



NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
ONE STATE STREET
NEW YORK, NEW YORK 10004

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In the Matter of

American Guarantee and Liability Insurance Company,
Empire Fire and Marine Insurance Company,
Universal Underwriters Insurance Company,
Zurich American Insurance Company,
American Zurich Insurance Company,
Zurich American Insurance Company of Illinois

No. ###

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CONSENT ORDER

The New York State Department of Financial Services (the “Department” or “DFS”) and Zurich North America, consisting of American Guarantee and Liability Insurance Company, Empire Fire and Marine Insurance Company, Universal Underwriters Insurance Company, Zurich American Insurance Company, American Zurich Insurance Company, and Zurich American Insurance Company of Illinois (hereinafter collectively referred to as “Zurich” or “the Company”) are willing to resolve the matters described herein without further proceedings.

WHEREAS, the Department conducted a market conduct investigation into the business practices of the Company, for the period from January 1, 2018 through December 31, 2018, and

WHEREAS the investigation concluded that the Company failed to timely report new business and other vehicle registration information to the New York State Department of Motor Vehicles (“DMV”) as required by Insurance Law § 317, and

WHEREAS, this Consent Order contains the Department’s findings and the relief agreed to by the Department and the Company.

NOW THEREFORE, to resolve this matter without further proceedings pursuant to the Superintendent’s authority under § 317 of the New York Insurance Law, the Department finds as follows:

THE DEPARTMENT’S FINDINGS

Introduction

1. Zurich is an insurance company authorized to transact motor vehicle liability insurance business in New York State pursuant to § 1113(a) of the New York Insurance Law and has been issued an Insurance Company Code (“ICC”) by the DMV.

2. The DMV’s Insurance Information & Enforcement System (“IIES”) was developed and implemented in January of 2000 as a result of enactment of Chapter 678 of the laws of 1997 as amended by Chapter 509 of the laws of 1998. IIES employs an insurance information database to monitor the insurance status of New York State-registered vehicles thereby enabling peace officers to know whether vehicles on the road lack insurance. As a public safety matter, injured motorists rely on the benefit of statutorily-required auto insurance. Thus, it is critical that registrants provide DMV with vehicle identification numbers (“VINs”) during the registration process and that insurance companies use the same VINs and names in their electronic reporting to DMV. Insured vehicle information is used to identify, sanction and ultimately remove uninsured vehicles from New York’s highways. IIES reporting applies to all motor vehicles insured and registered in NYS except motorcycles.

3. Article 6 of the New York Vehicle and Traffic Law requires insurers to notify the DMV of certain transactions in accordance with regulations promulgated by the DMV commissioner. 15 NYCRR Part 34 implements the particular requirements of Article 6, with § 34.4 providing specific time frames. Under the regulation, insurers must report new business no later than seven days after the effective date of the policy issuance. For all terminations and suspensions, insurers must report within 30 days of the termination effective date except for for hire vehicles which must be reported no less than 20 days prior to the termination effective date.

Events at Issue

4. In the latter part of 2017, the DMV notified the Department that the industry as a whole was not timely reporting to DMV in IIES pursuant to its requirements. DMV also informed the Department that, commencing in May 2017, DMV sent detailed quarterly performance reports to all motor vehicle insurers, displaying the totals of each company's reporting data and the totals and percentages of those reported late to DMV. The Department then contacted the most delinquent and untimely insurers, seeking an explanation and remediation.

5. Zurich was among the companies that persisted in failing to timely report to DMV in IIES, including in 2018. Each member of Zurich, for the time period January 1, 2018 to December 31, 2018 ("Time Period") failed to timely report certain insured vehicle information to the DMV through IIES and failed to timely respond to DMV initiated mandatory verification notices. As a result, Zurich violated NYCRR Part 34.4, as well as NYCRR Part 32.2(m), which defines "Late Filing" as a notice not submitted within the required timeframes, and requires insurers to take immediate corrective action when late filings exceed 10% of total matched notices.

6. Throughout 2018 and 2019, DMV and the Department met with the insurance industry regarding the issue of untimely IIES filings, providing the industry with opportunities to address and remediate persistent reporting failures.

7. As mentioned above, accurate insurance information and timely IIES filings are vital for purposes of law enforcement and public health and safety.

Violations of Law and Regulations

8. Zurich's violations during the Time Period contravened New York Vehicle and Traffic Law ("VTL") and DMV Regulations and New York Insurance Law.

