THE KNOW YOUR CUSTOMERS (KYC) CHALLENGES OF DOUBLE CITIZENSHIP AND INTERNATIONAL SANCTIONS FOR CARIBBEAN INSURERS

by Ms. Michelle N Martin, CAMS, ACA

The recent sanctions imposed on Russia by the European Union and the United States of America add a new layer of complexity to operations for Caribbean based businesses.

In recent years, the Caribbean has seen an influx of immigrants from Asia, Eastern Europe and the Middle East. These individuals are generally wealthy and many have the status of Politically Exposed Persons (PEP) either because of their function or ties to political figures. With the implementation of several citizenship by investment programmes in the region, we foresee the growth of this trend of clientele diversification.

The Foreign Account Tax Compliance Act (FATCA) and the Automatic Tax Information Exchange program from the Organisation for Economic Co-operation and Development (OECD) set to start in October 2017 puts even more pressure on the insurance industry to properly identify and know its customers.

Know Your Customer (KYC) encompasses the Customer Identification Program (CIP) & Customer Due Diligence (CDD). All insurance companies and agents as well as other regulated businesses must perform these actions to identify their customers and ascertain relevant information pertinent to doing financial business with them. KYC enables businesses to know/understand their customers and their financial dealings to be able to serve them. By law, regulated businesses shall accept only those customers whose Source of Wealth and Funds can be reasonably established as legitimate. The objective of KYC guidelines is to prevent insurance companies from being used, intentionally or unintentionally, by criminal elements for money laundering and terrorist financing activities.

Customer Due Diligence and Enhanced Due Diligence are a critical part of an insurance company overall AML/CFT compliance program. The biggest challenge insurance companies and other regulated entities face is determining how much due diligence is enough and when to obtain enhanced due diligence.

As part of the KYC program Insurance Companies are required to identify any PEPs in their customer base. This is because a PEP generally presents a higher risk for potential involvement in bribery and corruption by virtue of their position and the influence that they may hold. A PEP is a person identified as a senior foreign/domestic political figure, any member of their immediate family and any close associate. PEPs are individuals who have or have had positions of public trust.

Insurance Companies identify PEPs by utilizing systems like theList.pro to screen their customers against lists of known PEPs. Other measures must also be taken to identify PEPs such as media searches, employee awareness programmes and customer self-disclosures. It is important to note that the PEP status may be acquired at any time of the relationship with customers, therefore the company and the agents should remain constantly vigilant.

Once a customer is identified as a PEP the insurance company and the agent are obligated to categorize this individual as a high risk

KYC enables businesses to know/understand their customers and their financial dealings to be able to serve them.

customer and perform enhanced due diligence monitoring on an annual basis. Not inquiring if your customers are PEPs is a violation of AML/CFT laws and businesses around the world have been fined for this offense.

Sanction screening is used to prevent the transfer of assets to entities, individuals and countries against which financial sanctions have been issued. Sanctions are measures by which the international community targets certain countries, individuals and/or entities to coerce them into changing their behavior so that they will no longer threaten international peace and security, abuse human rights or act contrary to international norms and/or obligations.

Sanctions can take the form of any of a range of restrictive/coercive measures. They can include arms embargoes, travel bans, asset freezes, reduced diplomatic links, reduction in any military relationship, suspension from international organisations, withdrawal of aid, trade embargoes, restriction on cultural/sporting links and others.

theList.pro is a database designed to assist insurance companies in improving their Know Your Customers (KYC) process. It helps identify terrorists and groups linked to terrorism. It includes organization and individuals under international sanctions as well as politically exposed persons.

The Foreign Account Tax Compliance Act (FATCA) is a United States of America law that is aimed at Foreign Financial Institutions (FFIs) and other financial intermediaries to prevent tax evasion by US citizens and residents through use of offshore accounts.

It is important to understand that FATCA is part of a global movement that originated at the Organization for Economic Co-operation and Development (OECD) and date back to 2006. FATCA set the stage for a global program of tax information exchange to be implemented by 44 countries starting in October 2017. Consequently, your insurance company should expand its KYC process beyond the identification of American tax payers to include all nationalities.

Under FATCA, all foreign financial institutions (FFIs) are asked to enter into an agreement with the United States Internal Revenue Service (IRS) to report assets of U.S. citizens and residents holding accounts in such countries.

Under this agreement FFI are obligated to undertake certain identification and due diligence procedures with respect to its accountholders. In addition, report annually to the IRS on its accountholders who are U.S. persons or foreign entities with substantial U.S. ownership.

An Insurance company (or the holding company of an insurance company) is considered an FFI if it issues or is obligated to make payments to certain cash value insurance or annuity contracts. However, it is important to note that almost every insurance company is concerned by the FACTA, even if you believe your company is not concerned by the FATCA you should take a second look since additional guidance have been provided to insurance companies over the last 12 months.

Michelle Martin, president at ComplianceAid.pro believes that "the success of the policy/account opening and risk rating process is based on an effective and concise data gathering session to create a repository of useful searchable customer information".

Obtaining the right information from the beginning of your relationship with each customer with a subsequent follow-up is the first step to understanding who they are and if they will pose any risk to your insurance company.

Without this critical perspective, insurance companies and agents face the possibility of lost revenue, increased costs, risk regulatory non-compliance and the embarrassment of possible money laundering or terrorist activity associated with their company.

Source: ComplianceAid.pro