

Financial Crimes Enforcement Network, Treasury

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this subpart. Mutual funds should also refer to subpart F of part 1010 of this chapter for special standards of diligence; prohibitions; and special measures contained in that subpart which apply to mutual funds.

§ 1024.610 Due diligence programs for correspondent accounts for foreign financial institutions.

- (a) Refer to §1010.610 of this chapter.
- (b) [Reserved]

§ 1024.620 Due diligence programs for private banking accounts.

- (a) Refer to §1010.620 of this chapter.
- (b) [Reserved]

§ 1024.630 Prohibition on correspondent accounts for foreign shell banks; records concerning owners of foreign banks and agents for service of legal process.

- (a) Refer to §1010.630 of this chapter.
- (b) [Reserved]

§§ 1024.640–1024.670 [Reserved]

PART 1025—RULES FOR INSURANCE COMPANIES

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AUTHORITY: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307.

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Subpart A—Definitions

§ 1025.100 Definitions.

Refer to §1010.100 of this chapter for general definitions not noted herein. To the extent there is a differing definition in §1010.100 of this chapter, the definition in this section is what applies to part 1025. Unless otherwise indicated, for purposes of this part:

(a) *Annuity contract* means any agreement between the insurer and the contract owner whereby the insurer promises to pay out a fixed or variable income stream for a period of time.

(b) *Covered product* means:

(1) A permanent life insurance policy, other than a group life insurance policy;

(2) An annuity contract, other than a group annuity contract; or

(3) Any other insurance product with features of cash value or investment.

(c) *Group annuity contract* means a master contract providing annuities to a group of persons under a single contract.

(d) *Group life insurance policy* means any life insurance policy under which a number of persons and their dependents, if appropriate, are insured under a single policy.

(e) *Insurance agent* means a sales and/or service representative of an insurance company. The term “insurance agent” encompasses any person that sells, markets, distributes, or services an insurance company’s covered products, including, but not limited to, a person who represents only one insurance company, a person who represents more than one insurance company, and

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a bank or broker-dealer in securities that sells any covered product of an insurance company.

(f) *Insurance broker* means a person who, by acting as the customer's representative, arranges and/or services covered products on behalf of the customer.

(g) *Insurance company or insurer*. (1) Except as provided in paragraph (g)(2) of this section, the term "insurance company" or "insurer" means any person engaged within the United States as a business in the issuing or underwriting of any covered product.

(2) The term "insurance company" or "insurer" does not include an insurance agent or insurance broker.

(h) *Permanent life insurance policy* means an agreement that contains a cash value or investment element and that obligates the insurer to indemnify or to confer a benefit upon the insured or beneficiary to the agreement contingent upon the death of the insured.

Subpart B—Programs

§ 1025.200 General.

Insurance companies are subject to the program requirements set forth and cross referenced in this subpart. Insurance companies should also refer to subpart B of part 1010 of this chapter for program requirements contained in that subpart which apply to insurance companies.

§ 1025.210 Anti-money laundering programs for insurance companies.

(a) *In general*. Not later than May 2, 2006, each insurance company shall develop and implement a written anti-money laundering program applicable to its covered products that is reasonably designed to prevent the insurance company from being used to facilitate money laundering or the financing of terrorist activities. The program must be approved by senior management. An insurance company shall make a copy of its anti-money laundering program available to the Department of the Treasury, the Financial Crimes Enforcement Network, or their designee upon request.

(b) *Minimum requirements*. At a minimum, the program required by paragraph (a) of this section shall:

(1) Incorporate policies, procedures, and internal controls based upon the insurance company's assessment of the money laundering and terrorist financing risks associated with its covered products. Policies, procedures, and internal controls developed and implemented by an insurance company under this section shall include provisions for complying with the applicable requirements of subchapter II of chapter 53 of title 31, United States Code and this chapter, integrating the company's insurance agents and insurance brokers into its anti-money laundering program, and obtaining all relevant customer-related information necessary for an effective anti-money laundering program.

