



NATIONAL ASSOCIATION OF INSURANCE & FINANCIAL ADVISORS

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#7

December 13, 2002

James F. Sloan
Director
FinCEN
P.O. Box 39
Vienna, VA 22183

ATTN: Section 352– Insurance Company Regulations

Dear Director Sloan:

These comments relating to the Financial Crimes Enforcement Networks' (FinCEN) Notice of Proposed Rulemaking regarding a requirement that insurance companies report suspicious transactions are submitted on behalf of the National Association of Insurance and Financial Advisors (“NAIFA”). NAIFA (formerly the National Association of Life Underwriters) is a federation of nearly 1,000 state and local associations representing almost 80,000 life and health insurance agents and investment advisors. Originally founded in 1890, NAIFA is the nation’s oldest and largest trade association of insurance agents and financial advisors. NAIFA’s mission is to improve the business environment, enhance the professional skills and promote the ethical conduct of agents and others engaged in insurance and related financial services who assist the public in achieving financial security and independence.

These comments express NAIFA's support for FinCEN's decision to limit the requirements for reporting suspicious transactions to insurance companies.

The Notice of Proposed Rulemaking Makes the Right Parties Responsible for Suspicious Transaction Reporting

NAIFA would like to commend FinCEN for putting suspicious transaction reporting responsibilities in the right place. Insurance companies – as opposed to agents and brokers – are in the best position to identify potential instances of money laundering and/or terrorism financing. Insurers are also in the best position to bear the administrative costs of identifying, reporting and maintaining records of suspicious transactions. We recognize, as did FinCEN in the Notice of Proposed Rulemaking, that agents and brokers will need to provide some relevant information to insurers to help insurers identify and report suspicious transactions. We expect agents and brokers (both captive and independent) to fulfill these responsibilities and do them well, but they should not also be tasked with the administrative cost and burden of separately identifying and reporting suspicious transactions. FinCEN made the right decision by not imposing these unnecessary burdens on agents and brokers.

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Requiring insurance companies, rather than agents and brokers, to report suspicious transactions is the right regulatory approach because only insurance companies have access to all of the information that may raise money laundering concerns. In particular, after the initial agreement and premium payment, business is often transacted directly between the insurance company and the policyholder. Therefore, transactions such as requests to cancel the policy and receive a refund or take out a policy loan may occur without the agent's or broker's awareness. These transactions, which may be the most telling indicators of potential money laundering, must be communicated to, and processed by, insurers. Accordingly, as FinCEN has proposed, insurance companies, not agents and brokers, should be responsible for reporting suspicious transactions.

In addition, FinCEN is correct in pointing out in its proposed rule that insurance companies are likely to use their contractual relationships to require agents and brokers to provide them with information that may be useful for identifying potential suspicious activity. These responsibilities will likely be similar to information-gathering and compliance responsibilities that insurers currently ask agents and brokers to undertake. Insurers already have numerous compliance and best practices guidelines that independent agents and brokers follow in order to continue doing business with them. Insurers also require very extensive information-gathering by many of their agents and brokers for underwriting purposes. The same structural model should work for the collection of information to identify suspicious transactions.

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FinCEN's decision to limit the requirements for reporting suspicious transactions to insurance companies is sound. It will facilitate industry compliance without overburdening NAIFA members, which are typically small businesses, with unnecessary compliance costs.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "David A. Winston", with a long horizontal flourish extending to the right.

David A. Winston
Vice President – Government Affairs