



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Shirin Emami
Acting Superintendent

December 22, 2015

Ms. Maribeth St. Germain
State Register/Office of Information Services
New York State Department of State
One Commerce Plaza
99 Washington Avenue, Suite 650
Albany, NY 12231

Re: State Administrative Procedure Act § 207
Five-year Review of Agency Rulemakings

Dear Ms. St. Germain:

Attached is the Department of Financial Services' initial third year review and five-year review of rulemakings, prepared pursuant to Section 207 of the State Administrative Procedure Act, for publication in the January 6, 2016 State Register. The attached document is divided into three sections: (1) introduction; (2) insurance regulations promulgated in 2013, 2011, 2006, and 2001; and (3) banking regulations promulgated in 2013, 2011, 2006, and 2001.

Sincerely yours,

Camielle Barclay

Camielle Barclay
Senior Attorney
212-480-5299

cc: Sally Geisel
Christine Tomczak

INTRODUCTION

Pursuant to Section 207 of the State Administrative Procedure Act, Review of Existing Rules, the Department of Financial Services (“the Department”) must review, after five years and at five-year intervals thereafter, rulemakings adopted on or after January 1, 1998, and effective January 1, 2013, for any rule that requires a regulatory flexibility analysis, rural area flexibility analysis or job impact statement, the Department must initially review that rule in the third calendar year after the year the rule first was adopted. The purpose of the review is to analyze the need for and legal basis of the adopted rulemakings. Please note that all references to “the Department” and the “Superintendent” prior to October 3, 2011 mean, respectively, the former Insurance Department or Banking Department and the former Superintendent of Insurance or Superintendent of Banking, as appropriate to the context, and that the references to laws cited are as of the date of the amendment to the regulations.

PART 1. INSURANCE REGULATIONS

Notice is hereby given of the following rules relating to insurance that the Department will review this year to determine whether they should be continued or modified. These rules were adopted in 2013, 2011, 2006 and 2001. These rules as published in the New York State Register contain a regulatory flexibility analysis, a rural area flexibility analysis and/or a job impact statement. If no such analysis was filed, a statement setting forth why one or all of those analyses was unnecessary was published in the Register. Public comment on the continuation or modification of the above rules is invited. Comments must be received within 45 days of the date of publication of this notice. Comments should be submitted to:

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Unless otherwise noted, the Department intends to continue the rules discussed herein without modification, while continually monitoring the regulations to ensure that the provisions remain consistent with related statutory and regulatory requirements.

The following rulemakings were adopted in 2013:

- DFS-34-12-00005-A (State Register of February 20, 2013), Adoption of a new Part 225 (Insurance Regulation 199) (Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities) of Title 11 NYCRR.

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 2103, 2104, 2110, 2403, and 4525.

This new rule effectuated standards to protect consumers from misleading and fraudulent marketing practices with respect to the use of senior-specific certifications and professional designations in the solicitation, sale or purchase of, or advice made in connection with, a life insurance policy or annuity contract and prohibited the use of a senior-specific certification or professional designation by an insurance producer in such a way as to mislead a purchaser or prospective purchaser into believing that the insurance producer has special certification or training in advising or providing services to seniors in connection with the sale of life insurance and annuities.

- DFS-48-12-00004-A (State Register of March 20, 2013), Amendment to Part 125 (Insurance Regulations 17, 20 and 20-A) (Credit for Reinsurance) of Title 11 NYCRR.

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 307(a), 308, 1301(a)(9), 1301(c), and 1308.

This amendment aligned Part 125 more closely with the Credit for Reinsurance Model Regulation that was adopted by the National Association of Insurance Commissioners (“NAIC”); improved upon the reduction of reinsurance transactional costs and increase in reinsurance capacity; kept New York aligned with global

insurance markets and worldwide accounting standards governing reinsurance contracts; and reflected the purpose of the Dodd-Frank Wall Street Reform and Consumer Protection Act [Public Law 111-203; 7/21/10], which preempts certain state laws relating to reinsurance ceded by authorized non-domestic insurers.

- DFS-20-12-00009-A (State Register of February 20, 2013) Amendment of Part 65-3 (Insurance Regulation 68-C) (Claims for Personal Injury Protection Benefits) of Title 11 NYCRR.

Statutory Authority: Financial Services Law Sections 202 and 302, Insurance Law Sections 301, 2601, 5221 and Article 51, and Vehicle and Traffic Law Section 2407.

This amendment reduced the number of automobile personal injury protection claims that would have remained open indefinitely by requiring an applicant for benefits to either submit any requested verification within the applicant's control or possession, or provide reasonable justification for failing to do so within 120 calendar days from the date of the initial verification request; reduced litigation and arbitration by providing that a technical defect in an insurer's verification request, notice, or claim denial does not discharge the recipient's obligation to comply with the request or notice or invalidate an otherwise proper claim denial; and prevented an injured person's policy limit from being unjustly depleted by providing that no payment is due for services to the extent the charges exceed the applicable fee schedules or where the services for which payment is requested were not rendered.

- DFS-35-12-00003-A (State Register of April 3, 2013) Amendment to Part 57 (Insurance Regulation 113) (Smoker/Nonsmoker Mortality Tables and Underwriting Classifications) to Title 11 NYCRR.

Statutory Authority: Sections 202 and 302 of the Financial Services Law, and Sections 301, 2403, 3201, 4217, 4221, 4224, 4511 and 4517 of the Insurance Law.

This amendment provided that no insured will be classified as a smoker or tobacco user by an insurer unless the insured actually smokes or uses tobacco or nicotine products and required insurers to provide notice of any procedures to seek reclassification of the insured's risk classification.

- DFS-45-12-00002-A (State Register of April 10, 2013) Amendment to Part 27 (Insurance Regulation 41) (Excess Line Placements Governing Standards) of Title 11 NYCRR.

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 307, 308, 2101, 2104, 2105, 2110, 2116, 2117, 2118, 2121, 2130, 3103, 5907, 5909, 5911, and 9102.

This amendment updated the export list of coverages set forth in 11 NYCRR Section 27.3(g) and implemented the provisions and purposes of Chapter 61 of the Laws of 2011, which amended the Insurance Law to conform to the federal Nonadmitted and Reinsurance Reform Act of 2010.

Effective October 8, 2014, the Department adopted another amendment to Part 27 (DFS-29-13-00002-A, State Register of October 8, 2014) to implement Chapter 61 of the Laws of 2011, conforming to the federal Non-admitted and Reinsurance Act of 2010.

- DFS-29-12-00004-AA (State Register of April 10, 2013) Consolidated Amendment of Parts 9 (Insurance Regulation 46), 65-3 (Insurance Regulation 68-C), 216 (Insurance Regulation 64), 218 (Insurance Regulation 90) and 241 (Insurance Regulation 71) of Title 11 NYCRR

Statutory Authority: Financial Services Law, Sections 202 and 302; and Insurance Law, Section 301.

This consolidated rule-making corrected out-of-date references resulting from the consolidation of the New York State Banking and Insurance Departments.

- DFS-52-12-00005-A (State Register of April 23, 2013) Amendment to Part 80-1 (Insurance Regulation 52) (Holding Companies) of Title 11 NYCRR

Statutory authority: Financial Services Law, Sections 202 and 302, and Insurance Law, Sections 301 and 306 and Article 15.

This amendment corrected certain sections of Regulation 52 that were out-of-date, updated the rule to reflect changes in technology, and adopted certain provisions of the NAIC's model Insurance Holding Company System Regulatory Act.

Effective June 11, 2014, the Department adopted another amendment to Part 80-1 (DFS-13-14-00002-A, State Register of June 11, 2014) to conform to amendments made to Insurance Law Section 1505(d) by Chapter 238 of the Laws of 2013.

Effective November 12, 2014, the Department adopted another amendment to Part 80-1 (DFS-19-14-00012-A, State Register of November 12, 2014) to accord with the public policy objectives that the Legislature sought to advance by enacting Article 15, including Section 1506, by reducing the possibility that any person seeking to acquire control of a New York domestic insurer has interests that conflict with the interests of policyholders, shareholders, or the public, and by minimizing the potential for harm to a domestic insurer.

- DFS-12-13-00003-A (State Register of August 14, 2013) Addition of new Part 224 (Insurance Regulation 187) (Suitability in Annuity Transactions) of Title 11 NYCRR.

Statutory Authority: Financial Services Law Sections 202, 301 and 302, and Insurance Law Sections 301, 308, 309, 2110, 2123, 2208, 3209, 4226, 4525 and Article 24.

This new rule effectuated requirements on life insurance companies and fraternal benefit societies to set standards and procedures for recommendations to consumers with respect to annuity contracts so that the insurance needs and financial objectives of consumers at the time of a transaction are appropriately addressed.

- DFS-29-13-00015-A (State Register of September 25, 2013) Amendment of Part 60-2 (Insurance Regulation 35-D) (Supplementary Uninsured/Underinsured Motorists Insurance) of Title 11 NYCRR.

Statutory Authority: Financial Services Law Sections 202 and 302, Insurance Law Sections 301 and 3420, and Chapter 496, Laws of 2012, and Chapter 11, Laws of 2013.

This amendment implemented Insurance Law Section 3420(f), which requires motor vehicle liability insurers to provide, at the option of the insured, Supplementary Uninsured Motorist (“SUM”) coverage to all policyholders in New York State and the provisions and purposes of Chapter 496 of the Laws of 2012 and Chapter 11 of the Laws of 2013 by amending the definition of “insured” in the prescribed SUM endorsement in

11 NYCRR Section 60-2.3(f) to include members and employees of a fire department, fire company, ambulance service or voluntary ambulance service when the policy insures the fire department, fire company, ambulance service or voluntary ambulance service.

