



**National Association  
of Independent Insurers**

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ATTN: Section 352 – Insurance Company Regulations

**NAII Comments to USA PATRIOT Act  
Insurance Company Regulations Section 352**

The National Association of Independent Insurers (NAII) is a leading property-casualty insurance trade association with more than 715 members that write 98 billion dollars of premium annually. Its members write 31 percent of the property/casualty insurance nationwide. Since we are an association solely of property-casualty insurers, all of our references to property-casualty specifically only refer to that of the actual insurer. We appreciate this opportunity to comment to the USA PATRIOT Act (Act) Insurance Company Regulations Section 352.

The NAII concurs with the analysis in the insurance regulations of section 352 of the Act. Since the Act is clearly written to apply to deposits of monies for investment purposes such as occurs in banking and as identified in life insurance, FinCEN accurately determined that the Act and Section 352 should not apply to property-casualty insurers. As acknowledged in the regulation, property-casualty insurers do not have "accounts" into which policyholders make "deposits" that can be withdrawn on demand or in specific amounts or at specified times. As such, the property-casualty industry does not set up accounts of funds for deposit for investment purposes.

As FinCEN recognized in the Section 352 – Insurance Company Regulations, the property-casualty industry policyholders pay premiums to receive a product, in this instance insurance coverage, just as they purchase any other good or service. Prior to insuring any asset, during the underwriting and rating process, the property-casualty insurer physically inspects and verifies the existence of the asset (the structure, the vehicle, the company, the workers, and/or the product.) Funds are disbursed to an insured only if the contingency insured against occurs or when, as a result of a policy cancellation, a return of unearned premium is required. Through their application of Section 352, FinCEN correctly agreed that the risk of money laundering within the context of a property-casualty policy is in essence non-existent.

As correctly explained in the regulation, the property-casualty insurer disburses funds only for claims payments and premium refunds due to policy cancellations. The vast majority of the transactions are related to claims payments. With respect to claims payments, property-casualty insurers only pay out on a claim when "damage" has actually occurred, and has been verified. The insurance industry is well situated to examine the circumstances under

which cash is paid out in claims, having had anti-fraud efforts, including all claims databases, in place for many years. Purchasing policies and filing numerous false claims would be a highly complicated and likely unsuccessful way to launder money. Furthermore, although there are instances where the property-casualty industry returns funds for policy cancellations or premium overpayments, as a money laundering mechanism it would be fairly cumbersome, and unlikely to produce significant results.

Finally, the regulation also acknowledges, all 50 state and the District of Columbia departments of insurance strictly regulate the property-casualty industry. The insurance commissioner in each state must approve the license of an insurer prior to that company being able to transact any business in their state. In granting a license, the state insurance commissioner has the duty to assure that there is no illegal activity through the use of a "sham" company. As such the commissioner verifies the existence of the insurer and its officers during licensing process, providing an added layer of protection against the use of conduit entities for illegal money laundering activities.

As mentioned above, there is very little opportunity for money laundering with the property-casualty industry, due to the nature of the transactions and the industry's ongoing anti-fraud activities. Pursuant to these facts, we were pleased that FinCEN recognized that the insurance industry should not be painted with a "broad brush" and that Section 352 should not be applied to the property-casualty industry. Additionally the NAII supports FinCEN in including language to encompass any insurance company that in the future provides a product with an investment feature, and any insurance product possessing both stored value and transferability.

NAII requests that FinCEN apply the definition of an insurance company from section 352 to section 326 when that regulation is issued. Within section 326, again it is necessary to assure that the terms, deposit or opening an account, is not defined as a purchase of premium. As FinCEN already recognizes, the property-casualty industry does not accept "deposits" or "open accounts" for investment purposes or without an actual purchase of insurance for a specific verified asset. To require the property-casualty industry to accumulate reports or to perform additional research regarding the entity that purchased the insurance will not derive any additional protection against money laundering or terrorism. All that would result is that the FinCEN would be flooded with additional reports of property-casualty premium being purchased.

Once again we appreciate the opportunity to comment to Section 352-Insurance Company Regulations. If you have any questions or would like to discuss our comments, please do not hesitate to contact me via the telephone at 847-297-7813, extension 407 or via e-mail at [kathleen.jensen@naii.org](mailto:kathleen.jensen@naii.org).

Sincerely,

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