



Financial Action Task Force
防制洗錢金融行動工作組織

Groupe d'action financière
防制洗錢金融行動工作組織

FATF Report

防制洗錢金融行動工作組織報告

Risk-Based Approach **Guidance for the** **Life Insurance Sector** **壽險業風險基礎方法指引**

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THE FINANCIAL ACTION TASK FORCE (FATF) 防制洗錢金融行動工作組織 (FATF)

The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering and terrorist financing. Recommendations issued by the FATF define criminal justice and regulatory measures that should be implemented to counter this problem. These Recommendations also include international co-operation and preventive measures to be taken by financial institutions and others such as casinos, real estate dealers, lawyers and accountants. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter-terrorist financing (CFT) standard.

防制洗錢金融行動工作組織 (FATF) 是一個獨立的跨政府機構，負責制定並推動政策，以保護全球金融制度，使其免受洗錢與資恐影響。防制洗錢金融行動工作組織提出的建議定義了應實施、對抗此問題的刑事與法規措施。這些建議包含了國際合作以及金融機構與其他諸如賭場、不動產經紀人、律師和會計人員應採取的預防措施。防制洗錢金融行動工作組織的建議已成為公認的全球防制洗錢 (AML) 與打擊資恐 (CFT) 標準。

For more information about the FATF, please visit the website:
如需有關防制洗錢金融行動工作組織的詳細資訊，請造訪網站：

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SECTION ONE: USING THE GUIDANCE & PURPOSE OF THE RISK-BASED APPROACH

第一節：使用指引-風險基礎方法的目的

Chapter One: Background and Context

第一章：背景資料

1. In June 2007, the FATF adopted Guidance on the Risk-Based Approach to Combating Money Laundering and Terrorist Financing: High Level Principles and Procedures, which includes guidance for public authorities and financial institutions. This was the culmination of extensive consultation between private and public sector members of an Electronic Advisory Group (EAG) established by the FATF.
1. 防制洗錢金融行動工作組織於 2007 年採納防制洗錢及打擊資恐風險基礎方法高階原則與程序，含公務機關與金融機構指引。此為防制洗錢金融行動工作組織電子諮詢小組（EAG）公私部門成員之間進行的密集諮詢成果。
2. In June 2008, the FATF adopted Guidance on the Risk-Based Approach to Combating Money Laundering and Terrorist Financing: High Level Principles and Procedures for the Accountants, Casinos, Dealers in Precious Metals and Dealers in Precious Stones, Legal Professionals, Real Estate Agents and Trust and Company Service Providers, and then in June 2009 for Money Services Businesses.
2. 2008 年 6 月，防制洗錢金融行動工作組織採用了防制洗錢及打擊資恐風險基礎的方法指引，提供高階原則與程序提供給會計人員、賭場、貴金屬與寶石交易人員、法律專業人士、不動產經紀人、信託公司及提供公司服務業者，並於 2009 年 6 月納入貨幣服務事業。
3. A meeting was held in September 2008 and was attended by organisations representing life insurance companies. An Electronic Advisory Group (EAG) was established for this process and was chaired by Ms Lisa Tate from the American Council of Life Insurers (ACLI) and Mr. Reinhardt Preusche from the European Insurance and Reinsurance Association (CEA). Membership of the Group has consisted of FATF members and observers, as well as representatives from the Life Insurance companies and intermediaries that volunteered to work on the issue of the risk-based approach to combating money laundering and terrorist financing. A list of members is attached at Annex 4.
3. 2008 年 9 月召開的會議，由壽險公司代表與會。會議中成立了電子諮詢小組（EAG），由美國壽險商業同業公會（ACLI）的 Lisa Tate 女士和歐洲保險與再保險協會（CEA）的 Reinhardt Preusche 先生帶領。小組成員包含了防制洗錢金融行動工作組織成員與觀察員以及壽險公司代表和自願在防制洗錢及打擊資恐方面採用風險基礎方法及為此一議題持續努力的保險仲介人。會員名單附於附錄 4。
4. After further international consultation with both public and private sectors, the FATF adopted this RBA Guidance for life insurance companies and intermediaries at its October 2009 Plenary.
4. 在進一步同時諮詢公部門與私部門後，防制洗錢金融行動工作組織在於 2009 年的全體大會中針對壽險公司與保險仲介人採用了此風險基礎方法指引。

Purpose of the Guidance

此指引的用途

5. The purpose of this Guidance is to:
5. 此指引的目的為：

- Support the development of a common understanding of what the risk-based approach involves;
- 協助對於風險基礎的方法牽涉到的內容發展普遍的認知；
- Outline the high-level principles involved in applying the risk-based approach;
- 列出應用風險基礎的方法時牽涉到的高階原則；
- Identify characteristics of risks indicating that enhanced mitigation strategies may be warranted;
- 指出風險特徵，保證增進減輕風險的策略；
- Describe good public and private sector practice in the design and implementation of an effective risk-based approach; and
- 說明公部門與私部門在設計與實施一套好的、有效的、風險基礎方法；以及
- Foster communications between public and private sectors that are conducive to the prevention of money laundering and terrorist financing.
- 促進有助於預防洗錢和資恐的公部門與私部門之間的溝通。

6. However, it should be noted that applying a risk-based approach is neither mandatory nor prescriptive. A properly applied risk-based approach does not necessarily mean a reduced burden, although it should result in a more cost effective use of resources. For some countries, applying a rules based system might be more appropriate. Countries will need to make their own determinations on whether or how to apply a risk-based approach.

6. 但是，應注意的是，採用一套風險基礎方法並非硬性規定。雖然正確執行風險基礎方法應能改善資源的使用成本效益，但即使如此也不表示能減輕負擔。對於有些國家而言，可能比較適用採用一套以規則為依據的制度。各國可依需要自行決定是否以及如何採用風險基礎方法。

Target Audience, Status and Content of the Guidance

指引的目標對象、身分與內容

7. The Guidance is primarily addressed to public authorities and life insurance companies and intermediaries (i.e. life insurance brokers and agents). The overall document is structured into three interdependent sections. Section one sets out the key elements of the risk-based approach and provides the basis for which to interpret section two (Guidance for Public Authorities) and section three (Guidance for life insurance companies and intermediaries). There is also Annex 2, which contains descriptions of additional sources of information.

7. 此份指引主要對象是公務機關和壽險公司與保險仲介人（亦即：壽險經紀人與代理人）。整份文件分成三個獨立部分。第一部分列出風險基礎方法之要素並提供解讀第二部分（公部門指引）和第三部分（壽險公司與保險仲介人指引）所需的基礎。也有說明額外資訊來源的附錄 2。

8. The Guidance aims to set out the key elements of an effective risk-based approach and identifies the types of issues that both public authorities and life insurance companies and intermediaries may wish to consider when applying a risk-based approach.

8. 本指引旨在列出一套有效風險基礎方法之要素，並找出公部門、壽險公司與保險仲介人在應用一套風險基礎方法時可能會想考慮的問題類型。

9. The Guidance recognises that each country and its national authorities, in partnership with its life insurance companies and intermediaries, will need to identify the most appropriate regime, tailored to address individual country risks. Therefore, the Guidance does not attempt to provide a single model for the risk-based approach, but seeks to provide guidance for a broad framework based on high level

principles and procedures that countries may wish to consider when applying the risk-based approach with the understanding that this guidance does not override the purview of national authorities.

9. 本指引體認到：各國與其國內機關在與其壽險公司及保險仲介人合作時可能需要找出最適合的制度，專為處理個別國家風險量身打造的制度。因此，本指引不試著針對風險基礎方法提供單一模型，而是努力就各國在應用風險基礎方法時，基於此指引無法取代國內機關權限的體認，可能考慮的高階原則與程序基礎上提供相關廣義框架的指引。

Chapter Two: The Risk-Based Approach – purpose, benefits and challenges

第二章：風險基礎方法—目的、效益與挑戰

The purpose of the Risk-Based Approach

風險基礎方法之目的

10. The FATF Recommendations contain language that permits countries to some degree to adopt a risk-based approach to combating money laundering and terrorist financing. That language also authorises countries to permit life insurance companies and intermediaries to use a risk-based approach to discharging certain of their anti-money laundering (AML) and counter-terrorist financing (CFT) obligations. By adopting a risk-based approach, competent authorities and life insurance companies and intermediaries are able to ensure that measures to prevent or mitigate money laundering (ML) and terrorist financing (TF) are commensurate to the risks identified. This will allow resources to be allocated in the most efficient ways. The principle is that resources should be directed in accordance with priorities so that the greatest risks receive the highest attention. The alternative approaches are that resources are either applied evenly, so that all life insurance companies and intermediaries, customers, products, etc. receive equal attention, or that resources are targeted, but on the basis of factors other than the risk assessed. This can inadvertently lead to a 'tick box' approach with the focus on meeting regulatory needs rather than combating ML/TF.

10. 防制洗錢金融行動工作組織建議以相關措詞允許各國在防制洗錢和打擊資恐時，採納風險基礎方法運用至某些程度。也授權各國允許壽險公司與保險仲介人採用一套風險基礎方法，使其排除負擔部分防制洗錢（AML）與打擊資恐（CFT）義務。採用一套風險基礎方法讓權責機關與壽險公司及保險仲介人得以確保用以預防或降低洗錢（ML）和資恐（TF）的措施與所發現的風險相當。此方法可確保以最有效率的方式分配資源。資源應按照優先順序原則分配，確保最大的風險得到最多的關注。替代的方式是平等地使用資源，如此所有壽險公司與保險仲介人、客戶、產品等都能獲得相同的關注，或是鎖定資源目標但是以因素而非所評估的風險為基礎。如此可能不經意地變成勾選法，因為重點會放在達到法規需求而非防制洗錢及打擊資恐。

11. Adopting a risk-based approach implies the adoption of a risk management process for dealing with ML/TF. This process encompasses recognising the existence of the risk(s), undertaking an assessment of the risk(s) and developing strategies to manage and mitigate the identified risks.

11. 採用一套風險基礎方法暗示著在處理洗錢/資恐方面採用一套風險管理過程。這個過程涵蓋體認到風險的存在、評估風險，然後制定策略以管理和降低發現的風險。

12. A risk analysis must be performed to determine where the ML/TF risks are the greatest. Countries will need to identify the main vulnerabilities and address them accordingly. Life insurance companies and intermediaries will need to identify higher risk customers, products and services, including delivery channels, and geographical locations. These are not static assessments. They will change over time, depending on how circumstances develop, and how threats evolve.

12. 必需執行風險分析才能判定存在最大的洗錢/資恐風險處。各國須辨識最大的弱點，並做相應處理。壽險公司與保險仲介人將需要找出較高風險客戶、產品與服務，含交付管道與地理位置等。

這些並非靜態評估，而是會隨著時間改變的評估，端視環境的發展與威脅的變化而定。

13. The strategies to manage and mitigate the identified ML/TF risks in life insurance companies and intermediaries are typically aimed at preventing the activity from occurring through a mixture of deterrence (*e.g.* appropriate customer due diligence (CDD) measures), detection (*e.g.* monitoring and suspicious transaction reporting), and record-keeping so as to facilitate investigations.

13. 用以管理和降低壽險公司和保險仲介人中發現的洗錢/資恐風險的策略，一般旨在結合遏止（如：相關客戶審查 [CDD] 措施）、偵測（如：監督與通報可疑交易）與記錄以便進行調查等預防該活動再次發生。

14. Proportionate procedures should be designed based on assessed risk. Higher risk areas should be subject to enhanced procedures: for life insurance companies and intermediaries, this may include measures such as enhanced customer due diligence checks and enhanced transaction monitoring. It also follows that in instances where risks are low, simplified or reduced controls may be applied.

14. 應根據評估的風險制定合乎比例的程序。較高風險區域應有強化的程序：以壽險公司和保險仲介人而言，可能包含諸如強化的客戶審查和交易監督等措施。據此，低風險個案適用簡易或較不嚴格的控制。

15. There are no universally accepted methodologies that prescribe the nature and extent of a risk-based approach. However, an effective risk-based approach does involve identifying and categorizing ML/TF risks and establishing reasonable controls based on risks identified. An effective risk-based approach will allow life insurance companies and intermediaries to exercise reasonable business judgement with respect to their customers. Application of a reasoned and well-articulated risk-based approach will justify the determinations of life insurance companies and intermediaries with regard to managing potential ML/TF risks and allow life insurance companies and intermediaries to exercise reasonable business judgement with respect to their customers. A risk-based approach should permit life insurance companies and intermediaries to engage in transactions while effectively managing potential ML/TF risks.

15. 尚無公認的通用方法規範風險基礎方法的性質與程度。但是，有效的風險基礎方法的確能夠找出洗錢/資恐風險並將之分類，同時根據發現的風險建立合理的控管方式。一套有效風險基礎方法將讓壽險公司與保險仲介人得以對其客戶做出合理的商業判斷。應用一套合理且縝密、風險基礎方法將讓壽險公司與保險仲介人在管理潛在洗錢/資恐風險時做出合理的判定，並且讓壽險公司與保險仲介人得以對其客戶做出合理的商業判斷。一套風險基礎方法應能讓壽險公司及保險仲介人在有效管理潛在洗錢/資恐風險的同時依舊能夠進行交易作業。

16. Regardless of the strength and effectiveness of AML/CFT controls established by life insurance companies and intermediaries, criminals will continue to attempt to move illicit funds through life insurance companies and intermediaries undetected and will, from time to time, succeed. A reasonably designed and effectively implemented risk-based approach will provide an appropriate and effective control structure to manage identifiable ML/TF risks. However, it must be recognized that any reasonably applied controls, including controls implemented as a result of a reasonably implemented risk-based approach will not identify and detect all instances of ML/TF. Therefore, regulators, law enforcement and judicial authorities must take into account and give due consideration to a life insurance company and intermediaries' well-reasoned risk-based approach. When life insurance companies and intermediaries do not effectively mitigate the risks due to a failure to implement an adequate risk-based approach or failure of a risk-based programme that was not adequate in its design, regulators, law enforcement or judicial authorities should take necessary action, including imposing penalties, or other appropriate enforcement/regulatory remedies.

16. 不管壽險公司與保險仲介人建立的防制洗錢/打擊資恐控管方式的強度與效果為何，罪犯還是會致力以透過壽險公司與保險仲介人而不被發現的方式，成功的移動其犯罪所得。一個設計合理且有效實施的風險基礎方法將能提供管理可辨識的洗錢/資恐風險的一個適當且有效的控管結構。但

是，必需體認到一點：任何合理應用的控管方式，包括基於合理實施、風險基礎方法而實施的控管方式，將無法發現並偵測所有的洗錢/資恐案件。因此，監理機關、執法與司法機關都必需考慮一套適用於壽險公司與保險仲介人合理的風險基礎方法。壽險公司和保險仲介人如因無法實施一套適當風險基礎方法或既有的風險基礎計畫因為設計不當而無法有效降低風險時，監理機關、執法或司法機關即應採取必要行動，包括實施制裁或其他適當的執法/法規改正措施。

Potential Benefits and Challenges of the Risk-Based Approach **風險基礎方法之潛在效益與挑戰**

Benefits:

利益：

17. The adoption of a risk-based approach to combating ML/TF can yield benefits for all parties including the public. Applied effectively, the approach should allow life insurance companies and intermediaries and supervisory authorities to be more efficient and effective in their use of resources and minimise burdens on customers. Focusing on higher risk threats should mean that beneficial outcomes can be achieved more effectively.

17. 防制洗錢及打擊資恐時採用風險基礎方法可以為各方帶來成效，包括公部門。有效應用時，這個方式將讓壽險公司與保險仲介人以及監理機關得以更有效率地使用其資源並減少客戶面臨的負擔。著重於較高的風險威脅應表示將會更有效地得到有利的結果。

18. Efforts to combat ML/TF should also be flexible in order to adapt as risks evolve. As such, life insurance companies and intermediaries will use their judgment, knowledge and expertise to develop an appropriate risk-based approach for their particular organisation, structure and business activities.

18. 防制洗錢及打擊資恐方面的努力亦應具備彈性，如此才能隨風險演進。因此，壽險公司與保險仲介人必需善用其判斷能力、知識和專業，制定一套適用其組織、結構和商業活動相關的風險基礎方法。

19. ML/TF risks can be more effectively managed through a risk-based process that assesses all potential risks, and which is built on a true cooperative arrangement between competent authorities and life insurance companies and intermediaries. Without cooperation and understanding between these parties, there can be no effective risk-based process.

19. 洗錢/資恐風險可以透過風險基礎方法評估所有潛在風險，並在權責機關與壽險公司和保險仲介人之間真正合作關係上的方式下獲得更有效的管理。如果各方之間沒有合作與默契，風險基礎過程不可能有效。

20. Money launderers and terrorist organisations have considerable knowledge of life insurance companies and intermediaries and take extreme measures to hide their financial activities and make them indistinguishable from legitimate transactions. A risk-based approach is designed to make it more difficult for these criminal elements to make use of life insurance companies and intermediaries due to the increased focus on the identified higher risk activities that are being undertaken by these criminal elements. In addition, a risk-based approach allows life insurance companies and intermediaries to more efficiently and effectively adjust and adapt as new ML/TF methods are identified.

20. 洗錢人士和恐怖組織對於壽險公司和保險仲介人有相當的認識，所以會盡力隱藏其財務活動並讓這些活動與合法交易並無不同。風險基礎方法在設計上就是為了讓這些罪犯更難以利用壽險公司和保險仲介人，會更加注意這些罪犯及已經辨識出具備較高風險的活動。此外，風險基礎方法讓壽險公司與保險仲介人得以更有效率在發現新的洗錢/資恐方法時進行調整和適應。

Challenges:

挑戰：

21. A risk-based approach is not necessarily an easy option and there may be barriers to overcome when implementing the necessary measures. Some challenges may be inherent to the use of the risk-based approach. Others may stem from the difficulties in making the transition to a risk-based system. A number of challenges, however, can also be seen as offering opportunities to implement a more effective system. The challenge of implementing a risk-based approach with respect to terrorist financing is discussed in more detail at paragraphs 37 to 41 below.

21. 風險基礎方法未必是個容易的選擇，而且在實施必要措施時必須先克服可能遭遇的障礙。有些是使用風險基礎方法時產生的固有挑戰。其他有些可能是過渡至風險基礎制度時遇到困難而產生的挑戰，然而，有些挑戰可視為提供實施更有效方式的機會。採用風險基礎方法對抗資恐時會遭遇到的挑戰將於下方第 37 至 41 項進行更詳細的討論。

22. The risk-based approach is challenging to both public and private sector entities. Such an approach requires resources and expertise to gather and interpret information on risks, both at the country and institutional levels, to develop procedures and systems and to train personnel. It further requires that sound and well-trained judgment be exercised in the implementation within the institution and its subcomponents of such procedures, and systems. It will certainly lead to a greater diversity in practice which should lead to innovations and improved compliance. However, it may also cause uncertainty regarding expectations, difficulty in applying uniform regulatory treatment, and lack of understanding by customers regarding information required to open or maintain a relationship.

22. 不論對公部門或私部門團體，風險基礎方法都是一項挑戰。如此的做法需要相關資源和專業，才能收集並解讀風險相關資訊（國內外資訊）、制定程序和制度以及訓練人員。還需要在機構內實施時運用健全、充分接受過訓練的判斷能力以及此類程序和制度的附屬要素。風險基礎方法必然導致更多元的實務應用，進而帶來創新，並且改善遵循性。但是，也可能會導致期望的不確定性、難以應用一致的法規處理方式，並且因為在開始或維持合作關係時必需取得客戶相關資訊而無法獲得客戶諒解等。

23. Implementing a risk-based approach requires that life insurance companies and intermediaries have a good understanding of the risks and are able to exercise sound judgment. This requires the building of expertise within life insurance companies and intermediaries, including for example, through training, recruitment, taking professional advice and "learning by doing". The process will always benefit from information sharing by competent authorities. The provision of good practice guidance is also valuable. Attempting to pursue a risk-based approach without sufficient expertise may lead to life insurance companies and intermediaries making flawed judgments. Companies may over-estimate risk, which could lead to wasteful use of resources, or they may under-estimate risk, thereby creating vulnerabilities.

23. 實施風險基礎方法需要壽險公司和保險仲介人對於風險有良好體認並且能夠做出健全的判斷。這需要在壽險公司與保險仲介人內建立專業，包括（例）透過訓練、招募人才、聽取專家建議以及「從做中學」等。在這個過程中，獲得權責機關分享的資訊肯定會有幫助。提供優良實務指引也是個好方法。在缺乏充分專業下想要追求風險基礎方法可能導致壽險公司和保險仲介人做出有瑕疵的判斷。公司可能會高估風險，可能因此導致浪費資源或可能低估風險，進而暴露弱點。

24. Life insurance companies and intermediaries may find that some staff members are uncomfortable making risk-based judgments. This may lead to overly cautious decisions, or a disproportionate amount of time spent documenting the rationale behind a decision. This may also be true at various levels of management. However, in situations where management fails to recognize or underestimates the risks, a culture may develop within the life insurance companies and intermediaries that allows for inadequate resources to be devoted to compliance leading to potentially significant compliance failures. Supervisors should place greater emphasis on whether the life insurance company and intermediary have an effective decision-making process. However, sample testing may be used or

individual decisions reviewed as a means to test the effectiveness of the company's overall risk management (see paragraph 86). Supervisors should appreciate that even though the life insurance company and intermediaries have established appropriate risk management structures and procedures that are regularly updated, and has followed the relevant policies, procedures, and controls, the life insurance company and intermediary may still make decisions that were incorrect in light of additional information not reasonably available at the time. Supervisors and insurers are encouraged to work towards having a common understanding of the application of the risk based approach.

24. 壽險公司和保險仲介人可能會發現部分員工無法自在地依據風險做出判斷。這可能導致過度謹慎的決定或花費了不合乎比例的時間在記錄某個決定後面的考量依據。各管理階層都可能發生此問題。但是，遇到管理階層無法認清或低估風險時，壽險公司與保險仲介人內部即可能形成一個允許投入不當資源在法令遵循方面，導致潛在的及重大的法令遵循失敗，監理單位應更強調壽險公司和保險仲介人的決策過程是否有效。但是，可利用抽樣或檢視個別決定等方式測試一家公司整體的風險管理是否有效（見第 86 項）。監理單位應體認到：壽險公司和保險仲介人在即使已經建立相關風險管理結構與程序並定期更新而且也已遵照相關政策、程序和控管方式下，若適當時並未合理獲得額外的資訊仍可能做出不正確的決定之事實。鼓勵監理機關與保險公司努力就應用風險基礎方法建立普遍的認知。

25. In implementing the risk-based approach, life insurance companies and intermediaries should be given the opportunity to make reasonable judgments. This will mean that no two life insurance companies and intermediaries are likely to adopt the exact same detailed practices. Such potential diversity of practice will require that regulators make greater effort to identify and disseminate guidelines on sound practice, while still allowing the potential for different approaches to meet desired risk mitigation outcomes, and may pose challenges to supervisory staff working to monitor compliance. The existence of good practice guidance, supervisory training, industry studies on prevailing AML/CFT practices and rationales and other available information and materials will assist supervisors in determining whether an insurance company has made sound risk-based judgments.

