

**NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
FIFTH AMENDMENT TO 11 NYCRR 80-1
(INSURANCE REGULATION 52)**

HOLDING COMPANIES

I, Benjamin M. Lawskey, Superintendent of Financial Services, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301, 1504 and 1506 of the Insurance Law, do hereby promulgate the following fifth amendment to 11 NYCRR 80-1 (Insurance Regulation 52), to take effect upon publication in the State Register, to read as follows:

(Matter in brackets is deleted; new matter is underlined)

Section 80-1.6 is amended as follows:

Section 80-1.6 Applications for approval of acquisition of control.

Any person, other than an authorized insurer, seeking to acquire direct or indirect control of a domestic insurer, shall furnish to the superintendent the following information pursuant to Insurance Law section 1506:

**INFORMATION TO BE FURNISHED TO THE SUPERINTENDENT IN
APPLICATIONS FOR APPROVAL OF ACQUISITION OF CONTROL.***

Item 1. Insurer and method of acquisition.

State the name, [and] address, and National Association of Insurance Commissioners company code of the domestic insurer to which this application relates, and provide a [brief] description of how control is to be acquired.

Item 2. Identity and background of applicant.

State the following with respect to the person filing this application and with respect to the [directors and executive officers of any corporate applicant] individuals identified pursuant to Note B.

(a) name and business address;

(b) residence address[, if a] of each identified natural person;

(c) present principal business activity, occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is carried on;

(d) material occupations, positions, offices or employments during the last ten years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which each such occupation, position, office or employment was carried on; if any such occupation, position, office or employment required licensing by or registration with any Federal, State or municipal governmental agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection therewith;

(e) whether or not such person has ever been convicted in a criminal proceeding (excluding traffic violations) and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case;

(f) the identities of and interrelationships among the applicant and all persons known to control or to be controlled by or under common control with the applicant, in a chart that clearly presents the foregoing information. Indicate in such chart the percentage of voting securities of each such person that is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by the ownership or control of voting securities, then indicate the basis of such control. As to each person specified in such chart, indicate the type of organization (e.g., corporation, trust, partnership) and the State or other jurisdiction of domicile. If court proceedings looking toward a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.

**Note A:* The item numbers and captions of the items shall be included but the text of the items are to be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items. Answer every item. If an item is inapplicable or the answer is in the negative, so state.

**Note B:* If the application is filed by a partnership, limited partnership, limited liability partnership, firm, trust, limited liability company, or similar entity, then the information called for by items 2, 3, 5, 6, and 7 shall be given with respect to (1) each partner of any partnership, (2) each general partner of any limited partnership or limited liability partnership, (3) each member or trustee of any firm or trust, [and (3)] (4) each manager, managing member, or similar person of any limited liability company, and (5) each person controlling such partner, general partner, member, [or] trustee, manager, or managing member. If a person referred to in (1)[, (2) or (3)] through (5) above is a corporation or the application is filed by a corporation, then the information called for by the above-mentioned items shall be given with respect to each executive officer and director of such corporation and each person controlling such corporation.

Item 3. Financial statements.

(a) Furnish a consolidated balance sheet of the applicant, each person identified pursuant to Note B, and each controlled person who would constitute a significant person were applicant a holding company under the Insurance Law, as of the end of applicant's fiscal year and related

consolidated statements of income and surplus for the year then ended. Such financial statements shall be accompanied by an opinion of an independent certified public accountant to the effect that such financials present fairly the consolidated financial position of the applicant and such persons, and the results of their operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. In lieu of fully consolidated statements, applicant may furnish separate certified financial statements with respect to any person or persons, and certified consolidated or combined statements with respect to any group of persons.

(b) A controlled person who is an individual may make a written application to the superintendent for permission to submit a certified public accountant compilation rather than an opinion of an independent certified public accountant on the grounds that submitting an opinion of an independent certified public accountant would constitute a hardship upon the controlled person. The written application shall explain how submitting an opinion of an independent certified public accountant would constitute a hardship upon the controlled person.

Item 4. Nature, source and amount of consideration.

(a) Describe the nature, source and amount of funds or other consideration used or to be used in effecting the acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading securities, or otherwise effecting the acquisition of control, then furnish a description of the transaction, the names of the parties thereto, and copies of all agreements relating thereto, including any offering memoranda, private placement memoranda, any investor disclosure statements, or any other investor solicitation materials.

(b) An explanation of the criteria used in determining the nature and amount of such consideration.

Item 5. Objectives in acquisition of control.

(a) Describe any plans or proposals that the applicant or any person identified pursuant to Note B may have for the next five years to liquidate such insurer, to sell its assets to or merge it with any other persons, to declare any dividends, to change the insurer's investment portfolio, or to make any other material change in its business operations or corporate structure. Such plans or proposals shall not be modified or amended within five years of the date of the acquisition of control without the superintendent's prior written approval.

(b)(1) [The superintendent may require, with respect to any] An applicant[, the submission of] shall submit a detailed plan of operations, including five-year financial projections, relating to such insurer [if, in the superintendent's judgment, such submission is necessary to safeguard the interests of policyholders or the public]. The insurer shall notify the superintendent, and upon the superintendent's request, shall submit new five-year projections under the plan of operations if, within five years of the date of acquisition of control, the insurer seeks to enter into:

(i) any reinsurance treaty or agreement with the applicant or any person controlling, controlled by or under common control with the applicant;

(ii) any transaction investing with, lending to, or for the purchase of assets from the applicant or any person controlling, controlled by or under common control with the applicant; or

(iii) any transaction encumbering its assets to, or for the benefit of, the applicant or any person controlling, controlled by or under common control with the applicant;

(2) If the superintendent determines that the new five-year financial projections show that the insurer will not have adequate capital, then the insurer shall obtain additional capital in an amount and of a quality sufficient to remedy the deficiency as determined by the superintendent.

