ASISA GUIDELINE ON FEATURES OF PRODUCTS THAT MAY POSE A LOW RISK FOR MONEY LAUNDERING, TERRORIST FINANCING AND PROLIFERATION FINANCING

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1. Introduction

Section 42(1) of the Financial Intelligence Centre Act, 2001, requires an accountable institution to develop, document, maintain and implement a programme for anti-money laundering and counter-terrorist financing risk management and compliance. ASISA members are accountable institutions and thus required to implement a Risk Management and Compliance Program (**RMCP**) in the context of the nature, size, and complexity of their businesses.

2. Purpose

2.1. The purpose of the ASISA Guideline on features of products that may pose a low risk for money laundering, terrorist financing and proliferation financing (**Guideline**) is to assist ASISA members in the assessment of money laundering, terrorist financing and proliferation financing (**ML/TF/PF**) risks for the purpose of the RMCP, to identify products that inherently pose low ML/TF/PF risk (i.e. before risk controls are applied).

2.2. It is important to note that products and factors covered in this Guideline are not exhaustive. This Guideline is intended to provide guidance only and should not be relied on solely when considering the ML/TF/PF risks posed by products. ASISA members are advised to also consider other factors to determine whether a product poses a low risk for ML/TF/PF.

2.3. It is recommended that ASISA members do not evaluate risk posed by products in isolation of other risk factors/categories.

2.4. This Guideline is being shared with ASISA members and the public for their consideration and voluntary implementation and is non-binding on ASISA members.

2.5. ASISA members should consider these guidelines in respect of products in the context of their own organisations and as part of their RMCPs and should take their own decisions as to how they will use the Guideline.

3. General guidelines

3.1. It is recommended that, generally, the following main factors[1] be considered when assessing whether products inherently pose low ML/TF/PF risk:

3.1.1. The extent to which the product offers anonymity to the client.

[1] There may be other factors that should also be considered. The intention of paragraph 3 is to guide members to the general main factors. It is not intended to be an exhaustive list. Please also refer to FIC Guidance Note 7 of 2 October 2017 on the implementation of various aspects of FICA.

3.1.2. Whether the product allows for payments to or from third parties.

3.1.3. The accessibility of funds from the product (whether the product can be easily paid out to a client).

3.1.4. Whether the product is subject to additional checks such as credit or regulatory approvals.

3.2. Generally, the products listed below do not allow for cross-border transfers of benefits and the funds are therefore generally geographically restricted to South Africa.

4. Product features

It is recommended that ASISA members consider that the inherent features of the following types of products may pose a low risk for ML/TF/PF:

4.1. Risk, group risk and credit life policies
(Insurance classes of business 1 -Risk, 2 - Fund Risk and 3 – Credit Life)

4.1.1. Descriptions

4.1.1.1. The sub-classes of business for Risk are for individuals and groups, lump sums, and recurring payments: Death, Health and Disability.

4.1.1.2. The sub-classes of business for Fund Risk are for funds and their members: Death and Disability (lump sum and recurring payments).

4.1.1.3. Risk and group/fund risk policies provide for the payment of a lump sum or, specified or determinable equal or unequal sums of money payable at specified intervals, on the happening of a death, health, or disability event.

4.1.1.4. Credit life policies provide for the payment of lump sum or, specified or determinable equal or unequal sums of money payable at specified intervals to satisfy all or part of a financial liability to a credit provider on the happening of a death, health, or a disability event, and in the event of unemployment, or other insurable risk that is likely to impair a person's ability to earn an income or meet credit obligations.

FATF (2018), Guidance for a Risk-Based Approach for the Life Insurance Sector, in Table 1 - Examples of life insurance products and indicative risk ratings, indicates that a product that pays a lump sum or a regular payout to the beneficiary, in the event of the death of the insured, or in the event of a long-term care (disability) or critical illness, poses a lower risk compared with other life insurance products. An insurer holds the funds and payments are only made in the case of a specific external event.

4.1.2. *Accessibility of funds*

4.1.2.1. Benefits are only paid on death, critical illness, disability, or unemployment. Funds are thus not accessible prior to the death, health, disability, or unemployment event.

4.1.2.2. Benefits are only paid after evidence of the insured event has been obtained.

4.1.2.3. Policies have no surrender/cash value.

4.1.3. *Anonymity and third-party payments*

4.1.3.1. Policyholders are identified; beneficiaries cannot be anonymous.

4.1.3.2. Insurable interest is confirmed and re-confirmed at claims stage.

4.1.3.3. For a group/fund risk policy, premiums are paid by the employer/fund and the policy benefits are paid to the nominated beneficiary of the employee/fund. The benefit amount is linked to the salary of the employee.

