New York State Department of Financial Services Working Group Report on Ways to Improve Efficiency and Effectiveness of Regulation

As required by § 205-a of the Financial Services Law

Report to the Governor
and the Legislature

December 30, 2011

Benjamin M. Lawsky
Superintendent
New York State Department of Financial Services

Andrew M. Cuomo
Governor

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Dear Governor Cuomo, Majority Leader and President Pro Tem Skelos and Speaker Silver:

On behalf of the Department of Financial Services, I hereby submit a copy of The Report required by Section 205-a of the Financial Services Law regarding efficiency, effectiveness and integration.

As prescribed in the Financial Services Law, in or about May 2011, the Department of Financial Services ("DFS") began the work of integrating the Banking and Insurance Departments. Our Working Group began meeting with representatives of the insurance and banking industry, as well as trade associations and consumer groups, to identify ways that the new DFS could regulate more efficiently and effectively.

Although DFS has only been in existence since October 3, 2011, we have already begun to implement several initiatives recommended by the Working Group, as well as other initiatives designed to achieve the Governor's vision for the new Department. The Department:

- Is now on track to reduce spending by more than 10 percent in just its first year.

- Took the lead on mortgage servicing reform by convincing eight companies—including Goldman Sachs, Morgan Stanley, Ocwen Financial, Saxon, and American Home Mortgage Servicing—to agree to a thorough reform program. The reforms protect consumers by ending Robo-signing and requiring the servicers to employ enough staff to properly handle foreclosures. The Department is working to make its reforms the industry standard going forward.

- Required the health insurance industry to publicly disclose rate increase applications.

- Required the life insurance industry to return tens of millions of dollars in unpaid death benefits to consumers.

- Worked to reduce medical malpractice costs by implementing the Medical Indemnity Fund. The Fund will pay costs of medical care for infants who are injured at birth.

- Joined other state agencies in helping with the disaster relief effort following tropical storms Irene and Lee. The Department staffed crisis centers around the state to aid homeowners and businesses with their insurance issues and pressed insurers to handle claims promptly and fairly.

- Compelled FEMA to clarify national policy that state regulators will continue to play a central role in ensuring that flood victims are treated properly, fairly, and expeditiously under the National Flood Insurance Program.

- Implemented new regulations that deregulate most insurance business with large, sophisticated companies or public entities. This reduces the red tape involved in selling insurance to sophisticated buyers, who will protect themselves by using risk managers.

- Made numerous arrests state-wide of individuals committing workers' compensation fraud, as part of an initiative to crack down on a crime that victimizes every resident and business enterprise every day by increasing the cost of doing business in the State.

These and other initiatives that DFS has undertaken are outlined in greater detail in this report.

I am proud of what DFS has been able to accomplish so far, while both continuing our vital regulatory functions and dealing with the challenges of the merger.

I can assure you that our initial success has increased our determination to achieve even more in the months ahead to contribute to the Governor's efforts to strengthen New York's economy and create more jobs.

- We will encourage financial services firms to locate more jobs in New York.
- We will improve our responsiveness to consumers.
- We will expand our oversight into the financial products and services that had formally fallen into regulatory gaps.
- We will continue to focus on our operations and the law to find more ways to improve our efficiency and effectiveness.
- We will work to make our examinations better focused, more relevant and quicker so they are more effective in identifying and dealing with issues in a timely way.
- We will clear up backlogs in both handling consumer complaints and reviewing industry filings.

In sum, we will strive to make the Department of Financial Services one of the premier regulatory agencies in our state and nation.

Respectfully submitted,

Benjamin M. Lawsky
Superintendent

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EXECUTIVE SUMMARY

Through the enactment of the Financial Services Law, the Banking and Insurance Departments were merged into a single Department of Financial Services ("DFS") and the new Department began operating on October 3, 2011. The merger was proposed not only as a way to establish a single regulatory agency with a broad overview of the entire range of financial services, but also to capitalize on efficiencies through government restructuring. To that end, DFS is tasked with consolidating regulatory and non- regulatory functions and working to identify ways to become a more efficient and effective regulator.

As required by the Financial Services Law, the Governor created a working group under DFS "to examine ways to improve the efficiency and effectiveness of banking regulation and insurance regulation, including opportunities to integrate certain regulatory activities prescribed by the banking law and the insurance law." Further, the working group "consult[ed], in making its examination, with representatives of the banking, insurance and financial services industries." Fin. Serv. L. § 205. Specifically, the working group met with dozens of companies in the insurance and banking sector, as well as numerous trade associations and consumer groups, to discuss improvements DFS could make to better regulate financial services in New York State.

This report, required under Section 205 of the Financial Services Law, summarizes select issues the working group found to be the top recommendations provided from the banking, insurance and financial services industries. In addition, this report highlights DFS accomplishments to date, as well as the steps DFS has taken and will take to make regulation more efficient and effective.

PURPOSE OF THIS REPORT

> Fin. Serv. L. §205-a. Report. The governor shall by June thirtieth, two thousand eleven, create a working group to examine ways to improve the efficiency and effectiveness of banking regulation and insurance regulation, including opportunities to integrate certain regulatory activities prescribed by the banking law and the insurance law. Such working group shall consult, in making its examination, with representatives of the banking, insurance and financial services industries. On or before January first, two thousand twelve, the superintendent shall issue a report on the results of this review to the governor, the speaker of the assembly and the temporary president of the senate.

CREATION OF THE DEPARTMENT OF FINANCIAL SERVICES

In his 2011 State of the State address, Governor Cuomo announced his plan to merge the Insurance Department and the Banking Department into a single broad financial services regulator. The merger was proposed not only as a way to fill regulatory gaps and provide a single modern regulator, but also to capitalize on efficiencies through government restructuring.

The legislation that created the Department of Financial Services, known as the Financial Services Law, was introduced and passed as part of Governor Cuomo's 2011 budget and took effect on October 3, 2011.

A summary of the Financial Services Law has been included with this report as Appendix A.

Preparation for DFS

Appointment and Confirmation of the First Superintendent

On May 16, 2011, Governor Cuomo nominated Benjamin M. Lawsky to serve as the first Superintendent of the Department of Financial Services. Lawsky was unanimously confirmed by the New York State Senate on May 24, 2011. At that time, and until the official establishment of the Department of Financial Services on October 3, 2011, Superintendent Lawsky was also appointed and served as Acting Superintendent of Banks. In that capacity, he led the Governor's initiative to integrate the Banking Department and Insurance Department into a modern unified financial regulator.

Prior to his confirmation as Superintendent of Financial Services, Superintendent Lawsky was Governor Cuomo's Chief of Staff. Previously, he served as the Deputy Counselor and Special Assistant to then-Attorney General Cuomo. Prior to that, Mr. Lawsky had spent over five years as an Assistant United States Attorney in the Southern District of New York, where he prosecuted white collar crime, organized crime, and terrorism cases. He began his career as Chief Counsel to Senator Charles Schumer on the Senate Judiciary Committee and as a Trial Attorney in the Civil Division of the Department of Justice.

