Deregulation of the Mauritian insurance industry to efficiently tackle money laundering: A comparison with Singapore

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Abstract
This paper aims to assess the current legal framework for money laundering control in the insurance sector. Essentially, this examination is premised on the interrogation of whether it is still appropriate for Mauritius to apply such stringent, opaque, and unyielding Anti-Money Laundering/Combatting the Financing of Terrorism (AML/CFT) norms and rules on general insurance when developed nations such as Singapore have done away with them for more effective combat against money laundering. It would also be assessed why the Financial Services Commission of Mauritius (FSC) cannot draw inspiration from its Singaporean counterpart in fighting money laundering more effectively. It is observed that a move towards deregulation of the legal framework on money laundering in the insurance sector with a more relaxed approach is more effective for the Mauritian insurance sector. Evidence is drawn from the Singaporean model. A restructuring of the Financial Services Commission of Mauritius is also warranted for such an approach to be adopted.
Keywords: Insurance, Mauritius, deregulation, money laundering, comparative, Singapore

Introduction

The Mauritian insurance industry has grown steadily over the past ten years thanks to various factors, including macroeconomic stability, a developed financial sector, a favorable investment environment, sound economic policymaking, and a relatively high income level (Aumeer et al., 2015). The insurance industry today significantly contributes to the financial system's stability by offering an array of policies around life insurance, general insurance, property insurance, health insurance, professional liability insurance, and transportation insurance among other things. The banking and insurance sector leads Mauritius' economy with a 10.7% share (ESAAMLG MER 2018). As of 2018, the local market managed USD 2.4 billion worth of assets, whereas the worldwide market handled USD 603.5 million.

The insurance industry has been revitalised since 2001, when the Financial Services Commission (FSC), a full-fledged non-banking business regulator, was granted responsibility for insurance supervision and regulation. The FSC issues licenses to captive insurers, insurance/reinsurance businesses, insurance brokers, insurance agents, and insurance salespeople in accordance with the Insurance Act (IA) 2005. The International Accounting Act of 2005 (IA 2005) is a comprehensive statute that uses internationally accepted ideas such as asset diversification, solvency monitoring, risk management, internal controls, international accounting standards, corporate governance, and actuarial methodology. When examining strategies to launder money, one rarely considers the insurance sector.

In this area, there is a widespread misperception that ML is prevalent and routinely used by criminals and banks. The modern burglars have cleverly abandoned the conventional paths of banks and cash-intensive companies in favor of insurance. The Eastern and Southern African Anti-Money Laundering Groups Mutual Evaluation Report 2018 (ESAAMLG MER) demonstrated how susceptible the insurance industry is to money laundering (ML) hazards, much like other financial services sectors. Although traditional insurance is still offered, a wide range of easy-to-purchase and redeemable financial services tied to insurance are now offered by insurance brokers or agents, creating additional chances for money laundering (Chioma & Matthew, 2016).

Money launderers can more easily hide the true purpose of their insurance purchases and avoid having their illegal activities validated by deliberately associating with companies that have a large customer base (Chioma & Matthew, 2016). The well-known drug trafficker Peroomal Veeren used "prête-noms" (nominees) to whiten money by purchasing real estate and life insurance policies through several cash transactions in order to avoid getting arrested, according to the Mauritius Commission of Inquiry on Drug Trafficking's 2018 report. The Godfather of drug trafficking used his "prête-noms" to routinely renew and insure his fleet of used automobiles, which he had purchased with drug proceeds from unregistered car dealers, according to the investigation and revelations made by this panel.

Intentionally or unintentionally, these same auto sellers would arrange insurance coverage from duly registered insurers. During that time, the "prête-noms" used these cars to smuggle drugs and extort money from Peroomal Veeren's drug trade (ARINSA, 2017). However, because there are not many options for money laundering, general insurance is not thought to offer a major danger. Auto and health are the two primary business sectors in general insurance. The theorized offences connected to general insurance are swindling, fraud, or embezzlement because they do not allow putting or layering and are not direct ML offences.

Life insurance is also susceptible to money laundering, even though it is not the preferred way (Kobor, 2007; p. 14). Given these advantages' attractiveness, criminals are inclined to use life insurance plans with monetary investment/savings features. In fact, this type of market makes it possible for both private people and businesses to receive payments from third parties, accept recurring payments that do not adhere to a regular schedule, use life insurance as security for a loan, effect withdrawals in part identical to those made from savings accounts, toggle between multiple risky investment products, put money into pension and special funds, or make solitary premium investments in a format of one-off lump sum investments (Thanasegara).

Two of the many ML incidents that have taken place in Mauritius over the years include the massive fraud that involved the Mauritius Commercial Bank-National Pension Fund (MCB-NPF) and the Ponzi

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scam connected to British American Insurance (BAI). The BAI controversy led to the BAI's insurance license being revoked, significantly shaking Mauritius in 2015. According to the Mauritius Times (2017), the police launched a detailed investigation into allegations of fraud involving 26,000 policyholders, a USD 530 million loss, and several offences concerning the sale of insurance products by BAI. The 2008 Madoff case, the biggest scam in US history, was comparable to this incident.