- DFS-11-13-00008-A (State Register of November 13, 2015) Addition of new Part 65-5 (Insurance Regulation 68-E) (Unauthorized Providers of Health Services) to Title 11 NYCRR.

Statutory Authority: Financial Services Law Section 202 and Articles 3 and 4; and Insurance Law Sections 301, 5109 and 5221 and Articles 4 and 51.

This new rule promulgated standards and procedures for investigating and suspending or removing the authorization for health service providers to demand or request payment for health services under Article 51 of the Insurance Law upon findings of certain unlawful conduct reached after investigation, notice, and a hearing pursuant to Insurance Law § 5109.

- DFS-36-13-00001-A (State Register of November 13, 2013) Amendment to Part 39 (Insurance Regulation 144) (Minimum Standards for the New York State Partnership for Long-Term Care Program) of Title 11 NYCRR.

Statutory Authority: Financial Services Law, Sections 202 and 302; Insurance Law Sections 301, 1117, 3201, 3217, 3221, 3229, 4235, 4237 and Article 43; and Social Services Law Section 367-f.

This amendment revised the minimum daily benefit amounts for 2014 through 2023 for the New York State Partnership for Long-Term Care program.

- DFS-09-13-00003-A (State Register of December 4, 2013) Amendment to Part 83 (Insurance Regulation 172) (Financial Statement Filings and Accounting Practices and Procedures) of Title 11 NYCRR.

Statutory Authority: Financial Services Law Sections 202 and 302; Insurance Law Sections 107(a)(2), 301, 307, 308, 1109, 1301, 1302, 1308, 1404, 1405, 1407, 1411, 1414, 1501, 1505, 3233, 4117, 4233, 4239,

4301, 4310, 4321-a, 4322-a, 4327 and 6404; Public Health Law Sections 4403, 4403-a, 4403-(c)(12) and 4408-a; and Chapter 599, Laws of 2002, Chapter 311, Laws of 2008.

This amendment updated the reference to the Accounting Practices and Procedures Manual published by the NAIC as of March 2012, replacing the rule's former reference to the Accounting Practices and Procedures Manual as of March 2011.

Effective April 2, 2014, the Department adopted another amendment to Part 83 (DFS-52-13-00002-A, State Register of April 2, 2014) to update citations in Part 83 to the Accounting Practices and Procedures Manual as of March 2013.

Effective November 19, 2014, the Department adopted another amendment to Part 83 (DFS-23-14-00002-A, State Register of November 19, 2014) to update citations in Part 83 to the Accounting Practices and Procedures Manual as of March 2014.

Effective September 23, 2015, the Department adopted another amendment to Part 83 (DFS-20-15-00005-A, State Register of September 23, 2015) to update citations in Part 83 to the Accounting Practices and Procedures Manual as of March 2015.

The following rulemakings were adopted in 2011:

- INS-37-10-00016-A (State Register of December 8, 2010) Amendment to Part 125 (Insurance Regulations 17, 20 and 20-a) (Credit for Reinsurance from Unauthorized Insurers) of Title 11 NYCRR.

Statutory Authority: Insurance Law, sections 110, 201, 301, 307(a), 308, 332, 1301(a)(9), 1301(c) and 1308.

This amendment applied to insurers authorized to do business in New York State and addresses whether a ceding insurer may take credit on its balance sheet, as an asset or deduction from reserves, for reinsurance recoverable from an unauthorized assuming insurer. The amendment established certain requirements for ceding insurers and reinsurers, and puts the onus on ceding insurers to prudently manage their risk.

Effective March 20, 2013, the Department adopted another amendment to Part 125 (DFS-48-12-00004-A, State Register of March 20, 2013) to establish rules governing when an authorized ceding insurer may take credit on its balance sheet for a reinsurance recoverable.

- INS-45-10-00010-A (State Register of January 19, 2011) Amendment of Part 169 (Insurance Regulation 100) (Noncommercial Private Passenger Automobile Insurance Merit Rating Plans) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 2334, 2335, 2345, and 3425.

Regulation 100 was amended to comply with Chapter 277 of the Laws of 2010. Chapter 277 of the Laws of 2010 amended Insurance Law § 2335 to raise from \$1,000 to \$2,000 the minimum threshold amount of property damage which, if exceeded in a motor vehicle accident, would allow an insurer to impose a policy premium charge. The minimum threshold amount of property damage for which insurers may impose a premium surcharge was based on the amount (\$1,000) set forth in the Vehicle & Traffic Law § 605.

- INS-45-10-00005-A (State Register of January 19, 2011) Amendment of Part 151-4 (Insurance Regulation 119) (Workers' Compensation Insurance Rates: Reserves for Special Disability Fund Claims) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 1303 and 4117, and Workers' Compensation Law Section 32.

Workers' Compensation Law ("WCL") § 32 permits the chair of the Workers' Compensation Board to procure one or more private entities to assume the liability for, and the management, administration or settlement of all or a portion of the claims in the Special Disability Fund ("SDF"). No insurer, self-insured employer, or the State Insurance Fund ("SIF") may assume liability for, management, administration or settlement of any claims on which it holds reserves, beyond such reserves as are permitted by regulation of the Superintendent of Financial Services.

The law mandates the Superintendent to set a reserve standard specific to transactions authorized by WCL § 32. This regulation established the required reserve standards, including the amount of reserves that an insurer, self-insured employer, or the SIF may hold for claims for which an entity has waived its right to reimbursement for the SDF and for which it has assumed the liability, management, administration or settlement.

- INS-45-10-00005-A (State Register of January 19, 2011) Amendment of Part 151-5 (Insurance Regulation 119) (Workers' Compensation Insurance – Independent Livery Driver Benefit Fund) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301 and 3451.

Chapter 392 of the Laws of 2008 enacted Executive Law Article 6-G, establishing clear rules for determining when livery drivers in New York City, Westchester County and Nassau County are employees or independent contractors of livery bases, and establishing the Independent Livery Driver Benefit Fund (the “Fund”) to provide independent contractor livery drivers workers’ compensation with benefits under certain circumstances where no-fault automobile insurance does not provide sufficient coverage. Before passage of this law, the only recourse for independent contractor livery drivers was no-fault automobile insurance, which resulted in delays in payment while no-fault insurers ascertain whether livery drivers were independent contractors and eligible for coverage.

Insurance Law § 3451 permits the Superintendent to promulgate regulations authorizing an insurer licensed to write workers’ compensation and employers’ liability to provide coverage as authorized pursuant to Executive Law Article 6-G. This regulation was amended to ensure that the Fund has a choice of procuring coverage either from the State Insurance Fund or an authorized insurer, which may provide savings to the Fund and ultimately the livery bases that pay for the coverage.

- INS-02-11-00003-A (State Register of March 16, 2011) Amendment to Part 100 (Insurance Regulation 179) (Determining Minimum Reserve Liabilities and Non-forfeiture Benefits) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 1304, 4217, 4218, 4221, 4224, 4240 and 4517, and Articles 24 and 26.

This amendment extended the use of the 2001 CSO Preferred Class Structure Mortality Table to policies issued on or after January 1, 2004 with the Superintendent's approval, and if certain conditions were met by the insurer related to policies or portions of policies that were co-insured. Previously, the table could have only been used for policies issued on or after January 1, 2007. The use of the table allowed for the reserves to better match the risks associated with different underwriting classifications. Also, the rule should result in lower reserve requirements for those insurers that elected to use the table for policies issued on or after January 1, 2004, and therefore, decrease the cost of doing business in New York. This standard had already been adopted by the NAIC through its Accounting Practices and Procedures Manual.

Effective December 10, 2014, the Department adopted another amendment to Part 100 in a consolidated rulemaking with 11 NYCRR 98 (Insurance Regulation 147) (DFS-17-14-00002-A, State Register of December 10, 2014) to modernize the current regulatory scheme with respect to term life insurance reserves as discussed in the Superintendent's March 27, 2014 letter to state Commissioners.

Effective April 1, 2015, the Department adopted another amendment to Part 100 in a consolidated rulemaking with 11 NYCRR 98 (Insurance Regulation 147) (DFS-04-15-00005-A, State Register of April 1, 2015) to modernize the current regulatory scheme with respect to universal life insurance with secondary guarantee reserves.

- INS-02-11-0000-A (State Register of March 16, 2011) Amendment to Part 98 (Insurance Regulation 147) (Valuation of Life Insurance Reserves) to Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 1304, 1308, 4217, 4218, 4240 and 4517.

This amendment removed restrictions on the mortality adjustment factors (known as “X” factors) in the deficiency reserve calculation. The former restrictions on the X factors prevented some insurers from using mortality rates with a slope similar to their expected mortality. The purpose of the X factor in the deficiency reserve calculation is to allow insurers to adjust the valuation mortality assumptions so that the mortality rates better reflect the experience mortality rates: removal of the former restrictions would allow that to occur. The amendment also provided clarification in the calculation of the segment length, and addressed whether recalculation is required when valuation mortality changes. These standards already had been adopted by the NAIC through its Accounting Practices and Procedures Manual.

