

**NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
FIRST AMENDMENT TO 11 NYCRR 82
(INSURANCE REGULATION 203)**

ENTERPRISE RISK MANAGEMENT AND OWN RISK AND SOLVENCY ASSESSMENT; GROUP-WIDE SUPERVISION

I, Linda A. Lacewell, Superintendent of Financial Services, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 110, 301, 302, 308, 1503(b), 1504(c), 1604(b), and 1717 of the Insurance Law, do hereby promulgate the following First Amendment to 11 NYCRR 82 (Insurance Regulation 203), to take effect upon publication of the Notice of Adoption in the State Register, to read as follows:

(Matter In Brackets Is Deleted; New Matter Is Underlined)

The title of Part 82 is amended to read as follows:

ENTERPRISE RISK MANAGEMENT AND OWN RISK AND SOLVENCY ASSESSMENT; GROUP-WIDE SUPERVISION

Subdivisions (e), (f), (g), (h), (i), (j), and (k) of Section 82.1 are relettered, consecutively, as (f), (g), (h), (j), (k), (l), and (m).

New subdivisions (e) and (i) of Section 82.1 are added as follows:

(e) *Group-wide supervisor* means the regulatory official authorized to engage in conducting and coordinating group-wide supervision activities.

(i) *Internationally active insurance group* or *IAIG* means a holding company system, Article 16 system, or Article 17 system that includes an insurer registered under Insurance Law sections 1503, 1604, or 1717 and meets the following criteria: (1) has premiums written in at least three countries; (2) the percentage of gross premiums written outside the United States is at least ten percent of the holding company system's, Article 16 system's, or Article 17 system's total gross written premiums; and (3) based on a three-year rolling average, the total assets of the holding company system, Article 16 system, or Article 17 system are at least \$50 billion or the total gross written premiums of the holding company system, Article 16 system, or Article 17 system are at least \$10 billion dollars.

Sections 82.4 and 82.5 are renumbered as sections 82.5 and 82.6.

A new section 82.4 is added as follows:

§ 82.4 Group-wide supervision of internationally active insurance groups.

(a) The superintendent may act as the group-wide supervisor for any IAIG in accordance with the provisions of this section. A holding company system, Article 16 system, or Article 17 system that does not otherwise

qualify as an IAIG may request that the superintendent make a determination as to whether he or she is a group-wide supervisor pursuant to this section.

(b) The superintendent may determine at any time that the superintendent is the appropriate group-wide supervisor for an IAIG that conducts substantial insurance operations in this State. The superintendent shall consider the following factors when making a determination under this subdivision:

(1) the place of domicile of the insurers within the IAIG that hold the largest share of the IAIG's written premiums, assets, or liabilities;

(2) the place of domicile of the top-tiered insurer or insurers in the IAIG's holding company system, Article 16 system, or Article 17 system;

(3) the location of the executive offices or largest operational offices of the IAIG;

(4) whether another regulatory official is acting or seeking to act as the group-wide supervisor under a regulatory system that the superintendent determines to be substantially similar to the system of regulation provided under the laws of this State, or otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials; and

(5) whether another regulatory official acting or seeking to act as the group-wide supervisor provides the superintendent with reasonably reciprocal recognition and cooperation.

(c) In the case of an IAIG that has not conducted substantial insurance operations in this State, the superintendent may determine that he or she is the group-wide supervisor for the IAIG pursuant to subdivision (b) of this section in the event of a material change in the IAIG that results in: (1) the IAIG's insurers domiciled in this State holding the largest share of the IAIG's premiums, assets, or liabilities; or (2) this State being the place of domicile of the top-tiered insurer or insurers in the holding company system, Article 16 system, or Article 17 system.

(d) Pursuant to Insurance Law sections 308 and 1504, any insurer registered pursuant to Insurance Law sections 1503, 1604, or 1717 shall provide the superintendent with all information necessary to determine whether the superintendent may act as the group-wide supervisor of an IAIG. Prior to issuing a determination that an IAIG is subject to group-wide supervision by the superintendent, the superintendent will notify the insurer registered pursuant to Insurance Law section 1503 and the entity within the IAIG. The IAIG shall have 30 days, or such additional time as the superintendent may permit, to provide the superintendent with additional information pertinent to the pending determination. The superintendent shall publish on the department's website the identity of any IAIG that the superintendent has determined is subject to group-wide supervision by the superintendent.

(e) If the superintendent is the group-wide supervisor for an IAIG, then the superintendent may:

(1) assess the enterprise risks within the IAIG to ensure that: (i) the material financial condition and liquidity risks to the members of the IAIG that are engaged in the business of insurance are identified by management; and (ii) reasonable and effective mitigation measures are in place;

(2) request, from any member of an IAIG subject to the superintendent's supervision, information necessary and appropriate to assess enterprise risk, including information about the members of the IAIG pertaining to governance, risk assessment and management, capital adequacy, and material intercompany transactions;

(3) coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the IAIG are domiciled, compel development and implementation of reasonable measures designed to ensure that the IAIG is able timely to recognize and mitigate enterprise risks to members of the IAIG that are engaged in the business of insurance;

(4) communicate with other state, federal, and international regulatory agencies that oversee members of the IAIG and share relevant information subject to the provisions of Insurance Law section 110, through supervisory colleges as set forth in Insurance Law section 302, or otherwise;

(5) enter into agreements with or obtain documentation from any insurer registered under Insurance Law sections 1503, 1604, or 1717, any member of the IAIG, and any other state, federal, and international regulatory agencies that oversee members of the IAIG, providing the basis for or otherwise clarifying the superintendent's role as group-wide supervisor, including provisions for resolving disputes with other regulatory officials; and

(6) engage in other group-wide supervision activities, consistent with the authorities and purposes enumerated above, as considered necessary by the superintendent.

(f) The superintendent may enter into agreements with or obtain documentation from any insurer registered under Insurance Law sections 1503, 1604, or 1717, any affiliate of such insurer, and other state, federal, and international regulatory agencies that oversee members of the IAIG, which agreements or documentation provide the basis for or otherwise clarify a regulatory official's role as group-wide supervisor.

(g) Nothing in this Part shall be construed as limiting any powers of the superintendent granted by the laws of this State and the regulations promulgated thereunder.



Department of Financial Services

ANDREW M. CUOMO
Governor

LINDA A. LACEWELL
Superintendent

CERTIFICATION

I, Linda A. Lacewell, Superintendent of Financial Services, do hereby certify that the foregoing is the First Amendment to Part 82 (Insurance Regulation 203) of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York, signed by me on May 15, 2020, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 110, 301, 302, 308, 1503(b), 1504(c), 1604(b), and 1717 of the Insurance Law, to take effect upon publication of the Notice of Adoption in the State Register.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed rule was published in the New York State Register on March 4, 2020. No other publication or prior notice is required by statute.

Linda A. Lacewell
Superintendent of Financial Services

Dated: May 15, 2020