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October 2, 2019

The Honorable Lindsey Graham
Chairman
US Senate Committee on the Judiciary
Washington, DC

Re: Holocaust Era Insurance Claims

Dear Senator Graham,

Once again thank you for the opportunity to appear before you and the other members of the Committee on the Judiciary (“Committee”) at the September 17, 2019 hearing on “Holocaust-Era Insurance Claims.” Allow me to commend the work the Committee has done in seeking to examine the issues underlying the restitution of Holocaust-era insurance policies.

I am most grateful for the chance to provide you with responses to questions posed by Senator Sasse.

Thank you again for the generosity of your time and for allowing me the chance to present you with this important information.

Should you or any other member of the Committee have any questions or would like to speak to me further about this matter I am at your disposal.

Sincerely,

Anna B. Rubin, Esq.
Director
Holocaust Claims Processing Office

cc: The Honorable Dianne Feinstein, Ranking Member

U.S. Senate Committee on the Judiciary
Hearing: "Holocaust-Era Insurance Claims"
September 17, 2019
Questions for the Record from Sen. Ben Sasse

1. For all witnesses, what's your best estimate for the percentage of Holocaust victims that had life insurance policies and how much those policies were collectively valued? How do these numbers compare to our best estimates of how many and how much have been paid out?

Victims of Nazi persecution made up a small percentage of the prewar population of the largest European insurance market (Germany, 0.5%); moreover, the country with the largest percentage of Nazi victims (Poland) had a relatively small and underdeveloped insurance market. It is therefore **unlikely that billions of dollars-worth of insurance policies belonging to victims of Nazi persecution remain unpaid, particularly after the extensive compensation programs of the 1950s and 1960s as well as modern-day processes** such as ICHEIC, the Austrian General Settlement Fund and other entities.

Since 1997 the Holocaust Claims Processing Office (HCPO) has been working on matters of restitution and has seen first-hand the difficulties of trying to assign an overall present-day value to the European insurance market. Given the ravages of war and the passage of time **it is difficult, if not impossible, to assess how many Holocaust-era insurance policies remain unpaid**: the records of many companies' branch offices were either destroyed during the war or confiscated by Soviet troops. Moreover, **as companies did not distinguish policyholders by religion, sexual orientation, or political affiliation when issuing insurance policies, particularly in the pre-Holocaust period when most of the insurance policies in question were issued, it is hard to determine which policies were owned by individuals subjected to Nazi persecution**. Finally, even where records are available, it is not always possible to know how many policies lapsed because of non-payment of premiums during the straitened financial circumstances faced by many people during the Depression years, or were otherwise reduced (by loans, or by the conversion into premium-free policies from the original insured sums).

Trying to assign an overall present-day US dollar value to the prewar European insurance market is highly contingent on the chosen valuation method (e.g. consumer-price index; thirty-year Treasury bond yields). Nevertheless, in order to provide a reference point in present-day terms, ICHEIC's valuation guidelines were used to calculate the value of the 1936 direct premium income across the European market, using the most generous multipliers for each country. This method of converting 1936 dollars to present-day sums, unlike using the US Consumer Price Index or long bond rates, takes into consideration the deflation suffered by most European currencies after 1945. **The total value of the 1936 market in 1936 US dollars (converting the 1936 local currency to the 1936 US dollar using the end of year exchange rates for 1936) yielded a market valued at slightly over \$900 million dollars.¹ Bringing the market value up to December 2006 values, as this was the final date for ICHEIC decisions, yielded a**

¹ This includes the premium income figures for Austria, Belgium, Bulgaria, Czechoslovakia, Danzig, Denmark, Estonia, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Netherlands, Norway, Poland, Romania, Switzerland, and Yugoslavia.

December 2006 value of the prewar market at just over \$13 billion; this sum, which includes premium receipts for policies purchased by those who were never and those who eventually became victims of Nazi persecution, exceeds the estimated value of as yet unpaid insurance policies.

When considering how to calculate present-day value weight must be given to the chaotic conditions that pertained in Central and Eastern Europe at the end of World War II. Several countries (most notably Hungary) suffered massive currency devaluations and hyperinflation, and nearly all the prewar currencies in which insurance policies were denominated were either revalued or abolished entirely.