Effective December 10, 2014, the Department adopted another amendment to Part 98 in a consolidated rulemaking with 11 NYCRR 100 (Insurance Regulation 179) (DFS-17-14-00002-A, State Register of December 10, 2014) to modernize the current regulatory scheme with respect to term life insurance reserves.

Effective April 1, 2015, the Department adopted another amendment to Part 98 in a consolidated rulemaking with 11 NYCRR 100 (Insurance Regulation 179) (DFS-04-15-00005-A, State Register of April 1, 2015) to modernize the current regulatory scheme with respect to universal life insurance with secondary guarantee reserves.

The Department is considering proposing amendments to Part 98 to adopt the existing NAIC standards for waiver of premium reserves, and to adopt the 2017 CSO mortality table for valuing life insurance reserves in consideration of a proposed NAIC adoption of such table.

- INS-02-11-00004-A (State Register of March 16, 2011) Amendment to Part 83 (Insurance Regulation 172) (Financial Statement Filings and Accounting Practices and Procedures) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 107(a)(2), 201, 301, 307, 308, 1109, 1301, 1302, 1308, 1404, 1405, 1411, 1414, 1501, 1505, 3233, 4117, 4233, 4239, 4301, 4310, 4321-a, 4322-a, 4327 and 6404;

Public Health Law Sections 4403, 4403-a, 4403-c and 4408-a; and Chapter 599, Laws of 2002, and Chapter 311, Laws of 2008.

The purpose of this regulation is to enhance the consistency of the accounting treatment of assets, liabilities, reserves, income, and expenses by regulated insurers, by clearly setting forth the accounting practices and procedures to be followed in completing annual and quarterly financial statements that must be filed with the Department. The NAIC adopted a new Accounting Manual Practices and Procedures Manual as of March 2010. This regulation has been amended to update the regulation to conform to NAIC guidelines, statutory amendments and to clarify existing provisions.

Effective May 2, 2012, the Department adopted another amendment to Part 83 (DFS-06-12-00010-A, State Register of May 2, 2012) to update citations in Part 83 to the Accounting Practices and Procedures Manual as of March 2011 (instead of 2010).

Effective December 4, 2013, the Department adopted another amendment to Part 83 (DFS-09-13-00003-A, State Register of December 4, 2013) to update the reference to the Accounting Practices and Procedures Manual published by the NAIC as of March 2012, replacing the rule's former reference to the Accounting Practices and Procedures Manual as of March 2011.

Effective April 2, 2014, the Department adopted another amendment to Part 83 (DFS-52-13-00002-A, State Register of April 2, 2014) to update citations in Part 83 to the Accounting Practices and Procedures Manual as of March 2013.

Effective November 19, 2014, the Department adopted another amendment to Part 83 (DFS-23-14-00002-A, State Register of November 19, 2014) to update citations in Part 83 to the Accounting Practices and Procedures Manual as of March 2014.

Effective September 23, 2015, the Department adopted another amendment to Part 83 (DFS-20-15-00005-A, State Register of September 23, 2015) to update citations in Part 83 to the Accounting Practices and Procedures Manual as of March 2015.

The Department is considering a proposal to amend Part 83 to revise lapse rates and economic volatility used in calculating the standard scenario reserve, to update the economic volatility assumption used in the stochastic modeling for variable annuities with guaranteed living benefits, and other revisions.

- INS-02-11-00001-A (State Register of March 16, 2011) Repeal and Addition of new Part 89 (Insurance Regulation 118) (Audited Financial Statements) to Title 11 NYCRR.

Statutory Authority: Insurance Law, sections 201, 301, 307(b), 1109, 4710(a)(2) and 5904(b).

Regulation 118 was originally promulgated in 1984 to implement the provisions of Insurance Law § 307(b). The regulation was repealed and a new regulation promulgated to continue to implement the provisions of Insurance Law § 307(b), which requires all but specified small insurers to file annual statements with the Superintendent for review and oversight. The new regulation added provisions modeled on those required pursuant to the Sarbanes-Oxley Act of 2002, 15 U.S.C. § 7201 et seq., which imposes on publicly held companies a comprehensive regime of audits and internal management controls and reports designed to ensure greater transparency and accountability.

The new regulation was closely patterned upon the NAIC model regulation that reflects a consensus of the insurance regulators of all states and territories of the United States as to scope, detail, needs and benefits. The new regulation was promulgated to ensure that regulated companies engage in best practices related to auditor independence, corporate governance, and internal controls over financial reporting.

- INS-02-11-00001-A (State Register of March 30, 2011) Amendment to Part 52 (Insurance Regulation 62) (Minimum Standards for the Form, Content and Sale of Health Insurance, Including Full and Fair Disclosure) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 1109, 1117, 2601, 3217, 3234 and 4512.

Insurance Law Sections 1117 and 3217 grant the Superintendent the authority to promulgate regulations that establish minimum standards for the form, content and sale of health insurance, including long-term care insurance. This rule adopted current best practices as the minimum standards applying to internal appeals for long-term care insurance across the industry.

Specifically, the amendment established minimum standards for internal appeal procedures for long-term care insurance, nursing home and home care insurance, nursing home insurance only, and home care insurance only.

The Department is considering a proposal to amend Part 52 to establish minimum standards for the form, content, and sale of policies and contracts of accident and indemnity insurance, as well as for student accident and health insurance.

- INS-40-10-00009-A (State Register of May 4, 2011) Amendment to Part 27 (Insurance Regulation 41) (Excess Line Placements Governing Standards) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 2105, 2118 and Article 21.

Regulation 41 enables consumers who are unable to obtain insurance from authorized insurers to obtain coverage from unauthorized insurers if the unauthorized insurers are “eligible” and an excess line broker places the insurance. Although the Superintendent does not directly regulate excess line insurers and excess line insurers are not subject to the minimum capital surplus requirements applicable to authorized insurers, the Superintendent is responsible for ensuring that adequately and appropriately capitalized insurers provide coverage to consumers. The amendment established certain minimum financial standards and surplus to policyholders vis-à-vis excess line insurers to ensure the claims-paying viability of excess line insurers. Specifically, the regulation increased the minimum surplus to policyholders that new and current excess line insurers are required to maintain.

Effective April 10, 2013, the Department amended the regulation (DFS-45-12-00002-A, State Register of April 10, 2013) to update the export list of coverages set forth in 11 NYCRR 27 and to implement Chapter 61 of the Laws of 2011 (“Chapter 61”), which revised the Insurance Law to conform to the federal Nonadmitted and Reinsurance Reform Act of 2010.

Effective October 8, 2014, the Department adopted another amendment to Part 27 (DFS-29-13-00002-A, State Register of October 8, 2014) to implement Chapter 61 of the Laws of 2011.

- INS-04-11-00001-A (State Register of May 11, 2011) Amendment to Part 65-1 (Insurance Regulation 68-A) and Part 65-2 (Insurance Regulation 68-B) (Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparations Act) of Title 11 NYCRR.

Statutory Authority: Insurance Law, sections 201, 301, 2307, 5103 and 5221.

Chapter 303 of the Laws of 2010 amended Insurance Law Section 5103(b)(2) to prohibit a no-fault insurer from excluding from coverage necessary emergency health services rendered in a general hospital, including ambulance services attendant thereto and related to medical screening, for any person who is injured as a result of operating a motor vehicle while in an intoxicated condition or while the person’s ability to operate the vehicle is impaired by the use of a drug within the meaning of the Vehicle and Traffic Law (“VTL”) § 1192. Chapter 303 also permits a no-fault insurer to maintain a cause of action against the covered person for the amount of first party benefits paid or payable on behalf of the covered person if such person is found to have violated VTL § 1192.

The Mandatory Personal Injury Protection Endorsement (New York), Additional Personal Injury Protection Endorsement (New York) and the rights and liabilities of self-insurers provisions of Regulations 68-A and 68-B were amended to comply with Chapter 303 of the Laws of 2010.

The following rulemakings were adopted in 2006:

- INS-49-05-00004-A (State Register of February 15, 2006) Amendment to Part 261 (Insurance Regulation 161) (Prepaid Legal Services Plans) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 1113(a)(29), 1116 and Article 23.

Regulation 161 establishes requirements for Prepaid Legal Service Plans authorized pursuant to Insurance Law Section 1116, including the recognition of groups to whom policies and certificates may be issued on a group basis. The amendment established that a group policy may be issued to a college, school or other institution of learning, or to the head or principal thereof (who or which shall be deemed the policyholder), covering the students of such college, school or other institution of learning.

- INS-52-05-00016-A (State Register of March 8, 2006) Amendment to Part 27 (Insurance Regulation 41) (Excess Lines Placements Governing Standards) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 2105, 2118 and Article 21.

Regulation 41 establishes excess line placement governing standards. The amendment restated Insurance Law Section 2118(b)(6) regarding the duty of an excess line broker to deliver a stamped declarations page or cover note evidencing insurance that is stamped by the excess line association. The amendment also updated the language on the notice that is required to be prominently displayed on written confirmations of placement of coverage with excess line insurers, and the notice that is required on insurance policies issued by excess line insurers in this state. The two notices that were in use were different. Such changes were necessary to facilitate the eventual conversion of the affidavit system of the Excess Line Association of New York to an electronic filing system.

In 2007, the Department adopted an amendment to the regulation (INS-40-07-00002-A, State Register of December 19, 2007) to change the amount of funds required to be held in trust by alien excess line insurers and an association of insurance underwriters.

In 2009, the Department adopted an amendment to the regulation (INS-24-09-00002-A, State Register of September 2, 2009) to add coverages to the “export” list and reduce the requisite declinations for several other coverages.

