

20 September 2013



Jun-Kyo Lee
International Association of Insurance Supervisors
c/o Bank for International Settlements, Centralbahnplatz 2
CH-4002 Basel
Switzerland

Subject: Supplemental Comments on Draft ICP 22

Dear Mr Lee,

The Global Federation of Insurance Association (GFIA) submits these comments to the International Association of Insurance Supervisors (IAIS) that supplement prior submissions of insurance associations regarding the draft Insurance Core Principle 22 (ICP 22): Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CTF). An annex to the letter contains examples of ML/TF that IAIS may wish to consider for inclusion in the Application Paper.

GFIA, through its 35 member associations, represents insurers that account for around 87%, or more than \$4.0 trillion, in total insurance premiums worldwide.

Having reviewed the Financial Crime Working Group's comments regarding supervisory and private sector submissions on ICP 22, GFIA is generally in agreement with IAIS' anticipated revisions to ICP 22 and the objective to reflect a more risk-based approach to AML/CTF in light of the Financial Action Task Force (FATF) revision of its International Standards on Combating Money Laundering and the Financing of Terrorism. If adopted as anticipated, ICP 22 will provide insurance-specific guidance for supervisors and regulators in FATF member countries and will be particularly instructive for those jurisdictions that are not FATF members.

Although ICP 22 provides useful guidance on many of the issues attendant to AML/CTF, GFIA believes that certain aspects require further clarification or modification.

Insurance industry operations and products have proven largely resistant to misuse through ML/TF, particularly when compared to those of other financial services sectors. Experience has shown that, among insurance products, only life products with significant cash value or cash accumulation features and with a high likelihood of pay-out pose AML/CTF risks.

As a result, GFIA believes that the focus of IAIS AML/CTF guidance should be on addressing only problems or gaps which have been objectively identified, in line with the risk-based approach. According to the FATF, countries should determine whether there are sectors – other than those that fall under the definition of

financial institutions or designated non-financial business and professions- at risk of abuse from money laundering and terrorist financing, based on risk assessments and should only then consider including them in the scope of the requirements¹. We note, for example, that the FATF - after releasing its 2003 Recommendations, conducting detailed mutual evaluations assessing ML/TF, and releasing revised Recommendations after publication in 2009 of its *Risk-Based Approach: Guidance for the Life Insurance Sector* and after extensive public and private sector consultation -chose not to include the non-life sector within its guidance. GFIA therefore urges the IAIS to not include the non-life insurance sector 'per se' in its ICP 22 and application paper.

A regulatory gap that has been addressed is an express commitment by FATF to the risk-based approach (RBA). However, commitment to RBA does not by itself translate into meaningful guidance for either supervisors or the private sector. GFIA is currently working with FATF regarding the updating of its 2009 guidance for the life insurance sector, an extensive compilation of guidance for both insurance supervisors and the life sector that in many ways tracks guidance anticipated in ICP 22 and the Application Paper.

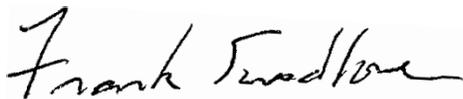
GFIA believes that it is important for both ICP 22 and for the Application Paper to include information based on the most up-to-date direction being provided by FATF. Given that FATF will be issuing additional guidance for life insurers, we would like to encourage IAIS to provide an opportunity for a public consultation on ICP 22 and the Application Paper to ensure alignment with any additional guidance emanating from FATF.

An annex to this letter contains examples of ML/TF that the IAIS may wish to consider for inclusion in the Application Paper. We note that some of the examples may not occur in every country as some aspects may not be allowed within an insurance context (for example, the acceptance of checks.) Also, certain of the scenarios may be capable of detection only if relevant data is accessible for verification.

GFIA again expresses its appreciation for the opportunity to participate in the IAIS public consultations regarding ICP 22 and the Application Paper. ICP 22 and the Application Paper will provide important guidance to the public and private sectors of the life insurance industry that will assist in our mutual goals of combating money laundering and terrorist financing.

We look forward to the opportunity to meet with you to discuss these comments.

