



STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004

Circular Letter No. 26 (1998)
October 2, 1998

TO: All insurers organized, registered, accredited or licensed to do an insurance business in New York State (including all licensed life insurers, fraternal benefit societies, savings bank life insurance departments, accredited life reinsurers, property/casualty insurers, co-operative property/casualty insurers, financial guaranty insurers, mortgage guaranty insurers, reciprocal insurers, accident and health insurers, Article 43 Corporations, Public Health Law Article 44 health maintenance organizations, title insurers, the State Insurance Fund, and accredited property/casualty reinsurers; all hereinafter referred to as "insurers")

RE: Insurers' Initial Reports Setting Forth Plans for Compliance with Article 27 (Holocaust Victims Insurance Act of 1998)

Section 2705(a) of the New York Insurance Law requires that: "Every insurer organized, registered, accredited or licensed to do an insurance business in this state shall file or shall cause its holding company to file with the superintendent, within one hundred and twenty days of the effective date of this article, a report setting forth such insurer's plan for complying with the provisions of this article." As indicated in our Circular Letter No. 17(1998) dated July 23, 1998, **this initial report is due no later than November 5, 1998.**

To assist insurers in filing the report of their plan, the Department has prepared a standard electronic format, available in either Lotus 1-2-3[®] or Microsoft Excel[®]. To obtain diskettes from the Department which contain the formats to be used in filing the report of the plan required under Section 2705(a), requests should be directed to Ms. Benita Hirsch at the address set forth below. Please note that, if you have Internet access, the files required are attached to this Circular Letter on the Department's Web Site located at <http://www.ins.state.ny.us> and may be downloaded from that site. Therefore, if you are able to download the files, you do not need to request the diskette from the Department.

All insurers or their holding companies, if filing on behalf of such insurers, must furnish such reports. Even insurers which did not come into being until after 1945, and which may not have written any relevant business affected by Article 27, may nevertheless, as a result of either corporate reorganizations or the assumption of preexisting risks, have become obligated on policies affected by Article 27, or have become affiliates or successors of insurers who are or were so obligated.

Insurers that are members of the same holding company system must present a consolidated report setting forth their collective plan for complying with the provisions of Article 27. The holding company shall designate one of the

insurers organized, registered, accredited or licensed to do an insurance business in New York State as the primary reporting entity. In turn, the primary reporting entity shall designate a submission contact person at the primary reporting entity who will be the person to whom the Department directs questions and correspondence with respect to reports.

All reports of the plan must be filed on diskette and also be accompanied by signed "hard copies" of certifications under oath of each insurer organized, registered, accredited or licensed to do an insurance business in New York State included in the report. In addition, the holding company must provide a certification.

Certification signatures must be those of the **chief executive officer (or comparable officer)**. Certifications are required to be made under oath as being true and not misleading and as containing the most accurate information available at the time of such report's submission. This requirement, for United States and territorial entities, may be satisfied by having the signatures notarized by a notary public duly authorized in the jurisdiction in which the document is signed. Outside of the United States and its territories, a certification under oath may be made before a United States embassy or consular official authorized to administer such oaths.

Section 2705(a) also provides that an insurer may request to be relieved from filing any further reports after the initial report stating the insurer's plan for complying with Article 27, upon providing evidence satisfactory to the Superintendent that such insurer has fulfilled its obligations under this Article. Any relief granted by the Superintendent expires if the pertinent circumstances under which the relief was granted change. For example, if insurers or persons who have been granted relief change their affiliation, they must again request relief. In addition, Section 2709 provides discretion to the Superintendent to suspend the application of Section 2705 in certain circumstances.

Section 2705(f) provides that "Any insurer which knowingly or recklessly files a false or misleading certification required by this section shall be fined not less than one hundred thousand dollars or such greater amount as the superintendent deems appropriate based upon the degree of misrepresentation, the willfulness of the misconduct and the amount of funds misappropriated. Such insurer also may be barred from further sales of insurance in New York for a period of up to ten years." Furthermore, Section 2707 provides that "In addition to any other penalty prescribed by this article or any other provision of this chapter, any insurer or person who violates the provisions of this article will be subject to a civil penalty of up to one thousand dollars for each day each such violation continues except that, if the superintendent finds that such violation has been willful, such insurer shall be fined an amount that the superintendent deems appropriate based on the degree of willful misconduct and the nature of the violation."

Questions as to this Circular Letter and related submissions should be directed to:

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Information regarding the format for the Section 2705(b) annual reports, the first of which is due no later than January 30, 1999, will be provided at a later date. Insurers are reminded that such Section 2705(b) reports must address the relevant activities of each insurer, the holding company and any other member, subsidiary or division within the holding company system, in each case whether a licensee or not.

Very truly yours,

BONNIE STEINGART
Deputy Superintendent
& General Counsel

Below are the files contained on the diskette and a link to instructions for viewing the compressed format files

INSTRUCTIONS FOR UNZIPPING COMPRESSED FORMAT FILES

[Circular Letter 26 forms and 1-2-3 WK1 spreadsheet](#)

[Circular Letter 26 forms and 1-2-3 WK4 spreadsheet](#)

[Circular Letter 26 forms and Excel spreadsheet](#)