In 2011, the Department adopted an amendment to the regulation (INS-40-10-00009-A, State Register of May 4, 2011) that increased the minimum surplus to policyholders that excess line insurers are required to maintain.

In 2013, the Department adopted an amendment to the regulation (DFS-45-12-00002-A, State Register of April 10, 2013) that updated the export list of coverages set forth in 11 NYCRR 27 and implemented Chapter 61 of the Laws of 2011 (“Chapter 61”), which revised the Insurance Law to conform to the federal Nonadmitted and Reinsurance Reform Act of 2010.

In 2014, the Department adopted an amendment to the regulation (DFS-29-13-00002-A, State Register of October 8, 2014) that made additional revisions to the rule to further implement Chapter 61.

- INS-29-06-00004-A (State Register of October 11, 2006) Amendment to Part 219 (Insurance Regulation 34-A) (Rulemakings Governing Advertisements of Life Insurance & Annuity Contracts) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 308, 1313, 2122, 2123, 2402, 4224, 4226 and 4240(d).

Insurance Law Section 2122(a)(2) prohibits any person from calling attention to an unauthorized insurer by any advertisement or public announcement in this state. Regulation 34-A establishes requirements regarding advertisements, statements and representations of licensees used in the solicitation of life insurance, annuities and the reporting of financial information.

The amendment to the regulation permitted “joint advertisements” in New York, which are advertisements that contain the names of, or references to, insurance policies sold by a New York authorized insurer and an affiliated insurer that is not authorized in New York. The amendment construed the terms

“advertisement” and “public announcement” as used in the Insurance Law and prescribed, for the protection of New York consumers, rules and guidelines that require the truthful and adequate disclosure of all material and relevant information in joint advertisements.

- INS-31-06-00013-A (State Register of October 25, 2006) Adoption of Part 221 (Insurance Regulation 182) (Limitations upon and Requirements for the use of Credit Information for Personal Lines Insurance) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, Article 28.

The Legislature, in enacting Chapter 215 of the Laws of 2004, codified as Insurance Law Article 28, sought to afford consumers certain protections with respect to the use of credit information for personal lines insurance. To this end, the Legislature directed the Superintendent to promulgate a regulation that establishes limitations on, and requirements for, the permissible use of credit information by insurers doing business in this state to underwrite and rate risks for personal lines insurance business. The amendment clarified the prohibited and permitted uses of credit information in the underwriting and rating of personal lines insurance.

- INS-35-06-00007-A (State Register of November 15, 2006) Amendment to Part 68 (Insurance Regulation 83) (Charges for Professional Health Services) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 2601, 5221, Article 52.

Regulation 83 establishes maximum permissible charges for medical, hospital and other professional health services payable as no-fault insurance benefits. The amendment updated the addresses of the New York State Department of Health and the New York State Education Department for the purpose of reporting patterns of health provider overcharges, excessive treatment or any other improper actions. The amendment also updated the name of the New York State Insurance Department bureau that was collecting the data.

In 2008, the Department adopted an amendment to the regulation (INS-02-08-00005-A, State Register of April 16, 2008) to repeal the fee schedules previously established by the Insurance Department for

prescription drugs, durable medical equipment, medical/surgical supplies, orthopedic footwear, and orthotic and prosthetic appliances that were covered by the two fee schedules established by the Workers' Compensation Board, and clarified that a pharmacy is deemed to be a provider of health services for purposes of eligibility of direct payments pursuant to Regulation 68-C.

In 2010, the Department adopted an amendment to the regulation (INS-25-10-00017-A, State Register of September 22, 2010) adopting a new Workers Compensation Board Dental Fee Schedule.

- INS-36-06-00008-A (State Register of November 29, 2006) Amendment to Part 218 (Insurance Regulation 90) (Prohibition Against Geographical Redlining and Discriminating in Certain Property/Casualty Policies) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 307, 308, 3429, 3429-a, 3430, 3433 and Article 34.

Regulation 90 is intended to make certain types of property/casualty coverage readily available in the voluntary market by implementing statutory prohibitions against companies engaging in geographical redlining practices and discrimination.

In enacting Chapter 259 of the Laws of 2005, the Legislature sought to prohibit insurance companies from canceling, refusing to issue, or refusing to renew a homeowner's insurance policy, including fire insurance or fire and extended coverage insurance, based solely on the insured residing in an area that is serviced by a volunteer fire department, unless such action is based on sound underwriting and actuarial principles.

The amendment established procedures for notifying applicants or insureds of the insurer's specific reasons for canceling or refusing to issue or renew such policies. The amendment advised that an applicant or insured may contact the insurance company with any questions, and may file a complaint with the Department.

In 2013, the rule was revised as part of a consolidated amendment (DFS29-12-00004-AA, State Register of April 10, 2013) to correct out-of-date references resulting from the consolidation of the New York State Banking and Insurance Departments into the Department of Financial Services.

- INS-41-06-00006-A (State Register of December 27, 2006) Amendment to Part 217 (Insurance Regulation 178) (Prompt Payment of Health Insurance Claims) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 1109, 2403, 3224, and 3224-a.

Regulation 178 establishes minimum data element requirements for the submission of claims for payment of medical or hospital services that are submitted on paper. The amendment updated the fields required for the submission of health care claims in a paper format. The information was required by Medicare, and was inadvertently omitted from the original promulgation of the regulation.

In 2009, the Department adopted an amendment to the regulation (INS-52-08-00006-A, State Register of April 1, 2009, effective date July 15, 2009) to establish guidelines for the processing of healthcare claims when the claimant is covered by more than one health insurance policy.

The following rulemakings were adopted in 2001:

- INS-43-00-00006-A (State Register of January 17, 2001) Amendment of Part 160 (Insurance Regulation 57) (Responsibilities in Construction and Application of Rates) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, and 2336(h).

Insurance Law Section 2336(h) provides for premium reductions for certain commercial motor vehicles when such vehicles are equipped with factory-installed auxiliary running lamps. The statutory provision requires the Superintendent, after consultation with the Department of Motor Vehicles and the Department of Transportation, to promulgate regulations that establish the qualifications and standards for the approval, utilization and installation of such lamps. Chapter 475 of the Laws of 1998 added subsection (h) to Section

2336 to induce commercial risk insureds to reduce risk levels to their commercial motor vehicles. The amendment implemented the legislative objective of Chapter 475.

In 2002, the Department adopted an amendment (INS-16-02-00002-A, State Register of June 26, 2002) to update the regulation and eliminate obsolete provisions.

- INS-46-00-00003-A (State Register of February 7, 2001) Adoption of Part 390 (Insurance Regulation 155) (Service Contracts) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 1101, 7911 and Article 79.

Chapter 614 of the Laws of 1997 added a new Article 79 to the Insurance Law governing the making of service contracts by service contract providers, and service contract reimbursement insurance, which was added as a new kind of insurance under Section 1113(a)(28). Section 7911 specifically authorizes the Superintendent to promulgate regulations necessary to effectuate Article 79. Chapter 198 of the Laws of 1999 amended Insurance Law Section 1113(a)(28) to add indemnification coverage to the definition of service contract reimbursement insurance. Article 79 created a framework for regulating service contract providers. The new law also authorized service contract reimbursement insurance, which is intended to provide one of the three forms of financial security required to ensure that a provider will meet its obligations.

The regulation established rules governing and regulating the service contract business, and accomplished several goals. It established a procedure for the registration of providers, including the specification of minimum information necessary for the Superintendent to determine whether to register the provider. It established minimum provisions and requirements regarding service contract reimbursement insurance and service contracts. It also clarified the relationship of mechanical breakdown insurance to service contracts.

In 2003, the Department adopted an amendment to the regulation (INS-48-02-00007-A, State Register of March 5, 2003) to update two references to the address of the Department's Albany office.

- INS-47-99-00002-A (State Register of February 14, 2001) Adoption of Part 410 (Insurance Regulation 166) (External Appeals of Adverse Determinations of Health Care Plans) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 1109, 3201, 3216, 3217, 3217-a, 3221, 4235, 4303, 4304, 4305, 4321, 4322, 4324, Articles 47 and 49, and Chapter 586 of the Laws of 1998.

Chapter 586 of the Laws of 1998 provided enrollees of managed care plans and insureds the right to an objective, independent external appeal of a final adverse determination made by their health care plan. The law was intended to provide consumers with the right to obtain a review of their health plans' decisions through an objective body of medical experts, at the health plans' expense.

In 2008, the Department adopted an amendment to the regulation (INS-35-08-00009-A, State Register of December 3, 2008) to provide that external appeal agents shall not be subject to legal proceedings to review their determinations.

- INS-45-00-00009-A and INS-45-00-00010-A (State Register of February 28, 2001) Repeal of Part 58 (Insurance Regulation 117) (Mortality Tables) and Adoption of Part 99 (Insurance Regulation 151) (Valuation of Annuity, Single Premium Life Insurance, Guaranteed Interest Contract and Other Deposit Reserves) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 1304, 4217, 4240 and 4517.

The adoption of 11 NYCRR 99 established an appropriate methodology to calculate and determine adequate reserves to help ensure the solvency of life insurers doing business in New York. The Insurance Law specifies mortality and interest standards but does not specify an explicit method to value annuities, single premium life insurance policies, or guaranteed interest contracts, and relies on the Superintendent to specify the method. Without this regulation, there would be no standard method for valuing such products. This could result in inadequate reserves for some insurers, which would jeopardize the security of policyholder funds.

