



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Benjamin M. Lawsky  
Superintendent

**Insurance Circular Letter No. 6 (2013)**  
**July 24, 2013**

**TO:** All Accredited Reinsurers Writing Business in New York State

**RE:** Iran Freedom and Counter-Proliferation Act of 2012 Compliance

**I. Summary**

**This Circular Letter** seeks information concerning accredited reinsurers' compliance with the Iran Freedom and Counter-Proliferation Act of 2012 ("IFCPA").

**II. Discussion**

As you may be aware, the IFCPA became effective on July 1, 2013.<sup>1</sup> Of particular concern to the Department, the IFCPA imposes sanctions on any entity that provides underwriting services, insurance, or reinsurance ("insurance services") (1) "for any activity with respect to Iran for which sanctions have been imposed under this ... or any other provision of law"; or (2) to or for any person engaged in transactions enumerated in the IFCPA; or (3) to or for any person included on the specially designated nationals ("SDN") list. IFCPA § 1246(a)(1). Any entity that knowingly provides such services<sup>2</sup> is subject to at least five of the sanctions described in § 6(a) of the Iran Sanctions Act of 1996.<sup>3</sup> The range of potential sanctions is extensive and designed to encourage all entities, no matter where they are domiciled, to comply with the sanctions or risk being banned from conducting business in the United States.

Recently, the Department learned that several companies have insured trades made with Iran. The information received by the Department parallels recent news reports of a pattern of trades made by Glencore Xstrata and Trafigura with Iranian entities. While these particular transactions may not have violated the sanctions regimes in place in the relevant countries at the time, engaging in a similar transaction now could be found to violate the IFCPA. The resulting sanctions could jeopardize the ability of any involved insurer to conduct business in the United States. The purpose of this letter is to seek information about reinsurers' plans to implement compliance and due diligence programs designed to avoid any potential violations of the IFCPA.

**Please respond to the questions listed below on or before August 16, 2013:**

1. Identify all lines of business, or any other insurance service, that you, your parent (s), affiliates or subsidiaries write or provide, that may be subject to sanctions under the IFCPA.
2. Explain all policies and procedures in place to ensure compliance with the IFCPA.
3. Provide the Department with representative copies of the relevant compliance policies and procedures.
4. Explain how, when underwriting a policy, you ensure that your underwriters correctly ascertain whether the policy may cover transactions that are prohibited by the IFCPA. Include within your answer how, and to what extent, representations made by a potential insured are verified.
5. Explain what information you require an insured to provide to you regarding each shipment covered by a maritime policy, including: (1) the port of origin of the shipment; (2) the nature of the goods being shipped; and (3) whether the shipment involves or is the for the benefit of a SDN.
6. Explain what rights you have to verify whether an insured's representation about the nature of cargo insured under a marine policy is accurately represented and state the number of time in the last three years that you have exercised those rights.
7. State whether, following the news reports concerning the Glencore Xstrata and Trafigura, you reviewed your in-force policies to determine whether you insured any of the reported transactions. If yes, please indicate whether you conducted the review before the receipt of this letter and the nature of your review.
8. Produce a copy of every policy issued by you, a parent, affiliate or subsidiary, to Glencore Xstrata or Trafigura that remains in force on or after July 1, 2013.
9. Identify any instance in which you have invoked a sanctions clause to refuse payment of a claim. For each instance, please explain how you became aware of the claim and how the claimant responded, and state whether you currently insure the claimant.
10. List all insureds that you have identified as potentially engaging in business with Iran or any entity or person affiliated with Iran.

Please direct any question regarding this Circular Letter, and furnish all responsive information, to:

Peter Dean  
Deputy General Counsel for Insurance  
1 State Street  
New York, New York 10004  
(212) 480-5278  
[Peter.Dean@dfs.ny.gov](mailto:Peter.Dean@dfs.ny.gov).

Very truly yours ,

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Daniel S. Alter  
General Counsel

<sup>1</sup> Pub. L. 112-239, Title XII, Subtitle D (2013).

<sup>2</sup> Knowingly is defined to include any conduct, circumstance or result of which the entity had actual knowledge or "should have known". IFCPA § 1242(a)(9).

<sup>3</sup> Pub. L. 104-172 (1996).