The ESAAMLG MER 2018 demonstrated how the legislation has major shortcomings when it comes to life insurance when it comes to determining and verifying the genuine beneficiary of insurance policies at the time of playout. When a life insurance policy ends or is given up, the policyholder or another beneficiary may have access to the money. The beneficiary of the agreement may be amended at any moment, permitting payment to be transferred to an entirely different beneficiary, whether prior to, during, or following maturity or surrender. Because anyone might intentionally use a bogus company as a "prête-nom" or an insurance policy could have multiple beneficiaries, the ESAAMLG claimed that there were no trustworthy processes for financial institutions to track down the true beneficiary of an insurance policy.

In order to consider the beneficiary of a life insurance policy when determining whether to employ higher CDD steps in such circumstances, Mauritius lacks any legal provisions or equivalent enforceable methods. When these verifications were obtained through middlemen, they became more challenging. The insurance middlemen were not often submitted to onsite inspections, according to ESAAMLG. Due to the problems mentioned above and the strategic flaws found during Mauritius' ESAAMLG AML/CFT review in 2018, the National Risk Assessment Report 2019 rated the Mauritian insurance sector's ML vulnerability as medium.

The initial set of AML restrictions in Mauritius was put into place with the enactment of the Dangerous Drugs Act of 1995 (DDA 1995), which, in certain ways, criminalized ML wherever the predicate offences involved drug violations. The country's first AML-specific law, the Economic Crimes and Money Laundering Act 2000, was passed in 2000 until it was substituted by the Financial Intelligence and Anti-Money Laundering Act 2002. 2002 (FIAMLA). The FIAMLA of 2002 classifies ML as a crime in Section 3. The DDA of 1995 and the FIAMLA of 2002 both grant various confiscation rights. Law enforcement agencies can use their reach to remove contaminated property from criminals after a conviction.

It is essential to notice that both crimes demand that the perpetrator provide proof that the property has no connection to a crime. Except for attorneys, who are governed by the Attorney General's office, financial institutions are overseen by the FSC, the Bank of Mauritius (BoM) or both, with each of which following its own regulatory Codes and Guidelines. The BoM regulates banks and non-banking deposit-taking organizations, including leasing licensees and cash dealers, while the responsibility of other non-banking financial institutions rests with the FSC, specifically the insurance, securities, and international business sector, among others.

The FIAMLA of 2002 established the Mauritius Financial Intelligence Unit (FIU), which is now equipped with the investigative authority required to carry out its prescribed responsibilities. The Prevention of Corruption Act of 2002 (ICAC) created the Independent Commission Against Corruption. The necessary investigating and prosecutorial authority for corruption offenses is statutorily granted to this law enforcement entity. According to the ESAAMLG MER 2018, Mauritius was among the first in the Eastern and Southern African area to establish an AML/CFT framework. Through the Mauritius Leaks, the Mauritian jurisdiction has somehow been unfairly maligned in several press publications as acting as a tax haven or as one of the most secretive locations in the world where ML is allowed to develop. Criminals' usage of cutting-edge technologies has expanded (Unger & Linde, 2013). There is a willingness, but the law enforcement agencies in Mauritius have become complacent and have adopted a casual approach to dealing with ML offenses.

Notwithstanding that the industries of the Export Processing Zone and sugar have concluded their respective careers, trade, tourism, agriculture, construction, and the financial sector are the six acknowledged pillars of Mauritius. After being added to the EU's list of high-risk third countries on May 7, 2020, Mauritius, once the region's pride, is now the focus of international scrutiny. This has caused the nation to be included on the FATF's "Jurisdictions under Enhanced Surveillance" (black)list in February 2020. The EU decided that Mauritius' substantial AML/CFT strategic weaknesses created serious risks to the EU financial system, as stated in Article 9 of the EU's Fourth Anti-Money Laundering Regulation. This manoeuvre surprised the Mauritius financial industry, which had connections to dubious countries like Myanmar, Zimbabwe, or Mongolia.

The Paradise Papers, released in 2016, revealed Mauritius' participation in the offshore secrecy sector. (ICIJ, 2017). The country was required to sign DTAs, which are frequently negative for developing countries because they provide firms the chance to conceal their assets and revenues from governmental restraint. The Financial Secrecy Index, which builds a comprehensive database of 20 qualitative features, also gave Mauritius a score of 72.3 out of 100 for questionable tax avoidance tactics (Financial Secrecy Index, 2018). However, a piece published in Quartz Africa in July 2019 leveled grave criticism at Mauritius, even making reference to it as a tax haven (Behuria, 2022). The latter noted that, despite the fact that Mauritius' AML/CFT policy "legally" allows those companies to operate there, financial opacity casts a shadow over the island nation's economic success.