With the adoption of Part 99 (Regulation 151), Part 58 of 11 NYCRR (Regulation 117) was repealed. Part 58 was repealed because its mortality tables for determining liabilities for annuities and pure endowments had been updated for new business and included in new Part 99.

In 2009, the Department adopted an amendment to Regulation 151 (INS-32-09-00005-A, State Register of December 9, 2009) to provide that external appeal agents shall not be subject to legal proceedings to review their determinations.

In 2012, the Department adopted an amendment to Regulation 151 (DFS-05-12-00010-A, State Register of April 11, 2012) to allow the use of substandard annuity mortality tables in valuing impaired lives under individual single premium immediate annuities, enabling insurers to keep costs at a lower level because they will not need to hold standard reserves for impaired lives and thus offer these annuities at a more competitive price to the annuitant.

In 2014, the Department adopted an amendment to Regulation 151 (DFS-20-14-00009-A, State Register of August 27, 2014) to incorporate a new individual annuity mortality table, which had been adopted by the National Association of Insurance Commissioners, that insurers are required to use to calculate reserves on individual annuities and pure endowments issued or purchased on or after January 1, 2015. Use of the new table's mortality rates and projection scales are expected to result in increased reserves because mortality rates will be lower due to the expectation that lifetime annuitants will receive their income for longer periods of time.

- INS-51-00-00001-A (State Register of March 7, 2001) Adoption of Part 430 (Insurance Regulation 170) (Mechanism for the Equitable Distribution of Insureds Unable to Obtain Medical Malpractice Insurance) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, and 5502, as amended by Chapter 147 of the Laws of 2000.

Pursuant to Insurance Law Section 5502, as amended by Chapter 147 of the Laws of 2000, the Superintendent dissolved the Medical Malpractice Insurance Association (“Association”). The Association had written medical malpractice insurance for health care providers who were unable to secure such coverage in the voluntary market. The amendment established the New York Medical Malpractice Insurance Plan (“Plan”) to provide for the equitable distribution required by the Legislature. Through the Plan, an eligible health care provider, as defined in the regulation, that is unable to obtain insurance in the voluntary market, is assigned to an insurer writing the appropriate coverage in the insured’s geographical territory.

- INS-01-01-00009-A (State Register of March 21, 2001) Amendment of Part 52 (Insurance Regulation 62) (Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) of Title 11 NYCRR.

Statutory authority: Insurance Law Sections 201, 301, 3201, 3216, 3217, 3218, 3221, 3231, 3232, 4235, 4237, Article 43 and Federal Social Security Act (42 U.S.C. Section 1395ss).

The enactment of the Federal Omnibus Budget Reconciliation Act of 1990 (“the Act”) required the mandatory standardization and federal certification of policies of Medicare supplement insurance. As a result of the Act, states were required to amend their laws and regulations to conform to the federal standards for Medicare supplement insurance. The revisions contained in this amendment made technical corrections to New York’s Medicare supplement regulation to ensure continued compliance with federal standards.

In 2002, the Department adopted an amendment to Section 52.22 of the regulation (INS-48-02-00007-A, State Register of March 5, 2003) to make minor revisions to some mandatory practices to be followed by insurers issuing Medicare supplement insurance policies that bring company practices into conformance with the Act.

In 2010, the Department adopted a consolidated regulatory action, including the amendment of Regulation 62 (INS-08-10-00002-A, State Register of May 5, 2010), to conform to the requirements of federal

law. States were required to have a Medicare supplement insurance regulatory program that provided a minimum level of coverage as established by federal law, 42 U.S.C. § 1395ss. The applicable federal laws were amended in 2008.

In 2011, the Department amended the regulation (INS-02-11-00001-A, State Register of March 30, 2011) to establish minimum standards for internal appeal procedures for long-term care insurance, nursing home and home care insurance, nursing home insurance only, and home care insurance only.

- INS-07-01-00001-A (State Register of May 9, 2001) Amendment of Part 89 (Insurance Regulation 118) (Audited Financial Statements) of Title 11 NYCRR.

Statutory authority: Insurance Law Sections 201, 301, 307(b) and 4710(a)(2).

Insurance Law Section 307(b) provides for the audited financial statement of every licensed insurer, with certain exceptions, and of any subsidiary described therein, together with an opinion of an independent certified public accountant on the financial statement of the insurer and any subsidiary, to be filed on or before May 31 of each year. Section 307(b) was amended by Chapter 324 of the Laws of 1992 and necessitated an amendment to Regulation 118.

Regulation 118 was originally promulgated in 1984 to implement the provisions of Insurance Law Section 307(b). This amendment implemented the provisions of Section 307(b), as amended by Chapter 324 of the Laws of 1992. It enabled the Department to continue to monitor the financial solvency of insurers licensed to do business in New York State.

- INS-06-01-00003-A (State Register of May 23, 2001) Adoption of Part 83 (Insurance Regulation 172) (Financial Statement Filings and Accounting Practices and Procedures) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 107(a)(2), 201, 301, 307, 308, 1109, 1301, 1302, 1308, 1404, 1405, 1407, 1411, 1414, 1501, 1505, 3233, 4117, 4233, 4239, 4301, 4310, 4321-a, 4322-a, 4327 and 6404; Public Health Law Sections 4403, 4403-a, 4403-(c)(12) and 4408-a.

The purpose of 11 NYCRR 83 is to enhance the consistency of the accounting treatment of assets, liabilities, reserves, income and expenses by entities subject thereto, by setting forth the accounting practices and procedures to be followed in completing annual and quarterly financial statements required by law. Certain provisions of the Insurance Law provide that authorized insurers and other entities shall file financial statements annually and quarterly with the Superintendent, on forms prescribed by the Superintendent. Except with regard to filings made by Underwriters at Lloyd's, London, the Superintendent prescribed forms and Annual and Quarterly Statement Instructions that are adopted from time to time by the National Association of Insurance Commissioners, as supplemented by additional New York forms and instructions. To assist in the completion of the Financial Statements, the National Association of Insurance Commissioners ("NAIC") also adopts and publishes from time to time certain policy, procedure and instruction manuals. One of these manuals, The Accounting Practices and Procedures Manual Effective January 1, 2001 as of March 2000 ("Accounting Manual") includes a body of accounting guidelines referred to as Statements of Statutory Accounting Principles. The Accounting Manual is incorporated by reference into Part 83.

The Accounting Manual was effective January 1, 2001. The Accounting Manual represents a codification of statutory accounting principles. The purpose of the codification of statutory accounting principles is to produce a comprehensive guide for regulators, insurers and auditors. Codification does not preempt state legislative or regulatory authority. Statutory financial statements continue to be prepared on the basis of accounting practices prescribed or permitted by the states. Auditors are permitted to continue to provide audit opinions on practices permitted by the insurance regulator of the state of domicile, even if those practices diverge from the codification standards. In some instances, a New York statute or regulation may preclude implementation of particular codification rulemakings. In a few instances, for various reasons, the Department has not implemented the codification rulemaking.

In 2003, the Department adopted an amendment to Part 83 (INS-01-03-00011-A, State Register of March 26, 2003) to update citations in Part 83 to Accounting Practices and Procedures Manual as of March 2002.

Also in 2003, the Department adopted another amendment to Part 83 (INS-26-03-00003-A, State Register of September 24, 2003) to update citations in Part 83 to Accounting Practices and Procedures Manual as of March 2003; make a technical correction; and delete an obsolete provision regarding accident and health benefits in life insurance policies and annuities.

In 2004, the Department adopted an amendment to Part 83 (INS-03-04-00004-A, State Register of May 19, 2004) to delete obsolete references to certain web sites.

Also in 2004, the Department adopted another amendment to Part 83 (INS-22-04-00005-A, State Register of September 15, 2004) to update citations in Part 83 to the Accounting Practices and Procedures Manual as of March 2004.

In 2007, the Department adopted an amendment to Part 83 (INS-43-06-00002-A, State Register of January 10, 2007) to update citations in Part 83 to the Accounting Practices and Procedures Manual as of March 2005, and to make minor modifications to the rule regarding accounting treatment of certain insurer assets.

Also in 2007, the Department adopted another amendment to Part 83 (INS-06-07-00007-A, State Register of April 25, 2007) to update citations in Part 83 to the Accounting Practices and Procedures Manual as of March 2006.

In 2011, the Department adopted an amendment to Part 83 (INS-02-11-00004-A, State Register of March 16, 2011) to update citations to Part 83 to the Accounting Practices and Procedures Manual as of March 2010. The amendment also updated the regulation to conform to NAIC guidelines, statutory amendments and to clarify existing provisions.

In 2012, the Department adopted an amendment to Part 83 (DFS-06-12-00010-A, State Register of May 2, 2012) to update citations in Part 83 to the Accounting Practices and Procedures Manual as of March 2011.

In 2013, the Department adopted an amendment to Part 83 (DFS-09-13-00003-A, State Register of December 4, 2013) that updated the reference to the Accounting Practices and Procedures Manual published by the NAIC as of March 2012.

In 2014, the Department adopted an amendment to Part 83 (DFS-52-13-00002-A, State Register of April 2, 2014) to update citations in Part 83 to the Accounting Practices and Procedures Manual as of March 2013.

Also in 2014, the Department adopted an amendment to Part 83 (DFS-23-14-00002-A, State Register of November 19, 2014) to update citations in Part 83 to the Accounting Practices and Procedures Manual as of March 2014.

