



Republic of the Philippines
Department of Finance
INSURANCE COMMISSION
1071 United Nations Avenue
Manila

Circular Letter No.:	2022-27
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CIRCULAR LETTER

TO : All Insurance/Reinsurance Companies, Mutual Benefit Associations, Insurance and Reinsurance Brokers, Pre-Need Companies and Health Maintenance Organizations

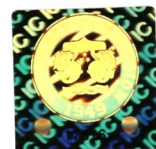
SUBJECT : Thematic Review Report – Insurance Commission Regulated Entities Compliance with Targeted Financial Sanctions Obligations

Attached is the Thematic Review Report relating to Insurance Commission Regulated Entities (ICREs) compliance with Targeted Financial Sanctions (TFS) Obligations.

TFS is part of the Insurance Commission's supervisory approach that focused on the TFS control measures implemented by ICREs.

Thus, ICREs are expected to consider the findings and conclusions in the report in their respective institutional risk assessments (IRAs) and implement necessary measures to address the identified risk areas.


DENNIS B. FUNA
Insurance Commissioner





THEMATIC REVIEW REPORT:

Insurance Commission Regulated Entities
Compliance with Targeted Financial
Sanctions Obligations

MAY 2022

INSURANCE COMMISSION

I

INTRODUCTION

On 25 June 2021, the Philippines was included in the Financial Action Task Force's (FATF) "grey list" or jurisdictions that will be under increased monitoring and required to address strategic deficiencies in their regimes to counter money laundering, terrorist financing, and proliferation financing. To be removed from the grey list, the Philippines must be able to demonstrate compliance with certain action items to address its strategic deficiencies.

The key deliverable for the Insurance Commission (IC) is the conduct of Thematic Review (TR) on thirty (30) pre-selected Insurance Commission Regulated Entities (ICREs). The ICREs were selected based on their asset/size, nature and complexity of their business and risk profile.

The composition of the selected ICREs are the following:

- a) Life Insurance Sector (LIS), comprising of 15 Life Insurance Companies (LICs) and accounting to 93% of the total assets of the LIS. They offer wide range of financial products and services including Variable Unit-Linked (VUL) products and traditional life insurance products;
- b) Non-Life Insurance Sector (NLIS), comprising of 11 Non-Life Insurance Companies (NLICs) and accounts to 52% of the total assets of NLIS. Their main products are motor car insurance and marine insurance.

Although the level of risk for motor car insurance is considered low, we should take into account that majority of their portfolio comes from this insurance product, hence, the vulnerability of the sector to Money Laundering (ML), Terrorist Financing (TF) and Proliferation Financing (PF) risks should not be taken lightly as there may still be possibilities of violations if there are no adequate controls established in its place.

For Marine Insurance, the level of risk is likewise considered low, but due to the potential linkage to international marine piracy, sanctioned marine vessels, embargo and high risk ports, the potential risk on this products will likely increase; and

- c) Insurance and Reinsurance Brokers (IRB), comprising of 3 IRBs, the third largest sector, which accounts to 17% of the total assets of the IRB.

IC opted to use the desk-based method in the conduct of this thematic review of ICREs. It focused on the scope of the application and implementation by ICREs of the Targeted Financial Sanction (TFS). IC would like to determine whether these control measures were properly identified and instituted by ICREs in order to ensure compliance with the TF and PF measures specifically in the reporting and freezing of assets without delay.

This assessment is based on the ICREs documented policies, procedures and processes pertaining to compliances with the AMLC 2021 Sanctions Guidelines, UNSCR and domestic lists, and other IC TFS-related issuances.

II

EXECUTIVE SUMMARY

One of the key findings of IC is the continued application and improvement of good governance practices by ICREs such as maintaining comprehensive customer due diligence policies and procedures including the application of simplified and enhanced due diligence, variations in the collection and verification of CDD information to understand the purpose and intended nature of the business relationship.

The members of the board of directors and senior management officers of the ICREs demonstrated adequate understanding of the TFS related risks through the conduct of an institutional risk assessment (IRA) where they form an integral part of the risk and compliance management framework of the ICREs. The ICREs has organized TFS related policies, procedures, and system to identify, restrict, and deny transactions by identified and designated individuals and entities from foreign and local authorities.