460 suggestions were made in the incredibly unfavourable 2018 Report of the Commission of Investigation on Drug Trafficking (2018), many of which highlighted how drug traffickers have long used the banking system to their advantage in order to conceal their wealth. Paul Lam Shang Leen, a previously serving Supreme Court judge and assessor, described how drug traffickers abused commercial banks' prepaid card systems to mess with electronic records and systems, fix horse races, use "prête-noms," and ultimately purchase real estate and other assets that are exempt from regulatory oversight. The Commission of Investigation on Horse Racing in Mauritius detailed various financial irregularities and illegal betting in the horse-racing sector in a prior report dated March 2015. The legislative structure of money laundering in the insurance industry is critically examined in this essay against the aforementioned background. The fundamental question driving this investigation is whether it is still appropriate for Mauritius to apply such strict, unclear, and uncompromising AML/CFT regulations and standards on general insurance in contrast to Singapore, which has replaced them in favor of a more successful fight against money laundering. This paper conducts a comparative study with Singapore to draw best practices and lessons that could benefit Mauritius.

In this regard, this contribution is significantly different from other research work that exists already on the subject matter. Most of these would focus on more regulations or create a regulatory framework to combat money laundering. While the importance of regulation is not questionable, over-regulation can create issues and, conversely, allow money laundering to proliferate. Following the Singaporean model, this paper will illustrate how deregulation of the insurance sector may enhance the combat against money laundering in Mauritius. A comparative approach is adopted to undertake this research, premised on doctrinal analysis of existing legal provisions and frameworks on the subject matter. The choice of the comparative case study country is informed by the size of the two countries, namely Mauritius and Singapore, the legal culture that prevails in both jurisdictions, which are pretty similar being former commonwealth countries, and the volume of insurance-related activities that occur in both countries, again quite comparable. The following section provides an overview of the insurance sector and its regulating body, the FSC.

The insurance sector and the Financial Services Commission (FSC)

In Mauritius, the non-banking financial services and foreign trade sectors are jointly regulated by the FSC. The Financial Services Commission (FSC) was set up by the Financial Services Act of 2007 (FSA 2007), and it oversees financial institutions that have been granted licenses, among others, under the Securities Act of 2005 (SA 2005), the Insurance Act of 2005 (IA 2005), the Private Pension Schemes Act of 2012 (PPSA 2012), the Captive Insurance Act of 2015 (CIA 2015), the Protected Cell Companies Act of 1999 (PCCA 1999), and the Trusts Act of 2001 (TA 2001). The FSC issues licenses, enforces rules, and monitors firms' commercial endeavors in the non-banking financial services and global commerce sectors. The FSC aims to become a reputable international financial regulatory organization dedicated to Mauritius' long-term development as a powerful and competitive IFC. combat crime and misconduct in order to safeguard the interests of the public, opting to invest in non-banking financial commodities, the FSC seeks, among other things, to enhance equity, expertise, and openness of financial institutions and stock market in Mauritius.

The FSC strives to explore novel possibilities for evolution in the financial services industry, adapt to fresh challenging activities, and maximize potential in order to accomplish financial sustainability and employment development. By working collaboratively with the Bank of Mauritius, it seeks to protect the fiscal health and stability of the Mauritian financial system. The FSC also seeks to assist relevant ministries and create plans for the growth of the financial services industry. Regular meetings are conducted with a variety of organizations and the Ministry of Financial Services and Good Governance to examine how effectively it is carrying out its obligations, complying with regulations, and ensuring that the Government's policies are being followed (2018 FSC Annual Report).

The long-standing insurance and pension sectors are extremely important to the financial services industry. The NRA 2019 estimates that Mauritius's insurance and reinsurance sectors contribute 2.9% of the nation's GDP. However, the risk of money laundering in general insurance is seen as low given that these products only offer a few possibilities to produce unclean money. The FSC registers and grants licenses to insurance/reinsurance companies and insurance service providers such as managers, brokers, agents, salesperson and brokers per the IA 2005. This is carried out to monitor the actions related to commercial insurance (FSC, 2021). The IA 2005 adheres to standards and decisions made by the International Association of Insurance Supervisors (IAIS) while concentrating on specific issues regulatory organizations have with respect to sufficient capital, debt worries, company governance, and securing the insured (FSC, 2021).

The Anti-Money Laundering and Combating the Financing of Terrorism Handbook 2020 (the FSC AML/CFT Handbook) and the Code on The Prevention of Money Laundering & Terrorist Financing 2012 (the FSC Code) are two specific AML/CFT guidance documents that the FSC has previously released. In line with Sections 7(1)(a) of the FSA 2007 and 18(1)(a) of the FIAMLA 2002, the FSC Code was issued on March 30, 2012 before being repealed on November 6, 2020. The Financial Services Code (FSC Code), the initial regulation of its kind for non-banking organizations, was created to make it easier for licensees to adhere to the FIAMLA 2002, regardless of the licenses they hold. The FSC Code served as a statement of the minimum requirements and necessary operational practices for licensees. Licensees who broke the FSC Code were at risk of civil and criminal sanctions and regulatory actions, as per Section 7(1)(c) of the FSA 2007. Sections 27 and 28 of the FSA 2007 provide that license may be revoked or suspended in accordance with those provisions.

