

Statement of
The Honorable Lawrence S. Eagleburger
and
Diane Koken
Former Chairman and Vice Chairman
International Commission on Holocaust Era Insurance Claims
before the
U.S. Senate
Foreign Relations Subcommittee on
International Operations and Organizations, Democracy, and Human Rights
Hearing on
“Holocaust–Era Insurance Restitution After ICHEIC”
May 6, 2008

Chairman Nelson, Senator Vitter, Members of the Subcommittee:

We appreciate the opportunity to appear before you today, and thank you for the work you have done in seeking to examine to the fullest extent possible the issues underlying Holocaust-era insurance claims in the context of considering legislation on this subject. We also want to thank you, Chairman Nelson, for your significant contributions to the work of International Commission on Holocaust Era Insurance Claims (ICHEIC) as a founding member of the Commission during your term as Florida's State Treasurer, Insurance Commissioner and Fire Marshal.

The International Commission on Holocaust Era Insurance Claims (ICHEIC) resolved more than 90,000 claims for Holocaust survivors and their heirs. This testimony will provide an understanding of why and how the Commission approached its mission -- to identify and compensate previously unpaid Holocaust-era insurance policies -- and how the organization was structured around that mission.

Chairman Nelson, you are uniquely situated to appreciate the Commission's challenges and approach. In your role as Florida's insurance commissioner, you were central to driving the Commission's creation, and organization, and to ensuring both the mission -- to identify and compensate previously unpaid Holocaust-era insurance policies -- and also building the concept of humanitarian funds, to be able to provide at least in part some form of "coverage" for the many Holocaust victims who did not have survive, or had heirs survive, to make claims.

I was selected to Chair ICHEIC in the Commission's early days, and remained committed to achieving our mission throughout what was a long and difficult process. As you know, Diane Koken was a member of the Commission throughout her tenure as Pennsylvania Insurance Commissioner, from 1997-2007, and remained as Vice Chair until ICHEIC closed. We believe ICHEIC was largely successful in accomplishing its mission. We were joined in this effort by many state insurance regulators from all parts of the country, major Jewish groups and survivors' organizations, the State of Israel, as well as European insurance companies and associations. We commend all these participants who worked to create a process to identify and ultimately settle valid and previously uncompensated Holocaust-era insurance claims at no cost to claimants.

WHY SUCCESS – WHAT ACHIEVED

The Commission concluded its work with over \$306 million paid to more than 48,000 Holocaust victims or their heirs for previously unpaid insurance policies. Of this amount,

more than half went to individuals with so little information about their potential claim that they were unable to identify even the company that may have issued the policy. The resolution of these undocumented claims sixty years after the devastation of the Holocaust and the Second World War clearly illustrates the success of ICHEIC's research efforts. Moreover, the successful settlement of these claims through the ICHEIC process, along with restitution efforts during the immediate postwar period and the present ongoing work of ICHEIC-related entities¹ to resolve remaining unpaid life insurance policies within their respective jurisdictions, addresses a preponderance of the pre-war insurance market.

In addition to the over \$306 million payments made by ICHEIC companies or related entities, ICHEIC distributed nearly \$200 million more for humanitarian purposes. At ICHEIC's concluding meeting, every company that was a member of the Commission as well as the 70-odd companies of the German Insurance Association through its partnership agreement with ICHEIC reaffirmed their commitment to continue to review and process claims sent directly to them. Since that time, four of the five the ICHEIC companies -- AXA (which also now controls Winterthur), Generali, and Zurich -- wrote to Diane Koken directly, in the context of her testimony before the House Financial Services Committee in February, to reaffirm the commitments they made at the ICHEIC meetings. The German Insurance Association and the Dutch Insurance Association respectively sent letters to Chairman Frank of the House Financial Services Committee, commenting on the legislation, in which they referenced their ongoing commitments to process claims.

Our primary concern throughout our service to ICHEIC has been assisting Holocaust survivors, and the families of those who perished, seeking to recover the proceeds of unpaid pre-war insurance policies.