4.1.3.4. For a credit life policy, the policy benefits are paid to the credit grantor.

4.1.4. *Additional checks*

The quote process and underwriting procedures assist with the identification of the policyholder.

4.1.5. *Other*

While there is a higher risk of fraud associated with these types of products, the risk for ML/TF/PF remains low.

4.2. Funeral policy
(Insurance class of business 4 – Funeral: Individual and Group)

4.2.1. *Description*

Funeral: Lump sum or, specified or determinable equal or unequal sums of money payable at specified intervals not exceeding an amount prescribed by the Prudential Authority payable to a beneficiary to cover cost associated with a funeral or the rendering of a service on the happening of a death event.

> FATF (2018), Guidance for a Risk-Based Approach for the Life Insurance Sector, in Table 1 - Examples of life insurance products and indicative risk ratings, indicates that a product that pays a lump sum to the beneficiary, in the event of the death of the insured poses a lower risk compared with other life insurance products. An insurer holds the funds and payments are only made in the case of a specific external event.

4.2.2. *Accessibility of funds*

4.2.2.1. Policy benefits are only payable on a death event and the amount of cover is restricted by legislation. Funds are thus not accessible prior to the death event.

4.2.2.2. Benefits are only paid after evidence of the death event has been obtained.

4.2.2.3. Policies have no surrender/cash values.

4.2.3. *Anonymity and third-party payments*

Policyholders are identified; beneficiaries/claimants cannot be anonymous. The death and identities of beneficiaries are verified prior to the payment of the policy benefits.

4.4.4. *Other*

While there is a higher risk of fraud associated with these types of products, the risk for ML/TF/PF remains low.

4.3. <u>Compulsory annuity (post-retirement)</u>
(Insurance classes of business 5 -Life annuities and 8 - Income Drawdown)

4.3.1. Descriptions

4.3.1.1. Life annuities: Specified or determinable equal or unequal sums of money payable at specified intervals from the start of the policy, or a fixed or determinable date for the remainder of the life of the policyholder, or to one or more dependants or nominees after the death of the policyholder.

4.3.1.2. Income drawdown/living annuity: Specified or determinable equal or unequal sums of money payable at specified intervals from the start of the policy, or a fixed or determinable date linked to a life event until the value of the investment is exhausted; or a lump sum or specified or determinable equal or unequal sums of money payable at specified intervals equal to the remaining value of the investment to the estate, or one or more dependents or nominees after the death of the policyholder.

4.3.1.3. A compulsory annuity is a product purchased from the proceeds of a retirement fund to provide an income stream upon retirement.

4.3.1.4. Types of compulsory annuities: Living annuity, guaranteed lifetime annuity or a hybrid annuity (combination of guaranteed and living).

FATF (2018), Guidance for a Risk-Based Approach for the Life Insurance Sector (Table 1 - Examples of life insurance products and indicative risk ratings) indicates that annuities (used for retirement savings where an insurer holds the funds and manages the underlying investments) pose a lower risk compared with other life insurance products.

4.3.2. Accessibility of funds

4.3.2.1. Commutation of life annuities is subject to regulatory restrictions.

4.3.2.2. Living annuities are subject to regulatory restrictions on withdrawals / draw downs and commutations.

4.3.3. Anonymity and third-party payments

As regular payments are made, beneficiaries (dependents or nominees) and their bank accounts are identified. Clients are never anonymous.

4.3.4. Additional checks

4.3.4.1. The source of the funds is always a retirement fund.

4.3.4.2. The transfer from the retirement fund to the insurer providing the annuity policy is subject to regulatory requirements.

4.3.4.3. Compulsory annuities are subject to income tax reporting.

4.3.4.4. It cannot be offered as security or ceded.

4.4. <u>Linked investment/life policy issued to a friendly society, pension fund or medical scheme</u>
(Insurance class of business 7c – Fund Investment: Linked)

4.4.1. Descriptions

4.4.1.1. Fund Investment: Benefits provided for the purpose of funding in whole or in part the obligation of a fund to provide investment benefits to its members in terms of its rules, other than a policy relating exclusively to a particular member of the fund or to the surviving spouse, children, dependents, or nominees of a particular member of the fund.