Integration of the Banking and Insurance Departments

As part of the integration initiative, Superintendent Lawsky established three internal working groups: (1) Administration/Information Technology; (2) Consumer Services; and (3) Operations. The working groups were tasked with identifying ways that the services provided in these areas by the Banking and Insurance Departments could be combined to allow for more effective regulation.

During this time, Superintendent Lawsky also served as Chair of the working group mandated by § 205-a of the Financial Services Law to improve the efficiency and effectiveness of banking and insurance regulation. The working group met with 24 companies in the insurance and banking sector, as well as 13 trade associations and consumer groups, to discuss ways that DFS could regulate more efficiently and effectively.

Inception of DFS: October 3, 2011

As of October 3, 2011 the New York State Banking Department and the New York State Insurance Department were abolished and the functions and authority of both former agencies transferred to the New York State Department of Financial Services. To mark the official start of the new Department, Superintendent Lawsky was joined on October 3, 2011 by 19 former Banking and Insurance Superintendents, other officials and hundreds of Department staff at a ceremony at Pace University in New York.

ORGANIZATION AND OVERSIGHT

The new Department of Financial Services is responsible for supervising and fostering the growth of a major portion of New York's financial services industry. DFS regulates and supervises the activities of nearly 1,700 insurance companies with assets exceeding $4 trillion, and nearly 1,900 banking and other financial institutions with assets of more than $2.1 trillion.

The Department is organized into five divisions. The Insurance and Banking Divisions will continue to perform the core regulatory functions related to the insurance and banking industries. The three other divisions combine personnel and functions from both the Banking and Insurance Departments to more effectively and efficiently accomplish the broad mission of DFS. These three divisions are:

- The Financial Frauds and Consumer Protection Division, responsible for protecting and educating consumers and fighting financial fraud.

- The Real Estate Finance Division, responsible for regulating all real estate and homeowner issues, ranging from mortgage origination and servicing to title and mortgage insurance to the foreclosure crisis.

- The Capital Markets Division, responsible for actively monitoring the latest developments and products in the financial services marketplace so DFS can better regulate our complex and rapidly changing financial services industry.

DFS ACTIONS TO DATE

Although formally in existence for only three months, DFS has already begun to take steps to achieve the Governor's vision of making the regulation of the banking, insurance and financial services industries more effective and efficient.

1. Achieving Efficient and Effective Regulation Through Consolidation

After the bill authorizing the merger passed in early 2011, the Banking and Insurance Departments began to go through a structural and cultural reorganization. Several non-regulatory units in the two former departments have been integrated including administration, information technology and legal services. As noted above, the Department has also begun to integrate three divisions that combine personnel and functions from both the Banking and Insurance Departments. Due to these efforts, DFS is now on track to reduce spending by more than 10 percent in just its first year.

2. Mortgage Servicing Reform

Consumers as well as representatives from the mortgage industry have expressed concern to DFS about the mortgage foreclosure process. Consumer groups have voiced concerns that the industry is not following the law and negotiating in good faith and is not actively exploring options other than foreclosure. Industry has voiced concerns over the length of the modification and foreclosure process and the need for better efficiency as many cases now experience long delays in the court system.

The Department recognizes that the problems with the mortgage foreclosure process adversely affect New York's economy, homeowners, tenants, and lending. The Department has been actively working with consumer groups and the mortgage industry to find ways to improve various aspects of the mortgage foreclosure process.

DFS has taken the lead in achieving reforms in the mortgage servicing industry. Eight mortgage servicers, including Goldman Sachs, Morgan Stanley, Ocwen Financial, Saxon, and American Home Mortgage Servicing, have agreed to a thorough reform program that imposes guidelines such as ending robo-signing and imposing new standards and requirements on the servicers, as well as protecting borrowers who have been subject to wrongful foreclosure. The reforms protect consumers by requiring the servicers to employ enough staff to properly handle foreclosure volume. For example, there must be one person—a single point of contact—familiar with each case, so homeowners are treated fairly and have the opportunity to seek loan modifications before they go through a foreclosure. The eight mortgage servicers that have agreed to abide by these new mortgage servicing practices service more than 1.2 million loans nationally, with a total unpaid principal balance of more than $186.1 billion. More than 67,000 of those loans are in New York, with a total unpaid principal balance of more than $16.8 billion. The Department is working to make its reforms the industry standard going forward.

3. Fairly Reducing Health Insurance Costs

Finding ways to slow the damaging rise in health care costs and ensuring that New Yorkers have access to affordable, quality health care is a top priority of the Cuomo Administration. The Department is taking steps to address these issues on multiple fronts.

a. Implementation of prior approval

The Department is working hard to ensure the successful implementation of the new prior approval law. Before this law was passed, health insurers could simply file a rate increase with the Insurance Department and implement it. Now, insurers must seek approval and the Department has the ability to adjust rates. The process also includes the opportunity for public comment.

In implementing this law, the Department is conscious of the balance that must be struck between keeping health insurance affordable and making certain that insurers have both the resources to pay claims and incentive to continue to serve the market.

In the two years since prior approval has been in effect, the Department has already saved consumers more than half a billion dollars. Before prior approval, health insurance premiums were going up an average of 14% a year. In 2011, although medical costs went up 11%, the Department held the increase in premiums to 10%. And, for 2012, the Department held the increase to 8% even though medical costs went up 9%.

b. Greater transparency on rate increases

In October 2011, the Department ordered that all rate applications submitted by health insurers as part of the prior approval process would be made public to consumers. Initially, health insurers claimed that their requests for health insurance premium increases should be confidential. This made it impossible for the public comment aspect of the prior approval process to be meaningful.

After discussions with the Department, the health insurance industry withdrew its objections to the Department's order and agreed to make details of rate increase requests public. This is a huge step toward building transparency, allowing the public to rigorously comment on proposed rates, and promoting competition. This measure will encourage insurers to hold down their own costs and work with medical providers to hold down their costs.

4. Implementation of Commercial Modernization

In line with the Department's goal of encouraging the growth of business, DFS introduced regulations implementing a new law modernizing the regulation of commercial lines insurance.

On August 17, 2011, the Governor signed into law as Chapter 490 of the Laws of 2011 a law modernizing the regulation of commercial lines insurance. The bill amended Article 63 of the

Insurance Law to add a new "Class Three" to the special risk provisions, commonly referred to as the Free Trade Zone. Subject to specific conditions listed in the law, forms and rates for policies eligible to be written as Class 3 risks do not need to be filed with the Department for prior approval.

The Department promulgated an amended Regulation 86 as an emergency regulation on November 15, 2011, the effective date of the bill, to implement the initiatives contained in Chapter 490. The Superintendent also issued Circular Letter No. 10 on November 15, 2011 to provide guidance and clarification regarding Chapter 490 and the amendment to Insurance Regulation 86.