(c) With respect to a life insurer, the applicant or any holding company within the insurer's holding company system shall establish a trust account that substantially conforms to the requirements of Part 126 of this Title (Insurance Regulation 114) in an amount and for a duration to be determined by the superintendent if the superintendent determines that, absent such action, the acquisition is likely to be hazardous or prejudicial to the insurer's policyholders or shareholders. In making such determination, the superintendent may consider, among other factors, whether the applicant, or any person controlling, controlled by or under common control with the applicant is:

(1) registered or required to register with, or required to report to, the United States Securities and Exchange Commission pursuant to 17 C.F.R. section 275.204(b)-1, 17 C.F.R. section 279.9, 15 U.S.C. section 80b-3, or otherwise would be required to register or report under any such section if it had \$150 million or more in assets under management;

(2) an investment company, as defined in 15 U.S.C. section 80a-3, but without giving effect to the exemptions set forth in 15 U.S.C. section 80a-3(c)(1) and (7), for companies with less than 100 owners, or where all owners are qualified purchasers as defined in 15 U.S.C. section 80a-2(a)(51);

(3) an entity that was formed within 36 months prior to the date of the application;

(4) a company primarily engaging in investing or investment management activities; or

(5) an entity that holds for investment purposes a portfolio where non-publicly registered securities or holdings represent 50% or more of the assets of that entity.

Item 6. Interest in securities of the insurer.

(a) State the number of shares of the insurer's equity securities that are held of record or beneficially owned, and the number of shares concerning which there is a right to acquire, of record or beneficially, directly or indirectly, by the applicant, any person identified pursuant to

Note B, and any person controlled by the applicant, giving the name and address of each such person.

(b) Indicate the interests of the applicant, any person identified pursuant to Note B, and any person controlled by applicant in any other securities of the insurer, including its notes, bonds and other corporate obligations.

(c) Furnish information as to all transactions during the past six months in any securities of the insurer to which this statement relates that were effected by the applicant, any person identified pursuant to Note B, or known to have been effected by persons controlling, controlled by or under common control with applicant, or by their respective executive officers or directors.

Item 7. Contracts, arrangements or understandings with respect to securities of the insurer.

Furnish information as to any contracts, arrangements, or understandings between the applicant, or any person controlling, controlled by or under common control with it, and any other person with respect to any securities of the insurer, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof.

Item 8. Persons retained, employed or to be compensated.

Identify any persons employed, retained or to be compensated by the applicant, or by any person on the applicant's behalf, to make solicitations or recommendations to security holders for the purpose of assisting in the acquisition of control, and describe briefly the terms of such employment, retainer or arrangement for compensation.

Item 9. Material to be filed as exhibits.

(a) Copies of all materials used to solicit investors, and all requests or invitations for tenders or advertisements making a tender offer or requesting or inviting tenders, additional material soliciting or requesting such tender offers, solicitations or recommendations to the holders of securities to accept or reject a tender offer or request or invitation for tenders, to be used in connection with the proposed acquisition of control, shall be filed as an exhibit.

(b) Copies of any operating agreement, management agreement, partnership or limited partnership agreement, or any other contract or agreement, pursuant to which any person identified pursuant to Note B controls or purports to control the applicant or any other person identified pursuant to Note B.

(c) The [superintendent may require the submission of] applicant shall submit such additional information or material as the superintendent deems necessary or appropriate, with respect to any insurer or class of insurers, in determining whether the applicant intends properly

and effectively to continue the insurer's operations, or in determining the effect of the acquisition of control upon competition in any line of commerce in insurance.

Item 10. Amendment of application.

The applicant shall promptly advise the superintendent of any changes in the information so furnished arising subsequent to the date upon which such information was furnished but prior to the superintendent's disposition of the application.

Item 11. Signature and certification.

The applicant shall provide signature and certification in the following form:

SIGNATURE

Pursuant to the requirements of New York Insurance Law section 1506 and 11 NYCRR PART 80-1 (Insurance Regulation 52), _____

(Name of Applicant)

has caused this application to be duly signed on its behalf in the City of and State of, on the day of , 20.....

(SEAL):

(Name of Applicant)

BY _____
(Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that she/he has duly executed the attached application dated, 20..... for and on behalf of _____,

(Name of Applicant)

that she/he is the _____ of such company; and that all action by
(Title of Officer)

directors and other bodies necessary to authorize deponent to execute and file such instrument has been taken. Deponent further says that she/he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of her/his knowledge, information and belief.

(Signature)

(Type or print name beneath)



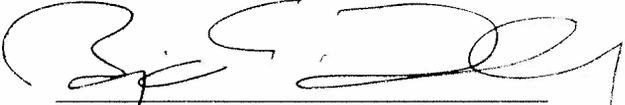
NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

I, Benjamin M. Lawsky, Superintendent of Financial Services, do hereby certify that the foregoing is the Fifth Amendment to Part 80-1 of Title 11 NYCRR (Insurance Regulation 52), signed by me on October 28, 2014, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301, 1504 and 1506 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 rule was published in the State Register on May 14, 2014. No other publication or prior notice is required by statute.



Benjamin M. Lawsky
Superintendent of Financial Services

Date: October 28, 2014