

NEW YORK STATE  
INSURANCE DEPARTMENT

TENTH AMENDMENT TO REGULATION NO. 41  
(11 NYCRR 27)

EXCESS LINE PLACEMENTS GOVERNING STANDARDS

I, Eric R. Dinallo, Superintendent of Insurance of the State of New York, pursuant to the authority granted by Sections 201, 301, 2105, 2118 and Article 21 of the Insurance Law do hereby promulgate the following Tenth Amendment to Part 27 of Title 11 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (Regulation No. 41), to take effect upon publication in the State Register, to read as follows:

(Matter in Brackets Is Deleted; Matter Underlined Is New)

Section 27.14(f) is hereby amended to read as follows:

(f)(1) In the case of an alien insurer, except as provided for in subdivisions (g), (h) and (i) of this section, the amount of funds in trust shall be [the lesser of US \$60,000,000, or US \$5,400,000 plus,] for liabilities arising from business written on or after January 1, 1998, 30 percent of the first US\$200,000,000 plus 25 percent of the next US\$300,000,000 plus 20 percent of the next US\$500,000,000 plus 15 percent of the amount in excess of US\$1,000,000,000 of estimated gross liabilities, as of the end of each calendar year, attributable to excess line business written in the United States (exclusive of marine insurance as set forth in section 2117(b)(3) of the Insurance Law). In no event shall the trust fund minimum amount be less than US\$5,400,000.

(2) Notwithstanding paragraph (1) of this subdivision, an insurer that has written United States excess line business between January 1, 1998 and January 1, 2007 shall not be required to maintain more than US\$100,000,000 in the trust fund until December 31, 2011.

(3) [Such] The liabilities of the insurer are to be determined no less than annually and reported to the trustee and the Superintendent of Insurance of the State of New York no later than seven months after the insurer's accounting year-end. Such liabilities shall also be certified by an actuary who is a member of a recognized professional actuarial society.

Section 27.14(i) is hereby amended to read as follows:

(i)(1) In the case of a group whose members consist of individual incorporated alien insurers who are not engaged in any business other than underwriting as a member of the group and individual unincorporated insurers, provided all the members are subject to the same level of solvency regulation and control by the group's domiciliary regulator:

(i) each syndicate in the group shall maintain a trust fund in the form of a trustee account representing the syndicate's gross liabilities attributable to excess line business written in the United States (exclusive of [any] marine insurance [business, excluded from excess line business pursuant to] as set forth in section 2117(b)(3) of the Insurance Law); and

(ii) the group shall maintain in the form of a trustee account a surplus in the amount of US\$100,000,000 which shall be held jointly for the benefit of United States excess line policyholders of any member of the group.

(2) The superintendent may determine that a syndicate need not maintain in trust the full amount required by subparagraph (1)(i) of this subdivision, based on such factors as the amount and nature of the business written by the syndicate, the quality and completeness of financial information provided to the superintendent, information provided to the superintendent by the group's domiciliary regulator, and the amount of jointly held funds which the group maintains in excess of the amount required by subparagraph (1)(ii) of this subdivision. In no event, however, shall the superintendent determine that a syndicate may maintain an amount less than 30 percent of the first US\$200,000,000 plus 25 percent of the next US\$300,000,000 plus 20 percent of the next \$500,000,000 plus 15 percent of an amount in excess of US\$1,000,000,000 of its gross United States excess line liabilities.

I, Eric R. Dinallo, Superintendent of Insurance of the State of New York, do hereby certify that the foregoing is the Tenth Amendment to Part 27 of Title 11 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (Regulation No. 41), entitled "Excess Line Placements Governing Standards", promulgated by me on November 28, 2007, pursuant to the authority granted by 201, 301, 2105, 2118, and Article 21 of the Insurance Law, to take effect upon publication in the State Register.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed amendment was published in the State Register on October 3, 2007. No other publication or prior notice is required by statute.

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Eric R. Dinallo  
Superintendent of Insurance

November 28, 2007