



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

David A. Paterson
Governor

James J. Wrynn
Superintendent

Circular Letter No. 10 (2010)
August 10, 2010

TO: All Authorized Insurers (including Alien Insurers Transacting Business in New York through United States Branches) that are Exempt from Article 15 of the New York Insurance Law

RE: Holding Company System Annual Registration Statements Filed with other States and Reporting of Planned Transactions

STATUTORY REFERENCE: Section 308 of the Insurance Law

This Circular Letter replaces Circular Letter No. 16 (2009). The purpose of this Circular Letter is to advise every domestic insurer that is exempt from Insurance Law Article 15 to furnish the New York State Insurance Department (“Department”) with (1) a copy of the National Association of Insurance Commissioners’ (“NAIC”) insurance holding company system annual registration statement if the insurer or its parent authorized insurer filed the statement in another state, and (2) a report in advance of engaging in any activity that results in the insurer acquiring control or in advance of engaging in certain other transactions.

Under New York Insurance Law § 1502(a), certain authorized insurers, including alien insurers transacting business in New York through United States branches, are not considered to be “holding companies” or “controlled insurers” within the meaning of Article 15 of the Insurance Law, and accordingly are exempt from its provisions. However, an exempt insurer may be subject to the holding company reporting or registration requirements of states other than New York. Submission of such reports to the Superintendent is critical to enhancing the Superintendent’s understanding of the holding company structure of authorized insurers operating in New York, and the Superintendent’s ability to assess the current or potential risk to insurance subsidiaries.

Pursuant to Insurance Law § 308, which authorizes the Superintendent to require an authorized insurer to submit special reports in relation to its transactions or condition or any matter connected therewith, every domestic insurer that is exempt from Article 15 of the Insurance Law should furnish the Superintendent with:

1. Copies of the insurance holding company system annual registration statement (“NAIC Form B”) filed in another state by the insurer or its parent authorized insurer, and any amendments thereto, at the same time that the insurer files the

statement and any amendments with another state. If an insurer is not required to file the NAIC Form B in another state, then the insurer should file the information contained in NAIC Form B with the Department within 120 days following the close of the ultimate holding company's fiscal year. Any insurer that has not filed its most recent report should file the report with the Superintendent within 15 days of the date of this letter;

2. A report, which may be sent to the appropriate e-mail address below on the attached [form](#), at least 30 days in advance of engaging in any activity that results in the insurer acquiring "control" (as defined by Insurance Law § 1501(a)(2)) of any other domestic insurer; and

3. A report, which may be sent to the appropriate e-mail address below on the attached [form](#), at least 30 days in advance of entering into any of the following transactions:

A. Sales, purchases, exchanges, loans, extensions of credit, or investments with an affiliate,¹ provided the transactions are equal to or exceed:

i. The lesser of 3% of the insurer's admitted assets or 25% of surplus to policyholders as of December 31st next preceding, with regard to property/casualty insurers;²

ii. The lesser of 3% of the insurer's admitted assets or 25% of capital and surplus as of December 31st next preceding, with regard to accident and health insurers; or

iii. 3% of the insurer's admitted assets as of December 31st next preceding, with regard to life insurers;

B. Loans or extensions of credit to any person who is not an affiliate, where the insurer makes loans or extensions of credit with the agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, purchase assets of, or make investments in, any affiliate of the insurer making the loans or

¹ An "affiliate," for the purpose of this circular letter, means a person that directly, or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the insurer.

² A "property/casualty insurer," for purposes of this circular letter, includes insurers authorized to write financial guaranty insurance, mortgage guaranty insurance, and title insurance.

extensions of credit, provided the transactions are equal to or exceed:

i. The lesser of 3% of the insurer's admitted assets or 25% of surplus to policyholders as of December 31st next preceding, with regard to property/casualty insurers;

ii. The lesser of 3% of the insurer's admitted assets or 25% of capital and surplus as of December 31st next preceding, with regard to accident and health insurers; or

iii. 3% of the insurer's admitted assets as of December 31st next preceding, with regard to life insurers;

C. Reinsurance agreements (or modifications thereto) with an affiliate that the insurer has not otherwise submitted to the Superintendent, in which the reinsurance premium, or a change in the insurer's liabilities, equals or exceeds 5% of a property/casualty or life insurer's surplus to policyholders, or 5% of an accident and health insurer's capital and surplus, as of December 31st next preceding. This includes agreements that may require, as consideration, the transfer of assets from an insurer to a non-affiliate, if an agreement or understanding exists between the insurer and non-affiliate that any portion of the assets will be transferred to one or more affiliates of the insurer;

D. Management agreements, service contracts, contracts of guarantee or surety, and all cost-sharing arrangements;

E. All contracts of guarantee or surety involving an affiliate, provided, however, that if a contract of guarantee or surety is quantifiable as to amount, then an insurer should furnish the Department with the contracts only if the contracts exceed the lesser of: 3% of the insurer's admitted assets or 25% of surplus to policyholders as of December 31st next preceding, with regard to property/casualty and life insurers; or 3% of the insurer's admitted assets or 25% of capital and surplus as of December 31st next preceding, with regard to accident and health insurers. An insurer should furnish all contracts of guarantee or surety that are not quantifiable as to amount; and

F. With respect to life insurers, direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of

the insurer in an amount that together with its present holdings in such investments exceeds 2.5% of the insurer's surplus to policyholders as of December 31st next preceding. Direct or indirect acquisitions or investments in subsidiaries acquired pursuant to Article 17 of the Insurance Law, or subsidiaries that are exempt under Insurance Law § 1704, need not be reported.

An insurer that believes its records contain "trade secrets . . . or if disclosed would cause substantial injury to the competitive position of the subject enterprise" may request, pursuant to New York Public Officers Law § 87(2)(d), that the Department except such documents from disclosure pursuant to Public Officers Law § 89(5)(a)(1). Should the Department receive a request for records for which an insurer requested an exception from disclosure, the Department will notify the insurer and give the insurer an opportunity to respond in accordance with Article 6 of the Public Officers Law.

Please direct any questions regarding this circular letter, and furnish all information, to:

For Life Insurers:

Suk Wong
Insurance Examiner - Life Bureau
New York State Insurance Department
25 Beaver Street
New York, New York 10004
Phone: (212) 480-4910
E-Mail: swong1@ins.state.ny.us

For Property/Casualty Insurers:

JoAnne Brazenor
Supervising Examiner - Property Bureau
New York State Insurance Department
25 Beaver Street
New York, New York 10004
Phone: (212) 480-5076
E-Mail: jbrazeno@ins.state.ny.us

For Accident and Health Insurers:

Charles Lovejoy
Supervising Examiner - Health Bureau
New York State Insurance Department
25 Beaver Street
New York, New York 10004
Phone: (212) 480-5045
E-Mail: clovejoy@ins.state.ny.us

Michael Maffei
Assistant Deputy
Superintendent and Chief
Life Bureau

Eugene Bienskie
Assistant Deputy
Superintendent and Chief
Property Bureau

Louis Felice
Assistant Deputy
Superintendent and Chief
Health Bureau