Although numerous figures both for the number of unpaid policies and for their value today have been posited, it should be noted that methods that have been used to calculate these figures are highly dependent on (1) the underlying assumptions made by the person doing the calculations and (2) the base value (nominal insured amounts versus direct premium income) used (i.e. if one wished to demonstrate that the value of unpaid policies is very high, then one would choose the method of calculating present-day value that yields the highest amount, whereas if one wished to show that the value is low, the method of valuation would be chosen accordingly) .

The HCPO's report entitled *The Insurance Industry and the Economies of Central and Eastern Europe, 1918-1945* of March 2012 that was included as part my written testimony provides details on the various postwar restitution programs that were enacted to address unpaid insurance policies. The process of restitution is difficult and distressing for claimants; however, the HCPO's successes show that compensation for assets lost during the Holocaust-era is still possible. The HCPO's experience has shown that thoughtful research in conjunction with utilizing the mechanisms currently in place to process claims can minimize the difficulties suffered by claimants in dealing with matters of Holocaust-era asset compensation.

That said, no system – be it a voluntary program or the courts – can resolve all the wrongs done during the Holocaust.

2. Ms. Rubin, would it be your conclusion that the insurance market was so small in these countries as to represent a small minority of claims?

Eastern European markets were relatively underdeveloped compared to Western European markets, with far lower per capita amounts of insurance, far fewer absolute numbers of policies, and far smaller sums insured. Based on these figures, it seems unlikely that there remain millions of unpaid insurance policies worth billions of dollars belonging to Central and Eastern European Holocaust victims.

The statistics regarding HCPO claims are compatible with what we have learned about the prewar life insurance market as a whole. The size of the German market is quite clearly seen from the much larger number of documented German claims received by the HCPO. The large percentage of payments from the General Settlement Fund on Austrian claims is also easily understandable given the large number of Phoenix/ÖVAG policies claimed, reflecting the dominant market share of Phoenix in the Austrian market.

A few deviations from what we know of the market do show up in an analysis of the HCPO's claims, most notably the large share of Generali offers in the total number of offers made on Czechoslovak, Polish and Hungarian policies. Examination revealed that the domestic companies made up the bulk of the market in all three of these countries (65.62 in Poland, 69% in Czechoslovakia and nearly 73% in Hungary) and yet there is a seemingly anomalous situation in which foreign companies made offers on policies issued in these countries in numbers that far outstrip their market share. However, the anomaly is easily explained with reference to the fate of domestic insurance companies in these countries after World War II; all insurance companies, foreign and domestic, were nationalized in Poland, Czechoslovakia and Hungary.

The domestic companies, however, did not have offices outside the countries in question; nor do they have modern-day successors. The foreign companies often had copies of the policies they had issued at their home offices, so today documentation can be far more readily available in the case of a nationalized branch of foreign company than in the case of a nationalized domestic company. **Moreover, since there are no successor companies to the nationalized domestic companies, there is nowhere to turn.**

In contrast, given that many of the foreign companies doing business in Eastern Europe do have some records of their portfolios from the period, the claimant did not always have to provide information regarding the company and the details about the policy. ICHEIC's research database did help to establish proof of the existence of many nationalized East European policies issued by both foreign and domestic companies, and the 8A2 process helped to pay claims on companies that had no successors. With the close of ICHEIC, these claims are no longer compensable today, nor would a court of law be able to address these claims as there is no present-day company to prosecute.

3. Ms. Rubin, what about the processes that HCPO helps victims' families utilize?

New York State has led the nation in its efforts to ensure a just resolution of unresolved claims for assets lost between 1933 and 1945 as a result of Nazi persecution. In early 1997, following the publicity surrounding the restitution of Holocaust era assets from Swiss banks, Governor George E. Pataki and New York State Superintendent of Insurance Neil D. Levin began to investigate the issue of unpaid insurance policies issued to Holocaust victims.

In September 1997, Governor Pataki opened the New York State Holocaust Claims Processing Office ("HCPO") to assist Holocaust survivors and their heirs to recover assets lost, stolen, or looted during the Holocaust. **The HCPO was created to be an advocate for claimants by helping alleviate any cost and bureaucratic hardships they might encounter in trying to pursue their claims on their own, as well as to bring leverage to negotiations with the banks and insurance companies through the aggregation of claims.**

The New York State Legislature (Legislature) also became deeply concerned about allegations that certain insurers doing business in New York, either directly or through affiliates, failed to honor their commitments under insurance policies issued during the World War II era. Although such policies were issued outside of New York, New York is home to one of the largest Holocaust survivor populations. The

Legislature determined that this state has a clear and substantial interest in ensuring that justice is affected for New York citizens.