We appreciate the care we must take with the expectations of survivors and their heirs; we know that the path to closure is a difficult one. In the late 1990s, the question of Holocaust-era asset restitution re-emerged and numerous class action lawsuits were filed. At that time, U.S. insurance regulators sought the most effective means to address issues raised by survivors and families seeking the proceeds of unpaid pre-war life insurance policies of those who had been persecuted during the war. They recognized that given the understandable challenge of documentation, the length of time that had passed, and the effort and costs involved, the path of litigation presented significant difficulties for this highly sensitive and emotionally charged issue.

For these reasons we explored routes other than litigation to resolve these unpaid claims. By conducting interviews, researching the historical background, and organizing informational hearings across the country, the NAIC sought to better understand the issues raised by individuals like Roman Kent and other survivors. Working through state

¹ Examples include the Claims Resolution Tribunal (CRT), which was created as a result of the Swiss banks class action settlement and the General Settlement Fund (GSF), a result of agreement between the United States and Austrian governments.

insurance regulators, the NAIC then identified the companies most likely affected and worked with these companies to arrive at a means of resolving the issues presented.

We worked to gain an understanding of the defining characteristics of pre-war life insurance markets in Europe, and the geographic limitations and procedural shortfalls of prior compensation programs. With this work in mind, ICHEIC was created in August 1998. With ICHEIC, we established processes to identify claimants, locate unpaid insurance policies, and assist Holocaust survivors and their families, and the families of those who did not survive, in resolving claims. Survivors and the heirs of any Holocaust victims who may have held policies, most of whom could provide no documentation beyond anecdotal information, were able to submit claims to insurers and related entities, at no cost.

As part of the ICHEIC process, we examined insurance company files, built a database constructed from research in archives across Europe, worked to make sure potential claimants world-wide knew how to file claims, developed a website to provide easy access to information about our efforts, established a system to process the more than 90,000 claims submitted, and established an independent appeals system presided over by jurists who, over the life of the process, reviewed hundreds of appeals that provided every claim that named a company the opportunity for review. The relatively small percentage of reversals on original decisions underscored the strength of the initial system of checks and balances we had constructed, which included internal ICHEIC staff verification of every company decision, and outside independent audits of companies' records and decision-making practices to make sure they complied with ICHEIC rules and guidelines.

As we offer more detail on each of these steps, we will describe how the Commission was structured and why, and the nature and scope of the companies and entities with which the Commission had agreements. It is important to have an understanding of this groundwork to appreciate (1) how much of the Holocaust-era insurance market ICHEIC claims and/or ICHEIC-related agreements covered – and thus why the over \$306 million plus in claims payments plus the nearly \$200 million in humanitarian fund commitments, essentially on behalf of would-be heirless claimants, was a substantial proportion of the estimated market share; and (2) the degree to which the combined experience, authority, and responsibilities of US insurance regulators; Jewish representatives of Holocaust victims and their heirs; and European insurance companies and entities together were necessary to forge workable agreements, as well as internal operating rules and guidelines.

STRUCTURE and APPROACH

In the mid-1990s a growing body of public evidence suggested that several major insurance companies had sold policies to European Jews in the 1920s and 1930s, and that for many of these policies, claims were still outstanding. In the summer of 1997, NAIC members reached out to the World Jewish Congress and by September of that year, the NAIC held its first public hearing and established a Working Group on these issues. By

May 1998, the Working Group became a more formal task force, and consulted with Roman Kent, President of the American Gathering of Jewish Holocaust Survivors, and others. We agreed then that dialogue, rather than confrontation, should be a cornerstone of the commission because we were seeking a voluntary process. For the Holocaust survivors still living there was little time for further litigation or debate.

Major European insurance companies who shared an interest in the US market participated in the discussions, ultimately signing a Memorandum of Understanding to create the Commission, and indicating their willingness to become members. These companies were Allianz, AXA, Basler, Generali, Winterthur, and Zurich. All but Basler remained ICHEIC Commission members throughout the process; Basler participated in processing ICHEIC claims but through its membership in the German Insurance Association. The Dutch Association of Insurers joined the Commission in May 2000. The Commission included US insurance regulators, Moshe Sanbar and Roman Kent representing survivor organizations, and the State of Israel. In addition, regulators, Jewish organizations, and companies also had alternates and observers who actively participated in the process.

