



TO: NCUA Board

DATE: September 10, 2020

FROM: Office of Examination and Insurance

SUBJ: Exemption Order – CIP
Requirements for Premium
Financing Industry

ACTION REQUESTED: NCUA Board approval of an Order to be signed by Acting E&I Director Myra Toeppe for NCUA, along with the other federal banking agencies, granting exemption from Customer Identification Program requirements for loans extended by financial institutions (and their subsidiaries) to all customers for purchases of property and casualty insurance policies.

DATE ACTION REQUESTED: September 17, 2020.

OTHER OFFICES CONSULTED: Office of General Counsel.

VIEWS OF OTHER OFFICES CONSULTED: Concur.

BUDGET IMPACT, IF ANY: None.

RESPONSIBLE STAFF MEMBERS: Ian Marena, Associate General Counsel, Office of General Counsel, and Timothy Segerson, Deputy Director, Office of Examination and Insurance.

SUMMARY:

Background:

Premium Financing Arrangements are typically originated through insurance brokers who arrange short-term financing of property and casualty policies for all customers. Banks, credit unions and other finance companies may provide the financing with the insurance broker as an intermediary.

Premium Financing Arrangements are typically same-day finance arrangements, where Customer Identification Program requirements can prove a competitive impediment to financial institutions and a burden to offering such financing with immediacy. In addition, FinCEN has already exempted this type of financing arrangement from Customer Due Diligence and Beneficial Owner requirements, concluding that it represents a very low risk of money laundering or terrorist financing.

Analysis:

Staff of the federal banking agencies (FBAs), including NCUA, have reviewed the nature of these transactions, met with officials from institutions engaging in this lending activity and consulted with FinCEN. The FBAs concluded, due to the nature of the transactions, that premium financing is not a useful or efficient means of laundering illicit funds or to provide terrorist financing. This action would complement the exemption already provided by FinCEN

related to Customer Due Diligence and Beneficial Owner rules. Additionally, we have determined that this does not pose a safety or soundness risk, because:

1. Proceeds are delivered directly to the insurance company in payment of the premiums,
2. Payments are collected over time directly from the customer or via the broker/intermediary,
3. Any unused or refunded premiums come directly back to the financial institution from the insurance company to pay off the remaining financing balance, as they are collateral for the financing arrangement; therefore, credit risk lies with the insurance company (upon which appropriate due diligence has already been performed by the financial institution),
4. Generally, financial institutions providing this type of financing have no connection to the insured company (borrower), with the exception of the short-term finance arrangement. Instead, a direct relationship exists with the insurance company or broker,
5. Historical reviews of refund activity, performed by FinCEN, reflected very limited monetizing of prepaid premiums (i.e., refunds of premiums issued), resulting in a very low BSA/AML risk.

While we do not collect specific information on premium finance contracts at credit unions, we believe this activity is minimal in the credit union space. However approving the exemption will provide relief for those institutions that provide such financing.

The exemption process is found in Treasury regulations at 31 C.F.R. § 1020.220(b), which provides that the FBAs, with the concurrence of the Treasury, may grant exemptions from CIP regulations, consistent with the purposes of the BSA.

RECOMMENDED ACTION: We recommend the Board approve: (1) Acting E&I Director Myra Toeppe signing the proposed Order on behalf of NCUA, granting this exemption to CIP requirements found in Section 326(a) of the USA PATRIOT Act; and (2) authorization for Acting E&I Director Myra Toeppe to sign any revised version of the proposed Order that includes solely technical or non-substantive revisions, upon agreement by all other federal banking agencies and with notification to the Board of the changes and the reason necessitating such changes.

ATTACHMENT: Proposed Order granting an exemption from customer identification program requirements implementing section 326 of the USA PATRIOT Act, 31 U.S.C. § 5318(l), for loans extended by banks (and their subsidiaries) subject to the jurisdiction of the Federal Banking Agencies to all customers to facilitate purchases of property and casualty insurance policies.