25. 實施風險基礎方法時，壽險公司與保險仲介人應要有機會能夠做出合理的判斷。這意味著：不可能兩家壽險公司和保險仲介人採用完全一樣的做法。因為做法可能有多樣性，所以監理機關必需努力找出並傳播完善的規範，同時也讓不同的做法具備實現理想風險降低結果的可能性，對於努力監督違規情形的監理人員而言也可能帶來挑戰。有優良方式指引、監管訓練、針對盛行防制洗錢/打擊資恐方式與理論依據進行產業研究以及其他可用資訊與資料的存在將有助於監理機關判定是否某家保險公司能夠根據風險做出完善的判斷。

The potential benefits and potential challenges can be summarised as follows:

可能的優點與挑戰統整如下：

Potential Benefits:

可能的優點：

- Better management of risks and cost-benefits;
- 更好的風險與成本效益管理；
- Life insurance company and intermediaries focus on real and identified threats;
- 壽險公司與保險仲介人的重點放在實質與已經發現的威脅；
- Flexibility to adapt to risks that change over time.
- 隨時間根據變化的風險彈性調適。

Potential Challenges:

可能的挑戰：

- Identifying appropriate information to conduct a sound risk analysis;
- 找出相關資訊，以利執行完善的風險分析；

- Addressing short term transitional costs;
- 處理短期過渡成本；
- Greater need for more expert staff capable of making sound judgments;
- 越來越需要更多能夠做出完善判斷的專業人員；
- Greater need for appropriate training;
- 越來越需要相關訓練；
- Regulatory response to potential diversity of practice.
- 針對潛在多樣式的作法制定適當的法規以為回應。

Chapter Three: FATF and the Risk-Based Approach

第三章：防制洗錢金融行動工作組織與風險基礎方法

26. The varying degrees of ML/TF risk for particular types of life insurance companies and intermediaries or for particular types of customers, products or transactions is an important consideration underlying the FATF Recommendations. According to the Recommendations countries may take risk into account in two ways: (a) there is a general risk principle that applies to life insurance companies and intermediaries, and which allows countries in some cases to choose not to apply certain Recommendations either partially or fully, provided certain conditions are met; and (b) there are specific Recommendations where the degree of risk is an issue that a country either must take into account (if there is higher risk), or may take into account (if there is lower risk).

26. 針對特定類型的壽險與保險仲介人或特定類型的客戶、產品或交易各有不同程度的洗錢/資恐風險是防制洗錢金融行動工作組織在提供各項建議時一個重要的考慮因素。根據所提的建議書，各國可以兩種方式考慮風險：(a) 有一套整體適用壽險公司和保險仲介人的風險原則，讓各國針對部分個案能夠選擇不應用（部分或全部的）特定建議，但前提是已經符合特定條件；以及 (b) 針對特定建議，風險的程度是各國必需考慮（風險較高時）或可將之納入考慮（風險較低時）的問題。

General Risk Principle

一般風險原則

27. A country could decide that it will apply the full range of AML/CFT measures set out in Recommendations 5-11, 13-15, 18 and 21-22, to all types of financial institutions¹. However, that country may also decide to take risk into account, and may decide to limit the application of certain Recommendations provided that either of the conditions set out below are met. Where there are limitations or exemptions, this should be done on a strictly limited and justified basis:

27. 某個國家可以決定是否針對所有類型的金融機構應用建議 5-11、13-15、18 和 21-22 列出的完整防制洗錢/打擊資恐措施¹。但是，該國也可能決定將風險納入考慮而且可能決定限制特定建議的應用，但前提是已經符合下列任一條件。有限制或豁免情況時，應在嚴格限制且合理的基礎上這麼做。

- When a financial activity is carried out by a person or entity on an occasional or very limited basis (having regard to quantitative and absolute criteria) such that there is little risk

¹ See FATF Recommendations Glossary, definition of “financial institution”.

¹ 請見防制洗錢金融行動工作組織建議書字彙表中有關「金融機構」的定義。

of money laundering or terrorist financing² activity occurring, a country may decide that the application of AML/CFT measures is not necessary, either fully or partially.

- 金融活動是由單一個人或團體偶爾或受到極大限制（必需符合定量與絕對條件）的基礎上執行以致於幾無洗錢或資恐² 風險時，各國得決定不需要應用（全部或部分的）防制洗錢/打擊資恐措施。
- In strictly limited and justified circumstances, and based on a proven low ML risk, a country may decide not to apply some or all of the Forty Recommendations to some of the financial activities.
- 在嚴格受限並且合理的情況下，根據已證明的低洗錢風險，一國得針對部分金融活動決定不應用部分或全部 40 個建議。

Specific Risk References

特定風險參考資料

28. In addition to the general risk principle referred to above, the risk-based approach is either incorporated into the Recommendations (and the Methodology) in specific and limited ways in a number of Recommendations, or it is inherently part of or linked to those Recommendations. For institutions, businesses and professions covered by the FATF Recommendations, risk is addressed in four principal areas: (a) Customer Due Diligence measures (R.5-9); (b) institutions' internal control systems (R.15 & 22); (c) the approach to regulation and oversight by competent authorities (R.23); and (d) provision for countries to allow Designated Non-Financial Businesses and Professions (DNFBPs) to take the ML/TF risk into account in a similar way to financial institutions (R.12, 16 & 24).

28. 除了上面提到的一般風險原則外，風險基礎方法可能會以特定、有限的方法結合在建議書（與研究方法）內的眾多建議中或原本即屬於這些建議的一部分或與之有所關連。以防制洗錢金融行動工作組織建議書涵蓋的機構、事業和專業而言，風險主要分成下列四大領域進行說明：（a）客戶審查措施（建議 5-9）；（b）機構的「內部控制制度」（建議 15 與 22）；（c）權責機關的規範與監理做法（建議 23）；以及（d）讓各國允許指定之非金融事業或人員（DNFBP）以類似於金融機構的方式將洗錢/資恐風險納入考慮（建議 12、16 與 24）。

Customer Due Diligence (R.5-9)

客戶審查（建議 5-9）

29. Risk is referred to in several forms:

29. 風險以不同的形式提及：

- a. Higher risk – under Recommendation 5, a country must require its life insurance companies and intermediaries to perform enhanced due diligence for higher-risk customers, business relationships or transactions. Recommendation 6 (Politically Exposed Persons) is an example of this principle and is considered to be a higher risk scenario requiring enhanced CDD.
- a. 較高風險 – 根據建議 5，各國必需規定其壽險公司和保險仲介人針對較高風險的客戶、企業關係或交易執行強化的客戶審查。建議 6（擔任重要政治職務人士）是這個原則的一個例子並且被認為是需要強化的客戶審查之較高風險情況。

² The reference to terrorist financing in these two statements was added in the FATF Methodology paragraph 20(a) and (b).

² 這兩段陳述中提到的資恐已經新增至防制洗錢金融行動工作組織方法論第 20(a) 與 (b) 項。

- b. Lower risk – a country may also permit its life insurance companies and intermediaries to take lower risk into account in deciding the extent of the CDD measures they will take (see Methodology criteria 5.9). Life insurance companies and intermediaries may thus reduce or simplify (but not avoid completely) the required measures. Two possible examples of where there may be lower ML/TF risks include life insurance companies and intermediaries that are subject to the requirements consistent with the FATF Recommendations and supervised for compliance with those requirements, and listed public companies that are subject to regulatory disclosure requirements.
- b. 較低風險 – 各國也必需允許其壽險公司與保險仲介人在決定將執行的客戶審查措施程度時將較低風險納入考慮（見研究方法條件 5.9）。壽險公司和保險仲介人因此得以減少或簡化（但無法完全避免）所需的措施。可能有較低洗錢/資恐風險的兩個可能情況（例）包括必需遵照與防制洗錢金融行動工作組織建議書一致的規定並且針對是否遵守這些規定接受監理的壽險公司與保險仲介人以及必需遵照法規揭露規定的上市公司。
- c. Risk arising from innovation – under Recommendation 8, a country must require its life insurance companies and intermediaries to give special attention to the risks arising from new or developing technologies that might favour anonymity.
- c. 創新衍生而來的風險 – 根據建議 8，各國必需規定其壽險公司和保險仲介人特別注意來自新的或發展中可能有利於匿名的科技衍生出來的風險。
- d. Risk assessment mechanism – the FATF standards expect that there will be an adequate mechanism by which competent authorities assess or review the procedures adopted by life insurance companies and intermediaries to determine the degree of risk and how they manage that risk, as well as to review the determinations made by companies. This expectation applies to all areas where the risk-based approach applies. In addition, where the competent authorities have issued guidelines to life insurance companies and intermediaries on a suitable approach to risk-based procedures, it will be important to establish that the life insurance companies and intermediaries have indeed followed such guidelines. The Recommendations also recognise that country risk is a necessary component of any risk assessment mechanism (R.5 & 9).
- d. 風險評估機制 – 防制洗錢金融行動工作組織標準預期會有一個適當的機制，讓權責機關能夠評估或審核壽險公司和保險仲介人採用的程序，進而決定風險程度以及如何管理該風險並自行檢視實際做出的決定。這個期望在適用風險基礎方法時得適用各領域。此外，權責機關已經針對適當處理以風險為基礎程序的方式發出壽險公司和保險仲介人規範時，則壽險公司與保險仲介人確實遵守此類規範就變得很重要。防制洗錢金融行動工作組織建議亦承認國家風險是任何風險評估機制的必要元素（建議第 5 及 9 項）。

Life insurance companies and intermediaries internal control systems (R.15 & 22)

壽險公司與保險仲介人的內部控制制度（建議 15 和 22）

30. Under Recommendation 15, the development of “appropriate” internal policies, training and audit systems will need to include a specific and ongoing consideration of the potential ML/TF risks associated with customers, products and services, geographic areas of operation and so forth. The Interpretative Note to Recommendation 15 makes it clear that a country may allow companies to have regards to the ML/TF risks, and to the size of the business, when determining the type and extent of measures required. Similarly, country risk (and the implementation of the FATF Recommendations) must be taken into account when assessing the measures being undertaken by foreign branches and subsidiaries (R.22).

30. 根據建議 15，制定「相關」內部政策、訓練和稽核系統將需要特定地持續考慮與客戶、產

品以及服務、運作的地理區域等可能有關的洗錢和資恐風險。建議 15 的註解清楚提到各國得允許公司在決定所需的措施類型和程度時可將洗錢和資恐風險以及企業規模等納入考慮。同樣地，在評估國外分公司和子公司採行的措施時必需將國家風險（以及實施防制洗錢金融行動工作組織各項建議）納入考慮（建議 22）。

Regulation and oversight by competent authorities (R.23)

權責機關規範與監督（建議 23）

31. Under Recommendation 23, a country may have regard to the ML/TF risk in a particular life insurance company or intermediary when determining the extent of measures to license or register and appropriately regulate, and to supervise or oversee those companies for AML/CFT purposes. If there is a proven low ML/TF risk then lesser measures may be taken.

31. 根據建議 23，各國得針對特定壽險公司或保險仲介人，在決定核照或註冊以及適當管制，基於防制洗錢/打擊資恐目的監理或監督這些公司的措施時，將洗錢/資恐風險納入考慮。如果證明了洗錢/資恐風險很低，則可採取比較不嚴格的措施。

32. Recommendation 23 also recognises that life insurance companies and intermediaries should also apply elements of the IAIS Core Principles that are relevant to AML/CFT (and which are not expressly covered by the FATF Recommendations) for the purpose of combating money laundering and terrorist financing e.g. licensing of companies. Moreover, the Core Principles set out sound principles relating to the procedures for assessing and managing risk, and consideration could be given as to how those already well-defined concepts could apply to AML/CFT.

32. 建議 23 也體認到：壽險公司與保險仲介人亦應基於防制洗錢和打擊資恐目的應用和防制洗錢/打擊資恐有關（但是並未在防制洗錢金融行動工作組織建議書中明確提到）的 IAIS 核心原則，如：公司執照。此外，核心原則列出了評估與管理風險程序有關的健全原則並且可將考慮重點放在定義完善的概念如何能夠應用於防制洗錢/打擊資恐。

Designated Non-Financial Businesses and Professions (R.12, 16, 24)

指定之非金融事業或人員（建議 12、16、24）

33. In implementing AML/CFT measures for Designated Non-Financial Businesses and Professions (DNFBPs) under Recommendations 12 and 16, a country may permit DNFBPs to take money laundering and terrorist financing risk into account when determining the extent of CDD, internal controls etc, in a way similar to that permitted for financial institutions.³

33. 在根據建議 12 和 16 針對指定之非金融事業或人員（DNFBP）實施防制洗錢/打擊資恐措施方面，各國得允許指定之非金融事業或人員在判定客戶審查、內部控制程度時以極類似於金融機構允許的方式將洗錢和資恐風險納入考慮。³

34. As regards regulation and monitoring (R.24), a country may have regard to the ML/TF risk in a particular DNFBP sector (except for casinos which have been determined to be higher risk) when determining the extent of measures required to monitor or ensure compliance for AML/CFT purposes. If there is a proven low ML/TF risk then lesser monitoring measures may be taken.⁴

34. 規範與監督（建議 24）方面，各國在基於防制洗錢/打擊資恐目的判定監督或確保法令遵

³ Handbook paragraph 42 (e) (i)

³ 手冊第 42 (e) (i) 項

⁴ See Methodology R. 24

⁴ 見評鑑方法論建議 24

循所需的措施時，得將特定指定之非金融事業或人員部門內的洗錢/資恐風險（已被判定具備較高風險的賭場除外）納入考慮。如果證明了洗錢/資恐風險很低，則可採取比較不嚴格的監督措施。⁴

Other Recommendations

其他建議

35. As regards the FATF Nine Special Recommendations on Terrorist Financing, SR VIII dealing with non-profit organisations also recognises that the TF risk should be taken into account,⁵ and that a targeted approach in dealing with the terrorist threat to the non-profit organisation (NPO) sector is essential given the diversity within individual national sectors and the differing degrees to which parts of each sector may be vulnerable to misuse by terrorists. Likewise the best practices document supporting SR IX encourages countries to base their efforts on assessed risk and threat assessments. Risk is also featured in the methodology supporting SR VII, where beneficiary financial institutions should be required to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information.

35. 根據防制洗錢金融行動工作組織的 9 項資恐特別建議(SR)，SR8 關於處理非營利組織部分也體認到，應將資恐風險納入考慮，⁵ 而且在處理非營利組織（NPO）部門面臨的恐怖威脅時，採取鎖定目標的方式至關重要，因為國內各部門存在著多樣性而各部門所屬部分可能受到恐怖份子濫用的脆弱程度各異。同樣地，支持 SR9 的最佳做法文件也鼓勵各國在努力的同時以評估過的風險和威脅評估為依據。在支持 SR7 的評鑑方法論中也有提到風險：應要求受款的金融機構針對沒有完整匯款人資訊的電匯款項採用有效風險基礎方法進行辨認與處理。

36. Recommendation 25 requires adequate feedback to be provided to the financial sector and DNFBPs. Such feedback helps institutions and businesses to more accurately assess the ML/TF risks and to adjust their risk programmes accordingly. This in turn makes it more likely that better quality suspicious transaction reports will be filed. As well as being an essential input to any assessment of country or sector wide risks, the promptness and content of such feedback is relevant to implementing an effective riskbased approach.

36. 建議第 25 項要求對金融業和指定之非金融事業或人員提供充分的回饋。如此的反饋有助於機構和企業更準確地評估洗錢/資恐風險並據以調整其風險計畫。也因此比較可能提升可疑交易的通報品質。因為在針對國家或部門進行整體風險評估時很重要，所以此類反饋是否能夠及時提供及其內容均攸關是否能夠有效實施風險基礎方法。

Applicability of the risk-based approach to terrorist financing

風險基礎方法對資恐的適用性

37. The application of a risk-based approach to TF has both similarities and differences compared to ML. They both require a process for identifying and assessing risk. However, the characteristics of terrorist financing mean that the risks may be difficult to assess and the implementation strategies may be challenging due to considerations such as the relatively low value of transactions involved in terrorist financing, or the fact that funds can come from legal sources.

37. 針對資恐應用風險基礎方法相較於洗錢有其同異處。兩者都需要風險辨識與評估流程。但是，資恐的特點意味著這些風險可能難以評估而且考量諸如資恐涉及的相對極低價值的交易或資金可能來自合法管道等事實，實施相關策略時可能面臨挑戰。

⁵ Handbook paragraph 42 (f).

⁵ 手冊第 42 (f) 項。

38. Funds that are used to finance terrorist activities may be derived either from criminal activity or may be from legal sources, and the nature of the funding sources may vary according to the type of terrorist organisation. Where funds are derived from criminal activity, then traditional monitoring mechanisms that are used to identify money laundering may also be appropriate for terrorist financing, though the activity, which may be indicative of suspicion, may not be identified as or connected to terrorist financing. It should be noted that transactions associated with the financing of terrorists may be conducted in very small amounts, which in applying a risk-based approach could be the very transactions that are frequently considered to be of minimal risk with regard to money laundering. Where funds are from legal sources then it is even more difficult to determine that they could be used for terrorist purposes. In addition, the actions of terrorists may be overt and outwardly innocent in appearance, such as the purchase of materials and services (*i.e.* commonly held chemicals, a motor vehicle, etc.) to further their goals, with the only covert fact being the intended use of such materials and services purchased. Therefore, both for terrorist funds derived from criminal activity and for legitimately sourced funds, transactions related to terrorist financing may not exhibit the same traits as conventional money laundering. However in all cases, it is not the responsibility of the insurance company or intermediary to determine the type of underlying criminal activity, or intended terrorist purpose, rather the company's role is to report the suspicious activity. The FIU and law enforcement authorities will then examine the matter further and determine if there is a link to terrorist financing.

38. 用以贊助恐怖活動的資金可能來自犯罪活動或可能來自合法來源而且贊助的來源性質可能視恐怖組織類型而異。若資金來自犯罪活動，即使該活動可能只是引起懷疑而非辨識為資恐或與該融資有所關聯，傳統上用來辨識洗錢的監控機制可能也適合用於資恐。應注意的是：和資恐有關的交易可能以極小金額為之，而這在採取風險基礎方法時可能就成為常會被認為具備最低洗錢風險的交易。資金有合法源頭時，可能更難以判定是否可能用於恐怖用途。此外，恐怖份子可能公開採取行動而且可能表面看來稀鬆平常，如：為了達到其目的而購買的材料與服務（亦即：普遍持有的化學物質、機動車輛等），隱藏了這些材料與服務的實際用途。正因為恐怖份子的資金可能來自犯罪活動和正當的源頭，所以和資恐有關的交易可能不會展現和傳統洗錢相同的特點。不管情況為何，判定根本的犯罪活動類型或恐怖企圖等並非保險公司或保險仲介人的責任；相反地，公司的職能在於辨識並通報可疑活動。金融情報中心和權責機關接著將深入調查此事，並確定是否與資恐有關。

39. Therefore, the ability of life insurance companies and intermediaries to detect and identify potential TF transactions without guidance on TF typologies or without acting on specific intelligence provided by the authorities is significantly more challenging than is the case for potential ML and other suspicious activity. Detection efforts, absent specific national guidance and typologies, are likely to be based around monitoring that focuses on transactions with countries or geographic areas where terrorists are known to operate or on the other limited typologies available (many of which are indicative of the same techniques as are used for ML).

39. 因此，保險公司和保險仲介人是否能夠在無資恐預示報告的指引或未針對機關提供的特定情報採取行動下偵測並發現潛在的資恐交易相較於潛在的洗錢與其他可疑活動明顯更具挑戰性。偵測努力的方向、缺乏特定國家指引和預示報告等很可能都必需將重點放在已知有恐怖份子運作的國家或地理區域或其他可用的有限預示報告等監視作業（其中很多技巧和洗錢採用的一樣）。

40. Where particular individuals, organisations or countries are the subject of terrorist finance sanctions, the obligations on companies to comply and the listing of those individuals, organisations or countries as a result of such actions are determined exclusively by countries and are not a function of risk. Violations of such sanctions may result in a criminal offence or sanctions if funds or financial services are made available to a target or its agent.

40. 特定個人、組織或國家成為資恐制裁對象時，公司必需遵守的義務以及遭受上述行動的個人、組織或國家清單由各國自行判定，不屬於以風險為基礎判定之範疇。若讓某個標的或其代理方能夠使用基金或金融服務即屬違法，可能構成犯罪行為或遭受制裁。

41. For these reasons, this Guidance has not comprehensively addressed the application of a risk-based process to TF. It is clearly preferable that a risk-based approach be applied where reasonably practicable, but further consultation with key stakeholders is required to identify a more comprehensive set of indicators of the methods and techniques used for TF, which can then be factored into strategies to assess TF risks and devise measures to mitigate them. Life insurance companies and intermediaries would then have an additional basis upon which to more fully develop and implement a risk-based process for TF.

41. 基於上述原因，本指引並未全面描述應如何應用風險基礎方法於資恐。很明顯地，合理可行時才應用風險基礎方法比較受到支持，但仍須進一步諮詢重要的利害關係方，如此才能找出更全面、用於資恐的方法與技巧指標，然後才能納入策略，評估資恐風險並設計降低風險的措施。然後壽險公司和保險仲介人將會有更多的依據，更健全地制定並實施一套基於風險基礎的程序。

Limitations to the risk-based approach **風險基礎方法的限制**

42. There are circumstances in which the application of a risk-based approach will not apply, or may be limited. There are also circumstances in which the application of a risk-based approach may not apply to the initial stages of a requirement or process, but then will apply to subsequent stages. The limitations to the risk-based approach are usually the result of legal or regulatory requirements that mandate certain actions to be taken.

42. 在某些情況下，可能無法適用風險基礎方法，或其適用受到限制。也有些情況可能導致無法在要求或流程的初始階段適用風險基礎方法，但可在後續階段適用。風險基礎方法限制通常是因為法律或監理規範要求必須採取某些措施所導致。

43. Requirements to freeze the assets of identified individuals or entities, in jurisdictions where such requirements exist, are independent of any risk assessment. The requirement to freeze is absolute and cannot be impacted by a risk-based process. Similarly, while the identification of potential suspicious transactions can be advanced by a risk-based approach, the reporting of suspicious transactions, once identified, is not risk-based.

43. 在有必要的轄區內凍結被發現的個人或團體之資產獨立於任何的風險評估。此凍結要求具有絕對性，不受風險基礎程序的影響。同樣的，風險基礎方法對潛在可疑交易的辨識可能有所幫助，但可疑交易一旦辨識後，其報告便不再以風險為基礎。

44. There are a number of components to CDD – identification and verification of identity of customers and beneficial owners, obtaining information on the purposes and intended nature of the business relationships and conducting ongoing due diligence. Of these components, the identification and verification of identity of customers are requirements which must be completed regardless of the risk-based approach. However, in relation to all the CDD components, a reasonably implemented risk-based approach may allow for a determination of the extent and quantity of information required, and the mechanisms to be used to meet these minimum standards. Once this determination is made, the obligation to keep records and documents that have been obtained for due diligence purposes, as well as transaction records, is not dependent on risk levels.

44. 客戶審查包含幾個要素 – 辨識並確認客戶和實質受益人之身分、取得和企業關係之目的與生意有關的資訊以及持續執行客戶審查等。在這些要素中，確認並辨識客戶身分是不管採取的做法是否以風險為基礎，都必需完成的要求。但是，其他所有的客戶審查要素方面，有一套合理實施、風險基礎方法可能有助於判定所需的資訊程度和品質以及為符合這些最低標準應採用的機制等。完成此判斷後，為客戶審查目的而取得的紀錄與文件以及各項交易紀錄的保存義務，皆與風險程度無關。

45. Countries may allow life insurance companies and intermediaries to apply reduced or simplified measures where the ML/TF risk is lower. However, these reduced or simplified measures do not necessarily apply to all aspects of CDD. Moreover, where these reduced or simplified measures are subject to certain conditions being met, it is necessary to verify that these conditions apply, and where the exemption applies under a certain threshold, measures should be in place to prevent transactions from being split artificially to avoid the threshold. In addition, information beyond customer identity, such as customer location and account purpose, may be needed to adequately assess risk. This will be an iterative process: the preliminary information obtained about a customer should be sufficient to determine whether to go further, and in many cases customer monitoring will provide additional information.