(2) Designate a compliance officer who will be responsible for ensuring that:

(i) The anti-money laundering program is implemented effectively, including monitoring compliance by the company's insurance agents and insurance brokers with their obligations under the program;

(ii) The anti-money laundering program is updated as necessary; and

(iii) Appropriate persons are educated and trained in accordance with paragraph (b)(3) of this section.

(3) Provide for on-going training of appropriate persons concerning their responsibilities under the program. An insurance company may satisfy this requirement with respect to its employees, insurance agents, and insurance brokers by directly training such persons or verifying that persons have received training by another insurance company or by a competent third party with respect to the covered products offered by the insurance company.

(4) Provide for independent testing to monitor and maintain an adequate program, including testing to determine compliance of the company's insurance agents and insurance brokers with their obligations under the program. The scope and frequency of the testing shall be commensurate with the risks posed by the insurance company's covered products. Such testing may be conducted by a third party or by any officer or employee of the insurance

company, other than the person designated in paragraph (b)(2) of this section.

(c) *Anti-money laundering program requirements for insurance companies registered or required to register with the Securities and Exchange Commission as broker-dealers in securities.* An insurance company that is registered or required to register with the Securities and Exchange Commission as a broker-dealer in securities shall be deemed to have satisfied the requirements of this section for its broker-dealer activities to the extent that the company is required to establish and has established an anti-money laundering program pursuant to §1023.210 of this chapter and complies with such program.

(d) *Compliance.* Compliance with this section shall be examined by the Department of the Treasury, through the Financial Crimes Enforcement Network or its delegees, under the terms of the Bank Secrecy Act. Failure to comply with the requirements of this section may constitute a violation of the Bank Secrecy Act and of this chapter.

Subpart C—Reports Required To Be Made By Insurance Companies

§ 1025.300 General.

Insurance companies are subject to the reporting requirements set forth and cross referenced in this subpart. Insurance companies should also refer to subpart C of part 1010 of this chapter for reporting requirements contained in that subpart which apply to insurance companies.

§§ 1025.310–1025.315 [Reserved]

§ 1025.320 Reports by insurance companies of suspicious transactions.

(a) *General.* (1) Each insurance company shall file with the Financial Crimes Enforcement Network, to the extent and in the manner required by this section, a report of any suspicious transaction involving a covered product that is relevant to a possible violation of law or regulation. An insurance company may also file with the Financial Crimes Enforcement Network by using the form specified in paragraph

(b)(1) of this section or otherwise, a report of any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but the reporting of which is not required by this section.

(2) A transaction requires reporting under this section if it is conducted or attempted by, at, or through an insurance company, and involves or aggregates at least \$5,000 in funds or other assets, and the insurance company knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part):

(i) Involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any Federal law or regulation or to avoid any transaction reporting requirement under Federal law or regulation;

(ii) Is designed, whether through structuring or other means, to evade any requirements of this chapter or of any other regulations promulgated under the Bank Secrecy Act;

(iii) Has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the insurance company knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or

(iv) Involves use of the insurance company to facilitate criminal activity.

(3)(i) An insurance company is responsible for reporting suspicious transactions conducted through its insurance agents and insurance brokers. Accordingly, an insurance company shall establish and implement policies and procedures reasonably designed to obtain customer-related information necessary to detect suspicious activity from all relevant sources, including from its insurance agents and insurance brokers, and shall report suspicious activity based on such information.

(ii) Certain insurance agents may have a separate obligation to report suspicious activity pursuant to other provisions of this chapter. In those instances, no more than one report is required to be filed by the financial institutions involved in the transaction, as long as the report filed contains all relevant facts, including the names of both institutions and the words “joint filing” in the narrative section, and both institutions maintain a copy of the report filed, along with any supporting documentation.

(iii) An insurance company that issues variable insurance products funded by separate accounts that meet the definition of a mutual fund in §1024.320(a)(1) of this chapter shall file reports of suspicious transactions pursuant to §1024.320 of this chapter.

