

Position paper on the application of AML to general insurance

The global insurance industry is dedicated to fighting money laundering and terrorist financing (ML/TF), despite the sector's relatively low risk exposure. GFIA believes that the risk-based approach promoted by the Financial Action Task Force (FATF) is the correct one to take in any standards regarding anti-money laundering and counter terrorism financing (AML/CTF). This means restricting any measures to fight ML/TF to the life insurance business, the only one with some, albeit low, exposure to ML/TF risks.

However, GFIA was concerned to see through its own engagement and that of its members with policymakers, that there are still some stakeholders pushing for AML/CFT rules to be applied to the general insurance business, despite its close to non-existent risk exposure to ML/TF risks.

Impact and implications for general insurers

In summary, the insurance industry is fully supportive of effective and proportionate action in order to protect the financial system from being used for the purposes of money laundering and terrorist financing. However, the industry firmly believes that applying AML/CFT rules to general insurance would divert resources and attention away from other higher risk areas and place a significant compliance burden on insurers for low or no risk harms. The aggregate industry effort and cost would be significant and would ultimately be reflected as a reduced focus on those significant harms to the financial system. Another unintended consequence could be reduced policy availability or coverage for certain activities, which may in turn create societal/wider economic issues, because those lawful activities may well cease. If policy availability remains, it is possible that additional compliance costs could be reflected in the form of increased premiums and policy holders may no longer seek coverage.

At this stage, it is important to note that the FATF does not require FATF countries to have in place a corresponding legal framework and/or the availability of basic infrastructure for general insurers (eg a reporting process for suspicious activities from local general insurers). Should some jurisdictions decide to extend the AML/CFT regime to their domestic general insurers, these would then have to extend group minimum AML/CTF requirements to non-domestic entities/subsidiaries. Yet some of those requirements may well be impossible to implement, given that the FATF recommendations do not apply to general insurance. This will mean the local general insurer is unable to interact with local customers and law enforcement authorities, placing the local general insurer and its employees in an invidious position. The parent general insurer implementing group minimum AML/CTF requirements will need to create and put in place an infrastructure that extends beyond the local business, with the complexities and disadvantages that brings. Additionally, any extension of AML/CTF obligations to general insurance would inevitably lead to complex compliance requirements, further exacerbating such difficulties. Even if there is a local infrastructure in place, such as in the US, the extension of general insurer group requirements could alienate customers and create a competitive disadvantage with other parent general insurers and wholly local insurers.

Such extension also means identifying supervisors in each relevant market for what is a low or no risk harm. Those supervisors then need to oversee activities in the FATF countries where there is no requirement for a corresponding legal framework and/or the availability of basic infrastructure given the

low or no risk of harm posed locally. In the light of limited resources, these outcomes are incongruent with an effective risk-based approach.

Some key considerations about general insurance and AML/CFT:

- General insurance is governed by the principle that premiums are not refunded, except in circumstances of adjustment, and payments are only due in the event of covered claims, so the primary risk exposure is fraud.
- FATF guidance recognises that there is very little risk that general insurance will be used for nefarious purposes and general insurance has been consciously excluded from the FATF recommendations. Supervisory and corporate resources should not be directed towards a sector where the risk of money laundering or terrorist financing is, low.
- The national risk assessments (NRAs) across member states do not provide sufficient evidence that the current approach has been ineffective. On the contrary, the majority of member state NRA's conclude that insurance firms (and their supervisors) appear to have a good understanding of their risks and are applying sufficient mitigation measures to those risks.
- Finally, the EU's own risk assessment concludes that "non-life insurance is not used for money laundering purposes, as it requires a degree of planning and expertise that make it relatively unattractive. Therefore, the money laundering threat related to non-life insurance is considered as being of low significance/no relevance." It should be noted that there were no mitigating measures recommended for non-life (general) insurance.
- The nature of general insurance products does not make them attractive vehicles for money laundering schemes or terrorist financing, and the EU has previously considered certain general insurance but in the context of combatting terrorism ((EC) No 2580/2001). The average policy premium and claim for most retail general insurance products are well below the AMLD occasional transaction threshold (€10,000 or more). In addition, the FATF guidance for transactions involving de minimis amounts, such as life insurance policies, sets out that the annual premium is no more than USD/EUR 1 000 or a single premium of no more than USD/EUR 2500.
- Whilst France has applied certain AML/CTF requirements to general insurance products, it does not attract the full range of AML/CTF requirements that are found in AMLD. In addition, certain general insurance products are mandatory (e.g. motoring, shipping and public liability) and it would be disproportionate to impose further requirements, such as those contained in AMLD.
- Separately the assertion that Moneyval, the International Association of Insurance Supervisors (IAIS) and the EU's Supranational Risk Assessment provide "evidence of general insurance products being abused for the purpose of ML/TF" is incongruous with the available data and evidence. It is also noteworthy that the Moneyval report is dated 2010 and the IAIS report is dated 2004, which are of some age and of questionable relevance.

Lastly, while general insurers and general insurance intermediaries are subject to the financial sanctions regime and therefore have systems and controls in place to comply with their obligations under the financial sanctions regime, these systems and controls are not particularly susceptible to reconfiguration in order to address money laundering and terrorist financing obligations. Extending the AML/CFT regime to general insurance would therefore still mean that a significant amount of time and effort be spent to reorientate and expand existing sanctions systems and controls in order to address what is a low risk exposure to money laundering and terrorist financing.

Conclusion:

There is no evidence to justify extending AML/CFT rules to general insurance, while there is a compelling case for not extending them to general insurance because of: (i) the absence of objective trans-national evidence of ML/TF risk exposure through general insurance; (ii) the absence of a critical mass of individual jurisdictions taking independent and divergent action on general insurance; (iii) the industry and societal adverse impacts and implications should there be such an extension; (iv) the absence of an impact assessment; (v) the absence of a consultation; and (vi) the FATF already considered the issue and did not take action. These outcomes are incongruent with an effective risk based approach.

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About GFIA

Through its 41 member associations and 1 observer association, the Global Federation of Insurance Associations (GFIA) represents the interests of insurers and reinsurers in 64 countries. These companies account for around 89% of total insurance premiums worldwide. GFIA is incorporated in Switzerland and its secretariat is based in Brussels.