



November 25, 2002

Financial Crimes Enforcement Network
Department of the Treasury
ATTN: Section 352 Insurance Company Regulations
P.O. Box 39
Vienna, Virginia 22183

Re: Anti-Money Laundering Programs for Insurance Companies
67 FR 60625 (September 26, 2002)

Dear Madam or Sir:

America's Community Bankers ("ACB")¹ is pleased to comment on the Financial Crimes Enforcement Network's ("FinCEN") proposed rule implementing section 352 of Title III of the USA PATRIOT Act of 2001 ("Patriot Act").² The proposal would require insurance companies offering life insurance policies, annuities, or any other insurance products containing similar investment features to develop and implement an anti-money laundering program that is reasonably designed to prevent the company from being used to facilitate money laundering or the financing of terrorist activities.

ACB Position

ACB's membership includes banks and savings associations owned by insurance companies, and we recognize the important role that all financial institutions, including insurance companies, play in the fight against terrorist financing and other financial crimes. While ACB generally supports the Department of the Treasury's ("Treasury") flexible risk-based approach that will enable insurance companies to develop a risk-based anti-money laundering program, it is critical that the final regulation preempt any state statutes governing anti-money laundering programs and that it is effective without being overly burdensome. ACB supports the Treasury's proposal that insurance companies will be responsible for establishing and monitoring the programs of agents and brokers who

¹ ACB represents the nation's community banks of all charter types and sizes. ACB members, whose aggregate assets exceed \$1 trillion, pursue progressive, entrepreneurial and service-oriented strategies in providing financial services to benefit their customers and communities.

² 67 Fed. Reg. 60625 (September 26, 2002).

work on the company's behalf. We also request that there be an adequate transition time for insurance companies to develop a comprehensive program that is in compliance with the final regulation.

We are concerned that the state regulators that will have to regulate and enforce these requirements will provide the review and oversight necessary to ensure that the anti-money laundering programs of all financial institutions are reviewed in a comparable way.

We agree with the scope of the proposal established by the Treasury. The segment of the insurance industry currently most susceptible to money laundering is the life insurance providers and the companies offering similar products. Therefore, any proposed anti-money laundering programs should be required at those companies. However, we urge the Treasury to monitor the products developed by insurance companies in the other segments, property and casualty and health, to ensure that such products will not have an investment or other feature that will render them vulnerable to money laundering.

ACB continues to reiterate its concern about the cumulative cost of the regulations being issued to implement the Patriot Act. We support government efforts to effectively track financial transactions by terrorists and criminals, but financial institutions, including insurance companies, should not be burdened by extraneous information requirements.

Insurance Company and Agencies as Operating Subsidiaries

We agree with the view of the federal banking regulators that insurance companies and insurance agencies that are operating subsidiaries of an insured depository institution are subject to the rules and regulations of the federal banking agencies. Those companies and agencies already have anti-money laundering programs in place or are monitored by their insured depository parent. For those affiliates that are not operating subsidiaries, we agree that they must establish programs that will be enforced by their functional regulator.

Guidance and Education

To increase the regulation's usefulness, the Treasury should coordinate an educational campaign with the state regulators to inform insurance companies how insurance products may be used for money laundering and how anti-money laundering programs may prevent and detect this criminal activity. While some insurance companies are currently subject to state anti-money laundering statutes, ACB encourages the Treasury to issue guidance in conjunction with state insurance regulators as insurance companies develop anti-money laundering programs.

Some of the methods that can be used to launder money through insurance companies using specific products should be described. Evaluation of customers, geography, products, and distribution channels for money laundering risk should also be addressed.

For instance, the Treasury should explain how annuities allow a money launderer to disguise the movement of funds through the financial system by exchanging illicit funds for immediate or deferred income. In addition, the Treasury should describe how common business practices such as accepting lump sum payments in cash or cash equivalents, or making a loan against the value of an insurance product may place an insurance company at risk for money laundering.

Parity

Finally, ACB strongly urges the Treasury to ensure that the level of enforcement given to the anti-money laundering programs by state insurance regulators parallels the level of scrutiny given to banks and savings associations. Furthermore, insurance companies may be required to comply with customer identification and suspicious activity reporting requirements in the future, and ACB encourages the Treasury to develop comparable regulations in these areas as well.

Conclusion

ACB stands ready to work with the Treasury throughout the remainder of the Patriot Act rulemaking process to ensure that regulations are effective without being unduly burdensome. Thank you for the opportunity to comment on this important matter. Should you have any questions, please contact the undersigned at 202-857-3121 or via e-mail at cbahin@acbankers.org, or Krista Shonk at 202-857-3187 or via e-mail at kshonk@acbankers.org.

Sincerely,

A handwritten signature in black ink that reads "Charlotte M. Bahin". The signature is written in a cursive, flowing style.

Charlotte M. Bahin
Director of Regulatory Affairs
Senior Regulatory Counsel