Under the new measure, insurers are exempted from rate filing and form approval requirements when issuing qualified policies to businesses or entities, like municipalities, that generate annual commercial risk insurance premiums totaling more than $25,000 for certain kinds of property/casualty insurance. In addition, policyholders must retain special risk managers to assist in negotiating and purchasing the policies.

Insurers using the exemption must file with the Superintendent a certificate of insurance documenting the terms of the policy within one business day of binding the insurance coverage.

The new law and regulation promise to enhance the ability of insurers to underwrite large commercial policyholders in New York, increase speed to market for certain insurance products not currently exempted, and eliminate barriers to economic development in New York.

The Department will monitor the implementation of Chapter 490 and the amendment to Regulation 86, and will address issues from industry as they arise.

5. Tropical Storm Disaster Response

Under Governor Cuomo's direction, disaster response was a first level priority for DFS in its initial months. Flooding of historic proportions occurred in many areas of New York State in August 2011 and again in September when two tropical storms hit the state and caused severe damage. DFS assisted thousands of homeowners, renters and business owners, pressed insurers to respond to claims promptly and fairly, and later worked with the federal government to set national disaster response policy. In responding to losses caused by Tropical Storms Irene and Lee:

- DFS personnel staffed Disaster Recovery Centers at 24 locations in flood-affected areas and overall nearly 90 members of the agency, representing various units within the Department's bureaus, were directly involved in recovery efforts.

- The Department's Mobile Command Center, a 35-foot van staffed with consumer services professionals and equipped with communications equipment, was dispatched to help insurance policyholders in both Upstate and Downstate locations.

- The Department activated the Insurance Emergency Operations Center (IEOC), a joint Department and industry operation staffed by insurance company representatives and Department professionals. The IEOC was used to coordinate the efforts of insurance companies and help insurers process claims more quickly to support policyholders faster and more efficiently.

- The Department staffed a special disaster hotline that operated seven days a week and helped nearly 1,100 consumers who called with questions about homeowners' renters' and business insurance questions.

- The Department issued more than 9,200 temporary insurance adjuster licenses. This allowed insurers to bring in adjusters from all over the United States so that properties could be inspected as quickly and policyholder claims faster.

Post-disaster data filed with the Department by property/casualty insurance companies indicated that more than 85,000 personal and commercial claims were filed with insurers, for an estimated value of more than $300 million.

As a consequence of its disaster recovery efforts, DFS helped establish national policy on flood disaster response after discussions with the Federal Emergency Management Agency (FEMA), which administers the National Flood Insurance Program (NFIP). For most homeowners and businesses, NFIP insurance policies are their only protection against flood damage. The policies are sold through property casualty insurers.

The new national policy came in the form of a bulletin issued by FEMA to insurance companies. The bulletin instructed insurers that they should work with state regulators in ensuring fairness and promptness in servicing customers with federal flood insurance. FEMA had originally asserted that state regulators had no role in overseeing claims processing for flood insurance.

6. Requiring Life Insurers to Find and Pay Funds Owed to Consumers

As the result of a DFS investigation, insurers are now regularly matching life insurance policies against a reliable death list, rather than simply waiting for beneficiaries to file claims. The investigation, which is on-going, has led to tens of millions of dollars being paid to thousands of beneficiaries.

The DFS investigation focused on claims practices by life insurers regarding the use of the U.S. Social Security Administration's Death Master File for investigating claims and locating beneficiaries with respect to death benefits under life insurance policies, annuity contracts, and retained asset accounts. DFS found that many insurers had used the death file to stop annuity payments once a contract holder died, but had not used it to determine if death benefit payments were owed to beneficiaries under life insurance policies, annuity contracts, or retained asset accounts.

The Department administratively required insurers to perform cross-checks of all life insurance policies, annuity contracts and retained asset accounts using the latest updated version of the death file, or another database or service at least as comprehensive as the SSA-DMF, to identify any death benefit payments.

Insurers also were instructed to issue monthly reports to the Department through March 31, 2012, detailing their progress in making payments based on identifying beneficiaries.

7. Modernizing Policy and Rate Review

DFS is implementing numerous improvements to streamline its process for the review of rate, policy, license and other industry filings (the “Rate and Form Filing Process”). These improvements are grounded in the precept that a more efficient and focused Rate and Form Filing Process would better protect consumers, help enhance competition in the insurance industry, and reduce unnecessary costs and burdens on regulated entities.

Improvements include:

A. Elimination of non-essential, duplicative, time-wasting reporting requirements.
- Standardizing checklists and exhibits to streamline rate filings.
- Accessing rate applications is now possible online.
- Increasing insurers’ reporting requirements to access better, more complete market data.

B. Better communication with industry on rate reviews—both the policy and process.
- Meeting with insurance companies to go over rate decisions.
- Providing understanding on the criteria used to make the rate decisions.

The Department will continue to explore ways to improve its policy and rate review process.

8. Establishing the Medical Indemnity Fund

Chapter 59 of the Laws of 2011 amended Article 29-D of the Public Health Law to create the Medical Indemnity Fund ("Fund"). The Fund is designed to pay all future costs necessary to meet the health care needs of plaintiffs in medical malpractice actions who have received either court-approved settlements or judgments deeming the plaintiffs' neurological impairments to be birth-related. The purpose of the Fund is two-fold: (1) to pay or reimburse costs necessary to meet the health care needs of a "qualified plaintiff" throughout his or her lifetime; and (2) to lower the expenses associated with medical malpractice litigation throughout the health care system.

Pursuant to statute, the Department of Financial Services is charged with implementing the Fund, which became operational on October 1, 2011. The Department recently engaged a third party administrator to administer the Fund, and is working closely with the administrator to ensure that plaintiffs receive needed care. As of December 2011, nine plaintiffs had enrolled in the Fund.

9. Enhancing the New York State Bank Charter

Banks that do business in New York State have the option of choosing a New York State or a federal charter. Although the advent of interstate banking, with its need for regulatory uniformity, led many large banks to operate nationally, an opportunity now exists to reverse this trend. In fact, the banking industry has encouraged DFS to aggressively promote the State option. State charter fees are significantly lower than the federal charter fees and DFS looks to attract more banks by highlighting the advantages of a State charter.

Banks recognize that having the State charter provides greater potential for dialogue with regulators on issues important to the banks. Banks also recognize the wealth of knowledge DFS has on local consumer issues. The New York State charter allows banks to be supervised by regulators who are more accessible, flexible and responsive than their federal counterparts due to a greater understanding of their home markets. By being more closely attuned to local institutions' needs and markets, state regulators are better able to provide supervisory guidance and support during challenging economic periods. Of benefit to consumers is that state regulators have a strong history of consumer protection, taking an early lead on anti-predatory lending laws and foreclosure prevention, and reaching landmark settlements with large mortgage bankers. DFS looks to continue to foster a strong regulatory landscape.

The Financial Services Law created the State Bank Charter Advisory Board to assist the Department in encouraging the growth in state chartered banks. The Cuomo Administration expects to announce the members of that board soon.