45. 各國得允許壽險公司和保險仲介人在洗錢/資恐風險較低時採用減少或簡化的措施。但是，這些減少或簡化的措施未必適用各方面的客戶審查。此外，雖然這些減少或簡化的措施必需符合特定條件，但仍需要確認這些條件適用以及在特定門檻下適用時，應有相關措施存在，以防交易為了避免達到該門檻而刻意分散。此外，可能還需要客戶身分之外的資訊（如：客戶所在位置），才能適當地評估風險。這將是一個疊代過程：獲得和客戶有關的初步資訊應足以決定是否與其建立進一步的關係而且很多時候客戶監督有助於提供額外的資訊。

46. Some form of transaction monitoring, whether it is automated, manual, a review of exception reports or a combination of acceptable options, depending on the risks presented, is required in order to detect unusual and hence possibly suspicious transactions. The method of monitoring, whether at the transaction level, the policy/account/contract level, or at the customer level, should fall within the purview of the life insurance company or intermediary, and should be based on the risk present. This individual or aggregate risk may change over time, and the methods of monitoring should be flexible enough to adjust to this change even in the case of lower risk customers, monitoring is needed to verify that transactions match the initial low risk profile and if not, trigger a process for appropriately revising the customer's risk rating. Equally, risks for some customers may only become evident once the customer has begun transacting either through an account or otherwise in the relationship with the insurance company or intermediary. This makes appropriate and reasonable monitoring of customer transactions an essential component of a properly designed risk-based approach, however within this context it should be understood that not all transactions, accounts or customers will be monitored in exactly the same way. Moreover, where there is an actual suspicion of money laundering or terrorist financing, this could be regarded as a higher risk scenario, and enhanced due diligence should be applied regardless of any threshold or exemption.

46. 針對部分的交易監督形式（不管是自動或人工），必需檢視例外報告或結合可接受的選項（視呈現的風險而定），以便偵測不尋常而且因此可能的可疑交易。監督的方式（不管是針對交易、政策/帳戶/契約或客戶）均應在壽險公司或保險仲介人的權限內而且應以呈現的風險為基礎。此類個別或總風險可能隨時間改變，因此監督的方式必需具備足夠的彈性，才能針對風險較低的客戶進行調整。必需監督交易和最初的低風險資料相符；若不符，即應啟動相關過程，修正客戶的風險評等。同樣地，某些客戶的風險可能只會在該客戶已經開始透過帳戶交易或和壽險公司或保險仲介人建立合作關係後才會變得明顯。因此，針對客戶審查進行適當合理的監督是一個設計妥當、風險基礎方法之基本要素；但是，就現階段而言，應理解成：並非所有的交易、帳戶或客戶都將以完全相同的方式進行監督。若確實發生可疑的洗錢或資恐情節，可將此懷疑視為風險較高案件，而且不論任何門檻或豁免，都應執行加強客戶審查。

Distinguishing Risk-Based Supervision and Risk-Based Policies and Processes

辨識風險基礎的監理和風險基礎政策與程序

47. Risk-based policies and processes in life insurance companies and intermediaries should be distinguished from risk-based supervision. As illustrated through the 2003 IAIS Core Principles and Methodology there is a general recognition within supervisory practice of allocating resources taking into account the risks posed by individual life insurance companies or intermediaries. The methodology

adopted by regulatory authorities to determine allocation of supervisory resources should cover the business focus, the risk profile and the internal control environment, and should permit relevant comparisons between life insurance companies or intermediaries. The methodology used for determining the allocation of resources will need updating on an ongoing basis so as to reflect the nature, importance and scope of the risks to which individual life insurance companies or intermediaries are exposed.

Consequently, this prioritisation would lead supervisors to demonstrate increased regulatory attention to life insurance companies and intermediaries that engage in activities assessed to be of higher ML/TF risks.

47. 壽險公司和保險仲介人風險基礎政策和程序應和風險基礎監理進行區分。如 2003 年 IAIS 核心原則以及評鑑方法論所述，在監理做法內已經有一個普遍的認知，那就是：在分配資源時將個別壽險公司或保險仲介人呈現的風險納入考慮。監理機關決定監理資源的配置時採用的方法應涵蓋產業重心、風險剖析表和內部控制環境並且應允許壽險公司或保險仲介人之間進行相關比較。用以決定資源配置的方法將需要持續更新，如此才能反映個別壽險公司或保險仲介人暴露的風險之性質、重要性與範圍。如此決定優先順序後的結果將讓監理機關得以證明法規越來越注意經評估從事較高洗錢/資恐風險活動的壽險公司和保險仲介人。

48. However, it should also be noted that the risk factors taken into account to prioritise the supervisors' work will depend not only on the intrinsic risk associated with the activity undertaken, but also on the quality and effectiveness of the risk management systems put in place to address such risks.

48. 但是，也應該注意的是：在針對監理機關的工作進行重要性分級時納入考慮的風險因子不僅是與從事的活動有關的固有風險而定，也視既有得以處理此類風險的風險管理系統之品質和有效性而定。

49. Since prudential regulators should have already assessed the quality of risk management controls throughout life insurance companies and intermediaries, it is reasonable that their assessments of these controls be used, at least in part, to inform ML/TF risk assessments (see also paragraph 1.26 above).

49. 因為謹慎的監理機關已經評估過壽險公司和保險仲介人風險管理控管品質，所以採用其針對這些控管方式的評估結果很合理，至少就一部分而言能夠在進行洗錢/資恐風險評估時提供相關資訊（請同時參見上述第 1.26 項）。

Summary box: A risk-based approach to countering money laundering and terrorist financing at the national level: key elements for success

摘要表：國家層級防制洗錢與打擊資恐風險基礎方法：成功關鍵因素

- Life insurance companies and intermediaries and regulators should have access to reliable and actionable information about the threats.
- 壽險公司和保險仲介人以及監理機關均應有取得威脅相關可靠、可據以採取行動的資訊之權限。
- There must be emphasis on cooperative arrangements among the policy makers, law enforcement, regulators, and the private sector.
- 政策制定者、權責機關、監理機關與私部門。
- Authorities should publicly recognize that the risk-based approach will not eradicate all elements of risk.
- 各機關均應公開認同風險基礎方法將無法根絕所有構成風險的要素此一事實。
- Authorities have a responsibility to establish an atmosphere in which life insurance companies and intermediaries need not be afraid of regulatory sanctions where they have acted responsibly and implemented adequate internal systems and controls.
- 各機關都有責任建立一個氛圍，那就是：壽險公司和保險仲介人不需要在負責地採取行動並實施相關內部控制制度後害怕遭受法規制裁。
- Regulators' supervisory staff must be well-trained in the risk-based approach, both as applied by supervisors and by life insurance companies and intermediaries.
- 監理機關的監理人員必需就風險基礎方法（不管是監理機關或壽險公司和保險仲介人所採用）接

受充分訓練。

- Requirements and supervisory oversight at the national level should be consistent among similar industries.
- 國家層級的規定和監理在類似產業間均應一致。

SECTION TWO: GUIDANCE FOR PUBLIC AUTHORITIES 第二節：公部門指引

Chapter One: High-level principles for creating a risk-based approach 第一章：建立風險基礎方法之高階原則

50. The creation of a risk-based approach to countering money laundering and the financing of terrorism will allow competent authorities and life insurance companies and intermediaries to use their resources most effectively. This chapter sets out five high-level principles that should be considered by countries when designing a risk-based approach. They could be considered as setting out a broad framework of good practice.

50. 在對抗洗錢和資恐時採取風險基礎方法將讓權責機關以及壽險公司或保險仲介人得以最有效地使用其資源。本章提出 5 個高階原則，各國在設計風險基礎方法時應考慮這些原則。這些原則可視為初步建立的優良的實務架構。

51. The five principles set out in this chapter are intended to assist countries in their efforts to improve their AML/CFT regimes. They are not intended to be prescriptive, and should be applied in a manner that is well-considered and is appropriate to the particular circumstances of the country in question.

51. 本章列出的五個原則旨在協助各國努力改善其防制洗錢/打擊資恐制度。這些原則不具規範性，應在全盤考量後實施，特別適合用於在討論中的國家發生的特定情況。

Principle One: Understanding and responding to the threats and vulnerabilities: a national risk assessment

原則1：了解並回應威脅和弱點：國家風險評估

52. Successful implementation of a risk-based approach to combating ML/TF depends on a sound understanding of the threats and vulnerabilities. Where a country is seeking to introduce a risk-based approach at a national level, this will be greatly aided if there is a national understanding of the risks facing the country. This understanding can flow from a national risk assessment.

52. 是否能夠成功實施一套風險基礎方法防制洗錢及打擊資恐和是否對於威脅和弱點有完善的認知有關。各國尋求在國家層級上導入風險基礎方法時，若能先瞭解國家面對的國家風險，將能提供很大的助益。此瞭解可從國家風險評估開始。

53. National risk assessments should be tailored to the circumstances of each country. For a variety of reasons, including the structure of competent authorities and the nature of the financial services sector, each country's judgements about the risks will be unique, as will their decisions about how to implement a national assessment in practice. A national assessment need not be a single formal document. It should be considered as a process that is designed to achieve a specific outcome. The desired outcome is that decisions about allocating responsibilities and resources at the national level are based on a comprehensive and up-to-date understanding of the risks. Competent authorities, in consultation with the private sector, should consider how best to achieve this while also taking into account any risk associated with providing information on vulnerabilities in their financial systems to money launderers, terrorist financiers, and other criminals.

53. 應針對各國環境設計專屬的國家風險評估。基於各種原因（包括權責機關的結構和金融服務部門的性質）各國對於風險做出的判斷將具獨特性，其有關如何將國內評估付諸實施的決定也是。國內評估不需要做成單一正式文件。應被視為是設計用以實現特定結果的一套過程。預期的結果為：

根據對最新風險的全面實際瞭解，決定國家層級的責任與資源分配。權責機關應在諮詢私部門後思索達到這個目標的最佳方式並將金融體系內提供洗錢人士、恐怖組織的金主和其他罪犯有關的任何風險納入相關弱點資訊考慮。

Principle Two: A legal/regulatory framework that supports the application of a risk-based approach
原則2：支持採用風險基礎方式的法規架構

54. Countries should consider whether their legislative and regulatory frameworks are conducive to the application of the risk-based approach. Where appropriate the obligations imposed on life insurance companies and intermediaries should be informed by the outcomes of the national risk assessment.

54. 各國應考量其立法與監管架構是否有助於實施風險基礎方法。適用時，壽險公司和保險仲介人應盡義務將以國家風險評估結果為依據。

55. The risk-based approach does not mean the absence of a clear statement of what is required from life insurance companies and intermediaries. However under a risk-based approach, life insurance companies and intermediaries should have a degree of flexibility to implement policies and procedures which respond appropriately to their own risk assessment. In effect, the standards implemented may be tailored and/or amended by additional measures as appropriate to the risks of a particular insurance company/business. The fact that policies and procedures, in accordance to the risk levels, may be applied flexibly to different products, services, customers and locations does not mean that policies and procedures need not be clearly defined.

55. 所謂風險基礎方法並不是指對於壽險公司和保險仲介人必須做到的事項缺少清楚的陳述。但是，採用風險基礎方法時，壽險公司和保險仲介人在實施與其本身風險評估適當對應的政策和程序時應有一定程度的彈性。實際上，實施的標準可透過額外的措施適當地針對特定保險公司/企業的風險量身訂製和/或修正。雖然政策和程序可能根據其風險等級而適用於不同的產品、服務、客戶和地點，但不表示政策和程序不需要清楚界定。

56. Basic minimum AML/CFT requirements can coexist with a risk-based approach. Indeed, sensible minimum standards, coupled with scope for these to be enhanced when the risk justifies it, should be at the core of risk-based AML/CFT requirements. These standards should, however, be focused on the outcome (combating through deterrence, detection, and reporting of ML/TF), rather than applying legal and regulatory requirements in a purely mechanistic manner to every customer.

56. 最低的防制洗錢/打擊資恐要求可和風險基礎方法共存。事實上，切合實際的最低標準以及根據風險而採取的合理加強措施及其範圍，應為風險基礎防制洗錢/打擊資恐要求的核心項目。但是，這些標準應把重點放在結果（遏止、偵測和通報洗錢/資恐），而不是以單一機械化的方式將法規要求適用每個客戶。

Principle Three: Design of a supervisory framework to support the application of the risk-based approach
原則3：設計支持採用風險基礎方法之監管框架

57. Where competent authorities have been assigned responsibility for overseeing life insurance companies and intermediaries AML/CFT controls, countries may wish to consider whether such authorities are given the necessary authority to implement a risk-based approach to supervision. Barriers to this may include inappropriate reliance on detailed and prescriptive requirements in the regulator's rules. These requirements may, in turn, stem from the laws under which the regulator gained its powers.

57. 權責機關已被分配監督壽險公司和保險仲介人防制洗錢/打擊資恐控管活動的責任時，各國可能會想把這些機關是否也具備針對監管實施風險基礎方法之必要權力納入考慮。在這方面遇到的

障礙可能包括不當地仰賴監理機關規定內的詳細、既定要求。這些要求可能來自賦予監理機關權力的法律。

58. Where appropriate, regulators should seek to adopt a risk-based approach to the supervision of life insurance companies and intermediaries’ controls to combat ML/TF. This should be based on a thorough and comprehensive understanding of the types of activity the life insurance companies and intermediaries undertake and the ML/TF risks to which these are exposed. Regulators will probably need to prioritise resources based on their overall assessment of where the risks are, and which companies are most exposed to them.

58. 適用時，監理機關應努力採用風險基礎方法，監管防制洗錢/資恐時壽險公司和保險仲介人採取的控管方式。這應以對壽險公司和保險仲介人執行的活動類型有透徹全面的了解以及這些暴露的洗錢/資恐風險為基礎。監理機關將可能需要根據其就風險位置以及最可能暴露其中的公司所做的整體評估決定資源的優先順序。

59. Regulators with responsibilities other than those related to AML/CFT will need to consider these risks alongside other risk assessments arising from the regulator’s wider duties.

59. 其職責不含防制洗錢/打擊資恐相關職責的監理機關將需要思索這些風險以及其他源自監理機關更廣泛義務的其他風險評估。

60. Such risk assessments should help the regulator choose where to apply resources in its supervisory programme, with a view to using limited resources to achieve the greatest effect. A risk assessment may also identify that the regulator does not have adequate resources to deal with the risks⁶. In such circumstances the regulator may need to obtain additional resources or adopt other strategies to manage or mitigate any unacceptable residual risks.

60. 此類風險評估應有助於監理機關選擇是否在其監管計畫內套用資源，以期利用有限資源實現最大效果。風險評估也能發現監理機關並無適當的資源可處理該風險⁶。遇到這種情況時，監理機關可能需要取得更多的資源或採用其他策略，才能管理或減少任何不可接受的殘留風險。

61. The application of a risk-based approach to supervision requires that regulators’ staff be able to make principle-based decisions in a similar fashion as would be expected from the staff of an insurance company or intermediary that has adopted a risk-based approach. These decisions will cover the adequacy of the insurance company or intermediary’s arrangements to combat ML/TF. As such, a regulator may wish to consider how best to train its staff in the practical application of a risk-based approach to supervision. Supervisory staff will need to be well-briefed as to the general principles of a risk-based approach, its possible methods of application, and what a risk-based approach looks like when successfully applied by a life insurance company or intermediary.

61. 將風險基礎方法應用在監管上需要監理機關的人員能夠以類似於已經採用一套風險基礎方法之保險公司或保險仲介人員工預期會採用的方式做出有原則依據的決定。這些決定將涵蓋保險公司或保險仲介人在防制洗錢及打擊資恐方面的安排是否妥當。因此，監理機關可能會想要思索在實際將風險基礎方法應用於監管時如何提供其人員最好的訓練。監理人員將需要對於風險基礎方法之一般性原則、可能的採用方式以及壽險公司或保險仲介人成功採用時風險基礎方法之輪廓等具備充分的資訊。

⁶ See FATF Recommendation 30.

⁶ 見防制洗錢金融行動工作組織建議 30。

Principle Four: Identifying the stakeholders and ensuring consistency

原則4：找出利害相關方並確保一致性

62. Countries should consider who the main stakeholders are when adopting a risk-based approach to combating ML/TF. These will differ between countries. Thought should be given as to the most effective way to share responsibility between these parties, and how information may be shared to best effect. For example, which body or bodies are best placed to provide guidance to the financial services industry about how to implement an AML/CFT risk-based approach.

62. 各國應思索採用一套風險基礎方法防制洗錢/打擊資恐時誰是主要的利害關係方。這將因國而異。應考慮如何以最有效的方式評分各方之間的責任以及應如何分享資訊才能達到最佳效果等。舉例而言，哪些機構已經做好提供金融服務業針對如何實施一套風險基礎防制洗錢/打擊資恐方式提供指引。

63. A list of potential stakeholders may be considered to include the following:

63. 可考慮讓可能的利害相關方清單包含下列：

- Government – this may include legislature, executive, and judiciary.
- 政府 – 包括立法、行政、司法機關。
- Law enforcement agencies - this might include the police, customs etc.
- 權責機關 – 可能包含警察、海關等。
- The financial intelligence unit (FIU), security services, other similar agencies etc.
- 金融情報中心（FIU）、安全服務和其他類似的機關。
- Regulators.
- 監理機關。
- The private sector – this might include financial services firms, professional services firms (such as accountants and lawyers), professional organisations (such as insurance professional organisations), etc.
- 私部門 – 這可能包含金融服務公司、專業服務公司（如會計師與律師事務所）、專業組織（如專業保險公司）等。
- The public – arrangements designed to counter money laundering and terrorist financing are ultimately designed to protect the law-abiding public. However these arrangements may also act to place burdens on customers of financial services firms.
- 民眾 – 為防制洗錢和資恐而設計的安排，最終是為保護守法民眾而設計。但是，這些安排也可能造成金融服務公司客戶的負擔。
- Others – those who are in a position to contribute to the conceptual basis underpinning the risk-based approach. Such stakeholders may include academia and the media.
- 其他 – 準備好對風險基礎方法的基礎概念做出貢獻的個人。此類利害相關方可能包含學術界和媒體。

64. Clearly a government will be able to exert influence more effectively over some of these stakeholders than others. However, a government will be in a position to assess how all stakeholders can be encouraged to support efforts to combat ML/TF.

64. 政府對某些利害關係人的有效影響能力顯然高於對其他利害關係人的影響。但是，政府應已做好評估能夠如何鼓勵所有的利害相關方協助防制洗錢/打擊資恐的準備。

65. A further element is the role that governments have in seeking to gain recognition of the relevance of a risk-based approach from competent authorities. This may be assisted by relevant authorities making clear and consistent statements about the risk-based approach on the following:

65. 進一步的要素是政府在努力尋求認同權責機關採取的風險基礎方法相關性時扮演的角色。可由相關機關協助在下列針對此套風險基礎方法做出清楚、一致的相關陳述。

- Life insurance companies and intermediaries can be expected to have flexibility to adjust their internal systems and controls taking into consideration lower and high risks, so long as such systems and controls are reasonable. However, there are also minimum legal and regulatory requirements and elements that apply irrespective of the risk level, for example suspicious transaction reporting and minimum standards of customer due diligence.
- 可預期壽險公司和保險仲介人具備調整其內部制度和控管方式時將較低和高風險同時納入考慮的彈性，但前提是此類制度和控管方式很合理。但是，也有最低的法規要求和不管風險等級為何一律適用的要素，如：通報可疑交易和客戶審查的最低標準等。
- Acknowledging that a life insurance company or intermediary's ability to detect and deter ML/TF can sometimes be necessarily limited and that information on risk factors is not always robust or freely available. There should therefore be reasonable policy and supervisory expectations about what a life insurance company or intermediary with good controls aimed at preventing ML/TF is able to achieve. A life insurance company or intermediary may have acted in good faith to take reasonable and considered steps to prevent ML/TF, and documented the rationale for its decisions, and yet still be abused by a criminal.
- 必需認清的一點是：壽險公司或保險仲介人偵測並遏止洗錢/資恐的能力有時必需受到限制，而且風險因子相關資訊未必總是穩健、可自由取得。因此，對於目標鎖定洗錢/資恐、具備良好控管方式的壽險公司或保險仲介人能夠達到的結果應有合理的政策和監管期待。在防制洗錢/打擊資恐方面，壽險公司或保險仲介人可能實際已經採取行動、採取了合理、考慮周全的步驟並且對於做出決定時的理論依據有相關書面紀錄，但還是遭到犯罪份子濫用。
- Acknowledging that not all high risk situations will be identical and as a result will not always require precisely the same type of enhanced due diligence.
- 認清並非所有高風險的情況彼此均一致，因此無法總是需要精確相同類型的強化客戶審查。

Principle Five: Information exchange between the public and private sector

原則5：公部門與私部門之間的資訊交流

66. Effective information exchange between the public and private sector will form an integral part of a country's strategy for combating ML/TF. In many cases, it will allow the private sector to provide competent authorities with information they identify as a result of previously provided government intelligence.

66. 公部門和私部門間有效的資訊交流是一國防制洗錢及打擊資恐策略的一個不可或缺的部分。很多時候，私部門可以提供權責機關它們因為之前提供的政府情報而發現的資訊。

67. Public authorities, whether law enforcement agencies, regulators or other bodies, have privileged access to information that may assist life insurance companies or intermediaries to reach informed judgments when pursuing a risk-based approach to counter money laundering and terrorist financing. Likewise, life insurance companies and intermediaries are able to understand their clients' businesses reasonably well. It is desirable that public and private bodies work collaboratively to identify what

information is valuable to help combat money laundering and terrorist financing, and to develop means by which this information might be shared in a timely and effective manner.

67. 公務機關 – 不管是權責機關、監理機關或其他機關 – 有存取資訊的特權，可能有助於壽險公司或保險仲介人針對防制洗錢和打擊資恐採取風險基礎方法時做出明智的判斷。同樣地，壽險公司和保險仲介人能夠合理了解其客戶的事業。期待公私部門機構相互合作，主動辨識有價值的資訊，協助防制洗錢和打擊資恐，並且建立方法，確保及時有效地分享資訊。

68. To be productive, information exchange between the public and private sector should be accompanied by appropriate exchanges among public authorities. FIUs, supervisors and law enforcement agencies should be able to share information and feedback on results and identified vulnerabilities, so that consistent and meaningful inputs can be provided to the private sector. All parties should of course, consider what safeguards are needed to adequately protect sensitive information held by public bodies from being disseminated too widely. The goal of the dialogue should be to provide all parties with the maximum amount of information needed to create and maintain risk mitigation strategies and to place life insurance companies and intermediaries in a position to make informed judgments.

68. 為了增加生產力，社會大眾與私部門之間的資訊交流應伴隨公務機關之間相關的交流。金融情報中心、監理機關和權責機關應能就結果和發現的弱點分享相關資訊和反饋，如此才能提供私部門一致、有意義的建議。當然，各方均應考慮在適當保護公務機關持有的敏感性資訊方面應該採取怎樣的防衛措施，以免過度散布。這個對話的目的應在於提供各方制定並維持風險降低策略所需的最大資訊量並讓壽險公司和保險仲介人能夠做出明智的判斷。

69. Relevant stakeholders should seek to maintain a dialogue so that it is well understood what information has proved useful in combating money laundering and terrorist financing⁷ For example the types of information that might be usefully shared between the public and private sector would include, if available:

69. 相關利害關係方應努力保持對話，如此才能了解哪些資訊在防制洗錢和打擊資恐方面證明很實用。⁷ 舉例而言，公部門和私部門間可能分享的實用資訊類型（若有）將包含：

- Assessments of country or geographic area risk.
- 評估國家或地理位置風險。
- Typologies or assessments of how money launderers and terrorists have abused the financial system, in particular in the life insurance sector.
- Feedback on suspicious transaction reports and other relevant reports.
- 洗錢人士和恐怖份子如何濫用金融體系（特別是壽險部門）的態樣和評估。
- Targeted unclassified intelligence. In specific circumstances, and subject to appropriate safeguards, it may also be appropriate for authorities to share targeted confidential information with life insurance companies and intermediaries. Countries, persons or organisations whose assets or transactions should be frozen.
- 可疑交易報告和其他相關報告的回饋。非保密的目標性金融制裁情報。在有相關防護措施的特定情況下，權責機關也能適當地和壽險公司及保險仲介人分享目標性金融制裁的機密資訊。資產或交易應予凍結的國家、個人或組織。

⁷ Examples of such dialogue are included in section one of these guidelines.

