February 21, 1989

SUBJECT: INSURANCE

Circular Letter No. 5 (1989)

February 21, 1989

TO: ALL PROPERTY/CASUALTY INSURERS IN NEW YORK STATE
ALL P/C INSURER, PRODUCER & RATE SERVICE ORGANIZATIONS

RE: CHANGING MARKET CONDITIONS & MARKET CONDUCT APPROACH

As the cycle shifts and market conditions change, dangers from cashflow underwriting and anticompetitive abuses in the marketplace increase. Repetition of the liability insurance crisis must be avoided.

To help stabilize the commercial risk insurance marketplace over time, and enforce the flex-rating system and related regulatory requirements, the Insurance Department is performing intensive market conduct investigations to ascertain the extent to which actual market practices by insurers diverge from governing standards.

In order to maximize compliance and minimize delay, the Department intends to apply the following procedures, supplementing or modifying existing procedures, in the market conduct process:

A. Stipulation Deadline. A forty-five (45) day deadline, measured from insurer receipt of the Market Conduct investigation report directly mailed by our Market Conduct Unit, will govern the time allotted to achieve prompt resolution by stipulation. The insurer and its legal representatives will need to work with the Department's Property & Casualty Insurance Bureau within this critical time frame.

In the event no stipulation results by the end of this 45-day period, a citation will be dispatched, promptly scheduling a hearing on the market conduct report. Once initiated, a market conduct hearing will be conducted with expedition. That hearing and the hearing record will be open to the public.

B. Accountability. Greater emphasis will be placed on identifying the specific officers, directors or managers principally responsible within the company for causing, tolerating or failing to prevent the market conduct violations in question. The activities of the insurer's producers, especially managing general agents, will also be under market conduct scrutiny. These individuals will be brought into the stipulation and hearing process. Sanctions (including monetary penalties) will be sought, not only against the company itself, but also against these individuals, where appropriate.

C. Publicity. Greater emphasis will also be placed on publicity, given its educational and deterrent values. Future press releases will highlight newsworthy market conduct investigations, especially when cashflow underwriting or anticompetitive abuses are discovered.

Whether, how or when the Department uses publicity on market conduct actions will not be part of the stipulation bargaining process. Press releases may be issued to inform the public about the general nature of ongoing market conduct actions of significance as well as to announce hearings, open to the public, on particular market conduct actions.

The officer in charge of underwriting should acknowledge in writing receipt of this Circular Letter, no later than March 7, 1989, to:

Janet Glover
Supervising Examiner
Market Conduct Unit
Property & Casualty Insurance Bureau
New York State Insurance Department
160 West Broadway
New York, New York 10013

Please direct any questions concerning this Circular Letter or our market conduct procedures to Ms. Glover (212-602-0355).

Very truly yours,

[SIGNATURE]

JAMES P. CORCORAN

SUPERINTENDENT OF INSURANCE