Property Issue

Information revealed through the hearings and discussions leading up to the formation of the Commission indicated that the issue of unpaid claims went beyond life insurance policies and also included unpaid property claims. Life insurance policies are generally held for longer periods and retain value even after premiums are no longer paid. Property insurance policies differ in that they are usually written on an annual basis and have no residual value if they are cancelled for non-payment of premiums.

In general, property insurance covers property damage, not expropriation and most policies include an exclusion for acts of war. When assessing post-war compensability of such policies, among other issues, it is necessary to determine whether the policy was in effect at the time the insured event occurred and whether the insured event was the direct result of persecution or was caused by an act of war, such as an air raid. Although ICHEIC accepted property claims, given the issues, claimants needed to provide specific answers to worksheet questions in response to property-related claims.

DETERMINING SCOPE/SIZE OF MARKET; NEGOTIATING AGREEMENTS AND FORMING VALUATION GUIDELINES

In the fall of 1999, having identified the building blocks of the claims process and initiated a global outreach campaign that would eventually result in receipt of 120,000 claims forms from 30 different countries, the Commission sought macro-level guidance on the overall volume and estimated value of potential claims. For this effort, we appointed Glenn Pomeroy, then North Dakota Insurance Commissioner and former President of the NAIC and Phillippe Ferras (then Executive Vice President of AXA France) as joint chairmen of a task force to report on the estimated number and value of insurance policies held by Holocaust victims.

The task force was staffed by outside experts as well as ICHEIC members, and included economists Frank Lichtenberg from Columbia University Graduate Business School and Helen Junz, a member of the Presidential Advisory Commission on Holocaust Assets in the United States who assisted the Volcker Committee with a project on estimating the size and structure of the wealth of the Jewish population in Nazi-affected countries before World War II, as well as actuaries with the Office of the California State Insurance regulator and AXA-Paris. The Pomeroy-Ferras report, available at www.icheic.org, provided data that allowed the Commission to assess the scope and size of the European pre-Holocaust insurance market relevant to Holocaust victims and their heirs.

The Pomeroy-Ferras report determined how the relative maturity of the various European insurance markets might have affected local populations' access to insurance. It provided an overall view of what total damages might be by trying to determine the Jewish population's respective rates of participation in the life insurance market and by estimating the average value of life insurance policies, based on the scope of the insurance market and the size of the Jewish population in each country. While the propensity of the Jewish population to insure was found to be two to three times that of the regular population in a given country, the propensity to insure differed significantly from country to country, which dramatically affects the overall estimates of market size.

By way of example, Poland had a very significant Jewish population (3.3 million at that time and by far the highest in Europe) but also had a highly agrarian economy and was one of the poorer countries in the region. In contrast, Czechoslovakia's Jewish population (396,000), while constituting a smaller percentage of the overall population, would have been likely to be far more highly insured given the maturity of the insurance market. As noted in the Pomeroy-Ferras report, in 1937 the average policies per capita was 0.074 in Czechoslovakia and 0.0077 in Poland.² The Pomeroy-Ferras task force discussed as well what proportion of policies in each market might be deemed to have remained unpaid.

The Pomeroy-Ferras report also details some of the challenges that participants faced in accurately assessing the value of unpaid policies. While the task force reached consensus on the overall size of the each country's insurance market and estimated the propensity of Jews to purchase life insurance, it was far more difficult to determine the number, average value, and percentage of unpaid Jewish-owned policies.

Given these considerations, the Pomeroy-Ferras report generally provided a range of figures in different categories for different markets. These ranges served to guide the Commission as it entered its deliberations on how to assess appropriate settlement amounts company by company (and in some cases, with national insurance associations) across markets in Europe. In the case of the German market, for example, the settlement amount provided in the 2002 agreement between ICHEIC, the German Foundation, and the German Insurance Association exceeded the companies' estimates of unpaid policies in Germany.

² The primary sources of data used by the Pomeroy-Ferras task force were the *Assekuranz Jahrbuch* published annually and *Neumann's Jarhbuch* for Germany.

The various national commissions working to assess their own situations have confirmed the reliability of the Pomeroy-Ferras work. For example, the Dutch commission's data showed the insured sum of all policies surrendered to the Nazi authorities to be within five percent of the task force's mid-range value for Jewish policyholders. The Belgian commission found results very close as well. The French commission, when defining the policies that could have belonged to victims of the Holocaust, generated a number that fell within the mid-range of the task force's number for France. The total overall settlement reached by the Commission with all its entities, approximately \$550 million, was premised on the Pomeroy-Ferras work, and has thus proven the test of time, both with respect to the over \$306 million paid out in claims, and the remaining amount going to humanitarian activities to honor the memory of those who were not able to make claims directly.

OUTREACH

From inception, the Commission strived to identify as many people with possible unpaid Holocaust-era policies and encourage them to file claims, even if they lacked detailed information about their family's coverage. To do this effectively, we sought to define a target audience. We knew that we had potential claimants throughout the world. So we worked closely with the same experts who had conducted outreach for the Swiss Bank settlement's Claims Resolution Tribunal (CRT), using free and paid media extensively.

Our outreach initiatives included both a 24 hour ICHEIC call center and grassroots efforts through global Jewish communal and survivor organizations and representatives of other victims groups. We distributed packets to survivor communities and Jewish organizations that included press releases, posters, and guidance on how to request and complete a claim form. In addition, the Commission worked with US insurance regulators, particularly in California³, Florida⁴, New York⁵ and Washington, who already designated staff to reach out to and assist constituents.

To supplement the work with survivor and Jewish groups and the regulatory community, the Commission launched a global press and media campaign to publicize the process. We ran ads in major and parochial media markets and capitalized on as much free media as outside institutions were willing to provide. We did this not only at launch, but also when announcing the last deadline extension, alerting potential claimants via all means available, including a live webcast in which I participated in as ICHEIC Chair.

While conducting its outreach, ICHEIC initially publicized a claims filing deadline of January 31, 2002. Subsequently, as the Commission's archival research efforts generated more information that ICHEIC published on its website, this claims deadline was

³ <http://www.insurance.ca.gov/0100-consumers/0300-public-programs/0100-holocaust-insur/index.cfm>

⁴ <http://www.fldfs.com/Holocaust/index.htm>

⁵ As part of this effort, New York State's Holocaust Claims Processing Office expanded to include potential insurance claims (<http://www.claims.state.ny.us>).

extended six times, with the final date set as December 31, 2003.⁶ Claim forms requested by December 31, 2003 and returned to ICHEIC by March 31, 2004 were deemed to have been timely filed.

As a result of this outreach, during the five years that the Commission accepted claims, it received 120,000 claim forms in more than 20 languages from more than 30 countries.⁷

ICHEIC's extensive and targeted outreach prior to the filing deadline was important given our understanding that many of those who filed would do so with little documentation or information about policies. In order to generate as many successful matches as possible from the information gathered through ICHEIC's research and company records it was necessary to impose deadlines on both claimants and companies. Results of this matching exercise were conveyed to the companies for review and adjudication, allowing companies to complete the decision-making process by June 30, 2006. The end result was that member companies were ultimately able to match 16,243 unnamed claims against these records.

ICHEIC AGREEMENTS PARTNERS ORGANIZATIONS AND RELATED ENTITIES

The Commission used the Pomeroy-Ferras report to help guide discussions on contribution levels for ICHEIC member companies. In addition, the Commission negotiated agreements with various entities and outside associations, the most significant of which was the tri-lateral agreement between ICHEIC, the German insurance association, and the German Foundation. The so called Tri-Partite Agreement incorporated the settlement with Allianz and adopted almost identical rules and processes to those applied to non-German ICHEIC companies, but with procedures such as those to provide for archival research on German post-war compensation.