On December 19, 2011, DFS announced that Elmira Savings Bank was the first bank to convert to a New York State charter since the Department's inception. Several federal savings banks in New York are in the process of submitting applications for conversion to a State charter as well.

It is our goal to cultivate a culture of superior service that will both satisfy the needs of existing State chartered banks while encouraging others to seriously consider the State option.

10. Workers' Compensation Fraud

DFS demonstrated its ongoing commitment to fighting workers' compensation fraud when 18 individuals in 13 counties were arrested in December. The arrests culminated a series of investigations led by DFS.

The investigations and subsequent arrests focused on identifying individuals who were collecting workers' compensation benefits even though they were ineligible. For example, some of the individuals improperly obtained benefits while secretly working while others collected compensation after faking injuries or filing false documentation.

The seriousness of fraud in workers' compensation goes beyond the conduct of individuals accused of improperly collecting benefits because all honest New York businesses and taxpayers are forced to shoulder the burden of higher premiums. As a consequence, workers' compensation fraud unnecessarily drives up the cost of doing business in New York. The Department will continue to make fighting workers' compensation fraud a priority.

11. Protecting Consumers From Costs of Court Delays

In an industry-wide letter to mortgage servicers operating in New York, Superintendent Lawsky said servicers should proceed expeditiously to substitute new counsel in foreclosure cases previously handled by the Steven J. Baum law firm, which closed in November, 2011. However, he said homeowners should not be charged penalties, fees, costs or interest accrued as the direct result of delays caused by the Baum firm's closing and the substitution of counsel.

A leading mortgage servicer, Ocwen Financial Corporation, has already signed an agreement with the Department of Financial Services promising to refrain from charging homeowners for such costs. Ocwen agreed it would not penalize homeowners affected by the Baum closing in an amendment to an agreement reached in September with DFS to adhere to groundbreaking mortgage servicing reforms designed to address troublesome practices in the servicing industry generally.

Based in Amherst in Erie County, Baum closed after being fined $2 million by the federal government for its foreclosure practices, including allegations of "robo-signing," and after Freddie Mac and Fannie Mae removed the firm from their lists of approved law firms.

The Baum firm represented plaintiffs in an estimated 40% of the foreclosure proceedings in New York in 2010. Servicers across the state will now have to hire new counsel, who will have to gather and review case files, and ask courts for the approval of new legal representation. As a result, significant delays in pending foreclosure cases are expected.

ON-GOING EFFORTS

1. Streamlining the Examination Process of Regulated Entities

A key priority of the Department is to make the examination process less complex and more modern and efficient. A DFS internal working group has been formed to identify issues in the examination process, make recommendations, and outline an action plan. Among other areas, the working group is looking at improvements that can be made in the following areas:

- Adequate training of examiners.
- Enhancing IT components of exams.
- Improving timeliness of report issuance.
- Increasing financial analysts' involvement in risk-focused surveillance.
- Improving the administrative aspects of the exam process, such as vendor management, contacts, billing, hours and invoices.

2. Setting New Standards for Timely Response to Industry Filings

DFS-regulated entities make numerous filings with the Department, including filings required to sell new products or adjust prices of existing products. It is essential that the industry receive prompt responses to those filings to be able to conduct business. A timely rejection is often preferable to long delays with no decision because it allows a business to make adjustments and go forward.

In order to improve response time, the Department is taking various actions, including the creation of a 45-day list documenting all pending matters without a decision for more than 45 days. The list will be used internally to better monitor departmental responsiveness and to encourage faster and more efficient decision making. Going forward, the Department is working on developing procedures that will allow it to provide prompt final determinations or, when that is not possible, to identify problems so they can be discussed with the filing entity.

3. Preventing Foreclosures and Improving the Process When They Occur

At DFS's inception on October 3, 2011 the Superintendent announced a newly created division, the Real Estate Finance Division that will focus on real estate lending, foreclosure and mortgage origination issues, title insurance and related issues. A top priority of this division is to find creative ways to improve the foreclosure landscape in New York State. Numerous mechanisms are currently under study to address the foreclosure crisis.

Additionally, DFS is engaged in discussions with the major not-for-profit housing counseling groups around the state in regard to services and solutions available to borrowers who find themselves in default and beyond. More work remains to be done and DFS looks to continue the dialogue with industry and not-for-profits to find innovative ways to improve the state of the housing market.

4. Helping Create Jobs by Creating a Health Insurance Exchange

Small business owners have repeatedly told the Department that the lack of affordable and adequate health insurance is a major impediment to their ability to grow their businesses and create jobs. Establishing a health insurance exchange will help make coverage more affordable in several ways. First, federal subsidies will help consumers and small businesses pay for coverage. Second, standardizing insurance coverage will allow consumers to comparison shop and improve competition based on price and quality. Third, the Exchange can pool the purchasing power of individuals and small groups to get big group discounts.

Under the federal Patient Protection and Affordable Care Act, every state must have an operational exchange by 2014. States may operate their own Exchange but must show the United States Health and Human Services ("HHS") that the state Exchange meets operational readiness criteria by January 2013. If a state fails to do so, HHS can step in and run the Exchange. Recent guidance from HHS requires states to show progress in the establishment of an Exchange by summer 2012.

Several health insurers have expressed multiple concerns to the Department about the possibility of a federally run health exchange. The Department shares these concerns and passage of a health benefit exchange bill during the 2012 legislative session remains a top priority of the Department.

5. Enhancing the Banking Development District Program

The Banking Development District program ("BDD") is a program designed to encourage the establishment of bank branches in areas across New York State where there is a demonstrated need for banking services. Banks can play an important role in promoting individual wealth, homeownership, community development, and neighborhood revitalization. An aim of the BDD Program is to enhance access to financial services to consumers, who may have little or no relationship with the banking industry, and to promote local economic development. Moreover, the establishment of a bank branch can provide a foundation to stimulate the local economy by enhancing access to capital for local businesses.

Currently, 70% of the BDDs are located within New York City and there is a demand for more BDDs to be available in Upstate New York. DFS is aware of this discrepancy and is committed to increasing awareness of the BDD program in Upstate New York.

In the third quarter of 2011, DFS participated in a roundtable on BDDs, in which the Department's plans and recommendations for improving the BDD program were presented, which include:

- Requiring that BDD branches provide financial education to residents and businesses within their districts and submit their plans to DFS;

- Amending application and renewal forms to require that applicants offer affordable banking products and services;
- Streamlining application and renewal forms for the BDD program.

The Department will continue to work with local government officials, community groups, and consumers to effectively expand the BDD program further.