4.4.1.2. The insurance obligations under these policies are determined solely by reference to the value of assets or categories of assets which are specified in the insurance policy and are held by or on behalf of the insurer specifically for the purposes of the policy, less deductions specifically provided for in the policy.

FATF (2018), Guidance for a Risk-Based Approach for the Life Insurance Sector, in Table 1 - Examples of life insurance products and indicative risk ratings, indicates that products with returns linked to the performance of an underlying financial asset (e.g., investment linked policies) poses a higher risk compared to other life insurance products. However, in the case of policies falling onto the insurance class of business – fund investment linked, the risk is low because only certain types of clients may be policyholders and these clients have no control over the underlying investments.

4.4.2. *Accessibility of funds*

4.4.2.1. In terms of legislation, the policyholder may only be a friendly society, pension fund or medical scheme[2]. Natural persons therefore do not have direct access to funds.

4.4.2.2. Due to the restricted nature of the policyholder (e.g., retirement fund), there is a long-term investment horizon.

4.4.3. *Anonymity and third-party payments*

Although often intermediated, anonymous use of linked policies is not available. Friendly societies, pension funds and medical schemes are identified together with their designated bank accounts prior to beneficiary payments.

4.4.4. *Additional checks*

4.4.1.1. The source of funds is always from regulated entities (friendly society, pension fund or medical scheme).

4.4.1.2. There are generally no complex or unusual premium payments and minimum investment amounts are generally substantial.

4.4.5. *Other*

4.4.5.1. While the investment nature of the linked policy generally may pose a higher risk for ML/TF/PF, the risk is low where these policies are only issued to pension funds and medical schemes (regulated entities).

4.4.5.2. A linked investment/life policy issued to an individual or an entity other than a pension fund and a medical scheme generally will pose a higher risk for ML/TF/PF.

4.5. <u>Pension, provident and preservation fund (pre-retirement)</u>

4.5.1. *Descriptions*

4.5.2.1. Employees and/or employers contribute to the pension or provident fund according to the rules of the fund as approved in terms of the Pension Funds Act.

[2] Through an exemption of certain long-term insurers from Regulation 4.2(1) of the Regulations under the Long-Term Insurance Act (FSCA INS Notice 12 OF 2020)

4.5.2.2. The pool of funds is invested on the employee's behalf and regular payments are made to employee/fund member from the retirement date in accordance with the rules of the pension or provident fund.

4.5.2.3. The primary purpose of a preservation fund is to house and preserve the proceeds of a pension or provident fund where a person can no longer be a member of the pension or provident fund, for example due to resignation.

4.5.2.4. All retirement funds defined in the Pension Funds Act and the Income Tax Act are not Accountable Institutions as defined in the Financial Intelligence Centre Act, Schedule 1.

> FATF (2018), Guidance for a Risk-Based Approach for the Securities Sector, in paragraph 105, indicates that one example of when SDD measures may generally be appropriate is a pension product funded directly from a reputable company's payroll as such a product may present a lower ML/TF risk compared to other products.
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> FATF (2018), Guidance for a Risk-Based Approach for the Life Insurance Sector, in paragraph 65, lists a pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme, as an example of a lower risk scenario.

4.5.2. Accessibility of funds

4.5.2.1. The ability to access funds before retirement is restricted by legislation.

4.5.2.2. Benefits are only payable on predetermined specified events.

4.5.3. Anonymity and third-party payments

4.5.3.1 The members of the funds are never anonymous.

4.5.3.2 Payments are only made to members and/or their identified dependents.

4.5.4. Additional checks

4.5.4.1. Pension, provident and preservation funds are subject to the Pension Funds Act.

4.5.4.2. Pension and provident funds are only accessible through employers that provide retirement benefits to employees. The source of funds is primarily and predominantly from employment. Voluntary contributions are only allowed in terms of the rules of the fund and tax legislation.

4.5.4.3. The source of funds for a preservation fund is always another pension or provident fund. No additional voluntary contributions are allowed in a preservation fund.

4.5.4.4. Fund members are subject to tax reporting.

4.5.4.5. Generally, retirement funds cannot be offered as security or ceded.

DOCUMENT HISTORY

Date	Amendments

RESPONSIBLE SPA AND COMMITTEES

Responsible Senior Policy Advisor	ASISA Point Person to the FICA Standing Committee
Responsible Board Committee	Regulatory Affairs Board Committee
Responsible Standing Committee	FICA Standing Committee