

Ref.: 15/8/1/3

To: All insurers conducting life insurance business (life insurers) falling under the supervision of the Prudential Authority (PA) in terms of section 45 and item 8 of Schedule 1 read with Schedule 2 of Financial Intelligence Centre Act 38 of 2001 (Act No. 38 of 2001) (the FIC Act)

Proposed Directive issued by the PA in terms of section 43A(2) of the FIC Act

Requirement to conduct customer due diligence (CDD) measures in respect of the beneficiaries of life insurance policies and incorporate the beneficiaries as a risk factor when determining the overall money laundering and terrorist financing risk rating of a client¹

Executive Summary

This Directive is issued by the PA in terms of Section 43A (2) of the FIC Act and serves to direct entities designated under item 8 of Schedule 1 to the FIC Act² to ensure that customer due diligence measures are undertaken in respect of the beneficiaries of life insurance policies, and that the money laundering and terrorist financing (ML/TF) risk associated with the beneficiary must be a factor incorporated into the overall assessment of the ML/TF risk posed by the client.

1. Introduction

- 1.1 The PA is a supervisory body in terms of Schedule 1 read with Schedule 2 of the FIC Act for a *person who carries on a 'long-term insurance business' as defined in the Long-Term Insurance Act 52 of 1998.*
- 1.2 This Directive serves to direct life insurers to undertake specific activities in relation to certain aspects of CDD and ML/TF risk assessment insofar as it relates to beneficiaries of life insurance policies.

2. Directive

- 2.1 In addition to the CDD measures required in terms of the FIC Act, life insurers must obtain particulars of the beneficiary of life insurance policies, as soon as the beneficiary is identified, designated, or amended by the client.

¹Reference to the client is in terms of the FIC Act and for the purpose of this directive constitutes the policyholder.

² By virtue of section 12(1) of the Interpretation Act 33 of 1957, any reference in the FIC Act referring to provisions of the Long-term Insurance Act, 52 of 1998, will now refer to the relevant provisions in the Insurance Act 18 of 2017. The Financial Intelligence Centre is in the process of amending the current designation in item 8 of schedule 1 of the FIC Act to refer to the Insurance Act 18 of 2017.

- 2.2 In respect of a beneficiary that is identified as a specifically named natural person or legal person or legal arrangement³, a ML/TF risk assessment and commensurate CDD measures must be conducted in accordance with the FIC Act on such named natural or legal person or legal arrangement at the time of the pay-out⁴, but before actual pay-out, of the policy proceeds to the beneficiary.
- 2.3 In respect of a beneficiary that is designated by characteristics or by class or by other means, CDD measures should be conducted by obtaining sufficient information concerning the beneficiary to satisfy the life insurer that it will be able to establish and verify the identity, in accordance with the FIC Act, of the beneficiary at the time of the pay-out, but before actual pay-out, of the policy proceeds to the beneficiary.
- 2.4 Life insurers must include the beneficiary of a life insurance policy as a relevant risk factor in determining the level of risk posed by their client and whether enhanced CDD measures would be applicable to their client as a consequence.
- 2.5 If the life insurer determines that a beneficiary who is a legal person or a legal arrangement presents a higher ML/TF risk, it should undertake enhanced CDD measures on the beneficiary at the time of pay-out, but before actual pay-out, of the policy proceeds to the beneficiary.
- 2.6 The life insurer must take reasonable measures to determine whether the beneficiary and/or, where required, the beneficial owner of the beneficiary, is a domestic prominent influential person (DPIP) or foreign public prominent official (FPPO). Where higher risks are identified, life insurers should inform their senior management before the inception of the policy, to conduct enhanced scrutiny on the business relationship with the policyholder, and to consider making a suspicious transaction report to the FIC.
- 2.7 The life insurer must take reasonable measures to determine whether the beneficiary and/or, where required, the beneficial owner of the beneficiary is not a person listed pursuant to a targeted financial sanctions list as envisaged in sections 28A and 26B of the FIC Act.

3. Effective date

- 3.1 This Directive is effective from date of publication on the website of the South African Reserve Bank.

4. Acknowledgement of receipt

- 4.1 Kindly ensure that a copy of this proposed Directive is made available to your institution's external auditors. An acknowledgement of receipt must be provided, completed and by both the chief executive officer of the institution and the said auditors should be returned to the PA at the earliest convenience of the aforementioned signatories.

³ Legal arrangements as per the FATF 40 Recommendations refer to trusts or other similar legal arrangements.

⁴ Pay-out in this instance also includes instances of a surrender, partial surrender.

5. Invitation for comment

- 5.1 The PA invites life insurers and other interested parties to submit further comments for consideration to PA-Insurancedirective@resbank.co.za by no later than 10 business days from the date of publication of this proposed Directive.
- 5.2 All comments received from life insurers and other interested parties may be published on the website of the PA unless the respondent specifically requests confidential treatment.

Fundi Tshazibana
CEO: Prudential Authority

Date: