



## Department of Financial Services

**KATHY HOCHUL**  
Governor

**ADRIENNE A. HARRIS**  
Acting Superintendent

**VIA EMAIL**

**Christopher.DeMarco@dos.ny.gov**

January 11, 2022

Christopher DeMarco  
State Register/Office of Information Services  
New York State Department of State  
One Commerce Plaza  
99 Washington Avenue, Suite 650  
Albany, NY 12231

Re: January 2022 Regulatory Agenda

Dear Christopher DeMarco:

Attached is the Department of Financial Services' Regulatory Agenda for publication in the January 26, 2022 issue of the State Register. Please note that the Regulatory Agenda is divided into three sections: Insurance Regulations, Banking Regulations, and Financial Services Regulations.

Sincerely yours,

*Sally Geisel*

Sally Geisel  
Supervising Attorney  
(212) 480-7608

Cc: Christine Tomczak

**NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES**  
**REGULATORY AGENDA**

Pursuant to State Administrative Procedure Act (“SAPA”) Section 202-d, the following Regulatory Agenda is a list of the regulatory additions and amendments to Titles 3, 11, and 23 of the NYCRR that the New York State Department of Financial Services (“Department”) is presently considering proposing during 2022. Some of these items were previously published in the January 2021 Regulatory Agenda. **Items that have already been published in the State Register as “proposed” actions are not included on the list.** The Department’s regulatory plans are subject to change, and the Department reserves the right to add to, delete from, or modify items in the Regulatory Agenda without further notice.

This notice also is intended to provide small businesses, local governments, and public and private interests in rural areas with the opportunity to participate in the rule making process, as required by Sections 202-b and 202-bb of SAPA.

**I. Insurance Regulations**

For inquiries about a specific item, please contact the person identified for that item. For general inquiries about the Insurance Regulations included in this Regulatory Agenda, or to obtain copies of current Insurance Regulations, please contact:

Sally Geisel  
Supervising Attorney  
New York State Department of Financial Services  
One State Street  
New York, NY 10004  
(212) 480-7608  
[Sally.Geisel@dfs.ny.gov](mailto:Sally.Geisel@dfs.ny.gov)

You may instead obtain the current Insurance Regulations directly from [Thomson Reuters Westlaw](#).

1. Summary description of proposal: Addition of a new subpart 65-6 to 11 NYCRR (Insurance Regulation 65-F), amendment to 11 NYCRR 65 (Regulations Implementing the Comprehensive Motor Vehicle Insurance Repairs Act) (Insurance Regulation 68), and amendment to 11 NYCRR 68 (Charges for Professional Health Services) (Insurance Regulation 83) to implement an alternative dispute resolution process for disputes involving claims of independent livery drivers that are processed pursuant to pre-authorization procedures and medical treatment guidelines set forth in 12 NYCRR 324 and applicable provisions of Article 2 of the Workers’ Compensation Law. Agency contact: Camielle A. Barclay, Associate Attorney, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5299; [Camielle.Barclay@dfs.ny.gov](mailto:Camielle.Barclay@dfs.ny.gov).

2. Summary description of proposal: Amendment to 11 NYCRR 68 (Charges to Professional Health Services) (Insurance Regulation 83) to update the fee schedule rules applicable to no-fault in light of amendments to Workers’ Compensation Board’s fee schedules. Agency contact: Camielle Barclay, Associate Attorney, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5299; [Camielle.Barclay@dfs.ny.gov](mailto:Camielle.Barclay@dfs.ny.gov).

3. Summary description of proposal: Amendment to 11 NYCRR 65-4 (Arbitration) (Insurance Regulation 68-D) to amend rules related to both the manner in which the first party motor vehicle insurance arbitration programs are administered and the manner in which the costs of these programs are assessed to the insurance industry. Agency contact: Camielle Barclay, Associate Attorney, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5299; Camielle.Barclay@dfs.ny.gov.

4. Summary description of proposal: Amendment to 11 NYCRR 65-2 (Rights and Liabilities of Self-Insurers) (Insurance Regulation 68-B), 11 NYCRR 65-3 (Claims for Personal Injury Protection Benefits) (Insurance Regulation 68-C), 11 NYCRR 65-4 (Arbitration) (Insurance Regulation 68-D), the New York Motor Vehicle No-Fault Insurance Law Assignment of Benefits Form, the NYS Form NF-3, and the NYS Form NF-10 to prescribe that an insurer may void the assignability of all rights, privileges, and remedies to a health care provider (other than a hospital) from an eligible injured person through an executed assignment of benefits form if the insurer denies a claim because the eligible injured person failed to appear for a medical examination or examination under oath at the insurer's request. Agency contact: Camielle A. Barclay, Associate Attorney, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5299; Camielle.Barclay@dfs.ny.gov.

5. Summary description of proposal: Amendment to 11 NYCRR 67 (Mandatory Underwriting Inspection Requirements for Private Passenger Autos) (Insurance Regulation 79) regarding automobile photo inspections. Agency contact: Camielle Barclay, Associate Attorney, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5299; Camielle.Barclay@dfs.ny.gov.

6. Summary description of proposal: Amendment to 11 NYCRR 60-1 (Minimum Provisions for Automobile Liability Insurance Policies) (Insurance Regulation 35-A) to amend subdivision (c) of 11 NYCRR 60-1.1 to fix an incorrect grammatical construction caused by the formatting of the subdivision. The current format may lead a reader to limit the application of subparagraphs (i) – (iii) to subdivision (c)(3) only, when in fact the subparagraphs apply also to paragraphs (2) and (3) of subdivision (c). Agency contact: Joana Lucashuk, Deputy General Counsel for Insurance, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-2125; Joana.Lucashuk@dfs.ny.gov.

7. Summary description of proposal: Amendment to 11 NYCRR 80-1 (Holding Companies) (Insurance Regulation 52), 11 NYCRR 81 (Subsidiaries of Insurance Companies) (Insurance Regulation 53), and 11 NYCRR 82 (Enterprise Risk Management and Own Risk and Solvency Assessment; Group-Wide Supervision (Insurance Regulation 203), regarding implementation of an annual group capital calculation and liquidity stress test and continuity of essential services and functions to an insurer in receivership by affiliated entities. Agency contact: Joana Lucashuk, Deputy General Counsel for Insurance, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-2125; Joana.Lucashuk@dfs.ny.gov.

8. Summary description of proposal: Amendment to 11 NYCRR 27 (Excess Line Placements Governing Standards) (Insurance Regulation 41), 11 NYCRR 60-1 (Minimum Provisions for Auto Liability Insurance Policies) (Insurance Regulation 35-A), 11 NYCRR 60-2 (Supplementary Uninsured/Underinsured Motorists Insurance) (Insurance Regulation 35-D), 11 NYCRR 60-3 (Transportation Network Companies; Minimum Provisions for Auto Liability Policies and Other Requirements) (Insurance Regulation 35-E), 11 NYCRR 65-1 (Regulations Implementing the

Comprehensive Motor Vehicle Insurance Reparations Act – Prescribed Policy Endorsements) (Insurance Regulation 68-A), 11 NYCRR 65-3 (Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparations Act – Claims for Personal Injury Protection Benefits (Insurance Regulation 68-C), 11 NYCRR 65-4 (Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparations Act – Arbitration) (Insurance Regulation 68-D), 11 NYCRR 169 (Noncommercial Motor Vehicle Insurance Merit Rating Plans) (Insurance Regulation 100), and 11 NYCRR 216 (Unfair Claims Settlement Practices and Claim Cost Control Measures) (Insurance Regulation 64), implementing Chapter 795 of the Laws of 2021, pertaining to peer-to-peer car sharing programs. Agency contact: Joana Lucashuk, Deputy General Counsel for Insurance, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-2125; Joana.Lucashuk@dfs.ny.gov.

9. Summary description of proposal: Amendment to 11 NYCRR 216 (Unfair Claims Settlement Practices and Claim Cost Control Measures) (Insurance Regulation 64) to update Section 216.7 to clarify certain provisions in the regulation regarding motor vehicle physical damage claims. Agency contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5595; Hoda.Nairooz@dfs.ny.gov.

10. Summary description of proposal: Amendment to 11 NYCRR 111 (Statement of Actuarial Opinion and Actuarial Opinion Summary for Property/Casualty Insurers) (Insurance Regulation 207) to update the reference to the annual statement instructions published by the National Association of Insurance Commissioners that is incorporated by reference in the regulation. Agency contact: Sak-Man Luk, Supervising Casualty Actuary, Property Bureau, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5135; Sak-Man.Luk@dfs.ny.gov.

11. Summary description of proposal: Amendment to 11 NYCRR 53 (Life and Annuity Cost Disclosure and Sales Illustrations) (Insurance Regulation 74) to revise and clarify the delivery, signature and certification form requirements for life insurance sales illustrations, including electronic delivery, for policies marketed with illustrations; to modify the bases used for illustrations for life insurance policies with non-guaranteed elements, including universal life; to add requirements to the disciplined current scale underlying the illustrations; and to require additional disclosures for such policies. Agency contact: Rebecca Bollam, Associate Insurance Attorney, Life Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 474-4552; Rebecca.Bollam@dfs.ny.gov.

12. Summary description of proposal: Amendment of 11 NYCRR 50 (Separate Accounts and Separate Account Annuities) (Insurance Regulation 47) to establish revised standards for the operation of separate accounts, contract provisions, and actuarial requirements to reflect statutory changes, recent innovations in product design, and changes in administration of separate account products. Agency contact: Peter Dumar, Chief Insurance Attorney, Life Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 474-4552; Peter.Dumar@dfs.ny.gov.

13. Summary description of proposal: Amendment to 11 NYCRR 103 (Principle-Based Reserving) (Insurance Regulation 213) to revise the reserve standards for certain products and update the reference to the Valuation Manual published by the National Association of Insurance Commissioners that is incorporated by reference in the regulation. Agency contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 473-6576; Amanda.Fenwick@dfs.ny.gov.

14. Summary description of proposal: Addition of a new Part to 11 NYCRR (Issuance of Stop-Loss and Health Insurance Policies to Small Groups) to establish standards relating to the activities of insurers

issuing stop-loss and health insurance policies to small groups in order to preserve and maintain the small group health insurance market in New York. Agency contact: Jon Thayer, Associate Attorney, Health Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 486-2970; Jon.Thayer@dfs.ny.gov.

15. Summary description of proposal: Amendment to 11 NYCRR 52 (Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Insurance Regulation 62) to set forth standards relating to health insurance producer payments. Agency contact: Tobias J. Len, Assistant Chief, Health Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 486-2970; Tobias.Len@dfs.ny.gov.

16. Summary of description of proposal: Amendment to 11 NYCRR Part 52 (Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Insurance Regulation 62) and Part 215 (Advertisements of Accident and Health Insurance) (Insurance Regulation 34) to establish minimum standards and consumer protections for accident, travel, and hospital indemnity insurance. Agency contact: Christina Fernet, Associate Attorney, Health Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 486-2970; Christina.Fernet@dfs.ny.gov.

17. Summary description of proposal: Amendment to 11 NYCRR 52 (Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Insurance Regulation 62) and 23 NYCRR 400 (Independent Dispute Resolution for Emergency Services and Surprise Bills) to incorporate requirements from the federal No Surprises Act. Agency contact: Colleen Rumsey, Supervising Attorney, Health Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 486-2970; Colleen.Rumsey@dfs.ny.gov.