6. Improving Response to Consumer Complaints

DFS has also instituted a new process for the resolution of consumer complaints that will result not only in improved efficiency but also enhanced services for consumers. DFS receives 300,000 calls and 50,000 complaints annually. Given the volume of traffic the consumer complaint division receives, consumers and regulated entities often experience a delay in receiving needed information. DFS has therefore begun to examine ways to enhance its use of technology and improve the public's use of the Department's website with an eye towards ultimately reducing the number of calls received in the first place. DFS also recently executed an agreement with the Department of Taxation and Finance to provide Call Center Services for DFS. Implementation of this initiative, which will reduce costs, increase efficiency and improve customer service, will begin on January 3, 2012.

7. Legal Modernization

Superintendent Lawsky formed a working group to examine whether existing banking and insurance laws need to be updated to provide additional tools to DFS to regulate more effectively or eliminate burdensome requirements for the industry that do not result in increased protections for consumers. The Superintendent is reviewing the recommendations of the working group and is considering legislative and/or regulatory changes based on the recommendations.

CONCLUSION

The impact of the 2008 financial crisis is still being felt throughout the nation and especially in New York, given the importance of financial services in the state economy. This is not an abstract issue. Millions of people lost their homes and their jobs and had their lives turned upside down as a direct result of this crisis.

This most recent crisis and the many that preceded it demonstrate clearly the importance of effective regulation of financial services to protect consumers, the financial services industry and our economy as a whole.

The Department of Financial Services was created to help develop more efficient, effective and modern regulation that encourages healthy growth in financial services, while protecting consumers and avoiding systemic risks. We start with two premises: That those goals are not contradictory, but in fact complementary. And, that given its position as the world financial capital, it is essential that New York be among the leaders in creating modern, effective and balanced regulation.

That is why we will continue to do our best to make the Department of Financial Services one of the premier regulatory agencies in our state and nation.

APPENDIX A: Summary of the Financial Services Law

On March 31st, 2011, Governor Cuomo signed the Financial Services Law, which created a new agency called the Department of Financial Services headed by a Superintendent of Financial Services. The bill also provides for the merger of both the Banking and Insurance departments into the DFS on October 3, 2011. The Banking and Insurance Laws and all regulations under them continue to exist.

Under the Financial Services Law, the functions and powers of the Banking and Insurance Departments were transferred to DFS, eliminating the Banking and Insurance Departments, and transferring the employees of the two Departments to DFS. DFS is deemed to continue the functions of Banking and Insurance.

Although parts of the merger bill were effective on April 1, the creation of the DFS and the actual merger of the Banking and Insurance Departments into the DFS were delayed until October 3 to ensure a more seamless integration.

The Financial Services Law has five articles. Article 1 creates the department, and defines some important terms, including financial products and services, that are integral to the jurisdiction of the DFS.

Article 2 contains sections on the Superintendent, Deputies, employees, offices, business units like bureaus and divisions, and assessments.

Article 3 contains operational provisions—including the powers of the Superintendent, the authority to adopt regulations and issue orders, how notice is given, what actions are subject to the State Administrative Procedures Act, the conduct of hearings, subpoena powers of the Superintendent, injunctions to stop unlawful conduct, and judicial review of orders, regulations and decisions.

Article 4 deals with the Financial Frauds and Consumer Protection Division, or FFCPD, including its creation, its powers, the immunity given to whistle-blowers, its relationship to other law enforcement agencies, and civil penalties.

Finally, Article 5 contains the conflict of interest restrictions on employees, including restrictions on loans from regulated persons and investments in regulated persons.

The Superintendent of Financial Services is appointed by the Governor. The law requires the Superintendent to appoint a deputy to head the Banking Division and one to head the Insurance Division. He may also appoint other deputies and employees.

The Superintendent can organize the Department as he sees fit, including creating bureaus, divisions or other units or abolishing organizational units.

The law created two temporary bodies to assist the Superintendent in the transition. First, it called for appointing a working group to examine ways to improve the efficiency of regulation as well as opportunities to integrate the regulatory activities of the two Departments. The Superintendent has to report to the Governor and legislature by January 1, 2012 on the results of this review.

Second, the bill replaces the Banking Board with a nine member State Charter Advisory Board, which is to meet at least three times a year. The members of the Board are appointed by the Superintendent, based on rules he adopts describing how state chartered institutions can nominate members. Of the nine members, one is to represent consumers, one credit unions, and one foreign banks. The six remaining members are to be selected from a range of banks in terms of asset size and geography, but at least one has to represent institutions with assets more than $3 billion and at least two have to represent institutions with assets less than $500 million.

The mission of the Advisory Board is to see that state charters remain attractive and to encourage banking institutions to offer diverse financial products and services throughout the state. It also may recommend new or amended laws and regulations, and report on regulations proposed by the Superintendent. The Advisory Board sunsets in five years.

The new Department will continue to be fully funded by assessments on the banking and insurance industries, just as the Banking and Insurance Departments were. Section 206 of the Financial Services Law keeps the assessment methodology as close as possible to the current methodologies under the Banking and Insurance Laws. Regulated entities under the Banking and Insurance Laws will be assessed for the Department's operating expenses that are solely attributable to them, allocated among firms on the same basis as they were before. Operating expenses that aren't solely attributable to one group or the other will also be allocated in such proportions as the Superintendent deems just and reasonable.

To the extent the FFCPD expends resources on sellers of financial products or services that aren't regulated under the Banking and Insurance Laws, the law provides that those expenses will be recouped through a rebate, paid out of civil penalties collected by the FFCPD.

The Financial Services Law defines "financial product or service" because the powers of the Superintendent include regulating financial products or services, investigating, researching, and studying financial products or services, and protecting the users of financial products and services. Under § 302, the Superintendent may prescribe rules with respect to financial products and services and, under § 408, the FFCPD can impose civil penalties for intentional fraud or misrepresentations of material facts with respect to a financial product or service.

The Financial Services Law describes two different types of powers of the Superintendent. First, there are the powers conferred under the Financial Services Law, the Banking Law, the Insurance Law, and other New York Laws. The second is the power under the Financial Services Law to conduct investigations, research, and studies and to protect users of financial products and services.

Section 302 of the Law authorizes the Superintendent to prescribe rules, issue orders and guidance involving financial products and services, as long as they're not inconsistent with the Financial Services Law, the Banking Law, the Insurance Law or other laws that give authority to the Superintendent. So if there's a new financial product or service, like person-to-person lending, or debt settlement advisory services or loan modification consulting, DFS doesn't have to wait for the legislature to grant specific authority. The Superintendent has the authority to adopt business conduct rules.

One of the new aspects of the Financial Services Law is the creation of the Financial Frauds and Consumer Protection Division, or FFCPD. The FFCPD combines the responsibilities of the Insurance Fraud Bureau from the Insurance Department and the Criminal Investigations Bureau from the Banking Department.

The powers of the FFCPD are set forth in § 404 of the Financial Services Law. Paragraph (a) clarifies that the Superintendent is authorized to investigate activities that may constitute violations subject to § 408 of the Financial Services Law, or violations of the Insurance Law or Banking Law. Under paragraph (b), if the FFCPD has a reasonable suspicion that a person or entity has engaged or is engaging in fraud or misconduct under the Banking Law, the Insurance Law, the Financial Services Law or other laws that give the Superintendent investigatory or enforcement powers, then the Superintendent, in the enforcement of the relevant laws or regulations, can investigate or assist another entity with the power to do so.

