines can be submitted via *BFIAS portal* or any other mechanism as deemed required by FID. The reporting entity is responsible for ensuring that the reports are delivered within the time required by this guideline.

15. PROVISION OF ADDITIONAL INFORMATION

If a reporting entity has communicated information to the FID, the FID may, by written notice given to the reporting entity, require the reporting entity to give such further information as is specified in the notice, within the period and in the manner specified, to the extent to which the reporting entity has that information; or to produce, such documents as specified in the notice and relevant to the matter to which the communication relates.

16. INTERNAL CONTROL/AUDIT

The Board shall ensure that effective internal controls are in place by establishing appropriate procedures and ensuring their effective implementation.

The internal audit and compliance functions have an important role in evaluating and ensuring adherence to the AML/CFT policies and procedures.

The procedures shall cover proper management oversight systems and controls, segregation of duties, training and other related matters. Responsibility shall be explicitly allocated and that the

auditor has direct access and reports directly to management and the board of directors to ensure that the AML/CFT policies and procedures are implemented effectively.

17. RECORD KEEPING

For record keeping requirement, insurer shall refer to Section 97-99, Part V of AML/CFT Rules & Regulation 2018.

18. APPOINTMENT OF AML/CFT COMPLIANCE OFFICER

For appointment of AMLCO, insurer shall refer to Section 71-77 Part V of AML/CFT Rules & Regulations 2018.

19. CONFIDENTIALITY AND PROTECTION OF INFORMATION

For the Confidentiality and Tipping off provisions insurer shall refer to Section 76-79, Chapter V of the AML/CFT Act 2018.

20. TRAINING OF STAFF

20.1 Insurers' staff and agents shall receive initial and ongoing training on relevant AML/CFT legislation, regulations, guidance and the insurers own AML/CFT policies and procedures. Although each insurer shall decide for itself how to meet the need to train members of its staff in accordance with its particular legal, regulatory and commercial requirements, the program will at a minimum include:

- a description of the nature and processes of laundering and terrorist financing, including new developments and current money laundering and terrorist financing techniques, methods and trends;
- a general explanation of the underlying legal obligations contained in the relevant laws; and
- a general explanation of the insurers' AML/CFT policy and systems, including particular emphasis on client acceptance policies, record keeping, verification and the recognition of suspicious customers/transactions and the need to report suspicions to the compliance officer.

20.2 The concept of AML/CFT shall be a part of in-house training curriculum for agents and employees. Records of training imparted to staffs and agents shall also be maintained.

21. PENALTY

Non-compliance to any provision of this guideline shall be liable to a fine as per Part XVIII of the AML/CFT Rules & Regulations 2018.