18. Summary description of proposal: Amendment to 11 NYCRR 86 (Reports of Suspected Insurance Frauds to Criminal Investigations Unit; Required Warning Statements) (Insurance Regulation 95) to modify certain fraud warning requirements for standard hospital, medical and dental insurance claim forms established under Insurance Law Section 3224 and 11 NYCRR 17 (Insurance Regulation 88) in order to facilitate the usage of standard claim forms developed by the Centers for Medicare and Medicaid Services and the American Dental Association. Agency contact: Kathleen Grogan, Principal Insurance Examiner, Criminal Investigations Unit, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5776; Kathleen.Grogan@dfs.ny.gov.

19. Summary description of proposal: Amendment to 11 NYCRR 86 (Reports of Suspected Insurance Frauds to Criminal Investigations Unit; Required Warning Statements) (Insurance Regulation 95) to require licensees to revise fraud prevention plans to reflect any changes to the holding company, the Special Investigations Unit (“SIU”) personnel or provider of SIU services, or the lines of business that affect the SIU; and to amend Section 86.6(d) to correct the date by which an annual report must be filed from January 15 to March 15, in compliance with Insurance Law Section 409(g). Agency contact: Kathleen Grogan, Principal Insurance Examiner, Criminal Investigations Unit, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5776; Kathleen.Grogan@dfs.ny.gov.

## **II. Banking Regulations**

For inquiries about the Banking Regulations included in this Regulatory Agenda, or to obtain copies of current Banking Regulations, please contact:

Christine M. Tomczak  
Assistant Counsel  
Office of General Counsel  
New York State Department of Financial Services  
One State Street  
New York, NY 10004  
(212) 709-1642  
[Christine.Tomczak@dfs.ny.gov](mailto:Christine.Tomczak@dfs.ny.gov)

You may instead obtain current Banking Regulations directly from [Thomson Reuters Westlaw](#).

1. Summary description of proposal: Amendments to Part 38 of the General Regulations of the Superintendent of 3 NYCRR (Definition of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct Under Article 12-D) to enhance advertising, disclosure and conduct rules for mortgage bankers and brokers and to incorporate applicable changes under federal laws and regulations.
2. Summary description of proposal: Amendment to Part 41 of the General Regulations of the Superintendent of 3 NYCRR (Restrictions and Limitations on High Cost Home Loans) to address threshold limits, the impact of lender paid fees, and otherwise to conform to the requirements of Section 6-1 of the Banking Law.
3. Summary description of proposal: Amendment to Part 79 of the General Regulations of the Superintendent of 3 NYCRR (Reverse Mortgage Loans) to give effect to changes in foreclosure procedures enacted in the Laws of 2020, Chapter 337 and any subsequent corrective amendment to that statute.
4. Summary description of proposal: Amendment to Part 322.7 of the Superintendent's Regulations of 3 NYCRR (Definition of Well-Rated Foreign Banking Corporations) in connection with the elimination by the Federal Reserve System of the Strength of Support Assessment (SOSA) rating for all foreign banking organizations subject to the interagency program for supervising the U.S. operations of foreign banking organizations.
5. Summary description of proposal: Amendment to Part 400.2 of the Superintendent's Regulations of 3 NYCRR (Books, Records and Microfilm) to eliminate outdated regulatory requirements (i.e., maintenance of records on microfilm) in connection with check cashers books and records).
6. Summary description of proposal: Amendment to Part 401 (Licensed Lenders), Part 403 (Sales Finance Companies) and Part 405 (Premium Finance Agencies) of the Superintendent's Regulations of 3 NYCRR to include a reporting requirement for each licensee to submit to the Superintendent an independent audited annual financial statement within 90 days after the licensee's fiscal year end.
7. Summary description of proposal: Amendment to Part 403 of the Superintendent's Regulations of 3 NYCRR (Sales Finance Companies) to include a requirement for the submission of annual reports to the Superintendent and to allow the Superintendent to make requests for additional regular or special reports as deemed necessary.