APPENDIX B: Institutions Regulated by the Department of Financial Services[1]

Banks & Trust Companies

Banks, also known as commercial banks, are community, regional or national for-profit business corporations owned by private investors and governed by a board of directors chosen by stockholders. Banks are generally institutions focused on commercial lending to help finance business and other ventures, but are also involved in unsecured lending or lending secured by items other than real estate (i.e. credit cards or inventory loans).

A trust company is an entity that is authorized by the Superintendent to exercise fiduciary (trust) powers. A trust may be a stand-alone entity or be part of a bank. These companies provide a number of fiduciary functions. The “trust” name refers to the ability of the institution to act as a trustee—someone who administers financial assets on behalf of another.

In the case of a Limited Purpose Trust Company, the application process generally receives the same level of scrutiny as other bank and trust companies with two exceptions: the minimum level of capitalization and the requirement for FDIC insurance. The basic restriction on limited purpose trusts is the prohibition on receiving deposits and making loans except as incidental to the exercise of fiduciary powers. The Banking Department charters and regulates banks and trust companies under Article III of the Banking Law.

Budget Planners

A budget planner is a non-profit corporation that enters into a contract with a debtor under which the debtor agrees to pay a sum of money periodically to the budget planner, which the budget planner then distributes among the debtor’s creditors. A budget planner also provides credit counseling and financial education. Section 456 of the General Business Law prohibits budget planning by anyone other than a non-profit corporation. Budget planners are licensed by and have their fees approved by the Banking Department under Article XII-C of the Banking Law.

Charitable Foundations

Some banks in the U.S. are organized as mutual companies. A mutual company is one that is owned, and sometimes governed, by its members instead of being owned by public or private shareholders. In the case of a mutual savings bank or a mutual savings association, the members are the financial institution’s depositors.

When a mutual company converts to a stock form of ownership, it is required to establish a private charitable foundation expected to provide funds to support charitable causes and community development activities. The foundation may be funded by the sponsoring institution with cash, common stock or other property and is established as a separate legal entity, though it

[1] Other entities and financial services or products offered by them not listed here may also fall under the regulatory jurisdiction of DFS. The list in this Appendix is not meant to be exclusive.

may be closely tied to the sponsoring corporation through an interlocking board of directors and staff. Such foundations must apply for tax-exempt status at both the state and federal levels. Contributions by the corporation to the charitable foundation are tax deductible for federal tax purposes over a certain period with deductions generally limited to a certain percent of taxable income in any one year. These charitable foundations are subject to examination by the Banking Department. The Community and Regional Banks Division is responsible for the examination and supervision of these foundations.

Check Cashers

A check casher is a person or entity whose primary business is the cashing of checks, drafts or money orders for a fee.

A Check Casher license is not required when a person or entity cashes checks, drafts or money orders for free, or when the person or entity cashes checks, drafts or money orders as an incident to the conduct of another lawful business (e.g. a store) and not more than $1.00 is charged. New York State strictly regulates the check cashing industry, from setting limits on the amount that can be charged for cashing a check to regulating how close together facilities can be located.

Check cashers are licensed by the Superintendent of Banks under Article IX-A of the Banking Law.

Credit Unions

A credit union is a non-stock corporation (i.e. a membership corporation) whose members must either have a common employer or be members of the same trade, industry, profession, club, union, society or other association. Credit unions may accept deposits from, make loans to, and issue credit cards to their members, among other things. The Banking Law also provides for an entity called a corporate credit union, whose members are primarily other credit unions.

Credit unions are regulated under Article XI of the Banking Law. New York state-chartered credit unions are also regulated by the National Credit Union Administration, which also insures credit union share accounts up to certain limits.

Domestic Representative Offices

A national bank or a bank chartered in another state that wishes to establish a presence in New York State in order to conduct certain business activities may choose to register a Domestic Representative Office with the Superintendent. A Representative Office can also be an office of a New York state-chartered institution located outside the New York that engages in representational functions. Domestic Representative Offices may only engage in certain functions on behalf of the institution such as approving loans, executing loan documents, soliciting loans (including assembling credit information, property inspections and appraisals, securing title information, preparing loan applications, solicitation loan servicing) soliciting banking business on behalf of the institution, conducting research, and acting as liaison with customers of the institution.

Domestic Representative Offices are not branches and cannot engage in general banking transactions at such offices. And they may not disburse funds, transmit funds, accept loan repayments, or accept deposits on behalf of the banking institution.

Foreign Agencies

A Foreign Agency is an agency of a foreign bank that is licensed by the Superintendent to conduct banking business in New York and has many of the same powers as a foreign bank branch, except in the case of deposits. A New York Foreign Agency has many of the same powers as a branch, except in the case of deposits. An agency may issue large-denomination ($250,000 or over) CDs, may accept deposits from foreign residents and citizens and may maintain credit balances for customers incidental to its banking business.

Foreign branches, agencies and representative offices are covered in Article V-B of the Banking Law. Since 1991, they have also been subject to supervision by the Federal Reserve Board. Foreign branches, agencies and representative offices are covered in Article V-B of the Banking Law.

Foreign Bank Branches

A Foreign Bank Branch is an office of a foreign bank that is licensed by the Superintendent to conduct banking business in New York. A Foreign Bank Branch may exercise the same powers as a state-chartered commercial bank, including accepting deposits, making loans, issuing letters of credit, dealing in foreign exchange, making acceptances and, if authorized, exercising fiduciary powers. There are two types of foreign branches—insured and uninsured. An insured branch may conduct a retail banking business in New York, making consumer loans and accepting consumer deposits. An uninsured branch may accept deposits only as authorized by the FDIC Rules, with disclosure of their non-insured status.

Foreign branches, agencies and representative offices are covered in Article V-B of the Banking Law. Since 1991, they have also been subject to supervision by the Federal Reserve Board. Since the FDIC Foreign Bank Supervision Enhancement Act (“FBSEA”) was passed in 1991, no new insured branches have been allowed.

Foreign Representative Offices

A foreign bank wishing merely to solicit business in the U.S. may establish a representative office to conduct research on the U.S. market and engage in marketing for the foreign bank. A representative office is not permitted to perform any core banking functions for the foreign bank or make any business decisions that would obligate the foreign bank, but it is permitted to engage in a number of activities not deemed to constitute the business of banking, including acting as liaison with customers and correspondents of the foreign bank, soliciting new business for the foreign bank, soliciting investors to buy loans from the foreign bank, and soliciting loans of $250,000 or more for the foreign bank.

Foreign branches, agencies and representative offices are covered in Article V-B of the Banking Law. Since 1991, they have also been subject to supervision by the Federal Reserve Board. Since the FBSEA was passed in 1991, no new insured branches have been allowed.