Mauritius was included in the FATF's list of high-risk jurisdictions in February 2020, and on November 6, 2020, the FSC withdrew the FSC Code through a circular letter. The move was made as a result of the FIAMLA 2002 statutory amendments and the implementation of the FIAMLR 2018, which completely rewrote the local AML/CFT framework. The nullification of the aforementioned code had no bearing on any obligations or liabilities that had already been incurred under it. For any breach of the FSC Code that occurred on or before its abrogation, the FSC reserved the right to take regulatory or disciplinary penalties. The FSC AML/CFT Handbook was made available to financial institutions on January 13, 2020, to provide them with further AML/CFT standards. It was planned for the roughly 100-page report to be an addendum to the FSC Code. The Handbook does not aim to offer a comprehensive list of recommended AML/CFT provisions, but it does seek to assist financial institutions in strengthening their systems of internal control by means of the application of risk-based strategies, customer due diligence techniques, online verification and identification systems, automated or manual commercial activity verification, staff screening and education.

In March 2021, the manual underwent an amendment in line with the 2020-2021 AML/CFT supervisory cycle to include new standards in Chapter 4 (Risk Based Approach) to assist financial institutions with carrying out a proper business risk assessment as well as a novel Chapter 13 on performing audits that are independent. The thirteenth chapter is of particular relevance because it requires that every institution have an external party, such as an external AML/CFT expert, to examine its compliance function. The board of directors, which is eventually in charge of ensuring that AML/CFT compliance within a licensee is done correctly, will then be expected to receive a thorough report from this independent party.

ML's risk to the insurance industry is manageable and not extremely dangerous. The AML/CFT safeguards should continue to be periodically assessed. However, monitoring is necessary considering Mauritius was listed on the FATF "shame list" for having significant AML/CFT deficiencies while possessing a medium-risk-averse insurance industry. It is believed that entering the insurance sector is just as risky as doing so in the gambling or jewelry sectors for Designated Non-Financial Businesses and Professions (DNFBP). The FSC has not yet released sector-specific, risk-based regulations for the complete industry. By making this move, insurers would no longer be required to enforce rigorous rules on low-risk insurance products.

A comparison with Singapore's insurance regulations in the direction of deregulation

Although the basics of customer due diligence are universal, there are significant differences amongst regulators in terms of the specifics of regulation. The game's rules continue to change regularly and without caution, which is a problem. International organizations such as the Financial Action Task Force (FATF) and the IAIS also frequently revise the AML/CFT legislation. As a consequence, insurers must always be prepared. Law enforcement agencies must act quickly to adapt to alterations and synchronize their domestic AML/CFT policies with generally acknowledged best practices.

The FATF Risk-Based Approach (RBA) Guidance towards the Insurance

In June 2007, according to Force (2007), the FATF released its Guidance on the Risk-Based Strategy to Combat Money Laundering and Terrorist Financing: High Level Concepts and Processes for Governments and Financial Institutions. This was largely made possible by the Electronic Advisory collection (EAG), a collection of FATF members and observers. Both the corporate and governmental sectors were represented among its members. Public and business sector organizations engaged with this topic at the time recognised the low-risk susceptibility of non-life insurance to ML/TF. The FATF's EAG and self-regulatory organizations that represent life insurance businesses then worked together in September 2008 to create a risk-based approach to tackling money laundering in the insurance sector.

After increased international engagement, the FATF issued its inaugural RBA Guidelines for Life Insurance Companies and Intermediaries in October 2009. The RBA gives the rationale for the purposeful removal of general insurance from FATF recommendations and is crucial to implementing FATF standards. Via an RBA, supervisors, and businesses can determine, assess, and comprehend the ML/TF risks to which they are subjected and then put the most effective mitigation measures into place. Therefore, AML resources are concentrated where they will have the biggest impact.

The Compliance Burden

The foundational tenet states that resources for compliance should be allocated most efficiently, based on priority. An RBA's application of compliance intelligence ensures that all insurance companies, intermediaries, clients, products and so on and so forth receive the same amount of attention. A "check box" approach that prioritizes combating ML/TF over strict (but unnecessary) regulatory compliance would unavoidably result from failing to take this action. When considering how much time and money is diverted from other, higher risk life insurance areas in addition to the costly compliance burden placed on insurers for low or no risk harms, it is claimed that an inflexible rules-based strategy for general insurance is highly ineffective (Medic et al., 2019).

Recognizing this difficulty, the FATF collaborated with the private sector to create the RBA Guideline for life insurance providers and intermediaries of 2009, ensuring to incorporate feedback and expertise from the industry. In order to tackle the actual ML/TF risks to which they are subjected, regulators/supervisors and financial institutions must focus on their resources and efforts. They must also adopt appropriate mitigation initiatives for the riskiest insurance section, particularly life insurance.

