



American Insurance Association

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#31

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FinCEN

P.O. Box 39

Vienna, VA 22183

ATTN: Section 352 – Insurance Company Regulations

Dear Sirs:

The American Insurance Association (AIA) is a trade association representing 410 property-casualty insurance companies that do business throughout the United States and write more than \$86 billion in annual premiums. AIA is pleased to provide its view in response to the Financial Crimes Enforcement Network's (FinCEN's) request for comments on its proposed rule to prescribe minimum standards applicable to insurance companies pursuant to the revised provision in the Bank Secrecy Act that requires financial institutions to establish anti-money laundering programs.

**AIA supports the definition of "insurance company" that has been added to part 103 of Title 31 of the Code of Federal Regulations. (Section 103.16(a)(2))**

That definition includes any entity that engages in the United States as a business in issuing, underwriting or reinsuring insurance products that have a reasonable risk of including suspicious transactions that may be part of money laundering programs. We agree that the regulations should reflect oversight activities that reflect the extent of money laundering risk represented by various businesses. We believe that these proposed regulations tailor an entity's responsibilities to the level of risk of its business.

We have forwarded the proposed regulations to our members and have asked them if any of the businesses that they are in would fall within the definition of "insurance company" and none have reported any such business activity. (Note: none of our members are in the business of issuing life insurance policies or insurance products with similar investment features, although some of our members are affiliated with life insurance companies.) Further, because of the separate nature of the legal entities of the affiliated companies, no issues have arisen that would create any problems in differentiating the operations that are subject to this proposed regulation.

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President

A vast majority of claims settled by property-casualty insurers involves lump-sum payments to claimants. Occasionally, however, as a matter of law or to protect a claimant, an insurer pays a portion of the settlement benefits over a period of time. Usually, in these circumstances, a property-casualty insurer purchases an annuity from a life insurer and the property-casualty insurer remains the owner of the annuity. We have received an inquiry asking whether the purchasing of such an annuity contract would mean that the purchasing entity would be considered an “insurance company” for purposes of this proposed regulation.

We note that the proposed regulation indicates, in pertinent part, that: “. . . the term ‘insurance company’ means any person engaged within the United States as a business in . . . the issuing, granting, purchasing, or disposing of any annuity contract. . . .” (emphasis added) However, when a property-casualty insurer purchases an annuity from a life insurer to satisfy a portion of its obligations to a claimant, the transaction is a portion of the claims settlement process and is not a business of the property-casualty insurer. Therefore, we do not think that there is any problem with the proposed regulation because a property-casualty insurer that purchases an annuity as an incidental part of the claims settlement process does not engage in a business of purchasing claims and is not an “insurance company” for purposes of the proposed regulation.

AIA appreciates this opportunity to provide its comments on the proposed regulation. If you have any questions, please do not hesitate to call.

Sincerely,

Phillip Schwartz  
Vice President – Financial Reporting and  
Associate General Counsel