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November 25, 2002

FinCEN  
P. O. Box 39  
Vienna, VA 22183  
ATTN: Section 352-Insurance Company Regulations

Anti-Money Laundering Programs for Insurance Companies

Dear Sir or Madam:

The Independent Community Bankers of America (ICBA)<sup>1</sup> appreciates the opportunity to comment on FinCEN's proposal to prescribe minimum standards for insurance companies that requires them to establish anti-money laundering programs.

The proposal observes that the insurance industry in the United States is divided into three major sectors: life insurance, property/casualty insurance, and health insurance. According to FinCEN, "the most significant money laundering risks in the insurance industry are found in life insurance and annuity products because such products allow a customer to place large amounts of funds into the financial system and seamlessly transfer such funds to disguise their true origins."

FinCEN accurately notes that "the focus should be on the ability of a money launderer to use a particular financial product to store and move illicit funds through the financial system." Since the property/casualty insurance and health insurance sectors pose minimal risk for abuse by money launderers, those sectors are excluded from the proposed definition of an insurance company, which focuses on life insurance and annuities.

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<sup>1</sup> ICBA is the nation's leading voice for community banks and the only national trade association dedicated exclusively to protecting the interests of the community banking industry. ICBA has 5,000 members with branches in 17,000 locations nationwide. Our members hold nearly \$511 billion in insured deposits, \$624 billion in assets and more than \$391 billion in loans for consumers, small businesses, and farms. They employ more than 231,000 citizens in the communities they serve.

*ICBA: The Nation's Leading Voice for Community Banks*

The ICBA agrees with FinCEN that life insurance and annuities pose the greatest risk for abuse by money launderers, due to the structure of those products. And, we also agree that property/casualty insurance and health insurance pose very little risk.

### Credit Life Insurance

The ICBA strongly recommends that the final rule clarify that credit life insurance is excluded from the definition of insurance under the requirements.<sup>2</sup> Lacking an investment component, credit life policies are much more like casualty insurance than life insurance policies for money laundering purposes. Typically, a credit life insurance policy is offered to a borrower at the time a loan is originated. The insurance coverage is tied to the loan, with premiums typically paid by the borrower as an additional fee.<sup>3</sup> On the occurrence of a specified event, usually the death or disability of the borrower, the insurance provides funds to satisfy the terms of the debt.

The beneficiary in this instance is the bank that made the loan, and the insurance company either satisfies the outstanding debt in its entirety or makes loan payments during the period that the borrower is covered by disability. While the borrower may indirectly benefit from eliminated or reduced payment on the debt, the actual beneficiary is the creditor, thereby making this form of insurance unappealing from a money laundering aspect. The lack of an investment component also makes credit life insurance unappealing for money laundering purposes, since it does not offer the ability to move illicit funds through the financial system. And, as with casualty or property insurance, there is a precipitating factor that prompts payment; since the precipitating factor is outside of the control of the borrower, it makes credit life insurance a minimum risk for abuse by money launderers.

Therefore, since credit life insurance policies are not subject to the manipulation or abuse that raises concerns about money laundering or terrorism, credit life should be excluded from the definition of insurance in the final rule.

### Insurance Agents

Under the proposal, the definition of an insurance company does not include insurance agents or brokers. According to FinCEN, it is the insurance company that is in the best position to design an effective anti-money laundering program for its products, based on the risk of money laundering presented.

The ICBA agrees that this is appropriate. However, banks have long been subject to anti-money laundering requirements and already have anti-money laundering programs in place to meet the mandates of the Bank Secrecy Act. Since banks may act as either insurance agents or brokers, the ICBA recommends that FinCEN incorporate a provision in the final rule to make it clear that bank compliance with existing anti-money

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<sup>2</sup> Similarly, debt cancellation contracts and debt suspension agreements, which are similar to credit life policies, should be excluded.

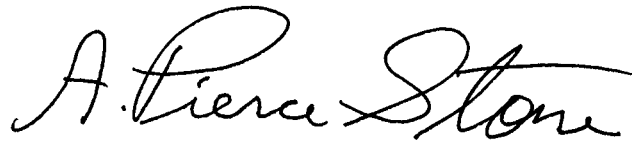
<sup>3</sup> As a general rule, the fees are relatively nominal.

laundering requirements established by the appropriate federal banking agency meets the requirements of this proposal when a bank acts as an insurance agent.

Should you have any questions or need any additional information, please feel free to contact ICBA's regulatory counsel, Rob Rowe, at 202-659-8111 or [robert.rowe@icba.org](mailto:robert.rowe@icba.org).

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "A. Pierce Stone". The signature is written in a cursive, flowing style with a long horizontal flourish extending to the right.

A. Pierce Stone  
Chairman