The FATF Guidance for A Risk-Based Approach of Life Insurance Sector

Following its 2007 version, the FATF has revised its Guidelines for A Risk-Based Approach to the Life Insurance Industry (the FATF

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RBA Guidance, 2007) (Nance, 2018; p.131). The FATF RBA Guidelines state that existing ML/TF risks determine the scope and depth of risk-mitigation measures, such as CDD inspections. The FATF RBA Guideline, for example, emphasizes that those adhering to life insurance contracts, including the beneficiary and, for corporations, the beneficial owner(s), will influence the scope of the controls to be put into effect, especially if/when a Politically Exposed Person (PEP) becomes involved.

The FATF RBA Guideline also highlights the significance of internal control measures in life insurance companies, whose framework and procedures are established by the recognized ML risks and for which, in any case, the "tone from the top," or the participation of senior executives, is essential (Broome & Yan, 2010). Despite the fact that the FATF RBA Guideline expressly indicates that it does not aim at non-life/general insurance enterprises because of their low-risk nature, some nations may nonetheless do so depending on their own national risk assessments.

An observer group to the FATF, the IAIS, fully supports the FATF Guidelines (IAIS, 2021). The IAIS released its own Application Paper on Combating ML/TF in 2013 because the above-mentioned FATF RBA Guideline fails to include general insurance. The rigorous supervision of general insurance depends on the jurisdiction's risk evaluation of the ML risks provided by the non-life industry, the IAIS clarifies in its introductory remark. General insurance enrollment is, therefore completely optional, and a jurisdiction can consider that industry into account and implement in full or in part.

Via its 41 member associations and one observer association, the GFIA, a Swiss organisation, represents the interests of insurers and reinsurers in 64 countries (GFIA, 2023). To give you some context, these corporations pay about 89% of the world's total insurance premiums. The GFIA indicated in its position paper published on May 6, 2021 that it thinks any standards pertaining to AML/CFT should adopt the risk-based approach proposed by the FATF. This entails limiting all efforts to combat ML/TF to the life insurance industry, the only sector with any, if minimal, exposure to ML/TF hazards. Nonetheless, GFIA stated its concern that certain politicians are still requesting that AML/CFT legislation be applied to general insurance despite its non-existent risk exposure to ML/TF dangers because of their unfamiliarity and lack of understanding.

The Singapore model

The notable aspect of the Monetary Authority of Singapore's (MAS) operation methodology is that it functions mainly as a supervisor rather than a regulator, which is more what the FSC in Mauritius is. The MAS was established by the Monetary Authority of Singapore Act (Cap 186) 1970. In accordance with the MAS, "supervision" refers to the assessment of an organization's risk profile, financial stability, governance, risk management and control techniques, regulatory compliance, and business practices. This is different from "regulation," which is defined as the formulation and application of legally binding laws, rules, regulations, guidelines, and notices, as well as the establishment of specific standards of conduct for financial institutions and authorized representatives. As a result, MAS communicates with the financial sector in great detail before releasing its guidelines (McCallum, 2007).

The Insurance Act (IA 142) of the MAS implements the Insurance Act (Cap. 142) of 1967. In short, this Act regulates the activities of insurers while establishing stringent restrictions to protect policyholder interests. According to market best practices, the MAS frequently releases circulars and guidelines for monitoring insurance activities. As regulated and supervised by IA 142, insurers conducting business in Singapore are allowed to do so as either local or foreign insurers. Licensed insurers can offer direct life and/or general business, direct life and general reinsurance, and captive insurance. Foreign insurers may also conduct business in Singapore under a program created under Part IIA of the IA 142.

Singapore concurs with the FATF and IAIS and believes the AML/CFT regulations for general and life insurance ought to be separate. This approach distinguishes the jurisdiction because it regulates the two insurance divisions separately and exclusively (Allen and Gledhill, 2019). Along with MAS, major participants in the regulation of insurers and insurance intermediaries include the General Insurance Association (GIA), LIA, and LIA. These organizations, which function as self-regulatory associations of insurers, create and disseminate specialized rules of conduct for the insurance industry.

Singapore has demonstrated an eagerness to change on the world regulatory scene. This jurisdiction is open to finding a middle ground between upholding the highest AML/CFT norms and consistently attempting to meet the demands of regional insurance players. For example, the jurisdiction has issued two sectorial Guidance to govern life insurers and general insurers. The FATF RBA Guideline and the IAIS's Application Paper had a significant impact on the development of these regulations.

The Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 (CDSA) and the Terrorist (Suppressing of Funding) Act 2002 (TSOFA) are the major legislation in Singapore that criminalize the offense of ML/TF and any problems associated with and incidental to it. In May 2019, the MAS published "Guidelines on Prevention of Money Laundering and Countering Terrorist Financing - Direct General Insurance Business, Reinsurance Business, and Direct Life Insurance Business (Accident & Health Policy)" and its associated Questions. All insurers licensed under section 8 of IA 142, as well as foreign insurers, are subject to the AML/CFT Guidelines (MAS, 2019). It is important to note that, according to Section 1.2 of the AML/CFT Guidelines, direct life insurers who write life policies are spared from these regulations since they are subject to another set of rules known as "MAS Notice 314 on "Prevention of Money Laundering and Countering the Financing of Terrorism - Direct Life Insurers" (the MAS Notice 31

General insurers are required under the AML/CFT Guidelines for Direct General Insurers to maintain a thorough collection of documented AML/CFT policies and procedures in place, including, at minimum, the following elements: AML/CFT training is one of the requirements, along with customer due diligence and screening methods, documenting screening results, reporting suspicious transactions, and more. It's remarkable to notice how closely the FATF RBA matches the Direct General Insurers AML/CFT Guidelines. In order to properly manage ML/TF problems, the compliance function is required to screen all clients and prospects thoroughly.

AML/CFT Guidelines for Direct General Insurers, paragraph 3.6, actually states that the insurer's controls must be "commensurate with the scale, complexity, and inherent risk" of its business and "may be broadly classified into the following 4 categories (...): (a) Management Oversight, Policies, and Training; (b) Customer Due Diligence and Screening Procedures; (c) Record Keeping and Documentation; and (d) Assessment and Reporting of Suspicious Transactions." The application of unnecessary tick-the-box compliance expenses on general insurers would be avoided because even the level of CDD required would vary between them. The best way to implement AML/CFT regulations is to be practical rather than strict and check-the-box.

As mentioned above, specific AML/CFT regulations for Direct Life Insurers are contained in the 28-page MAS Notice 314. MAS mandates that life insurers regularly assess the client's life policy and its transactions to ensure that they comply with their risk profile and source of funds, in addition to the fundamental controls used by general insurance businesses. Additionally, MAS requires direct life insurers to keep a close eye on their clients' transactions, especially when it comes to high-risk customers.

The MAS often performs onsite inspections of direct life insurers because of their riskier operations compared to general insurers, despite the fact that it admits that direct life insurers are usually proactive in fixing errors and weaknesses. It is notable that, compared to the regulator in Mauritius, the MAS shares the findings of its inspections with foreign insurers' head offices and regulators who have local bases or offices in Singapore. Thanks to this interaction between the MAS and the other agencies, the parent company's senior management is heavily involved in the group-wide AML/CFT program of its Singaporean subsidiaries.

3.5 Discussion on the Mauritian Incongruence

The Mauritian jurisdiction, which establishes a strict AML/CFT framework towards both non-life and life insurance activities, has a different perspective on the insurance sector than the RBA. Despite the FATF's 2007 "Guidance on the Risk-Based Approach to Combating Money Laundering and Terrorist Financing: High-Level Principles and Procedures" advocating an RBA to general and life insurance, which was published 14 years ago (i.e., since 2007), Mauritius prefers to continue using an inappropriate, ineffective, expensive, and unnecessary tick-the-box approach to the insurance sector. In 2021, the stringent black-letter application of the AML/CFT principles is still in effect.

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The FSC monitors life and general insurance operations identically with the offshore or securities industry when developed FATF nations adopt a less stringent AML/CFT policy to the insurance sector. Therefore, a successful risk-based paradigm is in opposition to the Mauritius approach. The expansion of the AML/CFT regime to general insurance implies that a substantial quantity of time and attention goes into reorienting and implementing controls in order to manage what is a low-risk exposure to ML/TF.

The GFIA position paper, the latest defence of the AML/CFT deregulation of general insurance, continues by asserting that the FATF does not demand that FATF nations have a suitable regulatory structure in place or that they have a restricted system in place that allows general insurers to alert their LEAs of activities that are suspicious. In the Mauritius case, a local insurer might be at a competitive disadvantage compared to foreign insurers who would not. In fact, these measures are at odds with the basics of an effective RBA considering the limited resources and time afforded in this hectic insurance market.t have to fork over exorbitant sums of money to maintain their computer systems to flag simple insurance frauds as suspicious activities. In fact, given the limited time and resources available in this fast-paced insurance industry, these actions are inconsistent with the fundamentals of a successful RBA.

The local regulator's failure to issue specific sectoral Guidance for the general and life segments is cause for concern. The FSC's AML/CFT Guidelines apply to all registered and regulated financial services companies regardless of their activity. Despite the fact that Mauritius takes pride in being a respectable and long-standing financial hub, the non-banking regulator has not offered any sector-specific or other guidance for the activities that fall within its purview.

