Nevis Financial Services
Regulation and Supervision Department
NEWSLETTER

LICENSING & ONGOING SUPERVISORY FRAMEWORK FOR INSURANCE COMPANIES

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In this Issue (cont'd from previous month):

- ***Compliance with the Financial Action Task Force (FATF) Recommendations***

Compliance with FATF's International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferations

The AML/CFT measures in the financial sector are issued by the Financial Action Task Force (FATF). The International Association of Insurance Supervisors as with other international policy shapers for the respective various sectors support such recommendations.

AML/CFT measures and standards need to be reasonably consistent, otherwise there would be a tendency for criminal funds to flow to those institutions in sectors operating under less stringent standards.

However, variations in patterns of relationships between institutions and customers/clients in each sector require AML/CFT requirements to be tailored to the circumstances of the relationship. Hence, AML/CFT standards may reasonably differ in the detail and intensity of their application.

FATF has set out forty (40) Recommendations that establishes a comprehensive and consistent framework of measures which countries should implement in order to combat money laundering and terrorist financing, as well as the financing of proliferation of weapons of mass destruction.

It is noted that some of these recommendations are fitting for the international insurance sector. Those that are most relevant are highlighted below and a brief summary of the legal, regulatory or administrative measures that are in place to comply with each of the recommendations are also outlined.

- ***Recommendation 10 – Customer Due Diligence**. Financial institutions should be prohibited from keeping anonymous accounts or accounts in obviously fictitious names. Financial institutions should be required to undertake customer due diligence (CDD) measures when establishing business relations. Financial institutions should be required to verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers. These requirements should apply to all new customers, although financial institutions should also apply this Recommendation to existing customers on the basis of materiality and risk, and should conduct due diligence on such existing relationships at appropriate times.*

Section 8 of the Nevis International Insurance Ordinance (NIIO) requires all control persons to submit due diligence information so as to identify each individual or corporate entity.

A control person is defined in the Nevis International Insurance Regulations as "…any director, officer, manager or shareholder of an entity in relation to which or on whose behalf an application is being made. It may also include undisclosed persons, on whose instructions, whether direct or indirect, any of the above persons or related parties may act with a view to directing the affairs of the entity or related parties for which the application is being made."

The customer due diligence (CDD) that is to be acquired on each control person are as follows:

i) identifying the customer and verifying that customer's identity using reliable, independent source documents, data or information;

ii) identifying the beneficial owner, and taking reasonable measures to verify the identity of the beneficial owner, such that the financial institution is satisfied that it knows who the beneficial owner is. For legal persons and arrangements this should include financial institutions (insurance manager/registered agent) understanding the ownership and control structure of the customer;

iii) understanding and, as appropriate, obtaining information on the purpose and intended nature of the business relationship;

iv) conducting ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, including, where necessary, the source of funds.

- ***<u>Recommendation 11 – Record-keeping.</u>* Financial institutions are required to maintain full business and transaction records, including CDD data, for at least 5 years. This will enable financial institutions to comply swiftly with the information requests from the competent authorities. The CDD data that should be available include copies or records of official identification documents such as passports, identity cards, driving licenses or similar documents.**

Section 17 of the NIIO requires all insurers to keep business records and have them available in Nevis so that they may be accessed by the competent authorities. Further, the Anti-Money Laundering Regulations, 2011 require all regulated entities to obtain and keep ownership, identity information and business records for at least five (5) years following the end of a business relationship.

- ***<u>Recommendation 12 – Politically exposed persons (PEPs).</u>* Financial institutions should be required, in relation to foreign PEPs (whether as a customer or beneficial owner) in addition to performing normal customer due diligence measures, to have enhanced due diligence measures executed and have the appropriate risk based systems to ensure more ongoing monitoring is done. Reasonable measures should be taken to determine whether a customer or beneficial owner is a domestic PEP or a person who has been entrusted with a prominent function by an international organization.**

The NIIO, under Section 8(3), gives the Registrar permission to request additional documents, information or evidence that may be required. This provision allows for enhanced due diligence to be conducted on a particular control person that is deemed as per risk assessment to be politically exposed or a higher risk than normal. The identification and monitoring of PEPs are requirements that all regulated entities including insurance managers and registered agents should adhere to pursuant to Regulations 5 of the -Money Laundering Regulations, 2011.

- ***<u>Recommendations 24 & 25 – Transparency and beneficial ownership of legal persons and arrangements.</u>* Measures should be taken to prevent the misuse of legal persons for money laundering or terrorist financing. There should be adequate, accurate and timely information on the beneficial ownership and control of legal persons that is submitted to the competent**

authorities. Also measures to prevent the misuse of legal arrangements for money laundering or terrorist financing should be put in place.

As mentioned earlier, Section 8 of the NIIO requires information on all control persons under which the shareholder and the ultimate beneficial owner are a part. Legal arrangements of the beneficial ownership is required to be submitted in the business plan and in some cases an ownership chart could be submitted. Fit and proper assessments are also undertaken to ensure that the integrity and reputation of the jurisdiction are safeguarded.

- ***<u>Rec. 26 – Regulation and Supervision of financial institutions.</u> Countries should ensure that financial institutions are subject to adequate regulation and supervision are effectively implementing the FATF Recommendations. For financial institutions subject to the Core Principles, the regulatory and supervisory measures that apply for prudential purposes, and which are also relevant to money laundering and terrorist financing, should apply in a similar manner for AML/CFT purposes. This should include applying consolidated group supervision for AML/CFT purposes.***

The Registrar of International Insurance has responsibility for supervising the various international insurance companies to ensure compliance with prudential requirements under the NIIO and applicable International Association of Insurance Supervisors (IAIS) Principles. The FSRC is responsible for the overall monitoring of AML/CFT compliance of international insurance companies, insurance managers and Registered Agents.

FSRC staff members are involved in on-site and follow-up inspections and offsite monitoring in accordance with the FSRC's Risk Based Supervisory Framework. The licensing process as mentioned in last month's newsletter, plays an important role in regulating the business admitted into the jurisdiction. This process requires a fit and proper assessment as a part of the due diligence checks on control persons. External due diligence checks are carried out on individuals who are deemed to be more high risk or the position being applied for poses greater risk.

- ***<u>Rec. 27 – Power of supervisors.</u> Supervisors should have adequate powers to supervise or monitor and ensure compliance by financial institutions with requirements to combat money laundering and terrorist financing. Supervisors should also have the authority to conduct inspection and compel production of any information that is relevant to monitoring and to impose appropriate sanctions for non-compliance.***

The NIIO gives the Registrar sufficient powers to supervise the insurance entities with respect to prudential matters. Section 16 requires the entity to give notification of significant changes to the Registrar and in some cases prior written approval is required. Sections 36 and 37 allows for the power to obtain information and inspection/investigation to be carried out, respectively. Section 12 allows for the suspension, cancellation or imposition of a condition on a license issued to an entity in the case of non–compliance. Further, sections 38 to 40 of the Financial Services Regulatory Commission Act, Cap 21.10 provide adequate powers to the FSRC to conduct examinations on all regulated entities and to impose sanctions as appropriate.

<u>Sources</u>

* *The Nevis International Insurance Ordinance, Cap. 7.07 and the Nevis International Insurance Regulations*
* *Financial Services Regulatory Commission Act, Cap 21.10*
* *The FATF Recommendations - <u>http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf</u>*
* *FATF (2013), Methodology for Assessing Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems - <u>http://www.fatf-gafi.org/media/fatf/documents/methodology/FATF%20Methodology%2022%20Feb%202013.pdf</u>*