The Commission reached separate operating agreements with the Holocaust Foundation for Individual Insurance Claims in the Netherlands (also know as the Sjoa Foundation, which was a member of ICHEIC, although its claims were processed separately), the Jewish Community Indemnification Commission in Belgium (Buysse Commission), and the Austrian General Settlement Fund (GSF) to make sure that claims received were processed. Additionally, claims that were the province of Swiss companies covered by the Global Settlement Agreement were redirected to the Claims Resolution Tribunal (CRT) in Zurich, Switzerland. The combined efforts of ICHEIC and these parallel entities covered a vast section of the pre-war European insurance market.

⁶ Deadlines were set at the following dates: January 31, 2002; February 15, 2002; September 30, 2002; March 30, 2003 (new names published on March 8, 2003); September 30, 2003 (new names published April 30, 2003); December 31, 2003 (with claim forms to be received by March 31, 2004).

⁷ Approximately, 30,000 of the claim forms received by the Commission either did not fall under ICHEIC's mandate and were therefore forwarded to the appropriate agency, for example, the Sjoa Foundation, Buysse Commission, CRT, or did not pertain to life insurance policies, i.e., slave labor, forced labor, Swiss bank accounts.

As the Commission began receiving claims, it became increasingly apparent that the bulk of the claim forms contained very little detailed information, that policy documentation was the exception rather than the rule, and that many claims did not name a specific company, or named a company that ceased to exist before 1945. So we worked to establish relaxed standards of proof and create valuation standards that could be calculated without the usual policy documentation, as well as an extensive research database and matching system. Furthermore, we instituted a separate but related humanitarian claims payment process for un-named un-matched claims, and for Eastern European claims on companies that had been liquidated, nationalized, or for which there were no known successors. All these elements became part of the critical architecture of the Commission. Our lists publication decisions grew from it; our need for filing deadlines were dictated by it; the audits to which all companies were subjected, conducted by outside independent auditors, proved its effectiveness; and our ability to carry out our mission depended on it.

RELAXED STANDARDS OF PROOF

During its existence, the Commission directly or through its member companies/partner entities offered payment totaling over \$306 million to more than 48,000 of the 91,558 who made inquiries. Only a small percent of all the claim forms the Commission received named a specific company and far fewer contained policy documents. Survivors who had attempted to recover the proceeds of insurance policies during the immediate postwar period had been frustrated by companies' demands for death certificates and proof of entitlement that they could not provide. Understanding that expecting such documentation was both insensitive and in most cases impossible, the relaxed standards of proof adopted by the Commission did not require claimants to submit such evidence to make a claim.

Even before the end of the war, the records maintained by the International Tracing Service at Bad Arolsen assisted families in documenting the fates of victims of Nazi persecution. These records offer basic information regarding persecution, such as the date of deportation or when the policyholder perished. While the increased public accessibility of the Bad Arolsen archives is important because researchers and historians can now access information that was available only to survivors and their relatives in the past, it does not mean individuals would have opportunities to further enhance their claims against European insurers.

The increased accessibility of the Bad Arolsen archives would not generate information that could lead to more eligible Holocaust-era insurance claims than identified through the claims and appeals processes of ICHEIC, for two reasons: (1) ICHEIC always assumed that a person was persecuted unless information was presented that pointed to the contrary; (2) ICHEIC offered full valuation in instances where it was unclear exactly when a policyholder had died. Moreover, because survivors and their relatives, families of those who perished, and their representatives already had access to the Bad Arolsen archives, in effect the Commission also had full access to this information.

Under ICHEIC's relaxed standards of proof, the claimant produced whatever evidence the claimant had available. Individuals filling out claim forms were asked to provide all information available to them, including copies of existing documents in their possession that might be relevant. In some instances, claimants had actual copies of policies, but there was no expectation that such would be the case. The relaxed standards of proof allowed claimants to provide non-documentary and unofficial documentary evidence for assessment.