Health Insurers

The Department is responsible for regulating the following types of health insurers: accident and health; non-profit health services, medical expense indemnity, dental expense indemnity corporations and health maintenance organizations (HMOs). In addition, the Department regulates health insurance products issued by fraternal benefit societies, municipal cooperative health benefit plans and continuing care retirement communities (CCRCs).

The Department oversees the solvency of these companies, corporate and marketplace conduct, and compliance with the Insurance Law and regulations. The Department conducts periodic financial and market conduct examinations of these companies; reviews and approves health insurance premium adjustments; reviews and approves new rates and filings; and issues legal interpretations of contract language for health insurance, including Disability Benefits Law (DBL) coverage and continuing care retirement communities (CCRCs).

Investment Companies (Article XII)

An Article XII investment company is a type of banking organization that is not an “investment company” subject to registration under the Investment Company Act of 1940. An Article XII Investment company is a specialized non-depository lending institution that has broad borrowing and lending powers and may invest in stocks and bonds.

An Article XII investment company may not accept “deposits” inside the U.S., although it may accept credit balances in New York that are incidental to the exercise of its other powers and may accept deposits outside New York with the approval of the Banking Board. Some Article XII investment companies specialize in commercial or retail sales finance, while others are involved in domestic and international commercial and merchant banking. A few Article XII investment companies are owned by securities firms, which use them to serve as a holding company for a banking subsidiary located in the European Union. Such holding companies satisfy an EU requirement that banks owned by a non-EU firm have a home country consolidated supervisor. Several foreign banks maintain Article XII investment companies. In addition, several large U.S. financial companies, including American Express, General Electric and Western Union, also have chartered Article XII investment companies.

Licensed Lenders

A licensed lender is an entity engaged in the business of making loans in the principal amount of $25,000 or less to any individual for personal, family, household, or investment purposes, or $50,000 or less for business and commercial loans, and which charge a rate of interest greater than 16% a year.

Licensed lenders are covered in Article IX of the Banking Law.

Life Insurance Companies

The Department is responsible for regulating the financial condition, market conduct activities, corporate conduct, and administration of the Insurance Law for the following types of insurers: life insurance companies, life insurance departments of savings banks, public pension funds, fraternal benefit societies, retirement systems, charitable annuity societies, life settlement companies and union welfare funds.

The Department conducts annual reviews of reserves; issues certificates of reserve valuation; reviews actuarial opinions and memoranda; audits minimum statutory formula reserves; reviews rates and actuarial aspects of life insurance and annuity policy forms; reviews reserve procedures for separate account plans of operation; reviews applications for the creation of continuing care retirement communities; conducts legal reviews and evaluations of life insurance and annuity contracts, reviews related policy forms and life settlement contracts; and drafts regulations and proposed legislation in connection with life insurance policies and annuity contracts.

Money Transmitters

A Money Transmitter is a business that issues and sells traveler’s checks, money orders, and transmits money on behalf of the public by any means including transmissions within this country or abroad by wire, check, draft, facsimile or courier. Generally, a money transmitter markets its services through a network of agents.

Money transmitters are regulated licensed under Article IX of the Banking Law.

Mortgage Bankers

A mortgage banker is a person or entity that engages in the business of making five or more mortgage loans in any one calendar year (other than certain exempted entities, including a banking organization and an insurance company).

Mortgage bankers are subject to licensing by the Superintendent of Banks under Article XII-D of the Banking Law.

Mortgage Bankers-Exempt

Certain entities that engage in mortgage lending or mortgage brokering are exempt from the licensing and registration requirements of the Banking Law. But these organizations are subject to the disclosure and other regulations regarding one-to-four-family owner-occupied residential mortgages. Additionally, the Superintendent has the authority to examine these institutions. Bona fide non-profit organizations are eligible for exemption.

Mortgage Brokers

A mortgage broker is a person who solicits, processes, places or negotiates a mortgage loan, but does not include a real estate broker or salesman, as defined in § 440 of the Real Property Law, if he does not directly or indirectly accept a fee for services rendered in connection with such solicitation, processing, placement or negotiation.
Mortgage brokers are subject to registration by the Superintendent of banks under Article XII-D of the Banking Law.

Mortgage Brokers-Inactive

Inactive mortgage brokers are brokers that are prohibited from soliciting, processing or negotiating mortgage loans for one-to-four-family residential properties in New York.

Mortgage Loan Originators

A mortgage loan originator is an individual who, for compensation or gain, or in the expectation of compensation or gain, takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan. The term does not include any individual engaged solely in loan processor or underwriter activities (as described in the statute), except if the individual is working as an independent contractor of an originating entity, certain individuals who are real estate brokers, or an individual engaged in extensions of credit for timeshare plans. They are subject to a criminal background check and must complete certain educational requirements.

Article 12-E of the New York Banking Law, which went into effect on July 11, 2009, requires all individuals (with limited exceptions) who engage in the business of a mortgage loan originator with respect to New York residential real estate, to obtain a license from the Superintendent of Banks. The New York State Banking Department uses the Nationwide Mortgage Licensing System (NMLS) as the initial step in the Mortgage Loan Originator license application process.

The NMLS can also be used to renew, amend or surrender an existing license. (NMLS itself does not grant or deny license authority.)

Mortgage Loan Servicers

A mortgage loan servicer is any person or entity in the business of servicing residential mortgage loans. Servicing includes receiving any scheduled periodic payments from a borrower pursuant to the terms of any mortgage loan, including amounts for escrow accounts, and making payments to the owner of the loan or other third parties of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the mortgage loan documents or servicing contract. In the case of a home equity conversion mortgage or reverse mortgage, servicing includes making payments to the borrower.

Exempt Mortgage Loan Servicers are loan servicers that are exempt from registering with the Superintendent but intend to service mortgages in the state. The statute makes such firms subject to New York State conduct of business rules.

New York State Regulated Corporations

New York State Regulated Corporations are business entities that are formed and incorporated by the State of New York through legislative acts and placed under the regulatory supervision of the Superintendent.

Premium Finance Companies

A premium finance company enters into premium finance agreements with an insured person or acquires premium finance agreements from insurance agents or brokers or other premium finance agencies. A premium finance agreement is an arrangement under which a premium finance agency or an insurance broker or agent advances funds to an insurance company to pay an insurance premium on behalf of the insured and receives repayment by the insured over a period of time.

Under Article XII-B of the Banking Law, the Banking Department licenses insurance finance agencies and regulates the terms of the finance agreement.

Private Bankers

A private bank is a bank owned by an individual or a partnership. A private bank may engage generally in the full range of commercial and investment banking activities, except that it cannot take deposits.

Property and Casualty Insurance Companies

The Department regulates the financial condition, corporate conduct, and administration of the Insurance Law for the following types of property and casualty insurers: fire and marine, casualty and surety, title, financial guaranty and mortgage guaranty. The Department also regulates policy forms and rates for these types of insurance, and monitors and investigates insurers' market conduct practices.

