

NEW YORK STATE  
INSURANCE DEPARTMENT

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

EXCESS LINE PLACEMENTS GOVERNING STANDARDS

I, James J. Wynn, 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 Twelfth 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:

(New matter is underlined; matter in brackets is deleted)

Section 27.1 is amended by adding a new subdivision (s), to read as follows read as follows:

(s) Eligible means that an insurer not authorized in this state has satisfied the requirements of this Part, including establishing the requisite trust fund and maintaining the minimum surplus.

Section 27.13(b) and (c) are amended to read as follows:

(b) No excess line broker shall place coverage with an unauthorized insurer, unless [its] the insurer's financial statements or other evidence demonstrate that [such] the insurer:

(1) is solvent and otherwise substantially complies with solvency requirements for authorized insurers;

(2) has surplus to policyholders sufficient to support its writings, reasonable in relation to its outstanding liabilities, adequate to its financial needs and[, in no event, less than]:

(i) [in the case of individual incorporated insurers, US\$15,000,000;] for an individual incorporated excess line insurer that:

(a) is eligible prior to January 1, 2011, the insurer maintains surplus to policyholders of not less than US\$25,000,000 as of July 1, 2011, US\$35,000,000 as of January 1, 2012, and US\$45,000,000 as of January 1, 2013; or

(b) becomes eligible on or after January 1, 2011, the insurer maintains surplus to policyholders of not less than US\$45,000,000;

(ii) [in the case of an] for an association of insurance underwriters consisting of individual incorporated excess line insurers located outside the United States, each insurer maintains surplus to policyholders of not less than [US\$25,000,000]US\$45,000,000 and the association maintains an aggregate surplus to policyholders of not less than US\$10,000,000,000; or

(iii) [in the case of a] for a partnership of unlicensed insurers, each licensed in its domicile and which partnership is duly authorized by its domiciliary jurisdiction to insure risks on a joint and several basis[,] that:

(a) is eligible prior to January 1, 2011, each insurer maintains surplus to policyholders of not less than [US\$15,000,000; and] US\$25,000,000 as July 1, 2011, US\$35,000,000 as of January 1, 2012, US\$45,000,000 as of January 1, 2013; or

(b) becomes eligible on or after January 1, 2011; each insurer maintains surplus to policyholders of not less than US\$45,000,000;

(3) as of January 1, 2016 and every three years thereafter, the minimum surplus to policyholders requirements in subparagraphs (i), (ii) and (iii) of paragraph (2) of this subdivision shall be increased by US\$1,000,000; and

(4) maintains a trust fund in compliance with section 27.14 of this Part.

(c) For purposes of subdivision (b) of this section, in the case of an insurance exchange created by the laws of a state other than this State, no excess line broker shall procure coverage from that exchange or any of its syndicates, unless:

(1) the insurance exchange maintains funds in trust or custodial accounts, under terms acceptable to the superintendent, in an amount no less than US\$75,000,000, in the aggregate, provided that an amount at least equal to the greater of US\$30,000,000 or one-third of the aggregate, is maintained on a joint and several basis for the protection of all insurance exchange policyholders;

(2) the syndicates of such insurance exchange maintain total capital and surplus, or their substantial equivalent, not less than US\$100,000,000 in the aggregate; and

(3) each syndicate with which excess line insurance is placed [maintains] has surplus to policyholders sufficient to support its writings, reasonable in relation to its outstanding liabilities, adequate to its financial needs; and if the syndicate:

(i) is eligible prior to January 1, 2011, the syndicate maintain minimum capital and surplus, or their substantial equivalent, of not less than [US\$15,000,000] US\$25,000,000 as of July 1, 2011, US\$35,000,000 as of January 1, 2012, US\$45,000,000 as of January 1, 2013, or

(ii) becomes eligible on or after January 1, 2011 and the syndicate maintains minimum capital and surplus, or their substantial equivalent, of not less than US\$45,000,000; and

(4) as of January 1, 2016 and every three years thereafter, the minimum capital and surplus requirements in subparagraphs (i) and (ii) of paragraph (3) of this subdivision shall be increased by US \$1,000,000.

Section 27.13(l)(3) is amended to read as follows:

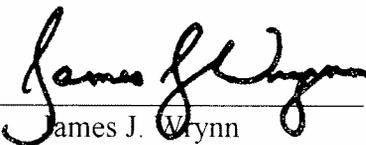
(l)(3) In no event shall the superintendent make an affirmative finding of acceptability when the unauthorized insurer's surplus to policyholders is less than [US\$4,500,000] US\$25,000,000; provided, that as of January 1, 2016, and every three years thereafter, the minimum surplus to policyholders requirement amount shall be increased by US\$1,000,000.



STATE OF NEW YORK  
INSURANCE DEPARTMENT  
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I, James J. Wrynn, Superintendent of Insurance of the State of New York, do hereby certify that the foregoing is the Twelfth 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 April *18*, 2011 pursuant to the authority granted by Sections 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 regulation was published in the State Register on October 6, 2010. No other publication or prior notice is required by statute.

  
James J. Wrynn  
Superintendent of Insurance

Dated: April *18*, 2011