8. Summary description of proposal: Amendment to Parts 410 and 413 of the Superintendent's Regulations of 3 NYCRR (Mortgage Bankers; Licensing Requirements; Mortgage Brokers: Registration Requirements; Branch Applications: Notifications: Books and Records; Annual Reports; Surety Bonds; and Consultants of Licensed Mortgage Bankers and Registered Mortgage Brokers) and (Procedures and Requirements for Mortgage Brokers to Act as FHA Mortgage Loan Correspondents); Supervisory Procedure of 3 NYCRR MB 101 (Application for a License as a Mortgage Banker), Supervisory Procedure of 3 NYCRR MB 102 (Application for Registration as a Mortgage Broker), Supervisory Procedure of 3 NYCRR MB 103 (Application for a Change in Control of a Mortgage Banker) and Supervisory Procedure of 3 NYCRR MB 104 (Application for a Change in Control of a Mortgage Broker) to eliminate certain outdated regulatory requirements and to clarify language, minimum licensing standards, and other requirements in connection with mortgage banker and mortgage broker applications.

9. Summary description of proposal: Amendment to Part 420 of the Superintendent's Regulations of 3 NYCRR Part 420 (Mortgage Loan Originators: Education Requirements) to conform to amendments made to the federal SAFE Mortgage Licensing Act, which gives qualifying out-of-state mortgage loan originators the temporary authority to operate as a mortgage loan originator in New York prior to completing all licensing requirements.

### **III. Financial Services Regulations**

For specific inquiries about the Financial Services Regulations included in this section of the Regulatory Agenda, or to obtain copies of the current Financial Services Regulations for which proposals are described below, please contact the person identified for that item. You may instead obtain current Financial Services Regulations directly from [Thomson Reuters Westlaw](#).

1. Summary of description of proposal: Amendment to 23 NYCRR 400 (Independent Dispute Resolution for Emergency Services and Surprise Bills) to establish independent dispute resolution process for emergency services from a non-participating physician or hospital, including a bill for inpatient services that follows an emergency room visit. Agency contact: Emily Donovan, Associate Attorney, Health Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 486-2970; [Emily.Donovan@dfs.ny.gov](mailto:Emily.Donovan@dfs.ny.gov).

2. Summary of description of proposal: Amendment to 23 NYCRR 2 (Rules Governing the Procedures for Adjudicatory Proceedings Before the Department of Financial Services) to add a new section specifying that the Department of Financial Services ("Department") may conduct administrative hearings by videoconference at the Department's discretion so that parties and hearing officers do not have to be physically present at the same location during hearings, subject to a determination by the hearing officer upon a timely objection filed by the respondent or applicant that a hearing held by videoconference would either impinge upon the respondent's or applicant's due process rights, or would be fundamentally unfair or impractical, as expressed in the new section. Agency contact: Alan Lebowitz, Deputy General Counsel, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 709-1575; [Alan.Lebowitz@dfs.ny.gov](mailto:Alan.Lebowitz@dfs.ny.gov).

3. Summary description of proposal: Amendment to 23 NYCRR 2 (Rules Governing the Procedures for Adjudicatory Proceedings Before the Department of Financial Services), to clarify rules governing the procedures for adjudicatory proceedings before the Department of Financial Services. Agency contact: Meredith Weill, Deputy General Counsel for Consumer Protection and Financial Enforcement, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5279; [Meredith.Weill@dfs.ny.gov](mailto:Meredith.Weill@dfs.ny.gov).

4. Summary of description of proposal: Amendment to 23 NYCRR 500 (Cybersecurity Requirements for Financial Services Companies) to provide updated rules governing cybersecurity, to eliminate certain outdated regulatory requirements, and to clarify language, minimum standards, and other requirements in connection with cybersecurity. Agency contact: Joanne Berman, Counsel, Cybersecurity Division, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 709-1675; Joanne.Berman@dfs.ny.gov.