Safe Deposit Companies

A safe deposit company acts as a custodian for storage of personal property and papers of any kind. It may also engage in the safe deposit business by renting vaults and safe deposit boxes. It cannot lend money or make advances on any property left in its possession. Safe Deposit Companies and the safe deposit business are covered in Articles VIII and VIII-A of the Banking Law.

Sales Finance Companies

A sales finance company acquires retail installment contracts or other credit agreements made by other parties. The term includes a retail car dealer who holds retail installment contracts acquired from retail buyers, which have aggregate unpaid time balances of $25,000 or more. The term also includes a person who enters into retail installment credit agreements with retail buyers under § 413(11) of the Personal Property Law.

The Banking Department licenses persons to engage as sales finance companies (other than banks, savings banks, savings and loan associations, trust companies, private bankers or investment companies or licensed lenders) under Article XI-B of the Banking Law.

Savings Banks and Savings & Loan Associations (S&L)

Savings Banks are also known as thrifts. A savings bank is a financial institution whose primary purpose is accepting savings deposits. It may also perform some other functions. Savings Banks are community, regional or national for-profit business corporations owned by private investors and governed by a board of directors chosen by stockholders. Historically, savings banks were organized as mutual companies.

"Thrift" is a blanket term that was historically used to describe savings and loan associations, savings banks and savings associations to differentiate them from "commercial banks." Whereas commercial banks focus on business accounts and commercial lending, thrifts focus on residential lending and promoting home ownership. To qualify as a thrift, a bank must issue a certain volume of loans secured by residential real estate. Thrifts are regulated under Article VI of the Banking Law.

A Savings & Loan or "S&L" is also a thrift. Historically, savings and loan associations were organized as stock companies and typically were local or regional in nature, focusing on the needs of a community of residential customers. S&Ls are regulated under Article X of the

Banking Law and must have a certain percent of assets in residential mortgage and mortgage securities. Though historically there was a difference in the types of products and services that savings banks and commercial banks could offer to the public, many of these products and services are now offered by both, however, commercial banks and savings banks (or thrifts) remain under the supervision of different regulatory bodies.

APPENDIX C: HISTORY

The Banking Department

New York State banking policy began with an act in 1782 prohibiting the operation of any bank within the State, except for the Federal Bank of North America. In 1791, the Legislature authorized a charter for the first state bank, the Bank of New York, and thereafter chartered other banks by special acts.

A law in 1829 set up the Bank Fund, later renamed the Safety Fund, to guarantee the payment of debts of insolvent banks. All state-chartered banks were required to make an annual contribution to the fund, which was managed by the state treasurer. The same law provided for the appointment of three bank commissioners to examine the financial status of banks and to report annually to the Legislature.

State regulation of banks was altered by the Banking Law of 1838, which required banks to file certificates of incorporation with the Secretary of State and report annually to the Comptroller. In 1843, the Comptroller was authorized to examine a bank only when there was reason to suspect an incorrect report had been submitted or the bank was in an unsafe and unsound condition to continue business.

On April 15, 1851, the Legislature created the Banking Department with a chief officer to be known as the Superintendent. The first Superintendent of Banks was Daniel B. St. John.

In 1932, the Banking Board was created to advise and cooperate with the Banking Department in the formulation of banking standards and to exercise power to approve or disapprove the issuance of bank charters and licenses and the establishment of branch banks.

The Insurance Department

Insurance regulation in New York State dates to the early 1800s when the business of insurance was conducted under incorporation charters granted by the Legislature. The need for more comprehensive industry oversight became evident as New York grew as a commercial and transportation center. New York's Constitution of 1846 ended the cumbersome process of granting special charters to incorporate insurers. The new Constitution required insurers to be organized under general state laws. In 1849, the Legislature approved legislation requiring the Comptroller to administer laws covering marine, fire and other forms of insurance.

In 1859, legislation was approved creating an independent insurance department. The legislation called for a single, full-time superintendent. The cost of supporting the new department—on a recommendation from the insurance industry—was to be borne entirely by industry assessments. When the legislation became effective on Jan. 1, 1860, William F. Barnes took office as first

Superintendent. He supervised the filings of 155 fire insurance companies and 16 life insurance companies during his first year in office.

By the 1870s, each state had some form of insurance regulation and most had an insurance department or agency. However, differing state requirements for annual statement forms and other submissions led to confusion in the industry. In 1871, Superintendent George W. Miller invited insurance commissions from the other states to meet in New York to strive for more uniform regulation. Eighteen states met later that year for the first session of the organization that evolved into the National Association of Insurance Commissioners (NAIC).

The Insurance Law of 1892 codified many provisions that have been passed down to today's Insurance Law, establishing the first comprehensive compilation of previously existing provisions relating to insurance. These included regulations relating to investment capital and the authority of the Superintendent over impaired insurers.

Mismanagement in the life insurance business, including exorbitant salaries and questionable investments, resulted in a 1905 investigation led by Charles Evans Hughes, who would become the state's 36th Governor and later United States Chief Justice.
The investigation, known as the Armstrong Investigation, led to the passage of a New York law that spelled out a series of reforms, including mandatory periodic examinations of all life companies. The reforms became a model for life insurance legislation adopted in other states.

During the Great Depression, the Department promoted new rules clarifying insurer investment requirements, setting more equitable determination of cash surrender values and forfeitures, and recognizing up-to-date values and improvements in mortality tables.
In 1943, an anti-trust case filed by the U.S. Department of Justice brought into question the issue of state regulation of the insurance industry. The government contended that the defendants, members of the South-Eastern Underwriters, an organization of fire insurance companies, monopolized trade and commerce in several states. The case ended when the Supreme Court ruled that the Sherman Anti-Trust Act did, in fact, apply to the business of insurance and, therefore, could be regulated by Congress.

Recognizing the significant implications of the ruling, Superintendent Robert Dineen and other state commissioners proposed federal legislation that would maintain state supervision. Later, Congress passed the McCarran Act, which established that federal anti-trust laws did not apply to the business of insurance as long as the states elected to regulate the industry.

In the years following World War II, New York pioneered many consumer protections that are today considered commonplace. For example, in the field of health insurance, New York required comprehensive mandated benefits, open enrollment, and prohibitions against insurers arbitrarily dropping an individual's health insurance coverage.

New York has the first Insurance Department in the nation to establish a capital markets group to examine and measure the risks in insurance company investment practices. New York was also the first state to recognize the importance of segregating multiple lines insurance from financial guaranty insurance as a means of preventing systemic risk since large guaranty losses could threaten the viability of an insurer’s other lines of business.

In 2001, New York was the first state to establish an Insurance Emergency Operations Center, a one-of-a-kind public and private sector partnership designed to accelerate disaster assessments and expedite claims payments to disaster victims. The IEOC was first put to work to help New Yorkers recover from the Sept. 11, 2001, terrorist attacks, which sadly claimed the life of a former Banking and Insurance Department Superintendent, Neil Levin.