Sincerely,

A handwritten signature in black ink that reads "Frank Swadlow". The signature is written in a cursive, slightly slanted style.

cc: Richard Walker
Peter Cooke

¹ FATF Recommendations: Interpretive Note to Recommendation 1

Annex—Examples of ML/TF in the Life Insurance Industry

[Note: Some of these examples may not occur in every country as some aspects may not be allowed within an insurance context (for example, the acceptance of checks.) Also, certain of the scenarios may be capable of detection only if relevant data is accessible for verification.]

Case1. A life insurance policy with a very high single premium included a clause for partial redemption, at the client's request, at the end of each year. The client claimed that the purpose of the clause was to repay the interest on a loan with a duration of 10 years, intended to facilitate the building of a warehouse. The insurer informed the local Financial Intelligence Unit (FIU) because of the high premium and because the client refused to name the bank where he had taken up the loan. After a careful examination by the FIU, it turned out that the client was known to the police for financial fraud. It appears that the client tried to launder money by means of a life insurance product.

Case2. An insurance company has filed a report concerning two foreign individuals who bought a single premium life insurance contract. The premium amounts were very high. The investigation of the FIU showed that the premiums for these insurance policies were paid through the current accounts of the two clients, while payments to these current accounts consisted of cash deposits the origin of which was unknown. Moreover, these accounts were only used for the purpose of the insurance policy, and the account holders had already been the subject of a report on illegal drug trafficking. According to the police reports, these individuals were members of a network responsible for drug trafficking from Latin America to Western Europe. The insurance company raised awareness of potential money laundering on the basis that the policyholders did not have an official address in the country where they wanted to buy the policy, they were not exercising any professional activity in that country, nor could they explain the origin of the money. This case is currently subject to further legal proceedings.

Case3. Person A, who claimed to be a garage owner, bought a life insurance policy with a high single premium. The premium was high in relation to the age of the policyholder, who was 25 years old. The policy was issued for a duration of 10 years with person A being the beneficiary if alive and person B being the beneficiary in case of death of person A during the 10 year duration (person B is the grandmother of person A). The insurance company reported this case to the FIU. Research of the FIU showed that person A did not own a garage, but had rather been involved in drug trafficking. The FIU decided to forward the report to the department of justice dealing with cases of drug trafficking.

Case4. A couple in their twenties purchased several single premium life insurance contracts with the same insurance company. A little later they requested an early repayment of these policies in cash. This combined with the young age of the insured drew the attention of the insurance company. Both policy holders had previously been convicted of breaking the law and were subjects of a drug investigation. Payments in cash, as it has already been stressed before, are a frequently used money laundering method to hide the trace of illegal funds and thus avoid prosecution. This file has been referred to the criminal court.

Case5. In another case that concerns the illegal public gathering of savings, a policyholder living abroad bought a life insurance policy and requested early surrender. This early surrender resulted in high costs for the policyholder. Afterwards, the policyholder requested by fax to transfer the money to an account of another person living abroad. Because of the urgency of the situation, the FIU requested this transaction to be postponed for 24 hours. This gave the FIU time to collect data, which indicated that the policyholder had already previously been convicted for illegal public attraction of savings. Furthermore, the case has been transferred to the justice department for further investigation.

Case6. Two spouses purchased a life insurance policy, each in their own name with annual premiums, and designating the other as beneficiary. However, it appeared that the owner of the account from where the premium payments originated was not either of the policyholders, but rather a company of which both policyholders were directors. Investigation by the FIU revealed a scheme that had been initiated to hide the illegal origin of the money, and that both policyholders were recognised by the authorities for serious tax crime and organised fraud.

Case7. In another case, two life insurance policies were bought for a large amount in the name of X and Y. The payments were made by check, originating from the account of a listed European investment company. Both policies were used as security for a mortgage loan with a company specialized in leasing. As the beneficiaries were not the policyholders, the insurer contacted the listed investment company to understand the origin of the money that was deposited on the account. It appeared that the money was deposited in cash by random clients. Moreover, X and Y were known by the customs authorities for illegal importation and exportation of cars.

Case8. A 34 year old car dealer has received a loan through a broker of a life insurance company to purchase a house. He invested around 25% of the loan to get a single-premium life insurance policy. Afterwards he surrendered his policy early to pay back the loan (capital and interest). The FIU investigation revealed that the policyholder was known for stealing and receiving of stolen cars. Moreover, he used false documents to prove his revenues and the origin of his investment.