⁷ 如此對話的例子包含在這些規範的第一部分內。

70. When choosing what information can be properly and profitably shared, public authorities may wish to emphasize to the life insurance sector that information from public bodies should inform, but not be a substitute for a life insurance company or intermediary's own judgments. For example, countries may decide to not create what are perceived to be definitive lists of low risk customer types. Instead public authorities may prefer to share information on the basis that this will be one input into an insurance company or intermediary's decision making processes, along with any other relevant information that is available to the life insurance company or intermediary.

70. 在選擇哪些資訊可以被適當地、能夠帶來效益的方式進行分享時，公務機關可能會想向壽險部門強調：來自公務機關的資訊應僅供壽險公司或保險仲介人自行做出判斷時參考而非完全取代其判斷。舉例而言，各國可能會決定不製作被認為限定性的低風險客戶類型清單。相反地，公務機關可能會比較想在其可能納入壽險公司或保險仲介人決策過程的基礎上分享資訊以及任何其他可用的相關資訊。

Chapter Two: Implementation of the Risk-Based Approach

第二章：執行風險基礎方式

Assessment of Risk to Inform National Priorities: 作為國家優先事項參考的風險評估：

71. A risk-based approach should be built on sound foundations: efforts must first be made to ensure that the risks are well understood. As such, a risk-based approach should be based on an assessment of the threats. This is true whenever a risk-based approach is applied, at any scale, whether by countries or individual life insurance companies and intermediaries. A country's approach should be informed by its efforts to develop an understanding of the risks in that country. This can be considered as a "national risk assessment".

71. 一套風險基礎方法應建立在健全的基礎上：首先應努力確保對於風險有充分的認知。嚴格地說，風險基礎方法應建立在威脅評估的基礎上。這不論各國或個別壽險公司和保險仲介人以任何規模何時應用一套風險基礎方法均如此。各國若能對風險有充分的瞭解，將能為其風險基礎方法的執行提供資訊。此情況可視為「國家風險評估」。

72. A national risk assessment should be regarded as a description of fundamental background information to assist supervisors, law enforcement authorities, and the FIU to ensure that decisions about allocating responsibilities and resources at the national level are based on a practical, comprehensive and up-to-date understanding of the risks.

72. 國家風險評估應被認為是有關基本背景資訊的描述，旨在協助監理機關、權責機關和金融情報中心確保針對分配國家層級的責任與資源時所做的相關決定是以對風險有實際、全面、最新的了解為基礎。

73. A national risk assessment should be tailored to the circumstances of the individual country, both in how it is executed, and its conclusions. Factors that may influence the ML/TF risk in a country could include the following:

73. 國家風險評估應針對個別國家量身打造，包括如何執行和執行的結果等。可能影響一國洗錢/資恐風險的因素包含下列：

- Political environment.
- 政治環境。
- Legal environment.
- 法律環境。

- A country's economic structure.
- 國家的經濟結構。
- Cultural factors and the nature of civil society.
- 文化因素以及公民社會的性質。
- Sources, location and concentration of criminal activity.
- 犯罪活動的資源、地點與匯集。
- Size of the insurance industry.
- 保險業的規模。
- Composition of the insurance industry.
- 保險業的組成。
- Ownership structure of life insurance companies and intermediaries.
- 壽險公司和保險仲介人的所有權結構。
- Corporate governance arrangements in life insurance companies and intermediaries and the wider economy.
- 壽險公司和保險仲介人以及更廣泛的經濟體內的企業治理安排。
- The nature of payment systems and the prevalence of cash-based transactions.
- 支付系統的性質與現金基礎交易的盛行。
- Geographical spread of insurance industry's operations and customers.
- 保險業運作和客戶的地理分布。
- Types of products and services offered by the insurance industry.
- 保險業提供的產品和服務類型。
- Types of customers serviced by the insurance industry.
- 保險業服務的客戶類型。
- Types of most frequently occurring predicate offences.
- 最常發生的前置犯罪類型。
- Amounts of illicit money generated domestically.
- 國內產生的黑錢金額。
- Amounts of illicit money generated abroad and laundered domestically.
- 海外產生的黑錢金額與國內洗錢金額。
- Main channels or instruments used for ML/TF.
- 用於洗錢/資恐的主要管道或工具。
- Sectors of the legal economy affected.
- 受影響的合法經濟領域。
- Underground areas in the economy.
- 經濟體內的地下區域。

74. Countries should also consider how an understanding of the ML/TF risks can be best achieved at the national level. Which body or bodies will be responsible for contributing to this assessment? How formal should an assessment be? Should the competent authority's view be made public? These are all questions for the competent authority to consider.

74. 各國應思索如何在國家層級實現對洗錢/資恐風險的最佳認知。哪一個機關或哪些機關負責對這類評估做出貢獻？評估應有多高的正式性？權責機關的看法是否應該公開？權責機關必需考

慮的因素有很多。

75. The desired outcome is that decisions about allocating responsibilities and resources at the national level are based on a comprehensive and up-to-date understanding of the risks. To achieve the desired outcome, competent authorities should develop and implement measures to mitigate the identified risks.

75. 預期的結果為：根據對最新風險的全面實際瞭解，決定國家層級的責任與資源分配。為了達到理想的結果，權責機關應制定並實施降低所發現的風險之措施。

76. Developing and operating a risk-based approach involves forming judgements. It is important that these judgements are well informed. It follows that, to be effective, the risk-based approach should be information-based and include intelligence where appropriate. Effort should be made to ensure that risk assessments are based on fresh and accurate information. Countries, in partnership with law enforcement bodies, FIUs, and regulators, are well placed to bring their knowledge and expertise to bear in developing a risk-based approach that is appropriate for their particular country. Their assessments will not be static: they will change over time, depending on how circumstances develop and how the threats evolve. As such, countries should facilitate the flow of information between different bodies, so that there are no institutional impediments to information dissemination.

76. 制定和執行風險基礎方法需要形成判斷。重要的是須在獲得充分資訊的條件下進行判斷。因此，為了確保有效，風險基礎方法應以資訊為基礎，並在可行時納入情報。應致力確保在新取得的正確資訊基礎上進行風險評估。利用和執法機構、金融情報中心以及監理機關的合作關係之政府能夠充分將其知識和專業融入以風險為基礎、特別適用其國家的做法。其評估將不會是靜態：會隨時間改變，視情況發展以及威脅演化的進度而定。因此，各國應方便不同機關間資訊彼此流通，如此才不會因為制度造成資訊傳播上的阻礙。

77. Whatever form it takes, a national assessment of the risks, along with measures to mitigate those risks, can inform how resources are applied to combat money laundering and terrorist financing, taking into account other relevant country policy goals. It can also inform how these resources are most effectively assigned to different public bodies, and how those bodies make use of their resources in an effective manner.

77. 不管是哪一種形式，針對風險進行國內評估並採取降低這些風險的措施能夠提供防制洗錢和打擊資恐時應用資源的方式所需的資訊，將其他相關的國家政策目標納入考慮。對於這些資源如何能最有效地分配至不同的公務機關以及這些機關如何有效地最佳運用其資源也能提供相關資訊。

78. As well as assisting competent authorities to decide how to allocate public funds to combat money laundering and terrorist financing, a national risk assessment can also inform decision-makers about the relationship between the supervisory/regulatory regime and the identified risks. An over-zealous effort to counter the risks could be damaging and counter-productive, placing unreasonable burdens on industry, and act against the interests of the public by limiting access to services for some segments of the population. Alternatively, efforts may not be sufficient to provide protection to societies from the threats posed by criminals and terrorists. A sound understanding of the risks at the national level could help obviate these dangers.

78. 除了可以協助權責機關決定如何配置防制洗錢和打擊資恐所需的公部門資金外，國家風險評估還能就監管/法規制度與所發現的風險之間存在的關係提供決策者實施需要的相關資訊。對抗風險時過度熱衷可能會造成破壞性結果，適得其反，造成產業不合理的負擔而且可能因為限制人口中部分區塊使用服務的權限而違反大眾利益。相反地，所做出的努力可能不足以預防社會遭受犯罪人士和恐怖份子的威脅。在國家層級上對風險做充分瞭解有助於避開這些危險。

Regulatory Supervision – General Principles **法規監管 – 一般原則**

Defining the acceptable level of risk 定義可接受的風險程度

79. The level of AML/CFT risk will generally be affected by both internal and external risk factors. For example, risk levels may be increased by internal risk factors such as weak compliance resources, inadequate risk controls and insufficient senior management involvement. External level risks may rise due to factors such as the action of third parties and/or political and public factors.

79. 防制洗錢/打擊資恐風險的程度通常會受到內外部風險因素的影響。例如，不足的遵循資源、不完善的風險控制以及高級管理階層不積極投入等內部風險因素可能導致風險程度增加。外部層級的風險可能會因為第三方採取的行動和/或政治與公開因素而出現。

80. As described in Section One, all financial activity involves an element of risk. Competent authorities should not prohibit life insurance companies and intermediaries from conducting business with high risk customers as long as appropriate policies, procedures and processes to manage the attendant risks are in place. Only in specific cases, for example when justified by the fight against terrorism, crime or the implementation of international obligations, are designated individuals, legal entities, organisations or countries categorically denied access to services.

80. 如第一部分所述，所有的金融活動都會牽涉風險。權責機關不應禁止壽險公司和保險仲介人與高風險客戶做生意，但前提是必需有管理伴隨風險的相關政策、程序和過程。只有特定情況下（例：因為對抗恐怖主義、犯罪或善盡國際義務等合理原因），指定的個人、法人、組織或國家才會依據類別被拒絕使用服務的權利。

81. However, this does not exclude the need to implement basic minimum requirements. For instance FATF Recommendation 5 states that “Where the financial institution is unable to comply with paragraphs (a) – (c) [“the CDD requirements”], it should not open the account, commence business relations or perform the transaction; or should terminate the business relationship; and should consider making a suspicious transaction report in relation to the customer.” So the level of risk should strike an appropriate balance between the extremes of not accepting customers, and conducting business with unacceptable or unmitigated risk.

81. 然而，此拒絕並不排除對執行最低基本要求的需求。舉例而言，防制洗錢金融行動工作組織建議 5 提及：「金融機構無法遵照第 (a) – (c) 項（客戶審查要求）時，即不應開戶、展開商業關係或執行交易或應中止商業合作關係並應考慮針對該客戶通報疑似洗錢或資恐交易報告」因此，風險等級應在不接受客戶和具備不可接受或不可降低風險時做生意這兩個極端間取得一個適當的平衡。

82. Competent authorities expect life insurance companies and intermediaries to put in place effective policies, programmes, procedures, controls and systems to mitigate the risk and acknowledge that even with effective systems not every suspect transaction will necessarily be detected. They should also ensure that those policies, programmes, procedures, controls and systems are applied effectively to prevent life insurance companies and intermediaries from becoming conduits for illegal proceeds and ensure that they keep records and make reports that are of use to national authorities in combating money laundering and terrorist financing. Efficient policies and procedures will reduce the level of risks, but are unlikely to eliminate them completely. Assessing ML/TF risks requires judgement and is not an exact science. Monitoring aims at detecting unusual or suspicious transactions among an extremely large number of legitimate transactions. Furthermore the demarcation of what is unusual may not always be straightforward since what is “customary” may vary depending on the customers’ business. This is why developing an accurate customer profile is important in managing a risk-based system. Moreover,

procedures and controls are frequently based on previous typologies cases, but criminals will adapt their techniques.

82. 權責機關期待壽險公司和保險仲介人制定有效的政策、計畫、程序、控管方式和制度，以降低風險並體認道：即使具備有效的制度，仍未必能夠偵測到每一項可疑交易。它們亦應確保這些政策、計畫、程序、控管方式和制度均有效應用，以預防壽險公司和保險仲介人成為非法收益管道並確保其在對抗洗錢與資恐方面維持一套紀錄並製作對於國內機關具實用性的報告。有效的政策與程序能降低風險程度，但不可能完全根除風險。評估洗錢/資恐風險需要判斷能力，不全然屬於科學領域。監督旨在偵測極大量合法交易間是否存在不尋常或可疑的交易此外，何謂不尋常的劃分法並非總是直接了當，因為何謂「習慣性」可能因客戶的事業性質而異。這就是為何在管理一套風險基礎制度時建立準確的客戶基本資料如此重要了。此外，程序和控管方式經常是以之前預示報告中的個案為依據，但是犯罪份子卻會不斷調整其計謀。

83. Additionally, not all high risk situations are identical, and therefore will not always require precisely the same level of enhanced due diligence. As a result, supervisors will expect life insurance companies and intermediaries to identify individual high risk categories and apply specific and appropriate mitigation measures. For example, some categories could be:

83. 此外，並非所有高風險情況都相同，所以並非每次都要求執行完全相同的加強客戶審查。因此，監理機關會期待壽險公司和保險仲介人辨識個別高風險類別並採用特定相關的降低措施。舉例而言，部分類別可能是：

- Non-resident customers (to understand why they want to open an account in a different country).
- 非居民客戶（以了解為何他們會想在不同國家境內開戶）。
- Politically Exposed Persons (to apply a specific policy); and
- 擔任重要政治性職務人士（以應用特定的政策）；以及
- Companies with bearer shares (to exert particular vigilance on the identification and verification of the beneficial owner).
- 擁有無記名股票的公司（特別注意辨識並確認實質受益人）。

84. Further information on the identification of specific risk categories is provided in Section Three, “Guidance for the Private Sector”.

84. 有關辨識特定風險類別的進一步資訊，請見第三部分：「私部門指引」。

Proportionate Supervisory Actions to support the Risk-Based Approach *支援風險基礎方法的合乎比例監管行動*

85. Supervisors should seek to identify weaknesses through an effective programme of both on-site and off-site supervision, and through analysis of internal and other available information.

85. 監理機關應努力透過有效的現場和遠端監管計畫以及透過分析內部與其他可用資訊等找出弱點。

86. In the course of their examinations, supervisors should review an insurance company or intermediary’s AML/CFT risk assessments, as well as its policies, procedures and control systems to arrive at an overall assessment of the risk profile of the company and the adequacy of its mitigation measures. Where available, assessments carried out by or for the company or intermediary may be a useful source of information. The assessment should include sample transaction testing of customer accounts to validate the assessment. The supervisor’s assessment of management’s ability and willingness to take necessary corrective action is also a critical determining factor. Supervisors should use proportionate actions to ensure proper and timely correction of deficiencies, taking into account that identified weaknesses can

have wider consequences. Generally, systemic breakdowns or inadequate controls will result in the most severe supervisory response.

86. 進行檢查時，監理機關應審核保險公司或保險仲介人的防制洗錢/打擊資恐風險評估及其政策、程序和控管制度，如此才能整體評估公司的風險資料及其採取的降低措施之適當性。若有公司或保險仲介人執行或替其執行的評估，可能是實用的資訊來源。評估內容應包含針對客戶帳戶進行交易抽樣檢測，讓評估具備有效性。監理機關針對管理能力和採取必要改善措施之意願所做的評估也是一個重要的決定因素。監理機關應採取合乎比例的行動，確保妥善及時地更正缺失，將發現的弱點可能造成更廣泛的後果納入考慮。一般而言，制度瓦解或不當的控管方式將導致最嚴厲的監理官的回應。

87. Nevertheless, it may happen that the lack of detection of an isolated high risk transaction, or of transactions of an isolated high risk customer, will in itself be significant, for instance where the amounts are significant, or where the ML/TF typology is well known, or where such a scheme has remained undetected for a long time. Such a case might indicate an accumulation of weak risk management practices or regulatory breaches regarding the identification of high risks, transaction monitoring, staff training and internal controls, and therefore, might alone justify supervisory action.

87. 儘管如此，仍可能發生未偵測到個別高風險交易或是個別高風險客戶的交易、它本身是否有意義、例如金額重要或是洗錢/資恐預示報告被充分知悉或此類計畫已經很久都沒被偵測到等情況。如此的情況可能表示風險管理做法持續無力或長期以來在辨識高風險、交易監督、人員訓練以及內部控制方面均為遵照法規規定，因此可能即需要監理機關採取行動。

88. Supervisors should be in a position to compare risk factors and procedures used by peer life insurance companies and intermediaries. This will, among other objectives, assist the supervisors in better understanding how life insurance companies and intermediaries are developing and implementing a risk-based approach, as well as in identifying potential deficiencies. Similarly, supervisors can and should use their knowledge of the risks associated with products, services, customers and geographic locations to help them evaluate life insurance companies and intermediaries ML/TF risk assessment, with the understanding, however, that they may possess information that has not been made available to life insurance companies and intermediaries and, therefore, life insurance companies and intermediaries would not have been able to take such information into account when developing and implementing a risk-based approach. Supervisors (and other relevant stakeholders) are encouraged to use that knowledge to issue guidelines to assist life insurance companies and intermediaries in managing their risks. Where life insurance companies and intermediaries are permitted to determine the extent of the CDD measures on a risk sensitive basis, this should be consistent with guidelines issued by the competent authorities⁸. An assessment of the risk-based approach will, for instance, help identify cases where companies use excessively narrow risk categories that do not capture all existing risks, or adopt criteria that lead to the identification of a large number of higher risk relationships, but without providing for adequate additional due diligence measures.

88. 監理機關應做好準備，比較同儕壽險公司和保險仲介人的風險因子以及採用的程序。除了其他目標，這還將有助於監理機關進一步了解壽險公司和保險仲介人如何制定和執行一套風險基礎方法以及辨識潛在缺失。同樣地，監理機關可以並且應該善用其對於產品、服務、客戶和地理位置相關風險的認知協助其評估壽險公司和保險仲介人的洗錢/資恐風險評估結果，但是必需體認到它們可以處理壽險公司和保險仲介人還無法獲得的資訊，因此壽險公司和保險仲介人在制定並實施一套風險基礎方法時無法把這類資訊納入考慮。鼓勵監理機關（以及其他相關利害關係方）利用該認知發行規範，協助壽險公司和保險仲介人管理其風險。允許壽險公司和保險仲介人在風險的基礎上判

⁸ FATF Recommendations 5 & 25, Methodology Essential Criteria 25.1 and 5.12.

⁸ 防制洗錢金融行動工作組織建議 5 與 25，評鑑方法論核心原則 25.1 和 5.12。

定客戶審查措施的程度時，應與權責機關發行的規範一致⁸。舉例而言，評估一套風險基礎方法有助於發現公司採用無法捕捉所有既有風險、過度狹隘的風險類別或採用導致發現過多較高風險的合作關係之條件但是卻無法提供適當的額外盡職調查措施等情況。

89. In the context of the risk-based approach, the primary focus for supervisors should be to determine whether or not the insurance company or intermediary's AML/CFT compliance and risk management programme is adequate to: (a) meet the minimum regulatory requirements, and (b) appropriately and effectively mitigate the risks. The supervisory goal is not to prohibit high risk activity, but rather to be confident that life insurance companies and intermediaries have adequately and effectively implemented appropriate risk mitigation strategies.

89. 採用風險基礎方法時，監理機關的主要重點應在於決定保險公司或保險仲介人的防制洗錢/打擊資恐法令遵循和風險管理計畫是否足以：(a) 符合最低的法規要求並 (b) 有效降低風險。監理的目的不是在於禁止高風險活動，而是在於對保險公司和保險仲介人有適當有效執行的相關風險降低策略感到有信心。

90. Under FATF Recommendation 29, supervisors should impose adequate sanctions for failure to comply with statutory and regulatory requirements to combat ML/TF, and effective AML/CFT supervision requires that the supervisor has available an appropriate range of supervisory tools for use when, in the supervisor's judgement, a company or an intermediary is not complying with laws, regulations or supervisory decision. These tools include the ability to require a life insurance company or intermediary to take prompt remedial action and to impose penalties⁹. In practice, the range of tools available should be applied in accordance with the gravity of a situation.

90. 根據防制洗錢金融行動工作組織建議 29，監理機關應就未遵守防制洗錢及打擊資恐的成文法和規範要求實施適當的制裁而有效的防制洗錢/打擊資恐監理需要監理機關擁有相關數量的監管工具，方便在監理機關判定某家公司或保險仲介人並未遵照法律、規範或監理決定時使用。這類工具包括要求壽險公司或保險仲介人快速採取補救行動並進行懲處的能力⁹。實務上，應根據情況的嚴重程度應用可用的各類工具。

91. Fines and/or penalties may not be necessary in all regulatory actions to correct or remedy AML/CFT deficiencies. However, supervisors must have the authority and willingness to apply fines and/or penalties in cases where substantial deficiencies exist. More often than not, action should take the form of a remedial program through the normal supervisory processes.

91. 在矯正或補救防制洗錢/打擊資恐缺失時並非所有法規行動均需牽涉到罰款和/或罰則。但是，監理機關必需擁有在存在具體缺失時罰款和/或懲處的權力和意願。往往會透過常態的監管過程以補救計畫形式採取行動。

92. A number of generic aspects of proportionate supervisory actions have been set out in the International Association of Insurance Supervisors (IAIS) Core Principles and Methodology (October 2003). The key concepts drawn from these principles concerning the fight against money-laundering and terrorist financing are outlined in Annex 1.

92. 國際保險監督管理協會（IAIS）核心原則和評鑑方法論（2003 年 10 月）中已經列出許多有關合乎比例監管行動的通用層面。來自這些原則、和對抗洗錢以及資恐有關的重要概念列於附錄 1。

⁹ See IAIS Core Principles and Methodology – ICP15 (October 2003)

⁹ 請參見 IAIS 核心原則和評鑑方法論 – ICP15（2003 年 10 月）。

93. In considering the above factors it is clear that proportionate regulation will be supported by two central features:

93. 考慮上述因素時，顯而易見地，合乎比例的規範主要有兩個核心特徵：

a) Regulatory Transparency

a) 法規透明度

94. In the implementation of proportionate actions, regulatory transparency will be of paramount importance. Supervisors are aware that life insurance companies and intermediaries, while looking for operational freedom to make their own risk judgements, will also seek guidance on regulatory obligations. As such, the regulator with AML/CFT supervisory responsibilities should seek to be transparent in setting out what it expects from regulated companies, and will need to consider appropriate mechanisms of communicating these messages. For instance, this may be in the form of high-level requirements, based on desired outcomes, rather than detailed process.

94. 執行合乎比例的措施時，監管透明度將具有極高重要性。監理機關清楚壽險公司和保險仲介人在追求自行進行判斷風險的操作自由時也會找尋法規義務指引。因此，負有防制洗錢/打擊資恐監理責任的監理機關在設定其期望時應努力透明化並且將需要考慮傳達這些訊息的相關機制。例如，此機制可能以期待的結果為考量，並以高層次要求而非以細部流程的形式呈現。

95. No matter what individual procedure is adopted, the guiding principle will be that life insurance companies and intermediaries are aware of their legal responsibilities and regulatory expectations. In the absence of this transparency there is the danger that supervisory actions may be perceived as either disproportionate or unpredictable which may undermine even the most effective application of the risk-based approach by life insurance companies and intermediaries.

95. 不管採取的個別程序為何，指導原則將是：壽險公司和保險仲介人清楚其法律責任和監理機關對他們的期待。在沒有這樣的透明度下，監理行動就有被認為不合乎比例或不具預測能力的危險，可能讓壽險公司和保險仲介人風險基礎方法無法達到最有效的應用。

b) Staff Training of Supervisors and Enforcement Staff

b) 監理機關的人員和執法人員的訓練

96. In the context of the risk-based approach, it is not possible to specify precisely what a life insurance company or intermediary has to do, in all cases, to meet its regulatory obligations. Thus, a prevailing consideration will be how best to ensure the consistent implementation of predictable and proportionate supervisory actions. The effectiveness of supervisory training will therefore be important to the successful delivery of proportionate supervisory actions.