In 2015, the Department adopted an amendment to Part 83 (DFS-20-15-00005-A, State Register of September 23, 2015) to update citations in Part 83 to the Accounting Practices and Procedures Manual as of March 2015.

- INS-10-01-00004-A (State Register of May 30, 2001) Amendment of Part 185 (Insurance Regulation 27A) (Credit Life Insurance and Credit Accident and Health Insurance) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 3201, 4216 and 4235.

Insurance Law Sections 4216 and 4235 authorize the issuance of credit life insurance and credit accident and health insurance as permitted coverages in this state. One portion of the amendment removed a restriction on the use of termination based on age.

The regulation, prior to the amendment, specified the rates for vendor business. The most common examples of vendor business are automobile dealerships. The rates specified in the regulation for some blocks of vendor business were inadequate. Thus a part of the amendment allowed for the rates for blocks of vendor

business to be based on their actual experience. Prior to this change, coverage was not available at some vendors.

Insurance Law Sections 4216 and 4235 also require that the premium not be unreasonable in relation to the benefits provided. Another part of the amendment balanced the legislative objective of making the product available with the legislative objective that insureds receive fair value for their premium dollar.

In 2002, the Department adopted an amendment to Regulation 27A (INS-50-02-00014-A, State Register of December 11, 2002) to conform to Chapter 505 of the Laws of 2000 and Chapter 13 of the Laws of 2002, which created a new type of broker license, defined in Insurance Law Section 2104(b)(1)(A), allowing brokers to write the coverages set forth in the regulation.

- INS-15-01-00007-A (State Register of June 20, 2001) Amendment of Part 70 (Insurance Regulation 101) (Medical Malpractice Insurance Rate Modifications, Provisional Rates, Required Policy Provisions and Availability of Additional Coverages) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 1113(a)(13) and (14), 3426, 3436, 5504, 5907, 6302, 6303 and Article 23, and Chapter 147 of the Laws of 1999 as amended by Part JJ of Chapter 407 of the Laws of 1999.

The amendment established physicians and surgeons medical malpractice insurance rates and appropriate surcharges effective July 1, 2000, and established rules to collect and allocate surcharges to recover deficits based on past experience. While the Superintendent continues to establish medical malpractice rates, the Superintendent no longer amends the regulation to do so, and the old rates are no longer current. The Department reviews this regulation each year to ensure that the provisions remain consistent with other related statutory and regulatory requirements.

- INS-13-01-00017-A (State Register of July 11, 2001) Amendment of Part 27 (Insurance Regulation 41) (Excess Line Placements Governing Standards) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 1101, 2105, 2117; Chapter 294 of the Laws of 1997, Chapter 597 of the Laws of 1999 and Chapter 578 of the Laws of 2000.

Insurance Law Section 1101(b) was amended by Chapter 597 of the Laws of 1999 to provide for a new paragraph (5). It permits an unauthorized insurer that is affiliated with an insurer licensed in this state to have an office in this state to provide services to support its insurance business. Insurance Law Section 2117 was also amended by Chapter 597 of the Laws of 1999 to provide for a new subsection (i) that allows an authorized insurer to provide support services, from its office in New York, to unauthorized affiliates, provided that the unauthorized insurer has satisfied all applicable requirements for placement by excess line brokers. Both sections of law require that any documents issued by an unauthorized insurer from an office in this state contain a prominent notice that the insurer is not licensed in New York, in accordance with regulations promulgated by the Superintendent.

The amendment revised the regulation by establishing a mandatory and uniform notice instead of permitting each insurer to establish its own notice, to ensure that consumers receive the appropriate information. The amendment also required insurers to provide notice to the Superintendent of the existence of the New York office of an unauthorized insurer to allow the Superintendent to properly regulate their activities.

In 2003, the Department adopted an amendment to Regulation 41 (INS-48-02-00013-A, State Register of February 19, 2003) to clarify the duties and responsibilities of excess line brokers, unauthorized insurers and the Excess Line Association of New York with regard to excess line business placed in New York State.

In 2006, the Department adopted an amendment to Regulation 41 (INS-52-05-00016-A, State Register of March 8, 2006) regarding the duty of an excess line broker to deliver a stamped declarations page or cover note evidencing insurance that is stamped by the excess line association. The amendment also updated the language on the notice that is required to be prominently displayed on written confirmations of placement of

coverage with excess line insurers, and the notice that is required on insurance policies issued by excess line insurers in this state. Prior to the amendment, the two notices that were in use were different.

In 2007, the Department adopted an amendment to the regulation (INS-40-07-00002-A, State Register of December 19, 2007) to change the amount of funds required to be held in trust by alien excess line insurers and an association of insurance underwriters.

In 2009, the Department adopted an amendment to the regulation (INS-24-09-00002-A, State Register of September 2, 2009) to add additional coverages to the “export” list and reduce the requisite declinations for several other coverages.

In 2011, the Department adopted an amendment to the regulation (INS-40-10-00009-A, State Register of May 4, 2011) that increased the minimum surplus to policyholders that excess line insurers are required to maintain.

In 2013, the Department adopted an amendment to the regulation (DFS-45-12-00002-A, State Register of April 10, 2013) that updated the export list of coverages set forth in 11 NYCRR 27 and implemented Chapter 61 of the Laws of 2011 (“Chapter 61”), which revised the Insurance Law to conform to the federal Nonadmitted and Reinsurance Reform Act of 2010.

In 2014, the Department adopted an amendment to the regulation (DFS-29-13-00002-A, State Register of October 8, 2014) that made additional revisions to the rule to further implement Chapter 61.

- INS-39-00-00013-A (State Register of July 18, 2001) Adoption of Part 362 (Insurance Regulation 171) (The Healthy New York Program & the Direct Payment Stop Loss Relief Program) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 1109, 3201, 3216, 3217, 3221, 4235, 4303, 4304, 4305, 4318, 4321, 4321-a, 4322, 4322-a, 4326 and 4327.

The Legislature enacted Chapter 1 of the Laws of 1999 to provide for the Healthy New York Program, an initiative that was designed to encourage small employers that did not provide health insurance coverage to

their employees to offer such coverage and to make coverage available to uninsured employees whose employers did not provide group health insurance coverage. By creating a standardized health insurance benefit package to be offered by all health maintenance organizations, which is made more affordable through the availability of state funded stop loss reimbursement, more small employers and uninsured employed individuals were encouraged to purchase health insurance coverage. The regulation was necessary to clarify eligibility for, and establish procedures for enrolling in, the Healthy New York Program.

In 2004, the Department adopted an amendment to Regulation 171 (INS-46-03-00004-A, State Register of February 11, 2004) to encourage small employers that did not currently provide health insurance coverage to their employees to offer such coverage, and to make coverage available to uninsured employees whose employers did not provide group health insurance. To encourage the goals stated above, the amendment clarified eligibility for the Healthy NY Program and simplified the application and administrative process for both enrollees and providers.

In 2007, the Department adopted an amendment to Regulation 171 (INS-44-06-00004-A, State Register of January 31, 2007) to reduce Healthy New York premium rates to enable more uninsured businesses and individuals to afford health insurance and generally improve the Healthy New York Program. Also in 2007, the Department adopted an amendment to Regulation 171 (INS-34-07-00017-A, State Register of November 7, 2007) to offer high deductible health plans in conjunction with the Healthy New York Program and to add additional benefits to the program.

In 2012, the Department adopted an amendment to Regulation 171 (DFS-23-12-00003-A, State Register of November 28, 2012) to mitigate large premium increases for current enrollees in Healthy NY by limiting new enrollees to the high deductible plan.

- INS-09-00-00003-A (State Register of August 22, 2001) Adoption of Part 101 (Insurance Regulation 164) (Standards for Financial Risk Transfer Agreements between Insurers and Health Care Providers) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 1102, 1109 and Articles 32, 41, 42 and 43; Public Health Law, Section 4403(1)(c).

Section 45 of Chapter 586 of the Laws of 1998 (“the Law”), commonly referred to as the external review law, gave the Commissioner of Health and the Superintendent of Insurance the authority to promulgate regulations to implement, *inter alia*, the financial risk transfer sections of the legislation. In particular, Sections 41-d and 41-e of the Law amended Insurance Law Sections 3217-b and 4325 to add a new paragraph (f) to each of those statutes. The amendments broadly discuss the requirement that no contract entered into between an insurer and a health care provider shall be enforceable if it includes terms that transfer financial risk to providers in a manner inconsistent with the provisions of Public Health Law Section 4403(1)(c).

Chapter 586 of the Laws of 1998 gave the Superintendent of Insurance and the Commissioner of Health broad powers to promulgate regulations regarding all aspects of the Law, including provisions that apply to the transfer of financial risk in contracts between an insurer and a health care provider. Based on this grant of authority, a regulation was developed by the Department, in consultation with the Department of Health, to ensure that contractual arrangements between an insurer and a health care provider were consistent with Section 4403(1)(c) of the Public Health Law.

Regulation 164 established minimum requirements by which an insurer, as defined in the regulation, can assess the financial responsibility of a health care provider, to ensure that such provider can fulfill its obligations under the financial risk transfer agreement. Previously, there were no regulatory requirements specifically addressing the method by which an insurer could determine the financial responsibility of the health care provider, and adequately protect itself and its subscribers against the risk of default by a health care

provider and ensure fulfillment of the health care provider's obligations under the financial risk transfer agreement.

