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Attn: Section 352 - Insurance Company Regulations

FinCEN believes that it is appropriate to place on the insurance company (which develops the products and bears their risk), the responsibility for obtaining all relevant information necessary to establish and maintain an effective anti-money laundering program. It has exempted health and property/casualty insurance companies, as well as agents and brokers from having to implement such a program, although these last mentioned may be required by the life insurance company to provide pertinent information.

Our concern is based on the specific distribution channel addressed as "General Agent." Although exemption is implied through the definition of an insurance company [Section 103.137 (a)], the term "general agent" is not mentioned in the exclusion or as one of the groups not included in the definition (agents and brokers.)

A general agent is an independent contractor who is under contract to the insurance company, usually active in selling insurance, as well as being responsible for the performance of the agency. A general agent is given certain general powers to represent the insurance company and to develop new business within a defined territory. The general agent usually does not receive a salary; instead, the general agent receives a commission override. In addition, the general agent may receive an expense reimbursement allowance and some income for performing service functions for the insurer. These functions usually do not include the direct collection of renewal premiums, although conservation of existing business and persistency play an important part of an agency's performance measurement.

Based on the fact that the above functions and responsibilities compare with those of an agent or broker, we suggest the consideration and request that the term "general agent" specifically be included as one of the categories not required under the rule to independently establish an anti-money laundering program.

Adolfo Krans Associates, Inc.
General Agent in Puerto Rico for
Ohio National Life Insurance Co.
P. O. Box 363614
San Juan, Puerto Rico 00936-3614