

ESAs consultation on risk-based supervision guidelines

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INSURANCE EUROPE'S RESPONSE TO THE ESAS CONSULTATION ON THE RISK-BASED SUPERVISION GUIDELINES

a) Do you agree with the way the risk-based approach to supervision is described in these guidelines?

Insurance Europe believes that good risk-based supervision is necessary to ensure the EU's new framework for AML/CFT is adequately implemented throughout Europe. In order to achieve this, the competent authorities should adopt a balanced and proportionate approach to supervision in order to ensure supervisory resources are not wasted on low-risk areas.

Competent authorities should be required to provide feedback (whether general or firm-specific) to ensure the actions they take in the exercise of their supervisory role and their expectations from firms are fully understood and to aid the insurance sector in its knowledge and understanding of the ML/TF risks that threaten the sector. The current guidelines merely suggest feedback as an option in the monitoring step of the risk-based supervision.

Finally, it is essential for competent authorities to be fully aware of the specific characteristics of the various sectors they supervise. This includes life insurance's specific features as a low-risk business area which, by default, involves an efficient monitoring of ML/TF risks thanks to the initial underwriting processes and its long term nature.

b) In particular, do you agree that the four steps in these guidelines reflect the essential components of a risk based approach to supervision? If you do not agree, what else do you think supervisors should focus on? Please explain by providing details on the principles you believe form part of an alternative approach. Please also clarify how this alternative

approach meets the requirements of Directive (EU) 2015/849 and the international standards (FATF Recommendations).

Insurance Europe urges ESAs to add feedback as a fifth, full-fledged step in the risk-based supervision process. This way, feedback would follow risk identification, risk assessment, allocation of supervisory resources and monitoring, linking the latter back to risk identification.

This feedback would not necessarily need to be company-specific but could be more general. In any event, it would allow companies to gain a better understanding of the RBA in a concrete context. This would also ensure firms and their authorities are in sync and firms understand the reasoning behind competent authorities' actions.

Insurance Europe therefore encourages the ESAs to take the feedback procedures set out at point 72 (page 23), upgrade to a 'step 5' in the risk-based supervision cycle, thus distinguishing it from the step 4 in which it is currently included. The feedback procedures should also be made prescriptive, rather than mere suggestions.

This is in line with the 2012 FATF recommendation 34, which requires competent authorities, supervisors and SRBs to establish guidelines and provide feedback to assist firms in applying national AML/CFT measures. This is also in line with the corresponding provisions in the Directive (recital 49 and article 46).

c) Do you consider that the level of detail in the guidelines is appropriate? If you do not consider that it is appropriate, where do you think additional, or less, detail would be warranted?

The level of detail of these guidelines is adequate given their purpose and to whom they are addressed. However, regarding 'foreign risk factors' (step 1, page 15), it would be useful for an equivalence status to be defined, thus identifying the jurisdictions that provide a similar type of AML/CFT framework.

d) What do you think the impact of these guidelines will be on the financial services industry?

These guidelines will be an invaluable tool for an effective risk-based supervision and, in turn, an effective implementation of the RBA by firms at national level. At every step, competent authorities should seek to promote a holistic approach to the RBA through their supervisory activities: not everything needs to be monitored and AML resources should be allocated in a more efficient way. A combination of risk factors rather than one risk factor taken individually should trigger AML/CFT checks.

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