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SENT VIA FEDERAL EXPRESS

Financial Crimes Enforcement Network (FinCEN)
U.S. Department of the Treasury
Section 352 - Insurance Company Regulations
P.O. Box 39
Vienna, VA 22183

Re: Comments to Proposed Section 352 Regulations for Insurance Companies

Ladies and Gentlemen:

The Northwestern Mutual Life Insurance Company (“Northwestern Mutual”) appreciates the opportunity to comment on the proposed anti-money laundering (“AML”) regulations for insurance companies (the “Proposed Rule”), implementing Section 352 of the USA PATRIOT Act (the “Act”). Based on total admitted assets at December 31, 2001, Northwestern Mutual is the 4th largest life insurance company domiciled in the United States. In addition to providing other financial services, Northwestern Mutual issues life insurance, disability insurance, and annuities. We issue long-term care insurance through a wholly-owned subsidiary, the Northwestern Long Term Care Insurance Company.

Northwestern Mutual enthusiastically supports the purpose of Section 352 and the Proposed Rule—to prevent, detect and prosecute money laundering and the financing of terrorism. We appreciate Treasury’s efforts to educate itself about the complexities of the insurance industry and applaud its recognition that different insurance products present varying risks for money laundering. Given the intensive effort required to implement and administer an AML program, we agree that the industry needs to focus its attention on those products that present higher risks of money laundering. To help achieve this goal, we offer the following comments to the Proposed Rule.

**1. Section 103.137(a)(2)—Definition of “Insurance Company”
Section 103.137(b)—AML Program Requirements**

Under the Proposed Rule, the term “insurance company” is defined as any

person engaged in the United States as a business in:

- (A) The issuing, underwriting, or reinsuring of a life insurance policy;
- (B) The issuing, granting, purchasing, or disposing of any annuity contract;
- (C) The issuing, underwriting, or reinsuring of any insurance product with investment features similar to those of a life insurance policy or annuity contract, or which can be used to store and transfer that value to another person.

Section 103.137(b) of the Proposed Rule then mandates that each insurance company (as defined above) develop and implement an AML program.

Treasury has specifically sought comments regarding whether this definition is appropriate. Although we cannot comment with respect to other types of insurance, we are aware of the AML risks (or lack of risks) presented by life insurance, disability insurance, long-term care insurance, and annuities. Generally, Northwestern Mutual agrees with Treasury that the AML requirements should apply to certain life and annuity products.¹ We also agree that disability and long-term care insurance do not present a money laundering risk and are properly excluded. To fully recognize this distinction by type of product, however, Northwestern Mutual believes that Treasury should clarify the Proposed Rule to provide companies with the flexibility to apply their AML programs to only the products identified by Treasury as presenting AML risks.

Under the current draft of the Proposed Rule, if a company is required to establish an AML program, then the Proposed Rule may be interpreted to require the company to include all of its products within that program (even if some of those products present little or no risk of money laundering). In other words, it is not clear whether a company could conclude that a product presents such a small risk (or no risk at all) so that no AML measures need to be taken for that product. However, if an enterprise issued, for example, disability insurance from a

¹ We do not agree with Treasury’s conclusion in the preamble that term life insurance poses a “significant risk” of money laundering. Treasury gives an example of a drug trafficker using an elderly or ill individual as the insured and then collecting the benefits upon death. If the insured was honest in completing the application, then a company would issue a policy only if the insured presented an acceptable risk, and the owner had an insurable interest in the insured. If the insured was an insurable risk, then one could expect that the individual would have a meaningful life span (thus delaying the goals of the money launderer). If the insured misrepresented his answers on the application and died within two years, then the company would complete a contestable review of the file and rescind the policy if the misrepresentation was material (likely discovering the fraud or money laundering scheme in the process). If the insured lived two or more years, then the scheme might be successful, but only after significant lapse of time. In the end, we would encourage Treasury to consider exempting term life insurance products.

subsidiary (and that subsidiary issued only disability insurance), then that enterprise could fully exclude its disability line from any AML requirement, thus allowing the enterprise to focus its efforts on the riskier products.

We do not believe that the form of an enterprise's corporate structure should dictate whether an AML requirement is mandatory for a product. Accordingly, we respectfully propose the following clarification to Section 103.137(b):

Each insurance company, as defined by paragraph (a)(2) of this section, shall develop and implement a written anti-money laundering program *applicable to each product described in paragraph (a)(2)* reasonably designed to prevent the insurance company from being used to facilitate money laundering or the financing of terrorist activities.

(Italics added.)

We believe that this revision accurately clarifies the intent of the Proposed Rule and will ensure that limited resources are dedicated to the riskiest products as determined by Treasury and each individual company.

On a practical basis, we expect that most companies (including Northwestern Mutual) will voluntarily implement AML programs for low risk products because some of the AML measures can be applied to those products at little or no cost. However, companies need to have the ability to exclude low and no risk products if the costs greatly outweigh the benefits. For example, if Treasury decides to extend the Customer Identification Program requirements of Section 326 of the Act to the insurance industry, we know from our initial investigation (using the Broker/Dealer rules as the possible standard) that the implementation of those rules will be very costly and time consuming. Accordingly, we will want to develop a CIP program that focuses on our life and annuity lines, while perhaps excluding our low or no risk products from some of the more burdensome features of the CIP requirements.

2. Section 103.137(a)(2)(ii)-Exclusion of "Agents"

Treasury has specifically requested comments regarding whether insurance agents should be excluded from the definition of "insurance company." Although opining on this question is difficult given that all of the regulations have not been issued, Northwestern Mutual generally supports Treasury's proposal that captive agents do not need to develop and administer their own, independent AML policy. However, Northwestern Mutual would suggest that Treasury expressly state that an insurance company may, where appropriate, require agents to perform duties to assist the insurance company in carrying out its AML policy. We respectfully suggest that the following sentence be added at the end of Section 103.137(a)(2)(ii): "Notwithstanding the previous sentence, an insurance company may assign appropriate anti-money laundering responsibilities to its agents."

November 22, 2002

Re: Comments to Proposed AML Regulations for Insurance Companies

Page 4

We appreciate your consideration of our comments. If we can answer any questions or be of any further assistance, please do not hesitate to contact me at 414-665-7272. My e-mail address is jamesfrasher@northwesternmutual.com.

Very truly yours



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cc: Victoria Fimea (ACLI)
Carl B. Wilkerson (ACLI)