Mauritius was included on the FATF Grey List of High-Risk Jurisdictions in February 2020. The country was added to the EU's "Blacklist" of high-risk countries with strategic AML/CFT deficiencies in May 2020. Both listings surprised locally incorporated companies, particularly GBCs, conducting business with the EU, sub-Saharan Africa, and Asia because they had the expected detrimental impact on our island's reputation as a reputable and law-abiding business climate. It was struck off the list on October 21, 2021. The FATF acknowledged the nation's commitment and historically prompt response to its strategic shortcomings. However, the nation was vehemently exhorted to keep up the fight against ML/TF.

The 210-page ESAAMLG MER 2018 advice offers authorities a simple and useful method to address their weaknesses based on best practices in other FATF jurisdictions. First of all, the ESAAMLG MER 2018 accurately pointed out that the FSC did not provide its licensees, in this example, insurers and insurance professionals, with specific, comprehensive, and unambiguous information. Even though the FSC and IAM have collaborated, the regulations that insurance professionals must abide by are ambiguous and not industry-specific. Because it is intended for "all" FSC licensees and does not cover the issues specific to each financial sector, particularly the insurance industry, the FSC AML/CFT Handbook that insurers and insurance professionals must adhere to today is insufficiently detailed. Second, there is insufficient interaction with insurance experts or education on these areas. The ESAAMLG MER 2018 rightly found that the FSC's workshop on AML/CFT for the insurance industry in August 2014 featured "training, awareness, and culture" as the most effective strategy for fighting money laundering in the insurance sector. The ESAAMLG audit, however, revealed that FSC officers lacked the instruction required to carry out their regulatory tasks most efficiently.

Thirdly, the FSC made an unwavering pledge to establish a "proper" risk-based AML/CFT program during the same insurance workshop on AML/CFT in 2014. This commitment included strategies such as (1) keeping up with the rules and laws regarding financial transactions and money laundering possibilities, such as comprehending the exposure or dangers presented by your operations, products and services, markets, and different customer types. (2) Employing technology for surveillance, review, elevate, and report suspicious activities. (3) Calculating risk-based due diligence. After 17 years, it is obvious that the FSC has betrayed its pledges. The insurance sector urgently needs a risk-based strategy to lower compliance costs and make resource allocation more effective. The earlier chapters have demonstrated how the English or Singaporean jurisdictions have achieved substantial progress in this area, whereas the Mauritius jurisdiction has continuously failed to adjust its AML/CFT program on the FATF guidelines for a risk-based approach.

Recommendations To Curb the FSC Strategic Deficiencies in The Insurance Sector

Frequent Training

The AML/CFT Handbook published by the FSC covers training as a whole. According to Section 12.6, pertaining to the frequency and scope of training, financial institutions must "give basic AML/CFT training to all employees at least once a year." Certain personnel types, however, "should receive additional, specialized training suited to their roles." Furthermore, it is unclear whether FSC officers receive enough specialized training in comparison to what is mandated for licensed police. The FSC representatives themselves ought to obtain training first since they need to understand how ML/FT occur in the insurance industry. The entire non-banking financial sector, including insurance, necessitates routine sectorial training from FSC staff. Before the FSC officers swiftly point up flaws during their onsite inspections, the FSC, in its function as supervisor, falls short of appropriately instructing financial institutions and their officers on how to understand their regulations and how they expect them to be enforced. A severe communication gap exists between the regulator/supervisor and its licensees.

Pragmatic Guidance and By-Laws

The AML/CFT Manual provided by the FSC is neither explicit nor specific. The FSC must embrace laws and policies from other countries with a stronger track record of combating money laundering, particularly in the insurance industry. In reality, laws made in industrialized countries such as Singapore, France and the UK result from considerable consultation with the insurance industry, legal experts, and approval by a distinguished panel of lawyers. This approach is suggested for the Mauritius insurance industry, where legal experts and the industry assess local AML/CFT laws and regulations at large. Clearer regulations would avoid any ambiguity in applying the law, whether it pertains to the insurance sector specifically or the whole financial sector. This approach will greatly reduce legal misunderstandings and misinterpretations and increase confidence among insurers and other insurance professionals, who commonly complain they cannot comprehend regulatory requirements.

Innovative CDD Programmes and Digital Onboarding

AML/CFT programs need to be upgraded to match the insurance industry's changing needs. It is long past due for the FSC to modernize its current procedures and establish fresh ones, including client online onboarding or FinTech, to better meet the demands of regional insurers and insurance industry professionals. The typical customer will no longer have to physically travel to and from insurers in order to obtain the minimal motor insurance coverage for a 50cc auto-cycle. In fact, the casual robust enlarged due diligence measures cannot be used identically to a protect-life insurance of Rs. 1 million and a straightforward auto insurance of Rs. 10,000, even if the client is somebody who is politically susceptible. Some insurers even go so far as to request the PEP to present a copy of their paycheck or statement of account for a bank transfer when the salaries of members of parliament are made publicly available, only to establish their capacity to pay and their source of revenue for straightforward auto insurance. The FSC is anticipated to offer this kind of helpful Guidance based on the Singaporean model.