In 2002, the Department adopted an amendment to Regulation 164 (INS-46-01-00023-A, State Register of January 30, 2002) to provide mechanisms to assess the financial responsibility and capability of health care providers to perform their obligations under certain financial risk sharing agreements, and set forth standards pursuant to which providers may adequately demonstrate such responsibility and capability to insurers.

- INS-16-99-00006-A (State Register of August 22, 2001) Amendment of Subpart 64-2 (Insurance Regulation 35-C) (Liability Insurance Covering All-Terrain Vehicles) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301 and 5103; Vehicle and Traffic Law, Section 2407.

Vehicle and Traffic Law Section 2407 requires that an all-terrain-vehicle ("ATV") is to be covered by a policy of liability insurance, which includes no-fault coverage for the pedestrian victims of ATV accidents. The amendment incorporated the applicable no-fault insurance forms into Regulation 68, which was adopted simultaneously.

In 2002, the Department adopted an amendment to Regulation 35-C (INS-25-02-00004-A, State Register of September 11, 2002) to update certain references in accordance with statutory amendments.

In 2004, the Department adopted an amendment to the regulation (INS-08-04-00006-A, State Register of May 19, 2004) to conform the fraud warning statement in the required no-fault claim forms with the text (as revised in the Fourth Amendment to Regulation 95) as then written in Part 86 of 11 NYCRR; to correct any incorrect references, addresses and typographical errors; and to present the forms in a more easily readable format.

- INS-31-00-00029-A (State Register of August 22, 2001) Repeal of Part 65 (Insurance Regulation 68) and Adoption of New Part 65 (Insurance Regulation 68) (Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparations Act) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301 2601, 5521 and Article 51; Vehicle and Traffic Law Section 2407.

Insurance Regulation 68 contains provisions implementing Insurance Law Article 51, known as the Comprehensive Motor Vehicle Insurance Reparations Act and popularly referred to as the “no-fault” law. No-fault insurance was introduced to rectify many problems that were inherent in the existing tort system that were utilized to settle claims, and to provide for prompt payment of health care and loss of earnings benefits. The no-fault insurance coverage endorsement contained in Regulation 35-C, which was incorporated into Regulation 68 by the 2001 amendment, implemented Vehicle and Traffic Law Section 2407, which affords no-fault coverage to the pedestrian victims of ATV accidents.

The adopted regulation reduced the time periods from 90 days to 30 days for notice of claim by claimants and from 180 days to 45 days for submission of health care claims, respectively. The Department recognized that in rare circumstances, a claimant will not be able to provide notice, or a medical provider may not be able to submit a claim, within the new time periods. In light of such recognition, the Department repealed the former requirement that a provider or claimant show that compliance was impossible in order to file a claim outside of the time requirements, and replaced it with a more flexible “reasonableness” standard that allows additional time for notice or submission of a claim if reasonable justification is provided.

The adopted regulation also reflected the transfer of the no-fault conciliation function from the Department to an organization designated by the Superintendent. By this amendment of the conciliation procedures, rather than diminishing its role in the process, the Department strengthened its regulatory function with respect to compliance with the no-fault insurance statutes. The Department continues to monitor conciliation activity, and analyzes trends via reports to be generated regularly by the designated organization on all aspects of the conciliation function, such as provider overcharges, dilatory claims handling by insurers and over-utilization of the arbitration system by claimants’ representatives.

Prior to the effective date of this regulation (September 1, 2001), a lawsuit was filed in the New York State Supreme Court seeking a stay of enforcement of the revised regulation. Ultimately, the new Regulation 68 became effective as of April 5, 2002.

In 2003, the Department adopted consolidated amendments to subparts 65-3 (Regulation 65-C) and 65-4 (Regulation 65-D) (INS-31-02-00004-A and 31-02-00005-A, State Register of February 5, 2003) to update certain references in accordance with statutory amendments. Recognizing that disputes involving the responsibility for payment of no-fault benefits would occur, the Legislature included in Insurance Law Section 5106 the authority for the Superintendent to promulgate or approve simplified arbitration procedures in order to expedite the payment of those benefits. Pursuant to that authority, the Department implemented a financial assessment system in Regulation 68, which provides that insurers bear the operating costs of the arbitration system. Further, pursuant to its statutory authority, the Department revised the financial allocation process so that arbitrators may apportion costs to applicants in those cases where applicants have submitted frivolous claims without any factual or legal merit.

The amendment to Regulation 68-C updated provisions relating to Personal Injury Protection Benefits (“PIP”) in conformance with changes to requirements regarding forms to be used by insureds, claimants and providers. The amendment to Regulation 68-D revised the rulemakings and requirements applicable to the arbitration of no-fault claims. It was intended to make the system more efficient for all participants.

In 2004, the Department adopted amendments to subpart 65-4 (Regulation 65-D) (INS-43-03-00003-A and 43-03-00005-A, State Register of February 4, 2004) to correct an erroneous cross reference and insert a requirement that was inadvertently omitted from the previously revised regulation: the long-standing administrative procedure that the designated administrator of the no-fault administration system will consult with the Department before making final determinations on requests to recuse an arbitrator for conflict of

interest reasons. The rulemaking also provided that determinations shall be in writing and in a format approved by the Department.

Also in 2004, the Department adopted an amendment to subpart 65-3 (Regulation 65-C) (INS-08-04-00006-A, State Register of May 19, 2004) to conform the fraud warning statement contained in no-fault claim forms with the statutory language contained in Regulation 95; amend any incorrect references and typographical errors; and present the forms in a more easily readable format.

In 2007, the Department adopted amendments to subparts 65-3 (Insurance Regulation 65-C) and 65-4 (Insurance Regulation 65-D) (INS-52-06-00006-A and 52-06-00007-A, State Register of March 14, 2007) to conform the regulations to Chapter 452 of the Laws of 2005. The legislation codified the rulemakings contained within Insurance Regulation 68 that are applicable when multiple insurers may be responsible to the claimant for the processing of the claim for first party benefits. It also enhanced the current arbitration procedures to include an expedited eligibility hearing option, when required, to designate the insurer for first party benefits.

In 2013, the Department adopted an amendment to Regulation 68 that added subpart 65-5 (Insurance Regulation 68-E) (DFS-11-13-00008-A, State Register of November 13, 2013) that established standards and procedures for investigating and suspending or removing the authorization for health service providers to demand or request payment for health services under Article 51 of the Insurance Law upon findings of certain unlawful conduct reached after investigation, notice, and a hearing pursuant to Insurance Law § 5109.

Also in 2013, the Department adopted an amendment to subpart 65-3 (Insurance Regulation 68-C) (DFS-20-12-00009-A, State Register of February 20, 2013) to reduce the number of automobile personal injury protection claims that would have remained open indefinitely by: (i) requiring an applicant for benefits to either submit any requested verification within the applicant's control or possession, or provide reasonable justification for failing to do so within 120 calendar days from the date of the initial verification request; (ii)

reducing litigation and arbitration by providing that a technical defect in an insurer's verification request, notice, or claim denial does not discharge the recipient's obligation to comply with the request or notice or invalidate an otherwise proper claim denial; and (iii) preventing an injured person's policy limit from being unjustly depleted by providing that no payment is due for services to the extent the charges exceed the applicable fee schedules or where the services for which payment is requested were not rendered.

In 2015 the Department adopted an amendment to subpart 65-4 (Insurance Regulation 68-D) (DFS-29-14-00003-A, February 4, 2015) that revised the fee structure awarded to attorneys who prevail in no-fault disputes on behalf of applicants.

- INS-45-00-00012-A (State Register of November 7, 2001) Amendment of Part 20 (Insurance Regulations 9, 18 and 29) (Brokers and Agents - General) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 1109, 2103, 2104, 2109, 2112, 2119, 2120 and 2121.

Insurance Law Sections 2119 and 2120 require that an agent or broker keep records that reasonably demonstrate moneys collected from insureds and that those records demonstrate that the portion of those funds that are held on behalf of insurers represent net premiums (premiums paid less commissions earned.) Insurance Law Section 2121 acknowledges that a broker, who traditionally represents the insured, will be an agent of the insurer who delivers a contract, for purposes of premium collection.

The amendment underscored the requirement that an insured's payments to a Department licensee must be clearly identified in the agent's or broker's records and that those premiums, when so identified, will be deemed paid to the insurer for the protection of the insured. The amendment clarified the records that are necessary to keep the regulated parties in compliance with the law. This allows the licensee, the insurer, and the consumer to readily resolve questions and complaints without regulatory intervention.

- INS-48-0000005-A (State Register of November 21, 2001) Adoption of Part 420 (Insurance Regulation 169) (Privacy of Consumer Financial and Health Information) of Title 11 NYCRR.

Statutory Authority: Insurance Law Sections 201, 301, 308, 1505, 1608, 1712, 3217 and Article 24.

Title V of the Gramm-Leach-Bliley Act (“GLBA”), enacted into law by Congress as P.L. 106-102, required all “financial institutions” (including persons engaged in the insurance business) to comply with the privacy requirements contained therein. Pursuant to Section 505, Title V and regulations prescribed thereunder “shall be enforced . . . by the applicable State insurance authority” Failure by a state to establish rulemakings for privacy of consumer and customer financial information precludes the state from overriding the consumer protection regulations prescribed by a Federal banking agency under Section 45(a) of the Federal Deposit Insurance Act.

