Prevention of Money Laundering and Anti-Terrorism Financing – A U.S. Insurance Supervisory Perspective

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NAIC NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

ICP 22 - Anti-Money Laundering and Combating the Financing of Terrorism

- "The supervisor requires insurers and intermediaries to take effective measures to combat money laundering and terrorist financing. The supervisor takes effective measures to combat money laundering and terrorist financing."

Banking Secrecy Act and AML/CFT Activities

- In the United States, with respect to AML/CFT matters, federal and state authorities have specifically outlined roles.

- The insurance industry is subject to the relevant AML/CFT provisions of the Currency and Foreign Financial Transactions Reporting Act, also known as the Bank Secrecy Act ("BSA").

- **U.S. Treasury's Financial Crimes Enforcement Network (FinCEN) is responsible for administering the BSA and AML/CFT activities, and supervising for AML/CFT in the insurance sector and other financial institutions pursuant to the BSA**.

BSA and Insurance Companies

- The BSA and its implementing regulations require insurance companies that issue or underwrite certain products ("covered products") that present a high degree of risk for money laundering or the financing of terrorism or other illicit activity to file suspicious activity reports with FinCen, keep records and maintain an AML program applicable to its covered products.

  Examples of covered products include:

  - Permanent life insurance policies (other than group policies),
  - Annuity contracts (other than group contracts), and,
  - Any other insurance products with cash value or investment features

AML in the States

- The NAIC Financial Condition Examiners Handbook indicates that regulators conducting exams can notify appropriate federal regulators if an insurer is not in compliance with the required practice.

- State insurance regulators can confirm insurance carriers AML practices during financial and market conduct examinations.

- Pursuant to any agreements that may be in place between FinCEN and state insurance departments, the state insurance departments may provide FinCEN with annual reports, information regarding its examination program that relates to compliance with the BSA, state insurance regulators coordinate with FinCEN on corrective actions when appropriate.

- State insurance fraud bureaus have access to the Federal Bureau of Investigation Law Enforcement On-Line (LEO) website. This website contains training information related to a number of topics, including AML.

AI Principles

- In 2019, the NAIC established the Big Data and Artificial Intelligence Working Group (WG) to study the development of artificial intelligence and its use in the insurance sector

- The WG developed regulatory principles for AI, largely based on the OECD's AI principles, that were adopted by the full NAIC membership at the 2020 Summer National Meeting. Notably, State Supervisors believe that AI should be:

  - **Fair and Ethical**
  - **Accountable**
  - **Compliant**
  - **Transparent**
  - **Secure, Safe, and Robust**

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- Builds upon the AI Principles, and provides guidance for the use of AI systems, and for general guidance, AIS programs should:

  - Address governance, risk management controls and internal audit functions;

  - Be adopted by the board of directors or an appropriate board committee;

  - Be tailored to and proportionate with the insurer's use and reliance on AI and AI systems;

  - Address the use of all AI systems that make decisions impacting customers; and,

  - Address the use of AI systems across the insurance product life cycle.

Draft AI Bulletin – Specific Areas of Guidance

- **Governance.** The AIS program should include a governance framework for the oversight of the insurer's AI systems

- **Risk Management and Internal Controls.** The AIS program should document the insurer's risk identification, mitigation and management framework and internal controls for AI systems.

- **Third-Party AI Systems.** The AIS program should address the insurer's standards for acquiring, using and relying on third-party AI systems. The insurer must conduct diligence on third parties to ensure that their AI systems that make or support decisions impacting the insurer's customers are designed to meet the legal standards imposed on the insurer. The insurer also must conduct audits and other activities to confirm third parties' compliance with contractual and regulatory requirements.

Additional Oversight and Regulation

- NAIC AI working Group is also considering evaluating regulatory framework around the use of third-party models and third-party data and addressing concerns about third-party concentration by insurer use.

- Artificial Intelligence's role in insurance is fluid and the Working Group has suggested that additional white papers on best practices may be useful on subjects in the AI/ML space.

Questions?