(b) *Filing procedures*—(1) *What to file.* A suspicious transaction shall be reported by completing a Suspicious Activity Report by Insurance Companies (SAR-IC), and collecting and maintaining supporting documentation as required by paragraph (d) of this section.

(2) *Where to file.* The SAR-IC shall be filed with the Financial Crimes Enforcement Network as indicated in the instructions to the SAR-IC.

(3) *When to file.* A SAR-IC shall be filed no later than 30 calendar days after the date of the initial detection by the insurance company of facts that may constitute a basis for filing a SAR-IC under this section. If no suspect is identified on the date of such initial detection, an insurance company may delay filing a SAR-IC for an additional 30 calendar days to identify a suspect, but in no case shall reporting be delayed more than 60 calendar days after the date of such initial detection. In situations that require immediate attention, such as terrorist financing or ongoing money laundering schemes, the insurance company shall immediately notify by telephone an appropriate law enforcement authority in addition to filing timely a SAR-IC. Insurance companies wishing voluntarily to report suspicious transactions that may relate to terrorist activity may call the Financial Crimes Enforcement Network’s Financial Institutions Hotline at 1-866-556-3974 in addition to fil-

ing timely a SAR-IC if required by this section.

(c) *Exception.* An insurance company is not required to file a SAR-IC to report the submission to it of false or fraudulent information to obtain a policy or make a claim, unless the company has reason to believe that the false or fraudulent submission relates to money laundering or terrorist financing.

(d) *Retention of records.* An insurance company shall maintain a copy of any SAR-IC filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of filing the SAR-IC. Supporting documentation shall be identified as such and maintained by the insurance company and shall be deemed to have been filed with the SAR-IC. When an insurance company has filed or is identified as a filer in a joint Suspicious Activity Report, the insurance company shall maintain a copy of such joint report (together with copies of any supporting documentation) for a period of five years from the date of filing. An insurance company shall make all supporting documentation available to FinCEN or any Federal, State, or local law enforcement agency, or any Federal regulatory authority that examines the insurance company for compliance with the Bank Secrecy Act, or any State regulatory authority administering a State law that requires the insurance company to comply with the Bank Secrecy Act or otherwise authorizes the State authority to ensure that the institution complies with the Bank Secrecy Act, upon request.

(e) *Confidentiality of SARs.* A SAR, and any information that would reveal the existence of a SAR, are confidential and shall not be disclosed except as authorized in this paragraph (e). For purposes of this paragraph (e) only, a SAR shall include any suspicious activity report filed with FinCEN pursuant to any regulation in this chapter.

(1) *Prohibition on disclosures by insurance companies*—(i) *General rule.* No insurance company, and no director, officer, employee, or agent of any insurance company, shall disclose a SAR or any information that would reveal the existence of a SAR. Any insurance

company, and any director, officer, employee, or agent of any insurance company that is subpoenaed or otherwise requested to disclose a SAR or any information that would reveal the existence of a SAR, shall decline to produce the SAR or such information, citing this section and 31 U.S.C. 5318(g)(2)(A)(i), and shall notify FinCEN of any such request and the response thereto.

(ii) *Rules of Construction.* Provided that no person involved in any reported suspicious transaction is notified that the transaction has been reported, this paragraph (e)(1) shall not be construed as prohibiting:

(A) The disclosure by an insurance company, or any director, officer, employee, or agent of an insurance company, of:

(1) A SAR, or any information that would reveal the existence of a SAR, to FinCEN or any Federal, State, or local law enforcement agency, or any Federal regulatory authority that examines the insurance company for compliance with the Bank Secrecy Act, or any State regulatory authority administering a State law that requires the insurance company to comply with the Bank Secrecy Act or otherwise authorizes the State authority to ensure that the institution complies with the Bank Secrecy Act; or

(2) The underlying facts, transactions, and documents upon which a SAR is based, including but not limited to, disclosures to another financial institution, or any director, officer, employee, or agent of a financial institution, for the preparation of a joint SAR.

