

#12

via email

ATTN: Section 352--Insurance Company Regulations

RE: Whether the final rule also should require insurance agents and brokers, or any subset, to establish and maintain an anti-money laundering program.

Office of Chief Counsel, FinCEN:

In response to your Request for Comments concerning applicability of the USA Patriot Act to specific companies especially insurance agents and brokers (both captive and independent), you are splitting the wrong hair. We are all in the same boat here. Please stay focused on the spirit of the USA Patriot Act. Causing confusion as to who is responsible and who is not will detract from our national goal of thwarting terrorism and stopping the financial drain on our economy by illegal forces. In the business world, we are all responsible for who we do business with period. This is nothing new as Sanction Law has always dictated this.

If you decide one company is not responsible, then other lobbying 'me too' companies could be exempted just by your interpretation of the Act and then the courts will get involved to settle this for years to come. In the verbiage of the Act, "All" financial institutions is a pretty clear mandate. I understand your reasoning as to why insurance agents should be exempted. You could probably be shown why other business entities should be exempted under the same logical reasoning process. We are all 'unique'.

Insurance companies and agents have gone for many, many years without honoring our United States Sanction Laws. The USA Patriot Act is an important step in bringing this industry into the mainstream of compliance in this area. Simplifying the difference between Sanction Law and the USA Patriot Act, I believe that: "Sanction Laws require each U.S. person (no exceptions) whether working for a company, working for yourself, or not working to not do business with any person or entity identified in any of our sanction laws (includes money launderers). I believe that the USA Patriot Act is forcing American businesses to provide written procedures to guide their staff and to 'prove' they are honoring our sanction laws (including money laundering)".

Please don't water down our law. It was passed by well meaning legislators to attain a well meant goal. By definition, the insurance agents and brokers were represented in this legislative process as were the rest of our nation's interests.

Consider for a moment that if only 'some' companies in America are complying with the Act, why bother with passing the Act as we will not accomplish our goal. In other words, 'some' American businesses have to cooperate with these terrorists and money launderers to sustain their illegal activities. Which businesses? You don't have to wonder if you include 'all' as the Act mandated.

Of course complying with our laws may cause a burden, but dealing with terrorists and money launderers is the actual burden and how each American contributes should be taken in stride. Tax laws are a heck of a lot more complex and who does not have to pay taxes? Consider USA Patriot Act compliance a cost of doing business if you will.

Getting back to the split hair, I do think that the complexities of the mandated procedures should be commensurate with the size of the company, the volume of dollars involved, the territory and the company's risk of interaction. Yes, 'all' companies, but let each organization's procedures fit the organization (split the hair here). For a big head start, checking for known terrorists and money launderers on the Treasury's OFAC listing should always be at the top of 'each' company's procedures. My SDN Economic Sanctions program accomplishes this in seconds.

I don't look for any of this to go away in our lifetimes. So why not buckle down, form a single line of defense and just do it?

Very Sincerely,  
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