A single regulatory/supervisory authority

As discussed previously, coordination across LEAs is a challenging issue. This makes one think of the Steering Committee's 2001 Report, which the previous administration created to make suggestions for a new legal framework for the Mauritius financial services sector. Mr. Khushiram, the then-Minister of Economic Development & Financial Services, stressed this in the preface of the Committee's report.

' It was time to decisively address the issue of proper regulatory oversight of the diverse financial activities (...). We cannot aspire to make further headway in the provision of specialised financial services unless we coordinate effectively and efficiently the activities of the present regulatory bodies and ensure that there are no gaps in the monitoring and supervision of financial intermediaries and service providers. Our credibility as an international financial centre of repute and excellence would be jeopardised without a firm commitment on the part of the authorities to provide a coherent policy structure and a sound regulatory and supervisory environment.'

In view of global changes in the banking sector and Mauritius' inherent inability to advance in the correct direction, the aforementioned study emphasized the pressing need for a uniform approach to financial services oversight. The Committee's recommendations state that having a single regulatory body monitor all facets of Mauritius' financial sector will enhance the nation's reputation and serve as a strategic tool for drawing top-tier business figures to the country. Even back then, the MAS and the Central Bank of Ireland were suggested. Strictness, rigour, and the MAS's position as a trustworthy and potent regulator were all cited.

Since 2001, there has been a strong case for a single integrated financial services regulator that unifies the banking and non-banking sectors. This essay continues by asserting that Mauritius can learn important lessons from both Singapore and Ireland. It also emphasized the need for Mauritius to establish a single, unified regulatory body overseeing all financial sector operations. This agreement will offer a uniform framework for the supervision of the financial sector, including banking, insurance, securities, asset management, and pensions, regardless of the nature of the activity. According to the study, the BOM would act as the cornerstone upon which the single regulatory body should be built. During a phased change, the BOM would be in responsible for directing integrated oversight of all financial sector activities. The FSC and BOM would merge within a certain timetable to create a single, integrated regulatory body. 20 years later, this merger is still not complete.

Conclusion

For a country with several AML/CFT concerns since being listed on the FATF and EU blocklists in 2020, the FSC has made amazing progress and undergone considerable adjustments to its regulatory and supervisory structure. However, like in many smaller and secular nations, the problems still come from a lack of high-caliber expertise. All insurance stakeholders should participate in a frank, open, fruitful, and collaborative discussion from a business perspective. Mauritius shall not be unwilling to adapt and emulate their efforts. Like the FATF, the IAIS, or the UK have been relaxing general insurance regulations instead of life insurance.

In July 2011, a World Bank delegation visited Mauritius to evaluate the country's compliance with globally accepted insurance standards, particularly the 28 IAIS Insurance Core Principles (ICP), emphasizing the supervision and regulation of the insurance sector and the role of the FSC. The necessity of the BOM and the FSC working together once more on a regulatory plan was emphasized in the April 2012 World Bank Assessment Report. Given the boom in foreign investments, there is an urgent need to strengthen regulatory coordination between local LEAs. The organizational structure of the local financial system has seen a significant boom as a result of the tremendous proliferation of non-bank financial institutions during the past 20 years.

The FSC should immediately adopt a more thorough surveillance and tighter enforcement approach rather than its existing slack, casual, and reactive approach. In order to boost their influence and ensure interaction is as transparent as is practicable, it should think about creating more formal and regular communication with insurance players. With a pedagogical approach, onsite inspections and offsite risk-based evaluations should be carried out to help and direct non-compliant financial institutions in developing their internal AML/CFT system rather than applying quick sanctions. In addition to reducing the compliance burden on financial institutions and the FSC, this highlights why a risk-based model is the best answer to sectoral rules.

Another lesson from the BAI fiasco was that the group acted like a conglomerate with interests in banking and non-banking companies. Their fixation with absurd and unreasonable investment returns has long been a cause of concern for their life insurance plans. This issue again demonstrates the BOM and FSC's lack of a coordinated regulatory approach to deal with the systemic threat posed by the BAI as a massive financial institution. By depriving these growing regulatory institutions of priceless competencies and crucial capacities, political meddling imperils the creation of a competent and independent regulatory regime. The relics of failed banks and insurance businesses, including Delphis Bank, First City Bank, and Bramer Bank, are all across Mauritius's banking and insurance sector.

Many financial companies have concealed their bad management and dishonest business practices using their political connections; these issues were occasionally covered up by accounting mistakes. Worldwide banking and non-financial institution regulators were established and merged as a result of the global financial crisis of 2008–2009 (Global Finance 2016). The island should adhere to this process and consolidate all laws covering the banking and non-banking financial services sectors. Singapore's MAS is in charge of regulating their respective financial sectors, respectively. It's safe to say that Mauritius might leverage their model to put into place a staged but synchronized approach to the regulation and supervision of its financial center. Thanks to this coordinated approach and proper reorganization, the local talent pool could expand their knowledge and adjust to the rising rivalry of developing countries such as Rwanda or Kenya in the sub-Saharan region.

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