

# THE FINANCIAL SERVICES ROUNDTABLE

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805 FIFTEENTH STREET, NW  
SUITE 600  
WASHINGTON, DC 20005  
TEL 2102-289-4322  
FAX 202-289-1903

Richard Whiting  
H[www.fsround.org](http://www.fsround.org)H

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*Via E-Mail*

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

Re: Mandatory Suspicious Activity Reporting (SAR) by Insurance Companies

Dear Sir or Madam:

The Financial Services Roundtable (“FSR”) is a national association representing 100 of the largest integrated financial services companies in the U.S. providing banking, insurance, securities, and investment products and services to American consumers. The Roundtable believes that several areas of the proposed rule merit further consideration.

## I. Several Insurance Products Do Not Pose Suspicious Activities Risks.

Some of the insurance products that appear to be included within the scope of the Proposed Rule do not represent true money-laundering risks. FinCEN is on record stating that it does not believe that money-laundering risks should be “predicated solely on the existence of an ability to obtain a refund on a purchased financial product.” FinCEN has also indicated that money-laundering risks are believed to be associated with products with investment features or features of stored value and transferability.

A number of life insurance products, including group life insurance, credit life insurance, term life insurance products without stored value and reinsurance do not fit FinCEN’s profile of a product that carries money-laundering risk and they should be excluded from the final rule.

### *A. Group Life Insurance*

Group life insurance can be issued to statutorily defined groups. This restriction on purchases presents an obstacle to money-laundering. The most common group life insurance setting is probably the employer group, in which a policy is usually issued to an employer for the benefit of employees. Typically, there are limitations on who is eligible to purchase insurance and the amount that may be purchased.

The employer or the employee may pay premiums, and the ownership of the policy is not transferable nor is there typically any cash value. Hence, the elements of stored value and transferability are not met, nor are there investment features.

*B. Credit Life Insurance*

Credit life insurance is usually offered through a bank or another lending institution, and provides protection against default on a loan. The death benefit is typically equal to the balance due on the loan and the bank is usually the beneficiary and may also be the policyholder. Again, there are no elements of stored value or transferability, nor are there investment features.

*C. Term Life Insurance*

Term life insurance typically does not build cash value nor does it pay dividends. Most term life insurance can be thought of as a pure protection product with no investment features, and in that respect it is actually similar to a property and casualty policy. The primary means of engaging in a true money-laundering scheme, as with a property or casualty policy, is to obtain a refund of premium, which FinCEN has indicated should not be the sole determinant of a money-laundering risk. Accordingly, any conclusion in the Final Rule that term life insurance poses a significant money-laundering risk because of elements of stored value and transferability does not obtain.

*D. Reinsurance*

Reinsurance is the purchase of insurance by one insurance company (ceding company) from another insurance company (reinsurer) in order to mitigate large losses or catastrophic exposure or to enable the ceding company to free up surplus and write more insurance. The contract governing the transaction only involves the ceding company and reinsurer.

Reinsurance does not have a cash surrender value or permit the transfer of any stored value to a third party for the purposes of laundering money. There is no direct contract between the policyholders of an insurer and the reinsurer, and the reinsurance company in most cases never has any direct contact with an insured person.

The transactions that would be required to use reinsurance as a money-laundering vehicle are complex and constitute a natural barrier to money-laundering. In order for reinsurance to be used for money-laundering purposes, the money launderer would have to establish an agency to sell the insurance, establish or work with an insurance company to underwrite the coverage, and then contract with a reinsurance company with whom the ceding company would reinsure its business.

***Exclusion Requested***

**For these reasons, we again respectfully suggest that group life insurance, credit life insurance, term life insurance products without stored value, and life reinsurance are not high risk vehicles for money-laundering and should be specifically excluded from the Final Rule.**

II. Consistency and Duration of Applicability for Products Not Excluded (De Minimis Standard)

The proposed rules regarding insurance company Suspicious Activity Reports (SARs) include a standard for reporting transactions that involve or aggregate at least \$5,000 in funds or other assets. The Roundtable recommends that the final rule clarify the duration of the \$5000 aggregation period. Our suggestion is that the period should not exceed one year.

III. SAR Filing Exceptions

Section 103.16 (d) of the proposal provides for an exception to the SAR reporting requirement, unless the activity is related to money-laundering or terrorist financing. The Roundtable urges Treasury to make this point clear. To this end, the Roundtable urges Treasury to include in its final rule a clear definition of what activity relates to money laundering or terrorist financing. The Roundtable further recommends that Treasury specify in its Final Rule a clear distinction between an activity that is “purely insurance fraud” and an activity that is money-laundering or terrorism financing. This clarification would avoid unnecessary and/or duplicative reporting by insurance companies.

Conclusion

The Financial Services Roundtable supports efforts to strengthen the active money-laundering regime. Moreover, the Roundtable believes that this regime would be improved by adoption of the recommendations made above.

Thank you for your attention to these matters. Should you have questions concerning this matter, please contact Irving Daniels or me at (202) 289-4322.

Sincerely,

Richard M. Whiting