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Alan Mason Executive Director
7 March 2006

Mr Jonathan Curtis
Committee Secretary
Legal and Constitutional Committee
Australian Senate
Parliament House
CANBERRA ACT 2600

Dear Mr Curtis

RE: Inquiry into the Exposure Draft of the AML/CTF Bill 2005

Thank you for the opportunity to participate in the consultation process in respect to the exposure draft of the Anti-Money Laundering and Counter-Terrorism Financing Bill 2005.

The Insurance Council of Australia (ICA) is the representative body of the general insurance industry in Australia. ICA members are authorised to conduct general insurance business by the Australian Prudential Regulation Authority, and account for over 90 per cent of total premium income written by private sector general insurers.

ICA members, both insurance and reinsurance companies, are a significant part of the financial services system. Recently published statistics from the Australian Prudential Regulation Authority (APRA) show that the private sector insurance industry generates gross premium revenue of almost $28 billion per annum and has assets in excess of $81 billion. The industry employs about 35,000 people.

ICA, on behalf of the general insurance industry is pleased to provide the following comments.

ICA supports the exclusion of general insurance from the proposed legislation. It has been internationally recognised that general insurance is a low risk activity for money laundering and terrorism financing. Further, in the case of general insurance, international typology examples are very limited. Indeed, ICA believes all current typologies that relate to general insurance can be classified as insurance fraud.

The primary reason why general insurance is a low risk activity relates to the inherent nature of insurance. Policyholders pay an insurance premium to their insurer, and only if a circumstance giving rise to a claim under the policy occurs does the insurer make a payment to the policyholder. Normally, the claim payment would be significantly more than the premium payment.

In these circumstances, general insurance is not a suitable mechanism or process for giving legitimacy to substantial sums of money (money laundering) or as a conduit for the financing of terrorism.

The insurance industry is prudentially regulated by APRA, which has been at the forefront of world regulators in the development of new prudential standards and methods of supervision. It has played a key role in the development of International Association of Insurance Supervisors (IAIS) core principles and standards and ICA believes that the regulatory regime of APRA provides ample protection through its prudential standards concerning insurance, financial, reinsurance, and operational risk. As part of both APRA's requirements and as part of insurer's need to protect their own financial position, stringent fraud mechanisms and other risk management tools operate within general insurance companies. These systems operate to protect against any breaches due to fraud or other suspicious activity.

It is important to remember, that general insurance has a very low inherent level of risk. Transaction levels for all but large commercial insurance arrangements are usually between $100 and $1000, which are far below the $10,000 AUSTRAC threshold for reporting. Insurers' risks are further limited due to detailed underwriting of risk prior to the acceptance of an insurance proposal.

While the inherent and residual risks are extremely low in general insurance, the costs of introducing and complying with AML-CTF arrangements would be disproportionately high and would have an adverse impact on the industry as a whole and its customers. Currently, insurance sales are undertaken through a wide variety of distribution mechanisms, including over the phone, internet, or through insurance intermediaries and insurance agents and brokers. In order to implement the know your customer (KYC) provisions, insurers would have to develop extensive new systems to capture policyholder information and confirm their identities, even when the relationships are through third parties. Such system development would be a huge impost on the industry (and ultimately its customers), and would also be disproportionate to the risks faced in respect of money laundering and terrorism financing.

As such, it is our recommendation that the proposed exemption of general insurance is maintained.

In addition, it is ICA's view that the proposed requirements set out in the Bill must be carefully considered as part of the broader financial services regulatory framework. Since the late 1990s, there have been significant changes to the regulation of general insurance. Whilst many of these reforms have improved the regulatory regime, they have also led to greater complexity within the sector. ICA therefore recommends that all requirements of the proposed legislation must be carefully assessed and considered in order to avoid overlapping responsibilities of regulators, inconsistency and any unnecessary duplication of regulations.

We would be pleased to discuss these issues or provide any additional information the Committee may need.

Yours sincerely

Alan Mason
Executive Director