Section 501 of GLBA states that it “is the policy of the Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers’ nonpublic personal information.” The GLBA requires financial institutions to comply with certain obligations regarding disclosure of nonpublic personal information. State insurance authorities retain primary responsibility to regulate the activities of persons engaging in the business of insurance.

The regulation assured that individual consumers and customers have an opportunity to prevent unwarranted disclosure of non-public personal financial and health information. Absent this regulation, licensees of the Department would remain subject to the provisions of GLBA, but they would not have sufficient guidance to protect them from litigation challenging their attempts at compliance. In addition, consumers would not be adequately protected, because the Department would be unable to take action against licensees based upon violations of GLBA’s provisions.

PART 2. BANKING REGULATIONS

Pursuant to Section 207 of the State Administrative Procedure Act, Review of Existing Rules, notice is hereby given of the following rules relating to banking which the Department of Financial Services will be reviewing this year to determine whether they should be continued or modified. These rules were adopted in 2013, 2011, 2006, and 2001. Public comment on the continuation or modification of the above rules is invited. Comments must be received within 45 days of the date of publication of this notice.

Comments should be submitted to:

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2013 Rules

There were no new Banking regulation amendments or adoptions in 2013.

2011 Rules

Amendments to Part 20 of the General Regulations of the Superintendent (Payment of Interest on Commercial Bank Deposits)

- a. Description of rule: This rule prohibits banks, trust companies, private bankers, Article XII investment companies and branches and agencies of foreign banks from paying interest on deposits or credit balances which are payable on demand.
- b. Legal basis for the rule: Banking Law § 14.
- c. Need for rule: This rule was repealed.

Amendments to Part 301.6 of the General Regulations of the Superintendent (Security at Automated Teller Machines)

- a. Description of rule: This rule implements the requirements of the ATM Safety Act, Article II of the Banking Law.
- b. Legal basis for the rule: Banking Law §§ 12, 75-n as amended by l. 2011, chapter 62, part A, § 104(e), Financial Services Law § § 202 and 302.
- c. Need for rule: This rule is necessary to clarify the filing of the deadlines for the annual report of compliance and also to require that compliance was under the penalty of perjury.

2006 Rules

Adoption of New Part 6.8 of the General Regulations of the Superintendent (Overdraft Protection Charges)

- a. Description of rule: This rule allows New York state-chartered banks, trust companies, savings banks and savings and loan associations to impose charges regarding insufficient funds to the same extent as national banks and federal savings associations.
- b. Legal Basis for the rule: Banking Law §§ 13.4, 14, 14-g and 14-h.
- c. Need for rule: This rule is necessary to give New York state-chartered banks, trust companies, savings banks and savings and loan associations parity with national banks and federal savings associations with regard to overdraft charges.

Adoption of New Part 6.9 of the General Regulations of the Superintendent (Mergers with Non-Bank Affiliates)

- a. Description of rule: This rule allows for merger of a bank or trust company to merge with a non-bank affiliate.
- b. Legal Basis for the rule: Banking Law §§ 13.4, 14, 14-g.
- c. Need for rule: This rule is necessary to give New York state-chartered banks and trust companies parity with national banks and federal savings associations with regard to mergers with non-bank affiliates.

Adoption of New Part 6.10 of the General Regulations of the Superintendent (Investments in Public Deposit Banks by Savings Banks and Savings and Loan Associations)

- a. Description of rule: This rule allows New York state-chartered savings banks and savings and loan associations to invest in to invest in public deposit bank subsidiaries.
- b. Legal Basis for the rule: Banking Law §§ 13.4, 14, 14-g.
- c. Need for rule: This rule is necessary to give New York state-chartered savings banks and savings and loan associations parity with federal savings association with regard to investing without limitation in a public deposit bank subsidiary.

Amendment to Part 31 of the General Regulations of the Superintendent (Investments of Banks or Trust Companies in Certain Corporations)

- a. Description of rule: This rule allows New York state-chartered banks and trust companies to make an investment in the capital stock of Atlantic Central Bankers Bank.
- b. Legal Basis for the rule: Banking Law §§ 14(1)(d) and 97(5).
- c. Need for rule: This rule is necessary to permit banks to acquire a membership interest in Atlantic Central Bankers Bank through a stock investment. A membership enables the banks to engage in business operations and offer products and services to their customers that could not be offered effectively or economically by the member institutions individually.

Amendment to Part 32 of the General Regulations of the Superintendent (Maximum Charges for Payments made against Insufficient Funds, Uncollected Balances and Return Items; Certain Disclosures)

- a. Description of rule: This rule authorizes New York state-chartered banks, trust companies and thrift institutions to charge a daily overdraft or bounce protection fee on checks, other payment orders, or electronic transactions accepted or honored.

- b. Legal Basis for the rule: Banking Law §§ 14(1), 108(8), 202, 235-c, 383(13).
- c. Need for rule: This rule is necessary to clarify the provisions of the rule pertaining to charges for checks subject to insufficient funds, return, and overdraft charges; to permit banking institutions to apply different charges with respect to the type of the account (e.g., consumer accounts, commercial accounts, etc.); and to vary the amount of such charges with respect to whether the checks are paid, accepted or returned. In addition, it clarifies that such charges also apply to electronic transactions such as ATM and point-of-sale transactions.

Amendments to Part 41 of the General Regulations of the Superintendent (Restrictions and Limitations on High Cost Home Loans)

- a. Description of rule: This rule pertains to the making of certain residential mortgage loans, referred to as high cost home loans.
- b. Legal Basis for the rule: Banking Law §§ 6i, 6l, 13, and 14.
- c. Need for rule: This rule is needed to conform the regulation to various provisions to Banking Law § 6-l.

Amendments to Part 76 of the General Regulations of the Superintendent (Compliance with Community Reinvestment Act Requirements)

- a. Description of rule: This rule pertains to the framework and criteria by which the Department of Financial Services assesses a banking institution's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods.
- b. Legal basis for the rule: Banking Law §§ 10, 14, 28-b and Art. XII.

- c. Need for rule: This rule is needed to conform Part 76 to changes in the regulations of the federal bank regulatory agencies under the Community Reinvestment Act.

Adoption of New Part 114 of the General Regulations of the Superintendent (Supervision of Article XII Investment Company Holding Companies and Their Subsidiaries for Purposes of the European Union Financial Conglomerates Directive)

- a. Description of rule: This rule outlines the Superintendent's examination, supervision, regulation and enforcement authority over Article XII investment company parent organizations and their subsidiaries for purpose of providing equivalent supervision as required under the European Union Financial Conglomerates Directive.
- b. Legal basis for the rule: Banking Law § 14 and Art. XII.

- c. Need for rule: This rule is needed to clarify the Superintendent's examination, supervision, regulation and enforcement authority over Article XII investment company parent organizations and their subsidiaries for purpose of providing equivalent supervision as required under the European Union Financial Conglomerates Directive.

Amendments to Part 400.1(a) of the General Regulations of the Superintendent (Licensed Cashers of Checks – Original Issuance of License or Change of Control of a License)

- a. Description of rule: This rule outlines the requirements for the licensing and business of check cashers in New York.
- b. Legal basis for the rule: Banking Law §§ 12, 37(3), 367, 369, 371 and 372.
- c. Need for rule: This rule is necessary to conform Part 440.1(a) to amendments in the Banking Law which provide for the regulation of the business of check cashing, whether performed for customers who are natural persons or business entities.

Amendments to Part 400.1(g) of the General Regulations of the Superintendent (Licensed Cashers of Checks – Original Issuance of License or Change of Control of a License)

- a. Description of rule: This rule outlines the requirements for the licensing and business of check cashers in New York.
- b. Legal basis for the rule: Banking Law §§ 12, 37(3), 367, 369, 371 and 372.
- c. Need for rule: This rule clarifies that the Superintendent may permit a location to be licensed which is closer than three tenths of a mile from an existing licensee, so long as the newly licensed location is a “restricted location”, that is a location which is restricted to the cashing of checks.

Amendments to Part 400.11 of the General Regulations of the Superintendent (Licensed Cashers of Checks – Fees)

- a. Description of rule: This rule outlines the requirements for the conduct of business of check cashers in New York.
- b. Legal basis for the rule: Banking Law §§ 12, 37(3), 367, 369, 371 and 372.
- c. Need for rule: This rule is necessary to clarify that check cashers must post a schedule of their fees.

Adoption of New Part 404 of the General Regulations of the Superintendent (Budget Planners/Delegation of Certain Activities)

- a. Description of rule: This rule sets forth the limitations of investment by credit unions in the shares of central credit unions located in this state.
- b. Legal basis for the rule: Banking Law §§ 12 and 587.
- c. Need for rule: This rule is necessary to set forth the regulatory requirements and standards of operation for entities licensed under Article 12-C of the New York banking law to

conduct the business of budget planning when licensees use the services of third party entities in making payments of debtor funds to creditors of debtors.

2001 Rules

Adoption of new Part 6.6 of the General Regulations of the Superintendent (Exemption from Requirements of Banking Law § 7010 Concerning Mandated Number of Meetings of Boards of Directors and Executive Committees of Banks and Trust Companies)

- d. Description of rule: This rule sets forth the circumstances in which a board of directors of a bank or a trust company may meet only six times per year.
- e. Legal basis for the rule: Banking Law §§ 13.4, 14, and 14-g.
- f. Need for rule: Part 6.6 provides relief from Banking Law § 7010 regarding the required number of yearly board of director meetings for banks or trust companies that are well-capitalized, well-managed and have been in existence for more than five years.