

Luxembourg, 30 January 2013

The following text has been elaborated by the CAA for information purposes. The French version of this Circular letter is the only authentic version.

Circular letter 13/1 of the Commissariat aux Assurances amending circular letter 11/2 as amended relating to the assessment of risks of exposure to money laundering and terrorist financing and preventive measures

Ladies and Gentlemen,

On 19 May 2011, the Commissariat aux Assurances issued circular letter 11/7 amending circular letter 11/2 relating to the assessment of risks of exposure to money laundering and terrorist financing and to prevention measures, and extending its scope to non-life insurance companies and reinsurance companies carrying out credit and surety operations.

At the time, it was decided to define a single questionnaire for the evaluation of BC/FT risks attached to the credit and surety insurance branches, regardless of whether they are carried out by an insurance or reinsurance company.

In order to take into account the specificities of reinsurance compared to direct non-life insurance and to better target the money laundering and terrorist financing risks that may be attached to one or the other activity, this circular letter introduces a separate specific questionnaire to be completed by reinsurance undertakings carrying out credit/guarantee operations (Annex IV) and makes the current questionnaire in Annex III of the amended circular letter 11/2 applicable only to direct non-life insurance undertakings.

As a result, the following changes in the body of the amended Circular Letter were made 11/2 are necessary:

1. In the second indent of point 1, the first three paragraphs are replaced by four paragraphs as follows :

"Annex III - Part 1 to this circular letter is to be completed by non-life insurance undertakings engaged in "credit/guarantee" operations, for their portfolio as a whole.

Annex IV - Part 1 to this circular letter must be completed by reinsurance undertakings engaged in "credit/guarantee" operations, for their portfolio as a whole.

If this monitoring shows that there has been a change in the BC/FT risk profile, the company must make the necessary and proportionate adjustments to its BC/FT policy and to the measures for managing this risk. At least once a year, the insurance and reinsurance undertaking must carry out a review of its analysis of the risks relating to its business, the result of which must be communicated to the decision-making body within the insurance and reinsurance undertaking.

As for life insurance, the results obtained on the basis of the questionnaires in Annexes III and IV must be communicated regularly to the Commissariat aux Assurances. In order to enable the latter to make an objective categorisation of insurance and reinsurance undertakings, it is essential that the data be collected using uniform criteria. It follows that only the results resulting from the application of all the criteria developed by the CAA must be communicated to the CAA. These criteria may not be modified under any circumstances and their application is mandatory for the company. »

Point 2 is amended as follows:

a) its title is amended as follows

"« 2. The qualitative questionnaire related to the measures for the prevention of BC/FT (Annexes II, III - Part 2 and IV - Part 2)".

b) the second paragraph is amended as follows :

« It was decided to propose three questionnaires, one relating to Life insurance (Annex II), another relating to the "Credit/Guarantee" risks of non-life insurance companies (Annex III - Part 2) and a third relating to the "Credit/Guarantee" risks of reinsurance companies (Annex IV - Part 2), which are only slightly different but which take into account the specificities of each activity and the same risk profile, in particular the absence of "Credit/Guarantee" repurchase options.

3. In point 3, the first subparagraph is amended as follows :

« Aggregate data obtained from the harmonised forms (Annexes Ia), Ib), Ic), Id) Ie) as well as data referring to the situation of the portfolio as at 31 December of the census year (Annex III - Part 1 and Annex IV - Part 1) will be collected by the Commissariat aux Assurances by 31 January each year. »

Annex III is amended as follows :

(a) its title shall be amended as follows

« Questionnaire on the fight against money laundering and terrorist financing (AML/CFT) for insurance companies operating in the credit/guarantee sector".

(b) in the paragraph "Instructions",

-At the end of the first paragraph, the words "reinsurance" are deleted.

- the fifth paragraph is deleted, specifically the words :

"Definitions applicable to reinsurance: policyholder = beneficiary = ceding undertaking".

(c) in the title of Part I, the words "reinsurance" are deleted; and (d) in the title of Part II, the words "reinsurance" are deleted.

(5) Circular Letter 11/2 is supplemented by an Annex IV as follows:

The present circular letter complements and amends circular letter 11/2 of the Commissariat aux Assurances.

For the Management Committee,

Victor ROD
Director