



COMMONWEALTH OF PUERTO RICO
OFFICE OF THE COMMISSIONER OF INSURANCE

February 9, 2006

RULING LETTER NO. N-L-2-72-2006

TO ALL DOMESTIC INSURERS AUTHORIZED TO UNDERWRITE
INSURANCE IN PUERTO RICO

**NOTICE OF APPROVAL OF FINAL REGULATIONS BY THE UNITED
STATES DEPARTMENT OF THE TREASURY FOR IMPLEMENTING THE
PROVISIONS OF THE BANK SECRECY ACT, AS AMENDED BY THE LAW
KNOWN AS THE USA PATRIOT ACT OF 2001**

Dear Sirs and Madams:

As we advised in Circular Letter C-L-06-1657-2002, dated June 28 , 2002 and Circular Letter C-L-10-1664-2002, dated October 7, 2002, this past October 26, 2001, the President of the United States signed the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism", known as the "USA Patriot Act of 2001", hereinafter the "Patriot Act".

The Patriot Act, in turn, amended several provisions of the "Bank Secrecy Act", hereinafter the "BSA", for the purpose of amending Sections 326 and 352 of the BSA to require all financial institutions, including insurers, to establish mechanisms for identifying and reporting financial transactions that could constitute money-laundering activities.

The Secretary of the US Department of the Treasury, through the Financial Crimes Enforcement Network, hereinafter "FinCEN", has the mandate to establish through regulation the minimum requirements applicable to financial institutions with regard to establishing a program to prevent money-laundering activities and complying with the criteria for gathering and verifying information on the identity of their consumers.

PO Box 8330 • San Juan, Puerto Rico 00910-8330

Tel (787) 722-8686 • Fax (787) 722-4400

www.ocs.gobierno.pr

To fulfill this mandate, on September 18, 2002, FinCEN initiated the approval process for the Regulations proposed by the US Department of the Treasury that are applicable to the insurance industry. As part of this process, comments were requested from all of the affected sectors.

On October 31, 2005, FinCEN issued the final Regulations that are applicable to the insurance industry, which require certain insurers to establish programs to detect money-laundering activities and to file reports on any suspicious activities of which they become aware. The effective date of the Regulations was December 5, 2005, and insurers subject to the provisions of these Regulations have 180 days, to be counted from the effective date of the Regulations, in which to comply.

The final Regulations are applicable to all natural or legal persons who underwrite or issue the covered products in the United States of America, its territories, and the Commonwealth of Puerto Rico.

For the purposes of the final Regulations, the term “**covered product**” means:

1. Permanent insurance policies, other than group insurance policies;
2. Annuity agreements, other than group annuities, and
3. Any other insurance product having a cash value or investment features.

For operational purposes, the definition includes any insurance product having the same features as permanent life insurance products and annuities, which means that there is a greater risk that these will be used for money-laundering purposes. Insofar as term life insurance, property and casualty insurance, health insurance, and any other kind of insurance do not exhibit these features, they are not covered products under these Regulations.

The following products do not qualify as “covered products” under the final Regulations:

1. Group insurance;
2. Products offered by charitable organizations, i.e. charitable annuities;
3. Life term (including credit), property, casualty, health or title insurance;

4. Reinsurance and retrocession agreements.

Insurers that are subject to the provisions of the Regulations that require programs for the prevention and detection of money-laundering activities must comply, at a minimum, with four basic elements:

- A compliance officer who is responsible for ensuring effective implementation of the program;
- Written policies, procedures, and internal controls reasonably designed to control the risk of money-laundering, financing of terrorist activities, and any other financial criminal activity associated with the organization's business;
- Continuous training of individuals related to responsibilities other than those of the program; and,
- Independent audits to monitor and maintain a program for the adequate prevention and detection of money laundering.

With regard to insurance agents and brokers, these will not have to establish separate programs for the detection of money-laundering activities. Nevertheless, they must be involved in the programs established by insurers, which must audit the agents and brokers with which they do business to ensure compliance with the program.

The insurer's money-laundering detection program should also include procedures for obtaining from its agents or brokers or by any other appropriate means, relevant information on its customers and reporting suspicious activities and transactions based on this information.

The second final Regulation issued by FinCEN requires that insurers that are subject to the provisions of both Regulations to report to FinCEN any transactions they know or suspect or have a reason to suspect are directed at illegal activities or financing terrorism.

Insurers subject to the provisions of these Regulations are obligated to report suspicious activities using the FinCEN form designed specifically for the insurance industry. The form is known as the "Suspicious Activity Report by Insurance Companies - FinCEN Form 108". Until the final form is published and enters into effect, insurers may use the FinCEN Form 101 - "Suspicious Activity Report by the Securities and Futures Industries" to report suspicious activity.

A copy of the FinCEN press release, the final Regulations, a question and answer document for the insurance industry and the SAR-IC draft may be obtained at the following websites:

- Press Release - <http://www.fincen.gov/newsrelease10312005.pdf>.
- Final regulations for the Money-Laundering Detection Program - <http://www.fincen.gov/amlforinsurancecompany.pdf>.
- Final Rule Reporting Suspicious Activities
www.fincen.gov/sarforinsurancecompany.pdf.
- Questions and Answers for the Insurance Industry
<http://www.fincen.gov/nrfaq10312005.pdf>.
- SAR-IC Draft (FinCEN Form 108)
<http://www.fincen.gov/sarcomments10312005.pdf>.

In addition, FinCEN will periodically publish documents directed at the insurance industry regarding compliance with the provisions of these Regulations. Insurers may also obtain additional information by calling the FinCEN Regulatory Help Line at 800-949-2732.

All domestic insurers authorized to underwrite insurance in Puerto Rico are hereby required to take note of these matters, and as applicable, shall strictly comply with guidelines set forth in the FinCEN Regulations.

Very truly yours,

SIGNED

Dorelisse Juarbe Jiménez
Commissioner of Insurance