Companies were similarly required to produce the evidence they had, with the objective of helping claimants to establish sufficient evidence of a contractual relationship. Once the existence of a policy was substantiated, the burden shifted to the company to show the status of the contract or to prove the value of the contract had been adjusted or the contract had been paid. All parties agreed, however, that the relaxed standards of proof were to be interpreted liberally in favor of the claimant.

The relaxed standards of proof adopted by the Commission aimed to ensure that every claim, no matter what evidence the claimant could produce, would be reviewed to identify whether evidence could be located sufficient to substantiate the existence of a contract.

VALUATION

In order to define the guidelines for assessing present-day value of Holocaust-era insurance products, the Commission created a Valuation Committee, which examined historical records, the realities of interwar economic history and specific cases to establish valuation guidelines. Fairly early on the Committee reached agreement on the components required for any calculation: the insured sum, the duration of the policy, and the date of the insured event.

In addition, it became clear that the final valuation guidelines would need to take into account a number of factors. For example, we needed to determine whether the insured person had perished or had survived the Holocaust, in what currency the underlying policy had been written, whether any adjustments had been made in the insured sum prior to the Holocaust (such as loans or voluntary reductions to the sum insured) and how any relevant laws of general application in the country of issue affected the terms of the policy.

Since the majority of claims submitted to ICHEIC contained little or no information, the Valuation Committee established rules and guidelines that would permit appropriate assumptions in lieu of documented policy terms or details regarding the fate of the policyholder. Drawing on the findings of the Pomeroy-Ferras report, the Committee agreed on country-specific average values, and so-called "deemed dates" that provided assumptions regarding confiscation of assets and dates of death of policyholders. As a result, ICHEIC's Valuation Guidelines contain dates for each country that identify the start of persecution and the start of confiscation in that country.

The Commission sought to make as much information as possible about our efforts to resolve these unpaid claims publicly available. Therefore, the final valuation guidelines as well as committee structures, claims processing statistics, audit reports, quarterly reports, a guide to how the process worked, and annual meeting presentations, were published on the ICHEIC website at www.icheic.org. Arrangements have been made for this website to be maintained by the U.S. Holocaust Museum.

ARCHIVAL RESEARCH/BUILDING RESEARCH DATABASE (and LISTS)

Working closely with European insurance companies, ICHEIC established protocols to make sure that information provided by claimants was matched to all available and relevant surviving records in the companies' possession. Since many claimants had little or no information about specific insurance policies, ICHEIC also conducted archival research to locate documents that were relevant to Holocaust-era life insurance claims. ICHEIC commissioned experts to conduct research in public archives and repositories in Central and Eastern Europe, Israel and the United States to collect as much relevant information as possible. These efforts led to the creation of a database that provided a critical tool used by companies and ICHEIC to further enhance information provided by claimants and thus chances of identifying policies on submitted claims.

ICHEIC's research spanned 15 countries and included over 80 archives. Researchers reviewed three types of records. The first, representing the bulk of the material reviewed, consisted of Nazi-era asset registration and confiscation records. Files pertaining to the post-war registration of losses made up the second category. The third category was comprised of insurance company records located in public and regulatory archives. ICHEIC researchers located almost 78,000 policy specific records. This research augmented the often limited information provided with claims. It is worth noting the significance of more than half of the \$306 million that was awarded went to individuals who were unable to identify a policy or name a company that was the source of their claim.

Concerns were raised at the House Financial Services hearing in February that German archival records remain sealed. A misimpression was left about the impact on ICHEIC research. Under German data protection laws documents are always available to the individuals or their heirs or representatives who are the subject of the documentation - e.g. postwar compensation, even while records containing personal information are not accessible to the general public until 50 years after the date of the documents. Moreover, since asset declarations predate the war, they are actually fully accessible. In addition, in February 2002 the German Parliament passed an amendment to the Archives Law, allowing still broader access to personal records of victims of Nazi persecution.

ICHEIC conducted research in German archives and repositories first in 2000, and again from late 2002 through April 2003.⁸ Through this research many asset declaration files

⁸ As part of ICHEIC's agreement with the German foundation "Remembrance, Responsibility and Future."

were reviewed and a considerable number of policies were identified. Overall research in German archives contributed information on 41,540 insurance policies belonging to 27,886 policyholders.