(B) The sharing by an insurance company, or any director, officer, employee, or agent of the insurance company, of a SAR, or any information that would reveal the existence of a SAR, within the insurance company's corporate organizational structure for purposes consistent with Title II of the Bank Secrecy Act as determined by regulation or in guidance.

(2) *Prohibition on disclosures by government authorities.* A Federal, State, local, territorial, or Tribal government authority, or any director, officer, employee, or agent of any of the foregoing, shall not disclose a SAR, or any

information that would reveal the existence of a SAR, except as necessary to fulfill official duties consistent with Title II of the Bank Secrecy Act. For purposes of this section, "official duties" shall not include the disclosure of a SAR, or any information that would reveal the existence of a SAR, in response to a request for disclosure of non-public information or a request for use in a private legal proceeding, including a request pursuant to 31 CFR 1.11.

(f) *Limitation on liability.* An insurance company, and any director, officer, employee, or agent of any insurance company, that makes a voluntary disclosure of any possible violation of law or regulation to a government agency or makes a disclosure pursuant to this section or any other authority, including a disclosure made jointly with another institution, shall be protected from liability to any person for any such disclosure, or for failure to provide notice of such disclosure to any person identified in the disclosure, or both, to the full extent provided by 31 U.S.C. 5318(g)(3).

(g) *Compliance.* Insurance companies shall be examined by FinCEN or its delegates for compliance with this section. Failure to satisfy the requirements of this section may be a violation of the Bank Secrecy Act and of this chapter.

(h) *Suspicious transaction reporting requirements for insurance companies registered or required to register with the Securities and Exchange Commission as broker-dealers in securities.* An insurance company that is registered or required to register with the Securities and Exchange Commission as a broker-dealer in securities shall be deemed to have satisfied the requirements of this section for its broker-dealer activities to the extent that the company complies with the reporting requirements applicable to such activities pursuant to § 1023.320 of this chapter.

(i) *Applicability date.* This section applies to transactions occurring after May 2, 2006.

[75 FR 65812, Oct. 26, 2010, as amended at 75 FR 10520, Feb. 25, 2011]

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§ 1025.330 Reports relating to currency in excess of \$10,000 received in a trade or business.

Refer to §1010.330 of this chapter for rules regarding the filing of reports relating to currency in excess of \$10,000 received by insurance companies.

Subpart D—Records Required To Be Maintained By Insurance Companies

§ 1025.400 General.

Insurance companies are subject to the recordkeeping requirements set forth and cross referenced in this subpart. Insurance companies should also refer to subpart D of part 1010 of this chapter for recordkeeping requirements contained in that subpart which apply to insurance companies.

§ 1025.410 Recordkeeping.

Refer to §1010.410.

Subpart E—Special Information Sharing Procedures To Deter Money Laundering and Terrorist Activity

§ 1025.500 General.

Insurance companies are subject to the special information sharing procedures to deter money laundering and terrorist activity requirements set forth and cross referenced in this subpart. Insurance companies should also refer to subpart E of part 1010 of this chapter for special information sharing procedures to deter money laundering and terrorist activity contained in that subpart which apply to insurance companies.

§ 1025.520 Special information sharing procedures to deter money laundering and terrorist activity for insurance companies.

- (a) Refer to §1010.520 of this chapter.
- (b) [Reserved]

§ 1025.530 [Reserved]

§ 1025.540 Voluntary information sharing among financial institutions.

- (a) Refer to §1010.540 of this chapter.
- (b) [Reserved]

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Subpart F—Special Standards of Diligence; Prohibitions; and Special Measures for Insurance Companies

§§ 1025.600–1025.670 [Reserved]

PART 1026—RULES FOR FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS IN COMMODITIES

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1026.220 Customer identification program requirements for futures commission merchants and introducing brokers.

Subpart C—Reports Required To Be Made By Futures Commission Merchants and Introducing Brokers in Commodities

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1026.520 Special information sharing procedures to deter money laundering and terrorist activity for futures commission merchants and introducing brokers in commodities.

1026.530 [Reserved]