96. 若採取風險基礎方法，即不可能準確地詳述壽險公司和保險仲介人在各情況下必需做到，才算善盡法規義務的細節。因此，普遍會考慮的將是如何最佳確保可預測的和合乎比例的監理行動能夠一致地實施。因此有效監理訓練對於是否能夠成功採取合乎比例的監理行動很重要。

97. Training should aim to allow supervisory staff to form sound comparative judgements about life insurance companies and intermediaries AML/CFT systems and controls. It is important in conducting assessments that supervisors have the ability to make judgements regarding management controls in light of the risks assumed by companies and considering available and widely known industry practices. Supervisors might also find it useful to undertake comparative assessments so as to form judgements as to the relative strengths and weaknesses of different companies' arrangements.

97. 訓練的目的應在於讓監理人員能夠對於壽險公司和保險仲介人的防制洗錢/打擊資恐制度與控管方式做出健全的比較判斷。執行評估時很重要一點是：監理機關必需有能力在考量公司承擔的風險後針對管理控制做出判斷，將可用並且廣為人知的產業做法納入考慮。監理機關可能也會發現另一個實用的做法，就是：進行比較評估，以便針對不同公司安排的相關優缺點做出判斷。

98. The training for supervisors should include evaluation of senior management capacity to implement adequate risk management measures, and the necessary procedures and controls. The training should also include reference to specific guidance, where available. It should be noted that “the supervisory process should include not only a review of policies and procedures, but also a review of customer files and the sampling of some accounts”¹⁰. The supervisor has equally to assess whether or not the processes are adequate, and if it “determines that the risk management processes are inadequate, it has the power to require a life insurance company or intermediary to strengthen them”¹¹. Supervisors also should be satisfied that sufficient resources are in place to ensure the implementation of effective risk management.

98. 監理機關的訓練應包含評估資深管理階層實施適當的風險管理措施者能力以及必要的程序和控管方式。訓練亦應包括參照特定指引（若提供）。應該注意的是：「監管過程應不僅包含檢視政策與程序亦應包含檢視客戶檔案和抽查部分帳戶」¹⁰。同樣地，監理機關必需評估各過程是否適當並在「判定風險管理過程不妥善時，有權力要求壽險公司或保險仲介人進行加強」¹¹。監理機關亦應對於已有充足的資源可確保實施有效的風險管理感到滿意。

99. To fulfil these responsibilities, training should enable supervisory staff to adequately assess:

99. 若要善盡這些責任，訓練即應讓監理人員適當地評估：

- The quality of internal procedures, including ongoing employee training programmes and internal audit, compliance and risk management functions.
- 內部程序的品質，包括持續性員工訓練計畫及內部稽核、遵循與風險管理部門。
- Whether or not the risk management policies and processes are appropriate in light of the insurance company or intermediary's risk profile, and are periodically adjusted in light of changing risk profiles.
- 風險管理政策和程序是否適用於壽險公司或保險仲介人的風險資料並根據風險資料出現的變化定期調整？
- The participation of senior management to confirm that they have undertaken adequate risk management, and that the necessary procedures and controls are in place.
- 高階管理團隊是否參與以確定已進行完善的風險管理，並且制定必要的程序與控制。

Whilst by no means an exhaustive list, onsite examination topics may include the following:

雖然清單不可能列出全部，但是現場檢查的主題可包含下列：

- The application of a group-wide policy
- 應用適用整個集團的政策
- Assessment of the risk associated with each business line
- 評估與各事業線有關的風險
- The extent that assessments have been formally documented and segmented by products, delivery channels, types of customer and geographic location of customers
- 根據產品、交付管道、客戶類型以及客戶的地理位置正式記錄並進行區分評估的程度
- Extent of CDD procedures including identification of new customers, customer profiling and collection of 'Know Your Customer' information
- 客戶審查程序的程度，包括辨識新客戶、客戶資料建立以及收集「認識客戶」資訊等。

¹⁰ See R.29 and *Customer due diligence for banks*, § 61.

¹⁰ 見建議 29 和《銀行客戶盡職調查》第 61 條。

¹¹ IAIS Core Principles and Methodology, ICP10.

¹¹ IAIS 核心原則和評鑑方法論，ICP10。

- Additional due diligence is undertaken in relation to high risk customers and businesses, e.g. Politically Exposed Persons
- 針對高風險客戶和企業（如：擔任重要政治性職務人士）執行額外的客戶審查。
- Transaction monitoring procedures in place and how alerts are reviewed
- 存在的交易監督程序以及檢視警示的方式
- Policies determining how and on what basis existing customer files may be updated
- 判定可更新既有客戶檔案的方式和基礎的政策
- Quality of internal systems and controls, including processes for identifying and reporting large cash and suspicious transactions
- 內部制度和控管品質，包括發現與通報大筆現金與可疑交易等過程。
- Policies on record keeping and ease of retrieving identification evidence or transaction records
- 有關記錄以及放寬取得身分證據或交易紀錄的權限之政策
- Scope, frequency and audience of AML/CFT training and evaluation of effectiveness
- 防制洗錢/打擊資恐訓練與有效性評估的範圍、頻率與對象
- Appropriate sample testing
- 相關抽樣
- Quality and sufficiency of reporting to senior management and the Board to determine adequacy and effectiveness
- 向資深管理階層以及董事會通報的品質和充分性以判定適當性和有效性。

There is no set of 'right answers' to these topics. The key considerations are that (a) the insurance company is meeting any minimum regulatory requirements (b) the insurance company has identified its money laundering and terrorist financing risks, worked out how best to manage those risks, and devoted adequate resources to the task; and (c) senior management is properly accountable for AML/CFT controls.

對於這些主題並未設定「正確答案」。重要的考慮因素有（a）保險公司是否符合任何最低的法規要求；（b）保險公司是否已發現洗錢和資恐風險、研擬管理這些風險的最佳方式並投入適當的資源；以及（c）資深管理階層是否對防制洗錢/打擊資恐妥善承擔責任。

SECTION THREE: GUIDANCE FOR LIFE INSURANCE COMPANIES AND INTERMEDIARIES ON IMPLEMENTING A RISK-BASED ANTI-MONEY LAUNDERING PROGRAM

第三節：壽險公司和保險仲介實施風險基礎防制洗錢計畫指引

Preamble

前言

100. Implementing a risk-based approach establishes criteria against which a life insurance company or intermediary's customers, products, distribution channels and geographical locations can be assessed with respect to the degree of risk they pose the company as a target of money laundering or as a vehicle for terrorist financing.

100. 實施風險基礎方法有助於建立評估壽險公司或保險仲介人的客戶、產品、通路以及地理位置及公司成為洗錢目標或被當作資恐工具方面呈現的風險程度之標準。

101. Life insurance companies provide insurance products to customers through a number of different distribution channels, many of which involve intermediaries. Intermediaries play an important service role in the introduction and placement of life insurance and other investment related insurance products with insurance companies and such a role has implications for the risk-based approach to combating ML/TF (See Annex 3). Within this framework, customers' occupation and source of funds, the frequency and type of customer transactions, the geographic location of customers and intermediaries, the degree to which intermediaries are regulated for AML/CFT, and governmental and international organizations sanctions and guidance may be considered in determining the degree of risk, identifying mitigating controls, and allocating resources to the highest risk customers, products, and countries.

101. 壽險公司透過很多不同的通路提供客戶保險產品，很多時候是透過保險仲介人。保險仲介人在介紹和置入壽險和保險公司提供的其他投資型保險產品時扮演著重要的服務角色，而此角色對於防制洗錢及打擊資恐（見附錄 3）時採取的、風險基礎方法有其意義。在如此的框架內判定風險程度、辨識降低控管方式並分配資源給最高風險的客戶、產品與國家時，客戶的職業和資金來源、客戶審查的頻率和類型、客戶與保險仲介人的地理位置、保險仲介人受防制洗錢/打擊資恐規範的程度以及政府和國際組織的制裁和指引等均應予以考慮。

102. Money laundering is an activity in which the participants seek to conceal its criminal nature in order to evade detection. In the absence of insider information known only to the criminals themselves, the analysis of money laundering risks is based on professional experience formed from information derived from cases that have become publicly known as well as vulnerabilities identified by life insurers that may not be publicly known. As a result, client profiles based on false or misleading information given by customers with criminal intentions may only be of limited or no practical use. The purpose of preventive measures is to reduce and minimize the extent to which false or misleading information can be effectively used to hide illicit activity.

102. 洗錢是指參與者為了規避偵察努力掩飾其犯罪性質的活動。在缺乏只有犯罪人士本身知道的內部資訊下，洗錢分析是以自己被公開知悉的個案資訊以及可能尚未被公開知悉經壽險公司發現的弱點形成的經驗為依據。因此，根據有犯罪意圖的客戶提供之錯誤或誤導資訊建立的客戶資料可能僅具有有限用途或實際上完全沒有用。預防措施的目的在於降低錯誤或誤導的資訊可被有效用以隱藏非法活動的程度。

103. Characteristics of terrorist financing present differently from money laundering and, therefore, the associated risk may be difficult to assess without a more comprehensive set of indicators of the methods and techniques used for terrorist financing (see paragraphs 37 to 41). However, a reasonably

designed risk-based approach to money laundering, as well as an insurer's anti-fraud activities, can assist in providing a means by which potential terrorist financing risks can be assessed (at least partially).

103. 資恐呈現的特徵和洗錢不同，因此，對於資恐的方法與技術沒有更為全面的指標下可能難以評估相關風險（請見第 37-41 項）。但是，針對洗錢採取設計合理、風險基礎方法以及保險公司的反詐欺努力均有助（至少部分）評估潛在的資恐風險。

104. Although its vulnerability is not regarded by the IAIS to be as high as for other sectors of the financial industry the insurance sector is a possible target for money launderers and terrorist financing.¹² Life insurance companies and intermediaries should therefore work with regulators and law enforcement to take adequate measures to mitigate and manage potential risks.

104. 雖然其弱點不被 IAIS 認為像金融業其他部門那麼高，但是保險部門仍可能輪為洗錢人士和資恐目標¹²。因此，壽險公司和保險仲介人應與監理機關以及權責機關合作，採取適當措施，降低並管理潛在風險。

105. Products offered by life insurance companies are primarily aimed at transferring the financial risk of a certain event - such as premature death or outliving savings in retirement - from the insured to the insurer. Customers buy life insurance contracts for which they remit stated payments and are guaranteed a minimum payment as designated at death or some other specified time.

105. 壽險公司提供的產品主要旨在將特定事件的金融風險自被保險人轉移至保險人 - 如：早逝或退休金用完了。客戶購買壽險契約後會電匯陳述的款項並保證在死亡時或在其他特定時間能夠獲得一筆最低金額的款項。

106. A customer may be an individual, a legal person, or a legal arrangement, and there could also be beneficial owners involved. The beneficiary of the contract may be the customer or it may be a third party to the relationship between the insurer and the customer. Further issues may arise from factors such as (but not limited to) the assignment of the legal right to the benefit of the contract, the provision of a “cooling off” period and cross border elements to the relationship.

106. 這個客戶可能是個人、法人或法定代理人，也可能牽涉到實質受益人。契約受益人可能是客戶本身或可能是保險人和客戶關係之外的第三方。其他可能衍生的問題還包括（但不限於）根據契約效益分配的法定權利、提供一個「審閱」期以及該關係的跨境要素。

107. Ultimately, effective prevention of money laundering and terrorist financing depends on close cooperation among regulators, law enforcement, and life insurance companies, and a risk-based approach establishes a joint framework that facilitates useful feedback and a partnership among these stakeholders. For life insurance companies and intermediaries, this means a commitment to develop and implement reasonable, risk-based policies, procedures and controls which address the risks of financial crime posed by their products, customers, distribution channels and geographical locations and assist in the reporting of suspicious activity and other relevant information to the competent authority. Regulators and law enforcement should be willing and able to share information with the industry so that they may develop programs that address the risks known to the government.

107. 最終是否能夠有效預防洗錢和資恐視監理機關、權責機關以及壽險公司之間是否能夠密切合作而定而一套風險基礎方法能夠建立方便實用反饋並讓利害相關方之間建立合作關係的一個聯合框架。以壽險公司和保險仲介人而言，這代表著對於制定並實施合理的、風險基礎政策、程序和控管方式，處理其產品、客戶、通路和地理位置呈現的金融犯罪風險並協助向權責機關通報可疑活

¹² See, International Association of Insurance Supervisors, *Guidance Paper on Anti-Money Laundering and Combating the Financing of Terrorism*, October 2004, p. 1

¹² 請見國際保險監督管理協會於 2004 年 10 月公佈的反洗錢與對抗資恐指導文件第 1 頁。

動與其他相關資訊的承諾。監理機關與權責機關應要願意並且能夠與業界分享資訊，以便制定計畫，處理政府已經知道的風險。

Chapter One: Risk Categories

第一章：風險類別

108. In order to implement a reasonable risk-based approach, life insurance companies and intermediaries should identify appropriate criteria for categorizing risks and assessing risks in each category. Identification of the ML/TF risks posed by customers, categories of customers, beneficial owners, beneficiaries, products, distribution channels and geographies together with an assessment of the level of the risk, will allow life insurance companies and intermediaries to determine and implement appropriate policies, procedures and controls to mitigate these risks. While a risk assessment should always be undertaken at the inception of a customer relationship, for some customers, a comprehensive risk profile may only become evident over time. A life insurance company or intermediary may also have to adjust its view of a particular customer, distribution channel, geography or product based upon information received from a competent authority.

108. 為了實施一套合理風險基礎方法，壽險公司和保險仲介人應找出有助於將風險分類以及評估各類別所含風險的標準。發現客戶、客戶類別、實質受益人、受益人、產品、通路和地理位置共同呈現的洗錢/資恐風險將有助於壽險公司與保險仲介人判定並實施相關政策、程序和控管方式，以降低這些風險。雖然應該永遠在建立客戶關係時即進行風險評估，但是針對部分客戶，全面的風險資料必需過一段時間才會變得明顯。壽險公司或保險仲介人可能也必需根據其自權責機關接獲的資訊調整其對於特定客戶、通路、地理位置或產品的看法。

109. While there is no universal set of risk categories, the examples provided herein are the most commonly identified risk categories. There is no one single methodology to apply to assessing the risk in these categories, and the application of these risk categories is intended to provide a broad strategy for managing the potential risks.

109. 雖然並無一套公認的風險類別，但是這裡提供的例子都是最普遍獲得認同的風險類別。評估這些類別所含風險時，並無一套「放諸四海皆準」的方法；但是，應用這些風險類別的用意在於提供管理潛在風險的一套廣泛策略。

Country/Geographic Risk

國家地理風險

110. Country risk, in conjunction with other risk factors, provides useful information when assessing ML and TF risks. Factors that may result in a determination that a country poses a higher risk include:

110. 國家風險和其他風險因子併用時能在評估洗錢和資恐風險方面提供實用的資訊。可能導致判定某個國家呈現較高風險的因素包括：

- Countries identified by FATF Statements as having weak AML/CFT regimes, and for which financial institutions should give special attention to business relationships and transactions.
- 在防制洗錢金融行動工作組織聲明中被認為防制洗錢/打擊資恐制度有漏洞並且金融機構應特別注意與其往來的企業關係和交易的國家。
- Countries or geographic areas subject to sanctions, embargoes, or statements of concern issued by international bodies such as the United Nations (“UN”), FATF, or governments. In addition, in some circumstances, countries subject to sanctions or measures similar to those issued by bodies such as the UN, but which may not be universally recognized, may be

given credence by a life insurance company or intermediary because of the standing of the issuing body and the nature of the measures.

- 接受國際機構（如：聯合國 [UN]、防制洗錢金融行動工作組織或各國政府）制裁、禁運或發出關切聲明的國家或地理區域。此外，有時候，因為實施方的可信度和措施的性質，壽險公司或保險仲介人還是可以信任接受類似於諸如 UN 等機構實施但可能未受普遍認同的制裁或措施的國家。
- Countries or geographic areas identified by credible sources¹³ as lacking appropriate AML/CFT laws, regulations and other measures.
- 經可靠來源認定¹³ 缺乏相關防制洗錢/打擊資恐法律、規範和其他措施的國家或地理區域。
- Countries or geographic areas identified by credible sources as providing funding or support for terrorist activities or that have designated terrorist organisations operating within them.
- 經可靠來源認定贊助或支援恐怖活動並有指定的恐怖組織在其境內運作的國家或地理區域。
- Countries or geographic areas identified by credible sources as having significant levels of corruption, or other criminal activity.
- 經可靠來源認定有明顯腐敗或其他犯罪活動的國家或地理區域。
- Countries or geographic areas where protection for customers' privacy prevents the effective implementation of AML/CFT requirements and/or facilitates the framework for the establishment of shell-companies or the issuance of bearer shares.
- 客戶隱私權的保護使得無法有效執行防制洗錢/打擊資恐規定和/或方便建立空殼公司或發行無記名股票的國家或地理區域。
- Cross border elements such as the insurer, the customer and the beneficiary of the contract being in separate jurisdictions.
- 跨國要素，如：保險人、客戶以及契約的受益人分屬不同轄區等。

111. Life insurance companies and intermediaries should take into account warnings issued by competent authorities about risks applicable to countries or geographic areas, including the specificity as to the particular risks posed.

111. 壽險公司和保險仲介人應將權責機關對於適用各國或地理區域的風險發出的警告納入考慮，包括諸如呈現的特定風險等細節。

¹³ “Credible sources” refers to information that is produced by well-known bodies that generally are regarded as reputable and that make such information publicly and widely available. In addition to the FATF and FATF-style regional bodies, such sources may include, but are not limited to, supra-national or international bodies such as the International Monetary Fund, the World Bank and the Egmont Group of Financial Intelligence Units, as well as relevant national government bodies and non-governmental organisations.

¹³ 「可靠來源」係指由普遍被視為聲名卓著的知名機構製作的資訊，這類資訊通常公開而且隨處可得。除了防制洗錢金融行動工作組織和防制洗錢金融行動工作組織風格的地區機構外，此類來源還可能包括（但不限於）超越國家的機構或國際機構（如：國際貨幣基金組織、世界銀行和艾格蒙組織財富情報組別）以及相關的各國政府機構與非政府組織等。

Customer Risk

客戶風險

112. Determining the potential ML/TF risks posed by a customer or category of customers is critical to the development of an overall risk framework. Based on its own criteria and consistent with applicable law, an insurance company or intermediary should determine whether a particular customer or category of customer poses a higher risk. Application of risk variables may mitigate or exacerbate the risk assessment. Categories of customers whose activities may indicate a higher risk include:

112. 判定某個客戶或某個類別的客戶呈現的潛在洗錢/資恐風險攸關是否能夠制定一套整體的風險框架。根據其本身的標準並且與相關法律一致下，保險公司或保險仲介人應判定特定客戶或特定類別的客戶是否呈現較高風險。應用風險變數可能降低或加劇風險評估的結果。其活動可能表示較高風險的客戶類別有：

- Customers conducting their business relationship or transactions in unusual circumstances, such as:
- 在不尋常的情況下做生意或進行交易的客戶，如：
 - Significant and unexplained geographic distance between residence or business location of the customer and the location where the product sale took place (or the location of the insurer's representative).
 - 客戶的住處和營業地點與銷售產品的地點（或是保險人代表所在地點）距離過於遙遠而且無法合理解釋。
 - Frequent and unexplained movement of accounts/policies/contracts/funds to different insurance companies or other financial institutions.
 - 經常沒有原因地移動帳戶/保單/契約/資金至不同的保險公司或其他金融機構。
 - Frequent and unexplained movement of funds between financial institutions in various geographic locations.
 - 經常沒有原因地在分別位於不同地理區域內的金融機構間移動資金。
- Customers that are legal persons whose structure makes it difficult to identify the ultimate beneficial owner or controlling interests.
- 難以根據其結構辨識最終的實質受益人或控制利益的法人客戶。
- Customers who seek or accept very unfavourable account/policy/contract provisions or riders.
- 找尋或接受極不利的帳戶/政策/契約條款或附約的客戶。
- Customers who rely on “free look” provisions in unusual circumstances¹⁴.
- 在不尋常的情況下仰賴「審閱期」條款的客戶¹⁴。

¹⁴ A “free look” provision is a contractual provision, often mandatory under local law, which allows a policy owner or annuitant of a life insurance or annuity contract to examine a contract for a certain number of days and return it for a full refund.

¹⁴ 「審閱期」條款是契約內的一個條款，各國法律常有此一強制規定，讓投保人在壽險或年金契約每年領回者得以在特定的天數內檢視契約並且可以全額退費者。

- Charities and other “not for profit” organisations which are not subject to monitoring or supervision (especially those operating on a “cross-border” basis)¹⁵.
- 不受監督或監管的慈善機構和其他「非營利」組織（特別是「跨國」運作的這類組織）¹⁵。
- "Gatekeepers" such as accountants, lawyers, or other professionals holding accounts/policies/contracts at an insurance company, acting on behalf of their clients, and where the insurance company places unreasonable reliance on the gatekeeper.
- 「看管人」（像是會計人員、律師或其他持有保險公司帳戶/政策/契約的專業人士），代其當事人行使權利而且保險公司不合理地信任看管人。
- Customers who are Politically Exposed Persons (PEPs).
- 屬於擔任重要政治職務人士的客戶（PEP）。
- Customers where the beneficial owner of the contract is not known (e.g. certain trusts).
- 契約的實質受益人不明的客戶（如：特定信託）。
- Customers who are introduced through non face-to-face channels.
- 經由非面對面管道引薦的客戶。
- Customers who use unusual payment methods, such as cash, cash equivalents (when such a usage of cash or cash equivalents is, in fact, unusual), or structured monetary instruments.
- 使用不尋常的支付方式，如現金、現金等同物（而這類現金或現金等同物的使用事實上並不尋常）或結構型貨幣商品的客戶。
- Customers who seek early termination of a product (including during the "free look" period), especially at a cost to the customer, or where payment is made by, or the refund check is directed to, an apparently unrelated third party.
- 想要提早終止產品（包含在「審閱期」間）的客戶，特別是必需自行負擔費用時或費用是由一個明顯不相關的第三方或退款的支票是開給明顯不相關的第三方時。
- Customers who transfer the benefit of a product to an apparently unrelated third party.
- 將產品效益轉讓給明顯不相關的第三方之客戶。
- Customers who show little concern for the investment performance of a product, but a great deal of concern about the early termination features of the product.
- 對於產品的投資績效不太關心但是對於產品提早中止的特點卻特別有興趣的客戶。
- Customers who are reluctant to provide identifying information when purchasing a product, or who provides minimal or seemingly fictitious information.
- 購買產品時不情願提供身分資訊或是提供的資訊極少或看似虛構的客戶。

113. Similar issues, criteria or circumstances may be relevant to the ML/FT risk associated with the beneficiary(ies) of the life insurance contract.

113. 可能和壽險契約受益人有關的洗錢/資恐風險相關的類似問題、條件或情況。

¹⁵ See Special Recommendation VIII.

