

**NEW YORK STATE
INSURANCE DEPARTMENT**

**SECOND AMENDMENT TO REGULATION NO. 111
(11 NYCRR 175)**

RULES GOVERNING BONA FIDE HEDGING TRANSACTIONS

I, Gregory V. Serio, Superintendent of Insurance of the State of New York, pursuant to the authority granted by Sections 201, 301, 307, 308, 1403, 1405, 1410, 1411, and 1414 of the Insurance Law, Chapter 650 of the Laws of 1998, and Chapter 507 of the Laws of 2000, do hereby promulgate the following Second Amendment to Part 175 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 111), to take effect upon publication in the State Register, to read as follows:

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

The statutory authority references for Part 175 are repealed and a new statutory authority is added to read as follows:

Insurance Law Sections 201, 301, 307, 308, 1403, 1405, 1410, 1411, and 1414; Chapter 650, Laws of 1998; Chapter 507, Laws of 2000

Section 175.3(a)(2) is amended to read as follows:

(2) the purchase or sale of authorized contracts permitted by section 175.5(b), (c) or (d) of this Part, provided that such contracts, options and rights therein are traded on a national securities exchange or board of trade regulated under the laws of the United States and provided further that the aggregate amount (valued as provided in section [91] 1414 of the New York Insurance Law) of obligations with respect to which hedging transactions are in effect at any one time shall not exceed two percent of the insurer's total admitted assets as of the 31st day of December next preceding.

Section 175.3(b) is amended to read as follows:

(b) The aggregate cost of all hedging transactions in effect at any one time shall be charged against the limitation on the amount of investments, which are neither interest bearing nor income paying, as set forth in section [81-a(1)(h)] 1405(a)(8) of the New York Insurance Law.

Section 175.4(b) is amended to read as follows:

(b) *Obligations* shall have the meaning ascribed in [subdivision 26-b of section 4] section 107(a)(33) of the New York Insurance Law, i.e., bonds, debentures, notes and other evidences of indebtedness (whether or not liability for payment extends beyond the security therefor) as well as participation interests in any of the foregoing.

Section 175.5(a) is amended to read as follows:

(a) contracts involving foreign currency, including futures and call options, in connection with the purchase or sale of obligations, or securities eligible for investment under [subsection (f) of] section [81-a(1)] 1405(a)(7)(C) of the Insurance Law, and those foreign investments similarly eligible;

Section 175.9 is amended to read as follows:

§175.9 Insurer responsibility.

Prior to engaging in bona fide hedging transactions, the insurer's board of directors, or a committee thereof, must authorize such activity and adopt written guidelines to be followed in effecting and maintaining such transactions, including a system of internal control procedures. Such guidelines shall include the policy objectives of management specific enough to outline permissible contract strategies; the relationship of the strategies to the insurer's operations and how such strategies reduce the insurer's foreign exchange and/or interest rate risk exposure. Internal control procedures shall include, at a minimum, regular reports to management, segregation of duties and internal review procedures. In addition, the minutes of the meetings of the board of directors, or committee thereof, shall identify personnel authorized to engage in bona fide hedging transactions and set forth the duties, responsibilities and limits of authority of such personnel. The board of directors, or a committee thereof, shall at each regular meeting, review the outstanding hedging positions, the unrealized gains or losses thereon, and the hedging transactions closed during the period, in accordance with the provisions of section [78(1)] 1411(a) of the New York Insurance Law.