LISTS

The role of the published lists within the overall scope of the Commission's work and the relative utility of publishing more names going forward have received a great deal of attention, but continues to be widely misunderstood. Development of the lists that were published was a by-product of the Commission's efforts to match claim form information with relevant policy information discovered through archival research or in companies' records. Finding one's name on a list published by the Commission was never intended either as necessary to file a claim or as any proof that a previously unpaid claim existed.

Since ICHEIC's mission was to find potential claimants, identify unpaid Holocaust-era insurance policies, and settle valid insurance claims at no cost to claimants, the Commission sought to maximize opportunities to identify policies and "match" policies with claims, even when submitted claims might have contained little accompanying documentation. The Commission did so by supplementing the information that claimants provided with relevant archival information through agreed-upon procedures. This research and matching work identified thousands of policies related to claims where the claimant was not able to name a company.

Consistent with the Commission's mission of reaching out to the broadest possible universe of interested parties, ICHEIC published on its website its research and the 519,009 potential Holocaust-era policyholder names who were thought likely to have suffered any form of racial, religious, or political persecution during the Holocaust. In so doing, however, the website also carried a clear warning that finding a name on the website was not evidence of the existence of a compensable policy. There were many similar names with spelling variations, policies that might have been surrendered or paid out prior to the Holocaust, and some policies that had already been the subject of previous government compensation programs, rendering them ineligible for any further payments under the ICHEIC process. The list remains accessible to the public through the Yad Vashem website (www1.yadvashem.org/pheip).

The broad obligation to publish potential policyholder names as described in the legislation, HR 1746, which mandates publication of all policyholders during the entire relevant period, would be of limited value and create confusion and raise false expectations. The number of policies issued during the period (1920-1945) would be considerable and in many cases, records, when available, would not be in a database but on microfiche, film, and paper. The pre-war proportion of the persecuted population (as determined by ICHEIC's research) was only a fractional part of the pre-war insurance market.

ICHEIC's published lists – as components of ICHEIC's research database – result from working closely with archival experts in Germany, Israel, the United States, and elsewhere, and drawing on information from company policyholder records. During the ICHEIC process, companies had to identify which policyholders might potentially fit the definition of Holocaust victim.⁹ For companies with many surviving records, this presents a considerable challenge, because in most instances, insurance companies did not identify policyholders based on racial, religious, political, or ideological factors. Nor was it possible to filter solely on the basis of “Jewish”-sounding last names: the name Rosenberg, for example, often believed to be a typical Jewish name, was also the name of one of the Nazi party's highest-ranking ideologues. Similarly, Anne Frank shares her last name with the notorious governor-general of occupied Poland, Hans Frank, who was hanged at Nuremberg.

The Commission considered all these factors, and culled out from an overall list of policyholder names that are those most likely to have been persecuted during the Holocaust. The Commission's list also contained many more names of policyholders likely to have been previously compensated on their policies because the majority of policies issued in Germany had already been subject to prior postwar compensation programs.

HR 1746 legislation would cast a far broader net, resulting in the publication of millions of policyholder names, to the extent companies were legally and practically capable of doing so, and still complying with the data protection and privacy regulations in force in their jurisdiction. Yet a very small percentage of the published names would be relevant to ascertain those who were persecuted during the Holocaust.

CLAIMS PROCESS – AND HUMANITARIAN CLAIMS PAYMENTS

A fundamental component of the claims process was the development of a company-country matrix. This matrix illustrated historical portfolio transfers including mergers, acquisitions, and other company changes across pre-war and Holocaust-era Europe. With one axis representing the company responsible for life insurance policies during the relevant period and the other representing the country of issue, the point of interception identified the current day successor responsible for specific pre-war and Holocaust-era portfolios. The final version of the company-country matrix included 340 companies from over 30 countries. The Company-Country matrix enabled the Commission to identify the policies for which each member company was responsible and facilitated the timely submission of those claims to the relevant company.