¹⁵ 請見特殊建議 8。

Product/Service/Transaction Risk

產品/服務/交易風險

114. An overall risk assessment should also include determining the potential risks presented by different products and services offered by an insurance company. Life insurance companies should be mindful of the risk associated with certain products or services not specifically being offered by life insurance companies, but that make use of the company's services to deliver the product. The following features may tend to increase the risk profile of a product:

114. 壽險公司應注意整體風險評估應包括判斷保險公司不同產品與服務所帶來的潛在風險，並非明訂由壽險公司提供，但使用該公司服務以交付產品之特定產品服務相關風險。以下的特徵可能容易提高產品的風險狀況：

- Acceptance of payments or receipts from third parties.
- 接受第三方的付款或收據。
- Acceptance of very high value or unlimited value payments or large volumes of lower value payments.
- 接受極高或無限價值的付款或大量低價值付款。
- Acceptance of payments made in cash or endorsed money orders or cashier cheques.
- 接受以現金或是背書匯票、銀行本票。
- Acceptance of frequent payments outside of a normal premium policy or payment schedule.
- 接受在一般保費保單或付款時程外的頻繁付款。
- Allowance of withdrawals at any time with limited charges or fees.
- 允許隨時提領現金且收取有限的手續費。
- Acceptance to be used as collateral for a loan and/or written in a discretionary or other increased risk trust.
- 接受產品當作貸款擔保品且／或寫入全權委託與其他風險增加之信託中。
- Products that allow for high cash values.
- 允許更高現金價值之產品。
- Products that accept high amount lump sum payments, coupled with liquidity features.
- 接受更高額的一次性支付，並有流通性特徵。
- Products with “free look” provisions, in particular when they are relied upon in unusual circumstances (*e.g.*, no credible reason for reliance is present or a request is made to send the refunded monies to an unrelated third party, a foreign financial institution, or to an entity located in a high risk country).
- 具有「審閱期」條款的產品，特別是在非一般狀況下適用的條款（例如：沒有適用之正當理由，或是要求將退回款項寄往無關之第三方、外國金融機構，或是位於高風險國家之團體）。
- Products that allow for assignment without the insurer being aware that the beneficiary of the contract has been changed until such time as a claim is made.
- 允許在保險公司不知情狀況下轉讓權益，直到申請理賠時才發現保險受益人改變的產品。

Variables That May Impact Risk 可能影響風險的變數

115. A life insurance company or intermediary's risk-based approach methodology should take into account risk variables specific to a particular customer or transaction. These variables, either singly or in combination, may increase or decrease the perceived risk posed by a particular customer, product, distribution channel, geographic location or transaction and may include:

115. 壽險公司或保險仲介人風險基礎方法，應該要考慮到各種針對特定客戶或交易的風險變數。這些變數，無論是個別或綜合，都可能增減特定客戶、產品、經銷管道、地理位置、交易所造成的感知風險，包括：

- Public information available on a customer.
- 針對一名客戶可以取得的公共資訊。
- A combination of higher risk factors within the client relationship. For example, a customer may be considered a higher risk customer if he or she seeks to purchase a medium/low risk product, be paying by a high risk method and/or conducting transactions that are out of the ordinary for the typical client within the category profile.
- 在客戶關係中，更高風險因素的結合。例如一名客戶要是想購買中低風險的產品，但以更風險的方法付款，且／或從事和該種類狀況一般客戶不同的交易，就會被視為風險更高的客戶。
- Group term life insurance – the perceived risk in relationship may increase or decrease depending on factors such as whether the corporate sponsor is a publicly listed company, the number of employees, the value of the contributions, and the options for employee contributions, cash withdrawals and options for continuation of the policy where employment is terminated. National legislation can allow for reduced CDD in these circumstances in a manner consistent with the FATF standards.
- 團體壽險 — 察覺這種關係風險之增減，取決於公司贊助人是否為上市公司、雇員人數、提撥金價值、員工提撥之選項、現金提領、終止雇用後保單是否延續之選項等因素。全國性法規可以允許在下列狀況下，以遵守防制洗錢金融行動工作組織標準的方法進行減少的客戶審查。
- The regularity or duration of the relationship. The long-standing nature of life insurance typically presents less risk. However, public evidence of financial criminal activity on the part of the customer may cause the insurance company to reconsider the risk posed by the customer, particularly if the policy contains investment elements that can be accessed on demand.
- 合作關係的規律性與持久性。壽險的長期性通常會使風險較低。但是客戶這部分金融犯罪活動的公開證據，可能造成保險公司重新思考客戶所造成的風險，尤其是具有投資元素，可以按需求取得的保單。
- The use of intermediate corporate vehicles or other structures that have no apparent commercial or other rationale or that unnecessarily increase the complexity of policy ownership or otherwise result in a lack of transparency. The use of such vehicles or structures, without an acceptable explanation, increases the risk.
- 使用與仲介合作工具或其他結構，但沒有明顯商業或其他理由，或不必要地增加保單所有人複雜性等等，會造成透明性的缺乏。若未提供可接受的解釋，則使用此類工具或結構會增加風險。

Controls for Higher Risk Situations **控管更高風險狀況。**

116. Life insurance companies and intermediaries should implement appropriate policies, procedures and controls to mitigate the potential money laundering and terrorist financing risks of those customers, products and countries that they determine pose a higher risk. Risk mitigation measures and controls may include:

116. 壽險公司與保險仲介人應執行適當的策略、程序、管控，以減輕這些被他們判斷風險更高的客戶、產品、國家，其潛在洗錢與資恐風險。風險減輕措施與控管可能包括：

- A system to identify and monitor higher risk customers and transactions within business lines across the company.
- 在全公司各業務線中，找出與監測高風險客戶與交易的系統。
- Increased levels of CDD or enhanced due diligence. The measures should be directed toward strengthening the knowledge that the life insurance company or intermediary has about the customer with whom they are doing business, that they understand the true source of funds flowing through the product, and that they understand what usual and customary behaviour will look like for the customers purchasing that product.
- 增加客戶審查的層級或提高客戶審查。這些措施要直接針對強化壽險公司或保險仲介人對於往來客戶的知識，瞭解透過產品的真正資金流動來源，瞭解購買此等商品的客戶一般慣性的行為是什麼。
- Escalation for approval of the establishment of an account/policy/contract or relationship.
- 將建立帳戶／保單／合約或關係的批准升級。
- Increased monitoring of transactions (frequency, thresholds, volumes, etc.).
- 提高交易監測（頻率、門檻、量等等）。
- Increased levels of ongoing controls and frequency of reviews of relationships.
- 增加持續控管層級和合作關係審核頻率。

117. The same measures and controls may often address more than one of the risk criteria identified, and it is not necessarily expected that an insurance company establish separate controls, providing that identified heightened risks are addressed.

117. 同樣的措施與控制制度可能通常會解決不只一種所找到的風險標準，只要確定的高風險得到解決，亦無須期待保險公司建立不同的控制制度。

Chapter Two: Application of a Risk-Based Approach **第二章：以風險為基礎方式的運用**

Customer Due Diligence/Know Your Customer **客戶審查／瞭解你的顧客**

118. Customer Due Diligence/Know Your Customer is intended to ensure that life insurance companies or intermediaries ascertain the true identity of each customer, beneficial owner and beneficiary of the policy and assess with an appropriate degree of confidence the types of business and transactions the customer is likely to undertake. Consistent with applicable law, the life insurance company or intermediary's procedures should include procedures to:

118. 客戶審查／瞭解你的客戶，目的是確保壽險公司或保險仲介人確定各個客戶、實質受益人、

保單受益人的真實身分，並以適當的信心水準，評估該客戶可能從事的業務與交易種類。保險公司與保險仲介人的程序應與適用法律一致，並應包括以下程序：

- Identify and verify the identity of each customer before or during the course of establishing a business relationship.
- 在建立業務關係之前或過程中，辨識並驗證各個客戶的身分。
- Identify the beneficial owner of the customer, and take reasonable measures to verify the identity of the beneficial owner such that the life insurance company or intermediary is satisfied that it knows who the beneficial owner is.
- 辨識客戶的實質受益人，並採取合理措施驗證該實質受益人之身分，保險公司或保險仲介人了解其所認識的實質受益人身分。
- Identify and verify the identity of the beneficiary of the life insurance contract at or before the time of payout or the time when the beneficiary intends to exercise vested rights under the policy. Normally, and in the absence of indicators of higher risk, the anti-fraud checks regarding the identity of the beneficiary at the time of payout would be adequate.
- 在支付壽險合約，或受益人打算行使保單下既得利益之前或之際，辨識並驗證壽險合約受益人的身分。一般來說，在缺乏更高風險指標前，付款時關於受益人身分的反詐騙檢查就足夠了。
- Obtain appropriate additional information to understand the customer's circumstances and business, including the purpose and the expected nature of the relationship. Relevant Customer Due Diligence information should be periodically updated as part of the risk assessment process.
- 取得適當的更多資訊，以瞭解客戶的狀況與業務，包括這段關係的目的與期待中的性質。相關客戶審查資訊應該定期更新，作為風險評估流程的一環。

119. FATF Recommendation 9 allows a life insurance company to rely on intermediaries such as brokers or other third parties to perform some elements of the CDD process, provided that certain measures are in place. These are¹⁶:

119. 防制洗錢金融行動工作組織第 9 條建議，允許壽險公司在已經有特定措施的情況下，仰賴保險仲介人(如保險經紀人)，執行部分客戶審查流程環節。這些措施包括¹⁶：

- Immediately obtain from the intermediary or other third party the necessary CDD information.
- 必要的客戶審查資訊直接從保險仲介人或其他第三方處取得。
- Satisfy itself that copies of identification data and other relevant documentation relating to CDD requirements will be made available upon request without delay.
- 滿足可索取身分識別資料與其他與客戶審查規定有關之文件複本而毫不遲延的條件。
- Satisfy itself that the intermediary or other third party is regulated and supervised and has measures in place to comply with all the CDD requirements and record keeping obligations.
- 滿足保險仲介人或其他第三方受到規管監督，且已經有措施遵循所有客戶審查規定與紀錄保存義務之條件。

¹⁶ Recommendation 9 does not apply to outsourcing or agency relationship (e.g. agents).

¹⁶ 第 9 項建議不適用於外包或代理商關係（如代理人）。

- Rely only on those intermediaries or other third parties in countries which apply adequately the FATF standards¹⁷.
- 僅有在保險仲介人或其他第三方位於妥善採取防制洗錢金融行動工作組織標準的國家時，才仰賴此等公司¹⁷。
- Recognise that the ultimate responsibility for the customer identification and verification remains with the insurance company. However, intermediaries should also be made responsible for the validity of this information.
- 認識到客戶身分辨識與驗證的最終責任屬於保險公司。但是，保險仲介人也應該要為這些資訊的有效性負責。

When these conditions are met, the insurance company can rely on the intermediary or third party to perform the CDD requirements as well as the gathering of information on the purpose and the intended nature of the business relationship.

若達成這些條件，保險公司可以仰賴保險仲介人或第三方，執行客戶審查要求，還有收集業務關係之目的與意圖本質的資訊。

120. In practice, this reliance on third parties often occurs through introductions made by another member of the same financial services group. It may also occur in business relationships between insurance companies and insurance intermediaries.

120. 實務上，這樣仰賴第三方的狀況，通常會發生在相同金融服務集團其他成員介紹客戶時。也可能發生在保險公司與保險仲介人的業務關係之中。

121. Life insurance companies and intermediaries will determine the due diligence requirements appropriate to each customer. These would normally include a standard level of due diligence, to be applied to all customers.

121. 壽險公司與保險仲介人要判斷各個客戶適當的客戶審查規定。這通常會包括標準程度的客戶審查，適用於所有客戶。

122. According to national laws, the standard level of due diligence may be reduced in recognized lower risk scenarios, such as:

122. 根據一國法律，標準程度的客戶審查，在被認為低風險的狀況下可以減少，例如：

- Customers which are publicly listed companies subject to regulatory disclosure requirements.
- 客戶為法定必須公開資訊的上市公司。
- Customers which are other financial institutions (domestic or foreign) subject to an AML/CFT regime consistent with the FATF Recommendations.
- 客戶為其他（本國或海外）金融機構，須遵守與防制洗錢金融行動工作組織建議一致的防制洗錢／打擊資恐機制。

¹⁷ In determining in which countries the intermediary that meets the conditions can be based, an insurance company should consider information received from competent authorities and public information available in mutual evaluation reports issued by the FATF, the IMF, the World Bank and by FATF style regional bodies.

¹⁷ 在判斷合乎條件的仲介人可以位於哪些國家時，保險公司應考慮來自於權責機關與防制洗錢金融行動工作組織、IMF、世銀、各區域性防制洗錢組織所發出的共同評估報告中，提出的可用公開資訊。

- Transactions involving *de minimis* amounts for particular types of transactions such as¹⁸;
- 涉及特定種類交易之特定最低金額的交易，如¹⁸：
 - life insurance policies where the annual premium is no more than USD/€1000 or a single premium of no more than USD/€2500;
 - 年保費為 1,000 美元／歐元，或單次保費不超過 2,500 美元／歐元之壽險保單；
 - Insurance policies for pension schemes if there is no surrender clause and the policy cannot be used as collateral;
 - 無退保價值且不可抵押之退休金保單；
 - 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 (e.g. small insurance premiums).
 - 提供員工退休福利之退休金、養老金，或類似計畫，其提撥金以扣減薪資之方式進行，且該計畫不允許轉讓成員於該計畫下權益（如小額保費）。

123. The due diligence should be increased in respect of those customers, beneficial owners and beneficiaries that are determined to be of higher risk. This should be the result of the life insurance company or intermediary's assessment of their business activity, ownership structure, anticipated or actual volume or types of transactions, including those transactions involving higher risk countries or defined by applicable law or regulation as posing higher risk, such as PEPs¹⁹ and non face-to-face customers²⁰. When identifying the other factors that could cause a higher risk designation, it is inevitable to list one factor after another, but this does mean that any one factor alone would necessarily trigger a higher risk designation. Identification of multiple factors should result in a correspondingly higher level of enhanced measures.

123. 被判斷風險較高的客戶、實質受益人、受益人，其客戶審查範圍會擴大。這取決於保險公司或保險仲介人如何評估其業務活動、所有權結構、預期或實際交易量或種類，包括涉及更高風險國家，或是適用法律法規定義為風險更高者（如重要政治性職務人士¹⁹或非面對面客戶²⁰）的交易。在辨識其他可能造成判斷為更高風險的指名名單時，難免列出一項接一項的因素，但這不表示任何一項因素必然會造成被判斷為更高風險指名名單。找出多項因素，應該會造成對應的強化措施層級升高。

¹⁸ See Interpretative Note to Recommendations 5 Paragraph 12, listing as examples of where simplified CDD or reduced measures could be acceptable: life insurance where the annual premium is USD/EUR 1000 or a single premium is no more than USD/EUR 2500; insurance policies for pensions if there is no surrender value and the policy cannot be used as collateral; and employee pensions made by way of non-assignable salary deductions.

¹⁸ 參見第 5 項建議第 12 段的說明註解，列出簡化或減少客戶審查措施可以被接受的例子：年保費為 1,000 美元／歐元，或單次保費不超過 2,500 美元／歐元之壽險；無退保價值且不可抵押之退休金保單；為不可轉讓扣薪方式的雇員退休金。

¹⁹ See FATF Recommendation 6

¹⁹ 參見防制洗錢金融行動工作組織第 6 項建議。

²⁰ See FATF Recommendation 8

²⁰ 參見防制洗錢金融行動工作組織第 8 項建議。

Monitoring of Customers and Transactions **監測顧客與交易**

124. The degree and nature of monitoring by a life insurance company or intermediary will depend on the size of the company, the AML/CFT risks that the company has, the monitoring method being utilised (manual, automated or some combination), and the type of activity under scrutiny. In applying a risk-based approach to monitoring, life insurance companies and intermediaries must recognize that not all transactions, accounts/policies/contracts, or customers will be monitored in the same way. In highly automated operations, appropriate risk-based AML/CFT practices may start with filtering out those transactions and customers which need particular monitoring from the large number of transactions which are processed by highly-automated methods. The purpose of the process should be to identify clients whose activities appear to be unusual and which require further analysis to determine if there are grounds for further concern. The degree of monitoring will be based on the perceived risks associated with the customer, the products or services being used by the customer and the location of the customer and the transactions. These monitoring methodologies may change over time based on specific experience with a customer or after general experience by the insurance company as a whole. Monitoring methodologies and processes also need to take into account the overall volume of higher risk situations, resources of the insurance company and the information available for use by the insurance company.

124. 壽險公司或保險仲介人進行的監視，其程度與本質取決於公司規模、該公司的防制洗錢/打擊資恐風險、使用的監測方法（人工、自動化、兩者結合），以及被監視的活動種類。在監視上採用風險基礎手法時，壽險公司與保險仲介人一定要認識到，不是所有交易／帳戶／保單／合約，或客戶，必須用相通方式監測。在高自動化的營運中，適當風險基礎防制洗錢/打擊資恐實務可能是從高度自動化處理的大量交易中，過濾出需要特別監視的客戶與交易。此流程的目的，應該是找出活動看起來不尋常，需要進一步分析以判斷是否構成進一步顧慮基礎的客戶。監測的程度，係根據與該客戶、客戶使用的產品或服務、客戶與交易所在地相關的感知風險。這些監測方法可能會根據與客戶的特定經驗，或保險公司整體的一般經驗，隨著時間而有所變化。監測方法與流程也需要考慮到較高風險狀況、保險公司資源、保險公司可用資訊的整體總量。

125. The principal aim of monitoring in a risk-based system is to respond to enterprise-wide issues based on each life insurance company or intermediary's analysis of its major risks. Regulatory authorities should, therefore, be mindful of and give due weight to the determinations made by life insurance companies and intermediaries, provided that these determinations are consistent with any legislative or regulatory requirements, and are reasonable and adequately documented.

125. 風險基礎監測，其主要目的是根據各壽險公司或保險仲介人對主要風險分析，對全公司的議題有所回應。因此，只要保險公司與保險仲介人之判斷與法律法規規定一致，合理，並有適當文件紀錄，監理機關對此應予以注意並適當重視。

126. Subject to national legislation, monitoring under a risk-based approach should allow a life insurance company or intermediary to create monetary or other thresholds to identify transactions based on size or type which will be reviewed. Defined situations or thresholds used for this purpose should be reviewed on a periodic basis to determine adequacy for the risk levels established. Changes to systems and processes should be based on the analysis of the effectiveness and efficiency of prior results, new information that would warrant such changes, and the ability of the insurance company to effect such a change. The results of the monitoring should always be documented.

126. 受國家法律規定，以風險為基礎的監測，應允許壽險公司或保險仲介人，建立貨幣或其他門檻，按照規模或種類辨識交易。就此目的，已定義之狀況或門檻應定期審查，以判斷是否適合已建立的風險水準。系統或程序更動，應根據先前結果、需要此等改變的新資訊、保險公司使此等改變發揮效力的有效性、效益分析為之。監測結果必須被建檔。

Suspicious Transaction Reporting, including attempted transactions or activities
可疑交易通報，包括未遂之交易或活動

127. The reporting of suspicious transactions or activity is critical to a country's ability to utilize financial information to combat money laundering, terrorist financing and other financial crimes. Countries' reporting regimes are laid down in national law or regulation, requiring companies to file reports when the threshold of suspicion is reached.

127. 通報可疑交易或活動，對於一國使用金融資訊，防制洗錢、打擊資恐與其他金融犯罪的能力而言不可或缺。各國的通報機制，存在於國家法律法規中，規定公司要在到達可疑門檻時加以通報。

128. Where a legal or regulatory requirement mandates the reporting of suspicious activity once a suspicion has been formed, a report must be made and, therefore, a risk-based approach for the reporting of suspicious activity under these circumstances is not applicable.

128. 若法律或法規規定，在構成可疑之際就要強制通報可疑活動，且須撰寫報告，因此這時不適用在此等狀況下通報可疑活動的風險基礎方法。

129. A risk-based approach is, however, appropriate for the purpose of identifying suspicious activity, for example, by directing additional resources at those areas a life insurance company or intermediary has identified as higher risk. This process is described in the preceding section. As part of a risk-based approach, an insurance company or intermediary should utilize information provided by competent authorities to inform its approach for identifying suspicious activity. A life insurance company or intermediary should also assess on a periodic basis the adequacy of its system for identifying and reporting suspicious transactions.

129. 但是風險基礎方法，對於辨識可疑活動來說是適當的，舉例來說，將更多資源導向壽險公司或保險仲介人辨認為風險較高的領域。此流程在前面章節已經說明過。身為以風險為基礎方式的一環，保險公司或保險仲介人應利用權責機關提供的資訊，告知其對於辨識可疑活動的做法。壽險公司或保險仲介人亦應定期評估辨識與通報可疑交易之系統適足性。

130. The reason for reporting the suspicious transactions should be documented, either systematically or manually (or a combination). This process should create a comprehensive audit trail and maintained according to applicable recordkeeping requirements.

130. 通報可疑交易的理由應予以建檔，無論是透過系統或人工（或兩者結合）。此一流程應建立綜合的稽核過程，並根據適用之紀錄留存規定予以維護。

Training and Awareness
訓練與認知

131. Recommendation 15 requires that life insurance companies and intermediaries develop programmes against money laundering and terrorist financing. These programmes should include the provision of AML/CFT training to their employees which is appropriate and proportional. The commitment of each insurance company or intermediary to having successful controls relies on both training and awareness. This requires an enterprise-wide effort to provide all relevant employees with a minimum level of general information on AML/CFT laws, regulations and internal policies. Ongoing training may take place at a time and in a manner deemed appropriate in keeping with the insurance company or intermediary's overall risk mitigation strategy, and the methodologies may evolve based on specific training experiences or after general experiences of the insurance company as a whole.

131. 第 15 條建議規定保險公司與保險仲介人要發展出對抗洗錢與資恐的計畫。這些計畫應包括向適當且合乎比例的員工提供防制洗錢/打擊資恐訓練。各保險公司或保險仲介人對於成功控制的決心，同時取決於訓練與認知。這要求全公司上下致力於提供所有相關員工最低水準的防制洗錢/

打擊資恐法律、法規、內部政策之一般資訊。持續訓練可能會以合乎保險公司或保險仲介人整體風險減輕策略的方法，在適合的時間出現，而這些方法可能會根據特定訓練經驗，或經過保險公司整體一般體驗後有所進化。

132. Applying a risk-based approach to the various methods available for training, however, gives each life insurance company or intermediary additional flexibility regarding the frequency, delivery mechanisms and focus of such training. A life insurance company or intermediary should review its own workforce and agents and available resources and implement training programs that provide appropriate AML/CFT information that is:

132. 但是在各種訓練可用的方法上，採用風險基礎取向，會讓各家保險公司或保險仲介人在頻率、交付機制、此等訓練的焦點上有更多彈性。壽險公司或保險仲介人應檢視其自身人力、代理人、可用資源，並執行提供適當防制洗錢/打擊資恐資訊的訓練計畫如下：

- Tailored to the appropriate staff responsibility (e.g., customer contact or operations).
- 針對適當員工職責（如客戶聯絡或營運）量身訂作。
- At the appropriate level of detail (e.g., front-line personnel, complicated products or customer-managed products).
- 有適當的水準的細節（如前線人員、複雜產品或客戶管理產品）。
- At a frequency related to the risk level of the business line involved.
- 頻率與業務種類涉及的風險水準有關。

133. AML/CFT training should take into account those internal AML/CFT procedures which require that high risk situations are forwarded to and handled by an AML/CFT specialist within the organisation.

133. 防制洗錢/打擊資恐訓練應考慮到規定高風險狀況必須轉交給組織內防制洗錢/打擊資恐專家處理的內部防制洗錢/打擊資恐程序。

Chapter Three: Internal Controls

第三章：內部控制

134. In order for life insurance companies and intermediaries to implement an effective risk-based approach to money laundering and terrorist financing, the risk-based process must be imbedded within the internal controls of the company or intermediary. Senior management is ultimately responsible for ensuring that a life insurance company or intermediary maintains an effective internal control structure, including suspicious activity monitoring and reporting. Strong senior management leadership and engagement in AML/CFT is an important aspect of the application of the risk-based approach. Senior management must create a culture of risk management and compliance, ensuring that staff adheres to the policies, procedures and controls of the life insurance company or intermediary, which are designed to limit and control risks.

