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Via E-Mail

Hartford Life

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Financial Crimes Enforcement Network (FinCEN)
U.S. Department of the Treasury
Section 352 Insurance Company Regulations
P.O. Box 39
Vienna, Virginia 22183
regcomments@fincen.treas.gov
Attention: Section 352 Insurance Company Regulations

Re: Anti-Money Laundering Programs for Insurance Companies Under Section 352 of the USA PATRIOT Act; Notice of Proposed Rulemaking ("*Proposed Rule*")

To FinCEN:

The Hartford's life insurance group of companies, specifically including Hartford Life Insurance Company, Hartford Life and Accident Insurance Company, Hartford International Life Reassurance Corporation and Hartford Life and Annuity Insurance Company, (hereafter "Hartford Life"), wishes to register its endorsement of and support for the positions articulated by the American Council of Life Insurers ("ACLI"), the largest trade association in the United States representing the life insurance industry, in its comment letter submitted November 25, 2002. This letter serves to amplify and clarify many of the points made in ACLI's letter.

Hartford Life received over $24 billion in premiums and annuity considerations for life, accident and health policies and annuity contracts in calendar 2001. Hartford Life paid out over $14 billion in death proceeds, endowment, surrender and annuity benefits to our customers in calendar 2001. Hartford Life enjoys significant market share in the group and individual annuity, life insurance, disability and employee benefits market segments. Through these business operations, we appreciate and understand the myriad of difficulties and costs that will arise in implementing effective insurance industry anti-money laundering practices and procedures.

We appreciate Treasury's goal, while promulgating regulations under the USA PATRIOT Act to prevent money laundering activities, of avoiding burdensome and unnecessary regulation of our industry. Hartford Life requests adoption of the ACLI proposed revisions to the *Proposed Rule* in order for life insurers utilizing independent agent distribution channels to be able to comply with the *Proposed Rule.* Hartford Life also requests exemption of life reinsurance, group insurance, credit life insurance and term life insurance, products which do not have the risks associated with financial instruments featuring stored and transferable value.

We wish to join ACLI in emphasizing the great compliance difficulties that the *Proposed Rule* presents to the life insurance industry concerning independent distribution channels. As drafted, the *Proposed Rule* approaches independent distribution channels in a very general manner in that it completely relies on a mistaken assumption that life insurers have control over independent distribution channels. This mistaken assumption creates a rule with which life insurers cannot comply. Absent the ability to first have in place rules covering section 326 of the USA PATRIOT Act (verification of accountholder identification) and suspicious activity reporting, life insurers are presented with a situation that – at best – leaves compliance to hypothesis and best-guessing scenarios.

ACLI thoroughly articulated the multiple distribution channels that exist for life insurance companies. Hartford Life currently maintains approximately 200,000 insurance agent appointments. Each of these agents is authorized to 'retail' solicit our products to the consuming public. The vast majority of these agents are appointed to represent multiple insurance companies [NAIC database research shows some agents are appointed to represent as many as 300 different life insurance companies]. Hartford Life utilizes approximately 400 'wholesalers' to promote the products it 'manufactures' to the retail sellers. Another 1,000 appointees are employees of Hartford Life. Thus, Hartford Life has direct supervisory task-directing control of less than 1% of the individuals authorized to sell its products.

Many of these appointed independent agents are registered representatives of banks and broker-dealers. Hartford Life has selling agreements with approximately 1900 banks and broker-dealers, who are already subject to 352 regulation. ACLI capably described the life insurance manufacturers' competition for product shelf space at these powerful distribution platforms. It is unreasonable to expect each life insurance company to impose its own standards upon, and duplicate the extensive Know Your Customer and red flag monitoring activities that have been implemented by, such covered financial institutions. It is far more reasonable to exclude from insurance company anti-money laundering accountability all customer relationships established and maintained through distribution channels already subject to anti-money laundering regulation. As Treasury stated in the Supplementary Information, the distributing agent is in a much better position to know his customer than the remote and detached product manufacturer.