While we recognize the efforts and initiatives made by our regulated entities in combating AML/CTF, we are also taking into account areas that needs improvements and processes that if properly implemented would mitigate ML and TF risks. This include, among others, conduct of institutional risk assessment, customer due diligence and ongoing monitoring.

All ICREs must ensure that they equip and train all-front line staff members to maintain and enhance awareness of ML/TF risks and how these are being mitigated and managed. They should also be able to present a system or systems that will control and mitigate the risk of AML/CTF to flourish in the industry.

IC will actively monitor and work with all ICREs to ensure that any risk of ML/TF are identified and prevented. All concerns and hesitations are to be addressed immediately by both parties and their associations.

To improve understanding, additional outreach programs and activities are to be conducted. Information and details of effective programs and practices should be shared and distributed among regulated entities.

This publication aims to reinforce the ICREs understanding of their TFS obligations and TFS requirements.

III

Legal Framework on Terrorism Financing and Related Regulatory Issuances

Targeted Financial Sanctions obligations and requirements of ICREs are provided in Republic Act No. 10168 otherwise known as the Terrorism Financing Prevention and Suppression Act (TFPSA) of 2012 and Sanctions Guidelines issued by the Anti-Money Laundering Council (AMLC) in 2021.

From October 2021 to March 2022, IC issued a number of circular letters and advisories disseminating the Anti-Money Laundering Council (AMLC) Resolutions and Guidelines relating to TFS and TF and PF. This is to ensure that ICREs are well-informed and updated with the latest trends and development on TFS i.e. red flags, typologies, sanction list and watch list. This guidelines are also aimed to aid ICREs to update/revise their existing Money Laundering and Terrorist Financing Prevention Program (MTPP) in order to align with the current regulatory issuances and practices on TF and PF:

1. CL No. 2021-55 dated 6 October 2021, AMLC 2021 Sanctions Guidelines;
2. CL No. 2021-56 dated 6 October 2021, AMLC Primer on Resolutions No. TF-33 and TF-34, Series of 2020;
3. CL No. 2021-57 dated 6 October 2021, AMLC Issuance on the Amendments to Certain Provisions of the 2018 IRR of the AMLC, as amended, TFS (Related to Proliferation of Weapons of Mass Destructions and PF) and Amendments to Certain Provision of ARI No. 4, Series of 2020 ;
4. CL No. 2021-63 dated 27 October 2021, a Survey on Targeted Financial Sanctions (TFS);
5. IC Advisory No. RS-2022-011, dated 18 March 2022, Dissemination of the AMLC Warning Against Providing Financial and Material Support to CPP-NPA-NDF;
6. IC Advisory No. RS-2022-012, dated 21 March 2022, Dissemination of the AMLC Resolution No. TF-41, Series of 2021;
7. IC Advisory No. RS-2022-013, dated 21 March 2022, Dissemination of the AMLC Resolution No. TF-42, Series of 2021;

8. IC Advisory No. RS-2022-014, dated 21 March 2022, Dissemination of the AMLC Resolution No. TF-50, Series of 2021; and
9. CL No. 2022-05 dated 2 February 2022, Dissemination of the National AML/CFT Coordinating Committee (NACC) on the Impact of Grey-Listing.

IV

KEY FINDINGS

A. CUSTOMER DUE DILIGENCE

ICREs selected for the conduct of this thematic review were observed to actively practice company-wide detailed procedures on Customer Due Diligence (CDD) as required by existing rules and regulations. This include the adoption of mechanisms in order to comply with the obligations and prohibitions from conducting transactions with designated persons and entities, as set out in relevant United Nations Security Council Resolutions (UNSCRs) in relation to the prevention, preservation and suppression of terrorism and terrorist financing as well as financing and proliferation of weapons of mass destruction.

Current policies and procedures implemented by these ICREs were found to be compliant to current regulatory laws and were able to properly recognize and verify the identity of their customers. Guidelines in CDD requirements also reflect the assessed ML/TF risk level of their customers taking into account the customers' risk profile using the Risk Based Approach (RBA).

Although all of the thirty (30) ICREs have detailed policies and procedures and implement customer due diligence, 7 ICREs are observed to not be efficiently implementing the same. Some limited their responses to one size fits all or tick box approach.