134. 為了讓壽險公司和保險仲介人就洗錢與資恐執行有效的風險基礎方法，風險基礎流程必須存在於保險公司或保險仲介人的內部控制中。資深管理層對於確保壽險公司或保險仲介人維持有效的內部控制結構，包括可疑活動監測與通報，負有最終責任。強大的資深管理層在防制洗錢/打擊資恐的領導能力與參與，對於採用風險基礎方法來說是重要層面。資深管理層必須建立風險管理與遵循的文化，確保員工遵守壽險公司與保險仲介人用於限制與控管風險的政策、程序、控管。

135. In addition to other compliance internal controls, the nature and extent of AML/CFT controls will depend upon a number of factors, including:

135. 除了其他遵循用內部控制，防制洗錢/打擊資恐控管的性質與範圍取決於多項因素，包括：

- The nature, scale and complexity of a life insurance company and the business of its relevant subsidiaries or intermediary's business.
- 壽險公司及其相關子公司與保險仲介人業務之性質、規模、複雜性。
- The diversity of a life insurance company or intermediary's operations, including geographical diversity.
- 壽險公司與保險仲介人業務的多元程度，包括地理多元性。
- The life insurance company or intermediary's overall customer, product and activity profile.
- 壽險公司或保險仲介人整體客戶、產品、活動狀況。
- The distribution channels used.
- 使用的經銷管道。
- The volume and size of the transactions.
- 交易量與交易規模。
- The degree of risk assessed within each area of the life insurance company or intermediary's operation.
- 在保險公司或保險仲介人營運各領域中所評估的風險程度。
- The extent to which the life insurance company is dealing directly with the customer or is dealing through intermediaries, third parties, correspondents, or non face to face access.
- 壽險公司直接面對客戶處理，或透過保險仲介人、第三方、通信，或其他非面對面管道處理客戶的範圍。

136. The framework of internal controls should:

136. 內部控制架構應：

- Designate an individual or individuals at management level responsible for managing AML/CFT risk management and compliance, who:
- 指定管理層級的個人負責管理防制洗錢/打擊資恐管理與遵循，該人士須：
 - Is/are independent of the activities being monitored;
 - 獨立於受監視活動之外；
 - Generates the information needed by the Board of directors to obtain an overview of the life insurance company or intermediary with respect to risk management and compliance.
 - 建立董事會要得到對壽險公司或保險仲介人針對風險管理與遵循概觀的必要資料。
 - Has timely and unrestricted access to customer identification documents, all books, registers, accounts, other accounting records, vouchers and other relevant information.
 - 能及時且不受限制地取得客戶身分文件，所有帳簿、登記、帳戶，其他會計紀錄、傳票與其他相關資訊。
- Provide increased focus on a life insurance company or intermediary's operations (products, services, customers and geographic locations) that are assessed to be higher risk, including those that have proven to be more vulnerable to abuse based on the past, professional, experience of the life insurance company or intermediary (e.g., matters that have frequently resulted in suspicious transaction reports), as well as advice and information from its industry associations or regulators and law enforcement.
- 對壽險公司與保險仲介人被評估為風險較高的營運（產品、服務、客戶與地理位置）

提供更多注意力，包括那些根據過去紀錄、專業、壽險公司或保險仲介人經驗，以及從業界協會或主管機構、權責機關得到的忠告與資訊，證明更容易受打擊的業務（例如經常導致可疑交易報告的事件）。

- Provide for regular review of the risk assessment and management processes, taking into account the environment within which the insurance company or intermediary operates and the activity in its market place.
- 定期審查風險評估與管理流程，並應考慮保險公司與保險仲介人所營運的環境，及市場活動。
- Provide for an AML/CFT compliance and risk management function and review programme.
- 提供防制洗錢/打擊資恐遵循與風險管理功能與審查計畫。
- Ensure that adequate controls are in place before new products are offered or when existing product offerings are modified in such a way as to pose an increased ML/TF risk.
- 確保新產品上市前，或修改後會提高洗錢/資恐風險之現有產品推出前，已經有適當的控管。
- Inform senior management of emerging ML/TF risks and compliance initiatives, identified compliance deficiencies, corrective action taken, and suspicious activity reports filed.
- 通知資深管理層浮現的洗錢/資恐風險與遵循措施，已找出遵循不足之處，所採取的矯正措施，以及已通報的可疑活動。
- Provide for programme continuity despite changes in management or employee composition or structure.
- 在管理階層或員工組成或結構出現變化時讓計畫能夠繼續。
- Focus on meeting all regulatory record keeping and reporting requirements, recommendations for AML/CFT compliance and provide for timely updates in response to changes in regulations.
- 集中於達到所有法規紀錄留存與通報規定、遵循防制洗錢/打擊資恐建議，並對於法規變化及時反應，提供更新。
- Implement risk-based customer due diligence policies, procedures and controls.
- 執行風險基礎客戶審查政策、程序、控管。
- Provide for adequate controls for higher risk customers, transactions and products, as necessary, such as transaction limits or management approvals.
- 必要時對於較高風險的客戶、交易、產品提供適當的控管，例如限制交易或管理層核准。
- Enable the timely identification of reportable transactions and ensure accurate filing of required reports.
- 促進及時辨識應回報的交易，及確保對必要的報告進行正確歸檔。
- Provide for adequate supervision of employees that complete reports, grant exemptions, monitor for suspicious activity, or engage in any other activity that forms part of the company's AML/CFT programme.
- 對於完成報告、給予豁免、監測可疑活動、從事其他構成公司防制洗錢/打擊資恐計畫一部分活動的員工，予以適當的監督。

- Incorporate AML/CFT compliance into job descriptions and performance evaluations of appropriate personnel.
- 將防制洗錢/打擊資恐法律遵循情形結合在工作說明以及相關人員績效評估內。
- Provide for appropriate training to be given to all relevant staff.
- 提供所有相關人員適當的訓練。
- For groups, to the extent possible, there should be a common control framework.
- 針對各小組，只要可能，亦應有一套通用的控管框架。

137. Senior management will need to have a means of independently validating the development and operation of the risk assessment and management processes and related internal controls, and obtaining appropriate comfort that the adopted risk-based methodology reflects the risk profile of the life insurance company or intermediary. This independent testing and reporting should be conducted by, for example, the internal audit department, external auditors, specialist consultants or other qualified parties who are not involved in the implementation or operation of the insurance company's AML/CFT compliance programme. The testing should be risk-based (focusing attention on the methodology of determining higher-risk customers, products and services); should evaluate the adequacy of the life insurance company or intermediary's overall AML/CFT programme; the quality of risk management for the life insurance company or intermediary's operations, departments and subsidiaries; and include periodic risk-based assessments of high-priority matters and cyclical, comprehensive assessments of procedures and testing.

137. 資深管理層必須有獨立驗證風險評估與管理流程、相關控管發展與運作的方法，對於所採用的風險為基礎方法反應出壽險公司或保險仲介人風險狀況感到足夠安心。例如，此一獨立測試與報告，應該由內部稽核部門、外部稽核師、專門顧問或其他合格人士進行，他們不涉及保險公司防制洗錢/打擊資恐遵循計畫的執行或運作。此測試應以風險為基礎（注意力集中於判斷更高風險客戶、產品、服務的方法上）；應評估壽險公司或保險仲介人整體防制洗錢/打擊資恐計畫之適足性，壽險公司或保險仲介人營運、部門、子公司的風險管理品質；亦包括高優先事項之定期風險評估，以及對程序和測試的循環性綜合評估。

Whilst by no means an exhaustive list, onsite examination topics may include the following:

雖然清單不可能列出全部，但是現場檢查的主題可包含下列：

- The application of a group-wide policy
- 應用適用整個集團的政策
- Assessment of the risk associated with each business line
- 評估與各事業種類有關的風險
- The extent that assessments have been formally documented and segmented by products, delivery channels, types of customer and geographic location of customers
- 根據產品、交付管道、客戶類型以及客戶的地理位置正式紀錄並進行區分評估的程度
- Extent of CDD procedures including identification of new customers, customer profiling and collection of 'Know Your Customer' information
- 客戶審查程序的程度，包括辨識新客戶、客戶資料建立以及收集「認識客戶」資訊等。
- Additional due diligence is undertaken in relation to high risk customers and businesses, e.g. Politically Exposed Persons
- 針對高風險客戶和企業（如：擔任重要政治職務人士）執行額外的客戶審查。
- Transaction monitoring procedures in place and how alerts are reviewed
- 存在的交易監督程序以及檢視警示的方式
- Policies determining how and on what basis existing customer files may be updated
- 判定可更新既有客戶檔案的方式及依據的政策
- Quality of internal systems and controls, including processes for identifying and reporting large cash and suspicious transactions
- 內部制度和控管品質，包括發現與通報大筆現金與可疑交易等過程。
- Policies on record keeping and ease of retrieving identification evidence or transaction records
- 有關紀錄以及放寬取得身分證據或交易紀錄的權限之政策
- Scope, frequency and audience of AML/CFT training and evaluation of effectiveness

- 防制洗錢/打擊資恐訓練與有效性評估的範圍、頻率與對象
- Appropriate sample testing
- 相關抽樣測試
- Quality and sufficiency of reporting to senior management and the Board to determine adequacy and effectiveness
- 向資深管理階層以及董事會通報的品質和充分性以判定適當性和有效性。

There is no set of 'right answers' to these topics. The key considerations are that (a) the insurance company is meeting any minimum regulatory requirements (b) the insurance company has identified its money laundering and terrorist financing risks, worked out how best to manage those risks, and devoted adequate resources to the task; and (c) senior management is properly accountable for AML/CFT controls.

對於這些主題並未設定「正確答案」。重要的考慮因素有（a）保險公司是否符合任何最低的法規要求；（b）保險公司是否已發現洗錢和資恐風險、研擬管理這些風險的最佳方式並投入適當的資源；以及（c）資深管理階層是否對防制洗錢/打擊資恐妥善承擔責任。

ANNEX 1:
IAIS INSURANCE CORE PRINCIPLE ON AML/CFT (OCTOBER 2003):

附錄一：

國際保險監理官協會（IAIS）針對防制洗錢/打擊資恐之保險核心原則（2003 年 10 月）

ICP 28 Anti-money laundering, combating the financing of terrorism (AML/CFT)

ICP28 防制洗錢/打擊資恐（AML/CFT）

The supervisory authority requires insurers and intermediaries, at a minimum those insurers and intermediaries offering life insurance products or other investment related insurance, to take effective measures to deter, detect and report money laundering and the financing of terrorism consistent with the Recommendations of the Financial Action Task Force on Money Laundering (FATF).

監理機關應要求保險公司與保險仲介人，就此等保險公司與保險仲介人提供之壽險產品或其他投資相關保險之最低限度，採取合乎防制洗錢金融行動工作組織(FATF)建議之有效措施，以阻止、偵測、通報洗錢與資恐。

Explanatory note

說明註解

28.1. In most IAIS member jurisdictions, money laundering and financing of terrorism are criminal acts under the law. Money laundering is the processing of criminal proceeds to disguise their illegal origin. The financing of terrorism involves the direct or indirect provision of funds, whether lawfully or unlawfully obtained, for terrorist acts or to terrorist organisations.

28.1 在大部分 IAIS 成員轄區內，洗錢與資恐依法為犯罪行為。洗錢係處理犯罪所得，以便隱匿其非法來源。資恐涉及直接或間接提供資金供恐怖行動或恐怖份子組織使用，無論此等資金是否合法取得。

28.2. Insurers and intermediaries, in particular those insurers and intermediaries offering life insurance or other investment related insurance could be involved, knowingly or unknowingly, in money laundering and financing of terrorism. This exposes them to legal, operational and reputational risks. Supervisory authorities, in conjunction with law enforcement authorities and in co-operation with other supervisors, must adequately supervise insurers and intermediaries for AML/CFT purposes to prevent and counter such activities.

28.2 保險公司與保險仲介人，尤其是提供壽險或其他投資相關保險的保險公司與保險仲介人，可能在知情或不知情的狀況下，涉及洗錢與資恐。這會讓他們暴露在法規、營運、聲譽的風險中。監理機關偕同權責機關，加上其他主管單位的合作，必須適當地就防制洗錢/打擊資恐目的，監理保險公司與保險仲介人，以避免與對抗此等活動。

Essential criteria **關鍵標準**

a. The measures required under the AML/CFT legislation and the activities of the supervisors should meet the criteria under those FATF Recommendations applicable to the insurance sector²¹.

a. 根據防制洗錢/打擊資恐法律所規定之措施，以及主管單位之活動，必須合乎適用於保險業²¹ 的防制洗錢金融行動工作組織建議之標準。

b. The supervisory authority has adequate powers of supervision, enforcement and sanction in order to monitor and ensure compliance with AML/CFT requirements. Furthermore, the supervisory authority has the authority to take the necessary supervisory measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function in an insurer or an intermediary.

b. 監理機關有適足的監督權力、執法權、制裁權，以監測和確保遵循防制洗錢/打擊資恐規定。此外，監理機關有權力採取必要監督措施，避免罪犯或其同夥持有保險公司或保險仲介人，重大或控股利益或成為實質受益人，或在該等公司擔任管理層。

c. The supervisory authority has appropriate authority to co-operate effectively with the domestic Financial Intelligence Unit (FIU) and domestic enforcement authorities, as well as with other supervisors both domestic and foreign, for AML/CFT purposes.

c. 監理機關有適當權力，有效與本地金融情報中心（FIU）與本地權責機關，還有其他國內外就防制洗錢/打擊資恐目的之監理機關合作。

d. The supervisory authority devotes adequate resources - financial, human and technical – to AML/CFT supervisory activities.

d. 監理機關會在防制洗錢/打擊資恐監督活動上，投入適當之財務、人力、技術資源。

e. The supervisory authority requires insurers and intermediaries, at a minimum those insurers and intermediaries offering life insurance products or other investment related insurance, to comply with AML/CFT requirements, which are consistent with the FATF Recommendations applicable to the insurance sector, including:

e. 監理機關規定保險公司與保險仲介人就其提供之壽險產品或其他投資相關保險之最低限度，採取合乎防制洗錢金融行動工作組織（FATF）建議之有效措施，以阻止、偵測、通報洗錢與資恐：

- performing the necessary customer due diligence (CDD) on customers, beneficial owners and beneficiaries;
- 對客戶、實質受益人、受益人執行必要之客戶審查（CDD）；
- taking enhanced measures with respect to higher risk customers;
- 對風險較高的客戶採用強化措施；
- maintaining full business and transaction records, including CDD data, for at least 5 years;
- 維護完整的業務與交易紀錄，包括客戶審查資料至少五年；

²¹ See FATF Recommendations 4-6, 8-11, 13-15, 17, 21-23, 25, 29-32 and 40 as well as Special Recommendations IV, V and the AML/CFT Methodology for a description of the complete set of AML/CFT measures that are required.

²¹ 參見防制洗錢金融行動工作組織建議之 4-6 項、8-11 項、13-15 項、17 項、21-23 項、25 項、29-32 項、40 項，以及特殊建議 4、5，以及防制洗錢/打擊資恐方法，以瞭解規定之完整防制洗錢/打擊資恐措施。

- monitoring for complex, unusual large transactions, or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose;
- 監測無明顯經濟或合理目的之複雜、異常龐大交易，或異常方式交易；
- reporting suspicious transactions to the FIU;
- 向金融情報中心通報可疑交易；
- developing internal programmes (including training), procedures, controls and audit functions to combat money laundering and terrorist financing;
- 發展內部計畫（含訓練）、程序、控管、稽核功能，以對抗洗錢與資恐；
- ensuring that their foreign branches and subsidiaries observe appropriate AML/CFT measures consistent with the home jurisdiction requirements.
- 確保其海外分公司與子公司瞭解適當的防制洗錢/打擊資恐措施，且合乎本國轄區規定。

ANNEX 2: SOURCES OF FURTHER INFORMATION 附錄二：更多資訊來源

Various sources of information exist that may help both countries and financial institutions in their development of a risk-based approach. Although not an exhaustive list, this section highlights a number of useful web-links that countries and financial institutions may wish to draw upon. They provide additional sources of information, and further assistance might also be obtained from other information sources such as AML/CFT assessments.

有不少資料來源，或可幫助國家與金融機構發展其風險基礎方法。雖然不是詳盡清單，但這一章節列出了多個有用的網址，國家與金融機構可能會想查閱。這提供了額外的資訊來源，且從其他資訊來源，例如防制洗錢/打擊資恐評估，可能會取得更多協助。

A. Financial Action Task Force Documents

A. 防制洗錢金融行動工作組織（FATF）文件

The Financial Action Task Force (FATF) is an inter-governmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing. Key resources include the 40 Recommendations on Money Laundering and 9 Special Recommendations on Terrorist Financing, the Methodology for Assessing Compliance with the FATF Recommendations, the Handbook for Countries and Assessors, methods and trends (typologies) reports and mutual evaluation reports.

防制洗錢金融行動工作組織（FATF）為跨國組織，旨在制定與推動國內及國際防制洗錢及打擊資恐政策。重要的資源包括四十項防制洗錢建議、九項打擊資助恐怖活動特別建議、防制洗錢金融行動工作組織建議遵循評鑑方法論、各國與評鑑機構手冊、方法與趨勢（態樣）報告及相互評鑑報告。

www.fatf-gafi.org

B. International Bodies/Organisations

B. 國際組織／團體

IAIS

IAIS

International Association of Insurance Supervisors represents some 180 insurance regulators and supervisors of more than 130 countries. Its objectives are to cooperate and contribute to improved supervision of the insurance industry on a domestic and international level in order to maintain efficient, fair, safe and stable insurance markets for the benefit and protection of policyholders; to promote the development of well-regarded insurance markets; and to contribute to global financial stability. IAIS has published principles (*e.g.* Insurance Core Principles and Methodology), standards (*e.g.* Supervisory standard on fit and proper requirements and assessment for insurers) and guidance papers (*e.g.* Guidance paper on AML/CFT; Guidance paper on combating the misuse of insurers; Guidance paper on preventing, detecting and remedying fraud in insurance).

國際保險監理官協會代表超過 130 國，逾 180 個保險監理機關。其目的係合作、致力於改善保險業國內外水準之監督，維護有效、公平、安全、穩定的保險市場以維護及保護保戶利益；促進受推崇的保險市場發展；致力於全球金融穩定。IAIS 公布原則（如保險核心原則與方法）、標準（如保險

公司妥適規定與評估之監督標準)與指引文件(如就防制洗錢/打擊資恐之指引文件;對抗濫用保險公司之指引文件;預防、偵測、補救保險詐騙之指引文件)。

www.iaisweb.org/

Transparency International **國際透明組織**

Transparency International, the global civil society organisation leading the fight against corruption, brings people together in a powerful worldwide coalition to end the devastating impact of corruption on men, women and children around the world. TI's mission is to create change towards a world free of corruption.

國際透明組織是一個全球性的民間社會組織，領軍對抗貪污，集結大眾，以有力的全球合作，終止對全球男性、女性、兒童腐敗之舉的破壞性影響。其使命為創造、改變並邁向無貪腐的世界。

www.transparency.org/

C. Legislation/Guidance on the Risk-Based Approach

C. 以風險為基礎方式之立法／指引

Australia **澳洲**

The Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (administered by the Australian Government Attorney-General's Department):

2006 年洗錢與打擊資恐法（由澳洲政府檢察總長部門執行）

www.comlaw.gov.au/comlaw/management.nsf/lookupindexpagesbyid/IP200627290?OpenDocument

The Anti-Money Laundering and Counter-Terrorism Financing Rules (administered by the Australian Transaction Reports and Analysis Centre):

洗錢與打擊資恐規定（由澳洲交易通報與分析中心執行）

www.austrac.gov.au/aml_ctf_rules.html

Belgium **比利時**

Belgium circular of the Banking, Finance and Insurance Commission on the obligations of Customer Due Diligence and Preventing the use of the financial systems for money laundering and the financing of terrorism:

比利時銀行、金融、保險委員會對客戶審查，避免使用金融體系進行洗錢與資恐之通報：

www.cbfa.be/eng/bo/circ/pdf/ppb_2004_8_d_250.pdf

Belgium regulation of the Banking, Finance and Insurance Commission Preventing money laundering and the financing of terrorism:

防止洗錢與資恐之比利時銀行、金融、保險委員會法規

www.cbfa.be/eng/vt/vz/circ/pdf/regulations_27-07-2004.pdf

Canada
加拿大

Canada, Office of the Superintendent of Financial Institutions – Guidelines on Deterring and Detecting Money Laundering and Terrorist Financing: Sound Business and Financial Practices
加拿大金融機構監理總署－防止與偵測洗錢與資恐方針：穩固商業與金融實務
www.osfi-bsif.gc.ca/app/DocRepository/1/eng/guidelines/sound/guidelines/B8_e.pdf

Financial Transaction and Reports Analysis Centre of Canada (FINTRAC) guidelines:
加拿大金融交易與報告分析中心（FINTRAC）方針：
<http://www.fintraccanafe.gc.ca/publications/guide/Guide4/4-eng.asp#66>

Italy
義大利

Parts One and Two of the Bank of Italy's Guidance on Suspicious Activity Reports for all financial intermediaries operating in Italy.
義大利央行對所有於義大利境內營運之金融保險仲介人可疑活動通報方針。
www.bancaditalia.it/vigilanza_tutela/vig_ban/norma/provv;internal&action=lastLevel.action&Parameter=vigilanza_tutela

Japan
日本

Japanese Financial Services Agency – legislation and guidance
金融廳－法令與指引
www.fsa.go.jp/en/refer/legislation/index.html

Jersey
澤西島

Financial Services Commission – Guidance note on anti money laundering:
金融服務委員會－防制洗錢方針注意事項
www.jerseyfsc.org/the_commission/anti-money_laundering/guidance_notes/index.asp

South Africa
南非

FIU – General Guidance Note Concerning the Identification of Clients
金融情報中心－關於辨識客戶之一般方針注意事項
<http://www.fic.gov.za/DownloadContent/RESOURCES/GUIDELINES/16.Guidance%20concerning%20identification%20of%20clients.pdf>

United Kingdom, Joint Money Laundering Steering Group (JMLSG) Guidance **英國，聯合防制洗錢協調小組 (JMLSG) 指引**

UK Industry guidance on anti-money laundering and counter terrorist financing covering good practice application of the law, regulatory requirements and anti-money laundering controls, considered an integral element of the UK AML risk-based approach framework.

英國對防制洗錢及打擊資恐

www.jmlsg.org.uk

United States

美國

In March 20, 2008, the Financial Crimes Enforcement Network (FinCEN) updated guidance, entitled Frequently Asked Questions Anti-Money Laundering Program and Suspicious Activity Reporting Requirements for Insurance Companies; the guidance was originally issued on October 31, 2005.

2008 年 3 月 20 日，金融犯罪執法網路 (FinCEN) 更新了指引，以防制洗錢計畫與可疑活動通報常見問題規定為題，供保險公司使用；該指引原發布於 2005 年 10 月 31 日

www.fincen.gov/statutes_regs/guidance/html/fin-2008-g004.html

On May 31, 2006, FinCEN published frequently asked questions for insurance companies which was not incorporated into the March 20, 2008 publication and, for which insurance companies may continue to rely as guidance.

2006 年 5 月 31 日，FinCEN 公布了在 2008 年 3 月 20 日版本中未納入的保險公司常見問題，供保險公司繼續使用該指引。

www.fincen.gov/statutes_regs/guidance/html/insurance_companies_faq.html

General Insurance industry-specific information is also available via FinCEN's homepage; the website references all Insurance industry guidance and additional Insurance industry educational materials.

一般保險業特定資訊也可以透過 FinCEN 主頁取得；該網站列出所有保險業指引以及其他保險業教育素材。

www.fincen.gov/financial_institutions/insurance

FFIEC Bank Secrecy Act Anti-Money Laundering Examination Manual

FFIEC 銀行保密法防制洗錢檢驗手冊

www.ffiec.gov/pdf/bsa_aml_examination_manual2006.pdf

D. Information sharing/outreach arrangements between the public and private sector

D. 公民間部門之資訊分享／延伸安排

Section 314 of the USA PATRIOT Act of 2001: Regulations implemented pursuant to section 314 established procedures for information sharing to deter money laundering and terrorist activity. These regulations increase information sharing in two respects: i) establishes a mechanism by which federal law enforcement agencies can solicit from financial institutions information related to suspected terrorist activity or money laundering; and, ii) encourages financial institutions to share information among themselves in order to identify and report activities that may involve terrorism or money laundering.