⁹ ICHEIC took as its definition of Holocaust victim or persecutee the German federal indemnification legislation definition, as follows, anyone who: “was deprived of their life, suffered damage to their mental or physical health; was deprived of their economic livelihood; suffered loss or deprivation of financial or other assets; suffered any other loss or damage to their property; as a result of racial, religious, political or ideological persecution by organs of the Third Reich or by other Governmental authorities in the territories occupied by the Third Reich or its Allies during the period from 1933 to 1945.”

Claims on policies written by Eastern European companies that were nationalized or liquidated after the war and had no present day successor were reviewed and settled via ICHEIC's in-house process. To ensure the broadest possible reach, anecdotal claims that did not identify a specific insurance company were circulated to all companies that did business in the policyholders' country of residence. Having located unpaid policies, ICHEIC's settlement process determined present values based on negotiated guidelines that provided historical currency conversions. By the conclusion of the Commission's process, 2,874 claims from Eastern Europe were evaluated and offers of approximately \$31 million were made using the Commission's humanitarian funds.

Anecdotal claims which, despite ICHEIC's relaxed standards of proof and its research efforts, could not be linked to a specific policy, were referred to ICHEIC's humanitarian claims process for review. Qualifying claims were paid on a per claimant (rather than a per policy) basis. This process, named after section 8A1 of our Memorandum of Understanding, was designed specifically for those claims that, despite all efforts, had to be reviewed and evaluated based solely on the information provided in the claim form. Thus the 8A1 humanitarian claims payment process made 31,384 offers of \$1000 per claimant, totaling approximately \$31.3 million.

AUDITS; VERIFICATION; EXECUTIVE MONITORING GRP

The Commission adopted a series of oversight structures to make sure that decisions on claims were processed correctly and in accordance with ICHEIC rules and guidelines. Independent third-party audits for the claims review processes of each participating company and partner entity were carried out to assess the status of existing records, and make sure that records were appropriately searched and matched. The rules for these audits were dictated by written agreements between ICHEIC and its participating companies and partner entities, and were reviewed and ultimately approved by ICHEIC's Audit Mandate Support Group, which was staffed by representatives from state regulators' offices, and Jewish organizations.¹⁰

In response to concerns about the potential for flaws in the companies' claims processing, ICHEIC created an Executive Monitoring Group, which was staffed by representatives from the US regulators, Jewish groups and the claims process manager in ICHEIC's London office. This group reviewed in "real time" segments of participating companies' as well as ICHEIC's own claims processing operations. Through this review, the team recommended new measures to establish and maintain consistency in claims handling across companies and make sure that decision making was in accord with ICHEIC's rules and guidelines, provide for reconciliation of databases, and review company internal matching systems.

¹⁰ For example, under the Commission's rules, if a company's records were found to be comprehensive for a time period in question, as determined by the agreed upon audit process, the company could assert that lack of registration of a given policy in its records as evidence that such policy did not exist with that particular company.

ICHEIC created an in-house verification team to cross-check every company decision. The verification team also conducted a series of large scale exercises to review decisions made by member companies. Discrepancies were reported back to the companies for reassessment and, where appropriate, remedial action. This process included verification that names added to files after they were originally submitted were properly researched. At the conclusion of ICHEIC's work, the verification team also carried out major reconciliation exercises, to make sure that all research information in ICHEIC's database conformed to and had been matched against companies' policyholder information, and that all claims filed had been checked against all companies' decisions.

In conclusion, the claims process was comprehensive in terms of participants, those whom it served, and how it addressed historical, legal, and operational complexities. Although the work of the Commission was unprecedented and filled with unique challenges, as no one here today knows better than does Chairman Nelson, we were able through amicable and inclusive dialogue to voluntarily adopt a new approach towards the resolution of unpaid Holocaust-era insurance claims for the benefit of Holocaust survivors and their families and those who did not survive.

In the end, it was about people and about justice. We recognize that no Commission can resolve the wrongs done by the Holocaust. We firmly believe, however, that our efforts brought some measure of justice to the lives of thousands of survivors, their families, and the families of those who perished.