B. SANCTIONS SCREENING MECHANISMS

ICREs have enforced sanctions screening, scrubbing and updating of screening mechanisms. Sanctions screening is usually done during establishment of relationship or onboarding, whenever there are updates and for every transaction.

ICREs policies and procedures show the processes employed to ensure that the most recent lists were being used for screening and scrubbing.

For frequency of updating, most of the ICREs indicated “Daily, Real Time and as soon as practicable”.

Clarifications were sent to ICREs through email on how soon is the screening and scrubbing done against the updated domestic and UNSCR designated lists following receipt of notification of the updated lists.

Two (2) ICREs replied as soon as practicable and submitted proof thereof.

In keeping with the principle of **“without delay”**, screening against the updated lists should be done as soon as practicable and no longer 24 hours following receipt of notification of the updated lists.

This is because “without delay” is a fundamental principle underlying TFS requirements as provided for under Section 11 of RA No. 10168, otherwise known as “The Terrorism Financing Prevention and Suppression Act of 2012”, to ensure that the UNSCR designated individuals and entities are identified and prevented from accessing financial services and that their assets are frozen as soon as possible to prevent the movement of funds for terrorism financing (TF) and proliferation financing (PF) purposes.

C. ADOPTION OF TFS RISK ASSESSMENT

ICREs Institutional Risk Assessment (IRA) related to TF and PF shall describe what TF and PF risk assessment entailed and shall contain the scope and the elements that were considered to arrive at the overall residual risk including the action undertaken to mitigate such risks.

IRA of ICREs shall consider (i) all relevant inherent ML and TF risk factors in order to determine its risk profile and (ii) assess the nature of mitigating controls, both from a design and operating effectiveness standpoint, in order to (iii) arrive at the residual risk, which should be within the financial institution’s established risk appetite.

ICREs shall take appropriate steps to identify, assess and understand its AML/CTPF risks in relation to its customers, business, products and services,

geographical exposures, transactions, delivery channels and size, to be able to implement control measures to mitigate the risk¹.

Further, ICREs risk management framework should include identification of legitimate customers from those customers conducting fraudulent activities, through risk-based approach and adequate assessment and understanding the customers, rather than based solely on a matching exercise against a set of red flag indicators.

Thirty (30) ICREs were directed to submit results of their respective IRA, however, six companies (ICREs) instead submitted their policies and procedures as well as the table of risk classification in lieu of their respective IRA. These ICREs merely relied on its understanding that customer under the sanctioned lists should be regarded as high risks.

Although these companies have processes on the conduct of IRA, these however, are not being efficiently implemented.

It has also been noted that those ICREs with Head Office abroad are conducting a Group Wide Risk Assessment (GWRA) or Enterprise Wide Risk Assessment (EWRA) for a unified approach to combating ML and TF, aimed to strengthen their control framework. Though IC recognizes that these companies adopt a GWRA or EWRA policies and procedures of their parent company (Head Office) for consistency in managing their ML, TF and PF risks, it is expected that these companies ensure that their documented policies and procedures reflect the local regulatory requirements and that the companies' BOD, officers and employees are aware of these requirements.

D. EMBEDDED TFS IN AML/CTPF TRAINING PROGRAM

The regulatory expectation is that ICREs should provide adequate training to front-line staff to assess and understand the ML/TF risk and implement relevant measures consistent with Risk Based Approach.

ICREs have documented training policy which is properly implemented and put into practice, ensure that all staff, officers and board of directors are trained for AML/CFT and TFS purposes, tailor fit their trainings and provide more specific material to those staff which hold an AML/CFT and TFS or compliance function and maintain an up to date training log. Existing induction and AML training materials emphasizes the importance of observing all AML/CFT and TFS laws and

¹ Section 2, CL No. 2019-65 dated 22 November 2019

regulations including the regulatory implication and cost of non-compliance (such as TFS guidelines).

Conclusion

The Insurance Commission will be working closely with all its regulated entities to ensure that any concerns and findings are appropriately addressed.

All ICREs must ensure they can demonstrate that their AML/CFT systems of controls are robust and effective in preventing the financial system from being used for ML and TF purposes.

Further, ICREs must ensure that all of their front-line staff maintain an awareness of ML/TF risks and how these are being mitigated and managed

ICREs should study the findings of this publication and apply them accordingly.

IC is committed to working with all its regulated entities to help them further enhance compliance with the standards.