2001 年美國愛國者法案第 314 節，根據 314 節執行的法規，為防止洗錢與恐怖份子活動的資訊分享建立了程序。此等規定在兩方面增加了資訊分享：1) 建立聯邦權責機關可以利用使用自金融機構

取得，與可疑恐怖活動或洗錢有關之資訊的機制；2）鼓勵金融機構彼此分享資訊，以辨識及通報可能涉及恐怖主義與洗錢的活動。

www.fincen.gov/po1044.htm

The United States Bank Secrecy Act Advisory Group: Established by the U.S. Congress in 1992, the Advisory Group is chaired by the Director of FinCEN (the US FIU) and serves as the principal forum in which issues related to the administration of the Bank Secrecy Act (BSA) are discussed amongst industry, regulators and law enforcement agencies. The Advisory Group provides advice to the Secretary of the Treasury on ways to enhance the utility of BSA data to law enforcement agencies while minimizing the impact of compliance obligations on affected financial institutions.

美國銀行保密法顧問團：1992 年由美國國會成立，該顧問團主席由 FinCEN（美國金融情報中心）總監擔任，並扮演業界、監理機關、權責機關間討論與銀行保密法（BSA）管理有關事項之主要論壇。該顧問團就強化權責機關對 BSA 資訊使用，以及將受影響金融機構所受到的遵循衝擊降到最低，對財政部長提供建議。

<http://uscode.house.gov/download/pls/31C53.txt>

Private Sector Dialogue Programmes: The U.S. has initiated AML/CFT dialogues linking U.S. regulators and financial institutions with their counterparts from the Middle East/North Africa (MENA) and Latin America. This series of outreach events aims to raise awareness of domestic and regional money laundering and terrorist financing risks, international AML/CFT standards and regional developments, and U.S. government policies and private sector measures to combat terrorist financing and money laundering: 民間對話計畫：美國啟動了防制洗錢/打擊資恐對話，連結美國監理機關與金融機構間，和其中東／北非（MENA）、拉美的同儕。一系列的延伸活動，旨在提高國內與區域內對洗錢與資恐風險、國際防制洗錢/打擊資恐標準、區域發展、美國政府政策與民間打擊資恐與洗錢等事項的認識。

www.treas.gov/press/releases/js4346.htm

www.usmenapsd.org/index2.html

E. Other Sources of Information to help assist national and financial institution risk assessment of countries and cross border activities

E. 其他有助於國家與會計師，對於國家和跨境活動風險評估的資訊來源

In determining the levels of risks associated with particular country or cross border activity financial institutions and governments may draw on a range of publicly available information sources, these may include reports that detail observance of international standards and codes, specific risk ratings associated with illicit activity, corruption surveys and levels of international cooperation. Although not an exhaustive list the following are commonly utilised:

在判斷和特定國家或跨境活動有關的風險水準時，會計師與政府可能會引用多種向公眾開放的資訊來源，這可能包括詳述國際標準與守則的報告、與不法活動有關的明確風險評等、貪污調查、國際合作水準。以為常用（而非全部）的資訊來源：

- IMF and World Bank Reports on observance of international standards and codes (Financial Sector Assessment Programme)
- IMF 與世界銀行的國際標準與法規（金融業評估計畫）遵循報告
 - World Bank reports: www1.worldbank.org/finance/html/cntrynew2.html
 - 世界銀行報告：<http://www1.worldbank.org/finance/html/cntrynew2.html>
 - International Monetary Fund: www.imf.org/external/np/roscc/roscc.asp?sort=topic#RR
 - 國際貨幣基金：<http://www.imf.org/external/np/roscc/roscc.asp?sort=topic#RR>

- Offshore Financial Centres (OFCs) IMF staff assessments
www.imf.org/external/np/ofca/ofca.asp.
- 離岸金融中心（OFC）IMF 員工評估
www.imf.org/external/np/ofca/ofca.asp
- Mutual evaluation reports issued by FATF Style Regional Bodies:
- 防制洗錢金融行動工作組織相關區域性組織發行的相互評鑑報告：
 1. Asia/Pacific Group on Money Laundering (APG)
1. 亞太防制洗錢組織（APG）
www.apgml.org/documents/default.aspx?DocumentCategoryID=8
 2. Caribbean Financial Action Task Force (CFATF)
2. 加勒比海防制洗錢金融行動工作組織（CFATF）
www.cfatf.org/profiles/profiles.asp
 3. The Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL)
3. 歐洲議會防制洗錢及打擊資恐評估專家委員會(MONEYVAL)
www.coe.int/t/e/legal_affairs/legal_cooperation/combating_economic_crime/5_money_laundering/Evaluations/Reports_summaries3.asp#TopOfPage
 4. Eurasian Group (EAG)
4. 歐亞防制洗錢及打擊資恐組織（EAG）
www.eurasiangroup.org/index-7.htm
 5. GAFISUD
5. 南美防制洗錢金融行動工作組織
www.gafisud.org/miembros.htm
 6. Middle East and North Africa FATF (MENAFATF)
6. 中東及北非防制洗錢金融行動工作組織(MENAFATF)
www.menafatf.org/TopicList.asp?cType=train
 7. Eastern and Southern Africa Money Laundering Group (ESAAMLG)
7. 東南非防制洗錢組織(ESAAMLG)
www.esaamlg.org/
 8. Intergovernmental Action Group against Money Laundering in Africa (GIABA)
8. 非洲政府間防制洗錢行動組織(GIABA)
www.giaba.org/
- OECD Sub Group of Country Risk Classification (a list of country of risk classifications published after each meeting)
- OECD 國家風險分類分級附屬類別（每次開會後公佈的風險國家分類分級列表）
www.oecd.org/document/49/0,2340,en_2649_34171_1901105_1_1_1_1,00.html
- International Narcotics Control Strategy Report (published annually by the US State Department)
- 國際毒品管制策略報告（美國國務院每年發布）
www.state.gov/p/inl/rls/nrcrpt/

- Egmont Group membership - Coalition of FIU's that participate in regular information exchange and the sharing of good practice, acceptance as a member of the Egmont Group is based a formal procedure that countries must go through in order to be acknowledged as meeting the Egmont definition of an FIU.
- 艾格蒙聯盟成員-金融情報中心的聯盟組織，參與正規資訊交換及分享優良實務。各國若想成為艾格蒙聯盟的成員，必須完成正式程序，並被認可為艾格蒙定義的金融情報中心。
www.egmontgroup.org/
- Signatory to the United Nations Convention against Transnational Organized Crime
- 聯合國打擊跨國組織犯罪公約簽約國
www.unodc.org/unodc/crime_cicp_signatures_convention.html
- The Office of Foreign Assets Control ("OFAC") of the US Department of the Treasury economic and trade, Sanctions Programmes
- 美國財政部海外資產控制辦公室（OFAC），經濟與貿易，制裁計畫
www.ustreas.gov/offices/enforcement/ofac/programs/index.shtml
- Consolidated list of persons, groups and entities subject to EU Financial Sanctions
- 歐盟金融制裁個人、組織與團體一覽表
http://ec.europa.eu/comm/external_relations/cfsp/sanctions/list/consol-list.htm
- UN Security Council Sanctions Committee - Country Status:
- 聯合國安全理事會制裁委員會-國家現況：
www.un.org/sc/committees/

ANNEX 3: CONTRACTUAL RELATIONSHIPS BETWEEN INTERMEDIARIES AND LIFE INSURANCE COMPANIES

附錄三：保險仲介人與壽險公司間合約關係

1. It is recognized that intermediaries play an important service role in the introduction and placement of life insurance and other investment related insurance products with insurance companies and that as such this role has implications for the Risk-Based Approach to Combating Money Laundering and Terrorist Financing. The FATF in this guidance does not address the differing terminology and interpretations that exist in FATF member countries in relation to the description of an agent or intermediary. The descriptions in this guidance on intermediaries, which term includes agents, are general in nature and designed to give a high level understanding of the differing roles played by each as a distribution channel.

1. 一般普遍認為，保險仲介人在保險公司招攬壽險與其他投資相關保險產品時，扮演重要的服務角色，此等角色對於風險基礎方法防制洗錢及打擊資恐有其意涵。在此指引中，防制洗錢金融行動工作組織並不著重於存在於防制洗錢金融行動工作組織成員國間，對於代理人或保險仲介人說明的術語與詮釋差異。本指引對於保險仲介人的說明，包括了代理人，性質上是一般性的，且旨在對於各自在擔任經銷管道上，所扮演的不同角色有深入瞭解。

2. Furthermore, most insurance intermediation regulation around the world no longer refers to a distinction between agents and brokers, but adopts an activity-based approach. It relies on disclosure at a contract level so that the consumer, on a contract by contract basis, is aware of the capacity in which the intermediary is acting.

2. 此外，全球大部分保險仲介人法規不再提到代理人與經紀人間的差別，而是採用以活動為基礎的取向。這取決於在合約層面的披露，讓消費者基於合約基礎，瞭解保險仲介人所執行的職能。

3. When considering contractual relationships between intermediaries and insurers, a wide variety of situations can exist across the world and on a contract by contract basis. In generic terms, as an illustration, the following contractual relationships can be distinguished (descriptive):

3. 在考慮到保險仲介人與保險公司間的合約關係時，全球各地情況各異，合約本身也大不相同。為了說明，一般而言，以下的合約關係可以有所區別（說明性）：

- a) The role of an “agent” of a life insurance company is to sell and administer exclusively the insurance investment product of that life insurance company and as such the “agent” can be an employee of the life insurance company. However, an “agent” can also be an individual, sole trader or corporate entity that acts under a contractual arrangement exclusively for the life insurance company for the selling, placement and administration of its insurance investment products.
- a) 壽險公司「代理人」的角色是獨家招攬保險產品，壽險公司與此等「代理人」可以是保險公司的員工。但是「代理人」也可以是個人、個體商人或企業團體，在合約下，獨家為壽險公司安排招攬其保險投資產品。
- b) It is not uncommon for an individual, sole trader or corporate entity to act for more than one life insurance company under a contractual arrangement with the insurer for the selling, placement and administration of a specified insurance investment product.
- b) 個人、個體商人、公司團體在合約安排下，為一家以上的保險公司招攬其保險產品的狀況並不罕見。

Generally, these “multi-agency” arrangements are on a product exclusive basis. The agent cannot normally sell the same type of product of more than one insurer.

一般而言，這些「多重代理人」安排是以一種獨家產品為基礎。代理人通常不可以為超過一家的保險公司銷售同種類產品。

- c) Another type of intermediary that is involved in the introduction and placement of life insurance and other investment related insurance is known within the life insurance industry as an independent intermediary, often called a broker or an independent financial advisor.
- c) 另一種涉及招攬人壽保險與其他投資相關保險的保險仲介人，則在業界被稱為獨立保險仲介人，通常稱為保險經紀人或獨立財務顧問。

The independent intermediary can be an individual sole trader or corporate entity who is generally regulated within its country of operation to carry out the activity of investment business intermediation in relation to life insurance and on other investment related insurance products. The independent intermediary in conducting its activity will do so in accordance with the rules and requirements laid down by the supervisory body responsible for licensing such independent intermediary. What distinguishes the independent intermediary from the agent and multi-agent is in most cases the absence of a contractual relationship with one insurer or multiple insurers to place business on an exclusive basis. 獨立保險仲介人可以是個人、單一交易員或企業團體，通常會在營運的國家內受到規管，才能執行和壽險與其他相關保險產品的業務活動。獨立保險仲介人在進行活動時，必須遵守負責授權此等獨立保險仲介人的監理機關所設下的規定與要求。區分獨立保險仲介人和代理人與多重代理人，大部分狀況下，一家保險公司或多家保險公司並未簽訂合約，獨家進行業務。

- 4. It is important to note that the above categories can have a different legal definition in different jurisdictions and the above is only a generic description.
- 4. 請注意，上述分類可能在不同轄區，有不同定義，以上只是一般性說明。

ANNEX 4: MEMBERSHIP OF THE ELECTRONIC ADVISORY GROUP

附錄四：電子諮詢小組成員資格

FATF Members & Observers

防制洗錢金融行動工作組織成員與觀察員

Argentina, Belgium, Canada, France, Portugal, South Africa, Spain, Switzerland, UK, US, GIABA, IAIS, MENAFATF, MONEYVAL, OGBS, UN, World Bank

阿根廷、比利時、加拿大、法國、葡萄牙、南非、西班牙、瑞士、英國、美國、GIABA、IAIS、MENAFATF、MONEYVAL、OGBS、聯合國、世界銀行

Insurance industry

保險業

Canada

加拿大

The Canadian Life and Health Insurance Association

加拿大壽險醫療險協會

Independent Financial Brokers

獨立金融經紀人

Zurich Financial Services Group

蘇黎世金融服務集團

Finland

芬蘭

IF

Germany

德國

Allianz Group

安聯集團

Gesamtverband der Deutschen Versicherungswirtschaft e.V.

德國保險業協會

Japan

日本

Life Insurance Association of Japan

日本保險協會

Switzerland

瑞士

Swiss Insurance Association

瑞士保險協會

UK

英國

Association of British Insurers

英國保險商協會

Lloyds

勞埃德保險集團

US
美國

Aegon
全球保險集團

American Council of Life Insurers (ACLI)
美國人壽保險理事會 (ACLI)

Assurant

AXA Financial
國衛金融

Hartford Financial Services Group
哈特佛金融服務集團

Howrey LLP
寰睿外國法事務律師事務所

LIMRA International

Lincoln Financial Group

Midland National Life Insurance Company

Nationwide Mutual Insurance Company.

Pacific Life Insurance Company
太平洋人壽保險公司

Prudential Financial, Inc.
保誠金融公司

Sun Life Assurance Company
永明人壽保險公司

Willis Group
韋萊集團

Winne, Banta, Hetherington, Basralian & Kahn, P.C.

CEA - European insurance and reinsurance federation
CEA-歐洲保險與再保聯盟

National Association of Insurance and Financial Advisors
全國保險與金融顧問協會

GLOSSARY OF TERMINOLOGY

術語表

Agent

代理人

For the purpose of this guidance, agent refers to where the agent is acting under a contractual arrangement with the insurer to carry out its CDD functions i.e. the agent is regarded as synonymous with the insurer 就此指引之目的，代理人意指在與保險公司之合約內，執行客戶審查功能職責，換句話說，代理人被認為是保險人的同義詞。

Beneficial Owner

實質受益人

The natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement

最終擁有或控制某個客戶之自然人及／或某筆交易代理之自然人。亦包括最終有效控制法人及協議之人。

Beneficiary

受益人

For the purpose of this guidance, the *beneficiary* is the person that benefits from the contract. See FATF Methodology, Criteria 5.14.

就此指引之目的，受益人指受惠於該合約之人士參見防制洗錢金融行動工作組織方法，標準 5.14。

Competent authorities

權責機關

Competent authorities refers to all administrative and law enforcement authorities concerned with combating money laundering and terrorist financing, including the FIU and supervisors.

權責機關係指與防制洗錢和打擊資恐有關的所有行政與權責機關，包括金融情報中心與監理機關。

Core Principles

核心原則

The Core Principles for Effective Banking Supervision issued by the Basel Committee on Banking Supervision, the Objectives and Principles for Securities Regulation issued by the International Organisation of Securities Commissions, and the Insurance Core Principles issued by the International Association of Insurance Supervisors.

由巴塞爾銀行監督委員會發布之有效銀行監督核心原則、國際證券管理機構組織發行之證券法規之目的與原則、國際保險監理官組織發布之保險核心原則。

Designated Non-Financial Businesses and Professions

指定之非金融事業或人員

- a. Casinos (which also includes internet casinos).
- a. 賭場（包括網路賭場）。
- b. Real estate agents.
- b. 不動產經紀人。
- c. Dealers in precious metals.
- c. 貴金屬商。
- d. Dealers in precious stones.
- d. 寶石商。
- e. Lawyers, notaries, other independent legal professionals and accountants – this refers to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to „internal“ professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to measures that would combat money laundering.
- e. 律師、公證人、其他獨立法律專業人員及會計師—係指獨立執業者、合夥人，或受雇於專業公司的專業人員。這並非表示，「內部」專業人士為其他種類業務之雇員，亦非為政府機關工作之專業人士，後者已經受到打擊洗錢措施的規範。
- f. Trust and Company Service Providers refers to all persons or businesses that are not covered elsewhere under these Recommendations, and which as a business, provide any of the following services to third parties:
- f. 信託與公司服務業者係指防制洗錢金融行動工作組織其他建議項目未涵蓋的所有其他個人或公司；若為公司，應提供以下任何服務給第三方：
 - acting as a formation agent of legal persons;
 - 擔任法人之組成代理人；
 - acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
 - 擔任（或安排其他人擔任）公司之董事或秘書、合夥關係之合夥人，或與其他法人有關之類似職位；
 - providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
 - 向公司、合夥關係，或其他法人或安排，提供註冊辦公室；業務地址或住宿、通信或註冊地址；
 - acting as (or arranging for another person to act as) a trustee of an express trust; acting as (or arranging for another person to act as) a nominee shareholder for another person.
 - 擔任（或安排其他人擔任）意定信託之受託人；擔任（或安排其他人擔任）為其他人擔任被提名股東。

Designated Threshold **指定門檻**

The amount set out in the Interpretative Notes to the FATF Recommendations.
在防制洗錢金融行動工作組織建議中，解釋註釋內所述之金額。

Distribution channels **通路**

For the purpose of this Guidance, distribution channels are the means through which insurance products and services are provided to a customer. A “distribution” or “producer” is a term applied across all distribution channels and are inclusive of the various terms used to describe those who sell the products offered by insurers.

就此指引之目的，通路為保險產品與服務向客戶提供的方式。「分配」或「生產者」則是用於所有通路的用語，包括各種用於描述這些銷售保險公司所提供產品之用語。

FATF Recommendations **防制洗錢金融行動工作組織建議**

Refers to the FATF Forty Recommendations and the FATF Nine Special Recommendations on Terrorist Financing.

係指防制洗錢金融行動工作組織 40 項防制洗錢建議及防制洗錢金融行動工作組織 9 項打擊資助恐怖活動特別建議。

Financial Institutions **金融機構**

Any person or entity who conducts as a business one or more of the following activities or operations for or on behalf of a customer:

任何人士或團體，代表客戶從事一項以上後敘之活動作為業務者：

1. Acceptance of deposits and other repayable funds from the public.[5]
1. 自大眾接受存款與其他可償付資金。[5]
2. Lending.[6]
2. 放款。[6]
3. Financial leasing.[7]
3. 融資型租賃。[7]
4. The transfer of money or value.[8]
4. 轉移金錢或價值。[8]
5. Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, electronic money).
5. 發行與管理付款手段（如信用卡、記帳卡、支票、旅行支票、匯票、本票、電子錢幣）等。
6. Financial guarantees and commitments.
6. 財務保證與承諾。

7. Trading in:
 7. 交易以下項目：
 - money market instruments (cheques, bills, CDs, derivatives etc.);
 - 貨幣市場工具（支票、票券、定存、衍生性商品等）；
 - foreign exchange;
 - 外匯；
 - exchange, interest rate and index instruments;
 - 交換、利率與指數工具；
 - transferable securities;
 - 可轉讓證券；
 - commodity futures trading.
 - 商品期貨交易；
8. Participation in securities issues and the provision of financial services related to such issues.
 8. 參與證券發行與提供與此等發行有關之金融服務。
9. Individual and collective portfolio management.
 9. 個別與集體投資組合管理。
10. Safekeeping and administration of cash or liquid securities on behalf of other persons.
 10. 代表他人保護與管理現金或流通證券。
11. Otherwise investing, administering or managing funds or money on behalf of other persons.
 11. 代表他人進行其他投資、管理或經營資金或金錢。
12. Underwriting and placement of life insurance and other investment related insurance.[9]
 12. 核保及招攬壽險與其他投資相關保險。[9]
13. Money and currency changing
 13. 金錢與通貨兌換

When a financial activity is carried out by a person or entity on an occasional or very limited basis (having regard to quantitative and absolute criteria) such that there is little risk of money laundering activity occurring, a country may decide that the application of anti-money laundering measures is not necessary, either fully or partially.

若金融活動由某人或團體，在非常嚴格的基礎（以量化與絕對標準）上進行，例如幾乎沒有出現洗錢活動的風險，國家可決定，無論是全部或部分，都不採用防制洗錢措施的必要。

In strictly limited and justified circumstances, and based on a proven low risk of money laundering, a country may decide not to apply some or all of the Forty Recommendations to some of the financial activities stated above.

在嚴格限制、有所理據及根據已被證實為低洗錢風險的狀況下，國家可決定針對上述某些金融活動不必採用全部或部分第四十條建議。

Footnotes:

註釋：

[5] This also captures private banking.

[5] 亦包括私有銀行。

[6] This includes inter alia: consumer credit; mortgage credit; factoring, with or without recourse; and finance of commercial transactions (including forfaiting).

[6] 其中亦包括：消費者信貸、房貸信用、應收帳款管理，無論有無資源，以及商業交易融資（包括買斷）。

[7] This does not extend to financial leasing arrangements in relation to consumer products.

[7] 本項目不延伸至與消費性產品有關的金融租賃安排。

[8] This applies to financial activity in both the formal or informal sector e.g. alternative remittance activity. See the Interpretative Note to Special Recommendation VI. It does not apply to any natural or legal person that provides financial institutions solely with message or other support systems for transmitting funds. See the Interpretative Note to Special Recommendation VII.

[8] 這是用於正式與非正式產業的金融活動，例如另類匯款活動。參見特別建議六的解釋註釋。這不適用於任何僅向金融機構提供訊息或其他轉帳支援系統的自然人或法人。參見特別建議七的解釋註釋。

[9] This applies both to insurance undertakings and to insurance intermediaries (agents and brokers).

[9] 這同時適用於承接保險的保險仲介人（保險代理人與保險經紀人）。

Legal Arrangements

法律協議

Legal arrangements refers to express trusts or other similar legal arrangements. Examples of other similar arrangements (for AML/CFT purposes) include fiducie, treuhand and fideicomiso.

法律協議意指意定信託或其他類似法律協議。其他類似安排（就防制洗錢/打擊資恐之目的）包括信託、託管、信託基金。

Legal Persons

法律協議

Bodies corporate, foundations, anstalt, partnerships, or associations, or any similar bodies that can establish a permanent customer relationship with a financial institution or otherwise own property.

機關、基金會、機構、合夥關係、協會，或其他可和金融機構或自有財產建立永久客戶關係之組織團體。

Politically Exposed Persons (PEPS)

擔任重要政治性職務人士 (PEP)

Individuals who are or have been entrusted with prominent public functions in a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials. Business relationships with family members or close associates of PEPs involve reputational risks similar to those with PEPs themselves. The definition is not intended to cover middle ranking or more junior individuals in the foregoing categories.

目前或過去在國外被委以重要公共職務之個人，例如州長或政府首長、資深政治家、資深政府官員、司法官員或軍官、國營企業資深主管、重要政黨黨務主管。與家庭成員間的業務關係或與重要政治性職務人士間的密切關聯，皆涉及與重要政治性職務人士本人類似的聲譽風險。此定義的用意並非在於涵蓋前述類別中的中階或更資淺個人。

Shell Bank
空殼銀行

Bank incorporated in a jurisdiction/country in which it has no physical presence and which is unaffiliated with a regulated financial group.

在成立之轄區／國家並無團體業務，且和受監理金融團體無關的銀行。

Supervisors/Regulators
監理機關

The designated competent authorities who have responsibility for ensuring compliance by financial institutions with requirements to combat money laundering and terrorist financing.

負責確保金融機構遵循防制洗錢與打擊資恐規定的指定主管機關。