These issues cannot be remedied by renegotiation of contracts. If re-negotiation is the relied-upon remedy, the result will be that independent agents will shop around for life insurers with the most bare bones of anti-money laundering program requirements, resulting in a least common denominator compliance attitude that hurts competition between life insurers and negates any appreciable effort to curb money laundering abuses using life insurance products. Further, re-negotiation of working selling agreements with thousands of distribution relationships could create significant disruptions to normal business processes and consume substantial energy and expense, without corresponding increased protections towards preventing money laundering activity. Irrespective of any re-negotiation efforts, Hartford Life has expended over $2 million to date on OFAC and Patriot Act analysis, process review and guidance, systems revisions, drafting and training, and will easily expend double that going forward. We urge FinCEN and the Treasury Department to carefully evaluate the difficulties explained by ACLI regarding the contractual relationships between insurance companies and insurance agents.

We wish to emphasize the importance of providing resolution to these independent agent distribution channel issues. The issues center around the inability of a life insurer to exercise control over an agent not otherwise subject to an anti-money laundering program requirement. The employee agent does not present the compliance issues otherwise present with independent agents. As currently drafted, the *Proposed Rule* inaccurately assumes the nature of the various relationships between life insurers and their independent agent distribution channels. These inaccuracies make compliance for life insurers impossible under the current draft of the *Proposed Rule*. These impossibilities, however, must be weighed against the policy approach which has been staked out and clearly outlined for agents and brokers, which is to totally exempt those persons from the definition of "insurance company," and thus exempt those persons from the "anti-money laundering program requirements for insurance companies" of the *Proposed Rule* (*see* proposed codification at 31 C.F.R. § 103.137 (a)(2)(i) and 31 C.F.R. § 103.137 (b)).

If the proposed policy regarding agents and brokers (*i.e*., exemption) remains in the final promulgation of the *Proposed Rule*, then that proposed policy becomes the permanent policy approach toward anti-money laundering compliance. That approach is federal acceptance of the inability of life insurers to integrate independent agents into their anti-money laundering programs and that such inability is an acknowledged compliance gap. Thus, we respectfully request that life insurers be exempt from implementing any anti-money laundering program requirements applicable to any products sold through independent distribution channels.

On the other hand, if the current policy approach for agents and brokers (*i.e*., exemption) remains in the final promulgation of the *Proposed Rule*, and if the compliance gap described in the above paragraph is not acceptable, then we respectfully request that the *Proposed Rule* be revised utilizing the language proposed by ACLI.

Proposed Rule sections 103.137(a)(2)(i)(A), (C)

Hartford Life urges FinCEN and Treasury to carefully consider the arguments advanced by ACLI, the National Association for Variable Annuities (NAVA) and the Financial Services Roundtable (FSR) and exempt reinsurance from the rule. As these positions are eloquently stated in the comment letters submitted by these financial services trade associations, Hartford Life will not repeat them here.

Proposed Rule sections 103.137(a)(1), (3)

Hartford Life agrees with and endorses the ACLI, NAVA and FSR positions regarding group life, group annuity products, term life and credit life insurance products. Again, the reasons and arguments favoring exemption of these products from this regulation are fully and capably articulated in the trade association comment letters. There is no need for Hartford Life to repeat these arguments.

In conclusion, Hartford Life respectfully requests that FinCEN: declare reinsurance, term life, credit life, group life and group annuity products exempt form the scope of the rule, and declare that life insurance companies are not required to duplicate the anti-money laundering efforts of other covered financial institutions who distribute life insurance products. Because the life insurance companies have no adequate means to control the conduct of independent agents, Hartford Life requests FinCEN develop a method to avoid conflicting and duplicative anti-money laundering compliance, reporting and training requirements for independent agents not affiliated with other covered financial institutions.

Sincerely,

David S. Pickett
Counsel