As a result, the Legislature passed Governor Pataki's Program Legislation, which became law on July 8, 1998. Chapter 259 of the Laws of 1998 added Article 27, the "Holocaust Victims Insurance Act of 1998," to the New York Insurance Law (the Act). The Act provided insurance claims assistance to Holocaust victims (defined as "any person, claimant, or the estate, heir, legatee, decedent, survivor, beneficiary, or other such successor-in-interest of such person") who lost their lives or property as a result of discriminatory laws, policies or actions during the period between January 1, 1929, and December 31, 1945, in areas of Europe under Nazi influence.

In addition, this legislation required New York State insurers that are affiliated with insurers that did business in areas under Nazi influence during the Holocaust era to file annual reports and to resolve all unpaid insurance policies issued to Holocaust victims. Most importantly, the legislation encouraged such insurers to participate in the International Commission on Holocaust Era Insurance Claims ("ICHEIC") in order to reach a just and expeditious resolution of this issue.

Not much has changed from the establishment of the HCPO in 1997 to today with respect to how claims are processed; the only variable which fluctuates is the entity with whom the claim is lodged. Initially, claims were submitted directly to insurance companies. Then with the creation of ICHEIC and other compensation organizations such as the Austrian General Settlement Fund (GSF), and the Holocaust Foundation for Individual Insurance Claims (Sjoa Foundaton), claims were filed with these agencies, though continuously monitored by the HCPO. With the closing of ICHEIC in March 2007 and the final deadline of the GSF having lapsed in November 2003, the HCPO once again submits claims directly to insurance companies where processes no longer exist.

Individual claims are assigned to members of the HCPO's highly trained staff who work with claimants to collect the most detailed and accurate information possible. Claimants often seek the recovery of a variety of assets; therefore, the HCPO is often involved with different facets of the same claim.

The HCPO accepts claims and provides assistance in the preparation of the claim forms. Information provided on the claim forms is used as a starting point for research. Using investigative skills and research expertise staff members corroborate information provided by claimants with research in archives, libraries, and other resources, all at no cost to the claimant. The documentation that the HCPO secures on behalf of claimants has proven instrumental in substantiating their claims.

The HCPO submits claims and documentation to the appropriate companies or authorities with the request that a complete and thorough search and evaluation be made with respect to the specified asset(s). Once an agency has completed its review of a claim and reached a determination, the HCPO reviews the decision to ensure that it adheres to the published processing and valuation guidelines.

In some instances, we are not able to find all necessary genealogical records or documentation of the asset. However, because of the **relaxed standards of proof** applied by insurance companies this is not a

bar to submitting a claim or receiving payment in the event some evidence of a compensable policy is presented or located.

We facilitate the resolution of restitution claims by liaising between the holder of the asset and the claimant. We ensure that the entity reviewing the claim does so in accordance with established processing guidelines. In instances where an entity has deviated from accepted standards of evidence, succession, or valuation, we advocate on behalf of the claimant to ensure that the entity considering the claim abides by those rules.

From our most recent annual report, HCPO statistical data regarding insurance claims as of December 31, 2018 breaks down as follows:

- **2,462 individuals** have submitted insurance claims.
 - These individuals come from **42 states**, the **District of Columbia**, and **26 countries**.
- These claims name **3,763 individual policyholders** citing **over 6,000 policies**.
- The HCPO as **resolved 6,203 claims** where the offer was presented, or the asset was deemed non-compensable.
- **The total dollar value of offers** extended to HCPO claimants seeking the proceeds of insurance policies is **\$34,867,048**.

A specific breakdown of the claims received since the closing of ICHEIC in March 2007 is as follow:

- **545 insurance related inquiries** resulting in **357 claims** from **122 individuals**.
 - 231 claims were sent to the GDV or directly to GDV member companies
 - 107 were sent to Generali
 - 2 were sent to CIVS in France
 - 5 were sent to the Sjoa Foundation in the Netherlands
 - 12 were determined to be related to policies issued by Austrian insurers
- Approximately one-third of these claims resulted in offers totaling over **\$3.3 million**.

The HCPO acts as a pro bono advocate for Holocaust victims and their heirs. The HCPO does not issue any decisions with respect to an individual's claim, nor do we handle any funds offered to claimants. All payments go directly to the victim(s) or heir(s), in their entirety. **The HCPO does not charge a fee or take a percentage of the asset recovered.**