9. By reason of the foregoing, Zurich violated VTL § 313, DMV Regulations 15 NYCRR PART 34, and New York Insurance Law § 317.

NOW THEREFORE, to resolve this matter without further proceedings, the Department and the Company stipulate and agree to the following terms and conditions:

SETTLEMENT PROVISIONS

Monetary Penalty

10. No later than ten (10) days after the Effective Date (as defined below) of this Consent Order, the Company shall pay a total civil monetary penalty pursuant to § 317 of the New York Insurance Law to the Department in the amount of Two Million Two Hundred Thousand Dollars and 00/100 Cents (\$2,200,000). The payment shall be in the form of a wire transfer in accordance with instructions provided by the Department.

11. The Company shall not claim, assert, or apply for a tax deduction or tax credit with regard to any U.S. federal, state, or local tax, directly or indirectly, for any portion of the civil monetary penalty paid pursuant to this Consent Order.

12. The Company shall neither seek nor accept, directly or indirectly, reimbursement or indemnification with respect to payment of the penalty amount, including but not limited to, payment made pursuant to any insurance policy.

Remediation

13. The Company will take the necessary actions to prevent recurrences of the violations described above, including without limitation, (i) immediate steps to determine the reason(s) for the violations, (ii) formulation for DMV's review and approval of a remediation plan to correct deficiencies in its submissions to the DMV, and (iii) full implementation of such remediation plan to mitigate late filings and required responses. Within two months from the date of full execution of this Consent Order, the Company shall provide to DMV a written remediation plan detailing the corrective actions taken or proposed to be taken, and the related projected timeframes, to achieve full compliance with this Consent Order. The Company further covenants to timely provide such reports or other information required by the Department or DMV in connection with the violations, the remediation plan or future filing obligations. The Company will also take all necessary steps to comply with the New York Insurance Law and VTL and Regulations with respect to its future DMV filing obligations.

Full and Complete Cooperation

14. The Company commits and agrees that it will fully cooperate with the Department regarding all terms of this Consent Order.

15. Upon the request of the Department, the Company shall provide all documentation and information reasonably necessary for the Department to verify compliance with this Consent Order.

Further Action by the Department

16. This Consent Order constitutes the entire agreement between the Department and the Company relating to the violations identified herein for the Time Period and prior thereto and supersedes any prior communication, understanding, or agreement, whether written or oral, concerning the subject matter of this Consent Order. No inducement, promise, understanding, condition, or warranty not set forth in this Consent Order has been relied upon by any party to this Consent Order.

17. No further action will be taken by the Department against the Company or its successors for the violations identified herein for the Time Period and prior thereto.

Waiver of Rights

18. The Company submits to the authority of the Superintendent to effectuate this Consent Order.

19. The parties understand and agree that no provision of this Consent Order is subject to review in any court, tribunal, or agency outside of the Department.

Parties Bound by the Consent Order

20. This Consent Order is binding on the Department and the Company, as well as any successors and assigns. This Consent Order does not bind any federal or other state agency or any law enforcement authority.

Breach of Consent Order

21. In the event that the Department believes the Company to be in material breach of the Consent Order, the Department will provide written notice to the Company, and the Company must, within ten (10) days of receiving such notice, or on a later date if so determined in the Department's sole discretion, appear before the Department to demonstrate that no material breach has occurred or, to the extent pertinent, that the breach is not material or has been cured.

22. The Company understands and agrees that its failure to make the required showing within the designated time period shall be presumptive evidence of the Company's breach. Upon a finding that a breach of this Consent Order has occurred, the Department has all the remedies available to it under § 317 of the New York Insurance Law, and any other applicable laws, and may use any evidence available to the Department in any ensuing hearings, notices, or orders.

Notices

23. All notices or communications regarding this Consent Order shall be sent to:

For the Department:

New York State Department of Financial Services
One State Street, 20th Floor
New York, NY 10004-1511
Attention: Cynthia M. Reed, Senior Assistant Deputy Superintendent, Consumer Protection and Financial Enforcement Division;

Jason St. John, Assistant Deputy Superintendent, Consumer Protection and Financial Enforcement Division

For Zurich:

Laura Lazarczyk
Director/EVP/Corporate Secretary
Zurich American Insurance Company
1299 Zurich Way
Schaumburg, Illinois 60196

Matthew Gaul
Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, NY 10019-6099

Miscellaneous

24. This Consent Order and any dispute thereunder shall be governed by the laws of the State of New York without regard to any conflicts of laws principles.

25. This Consent Order may not be altered, modified, or changed unless in writing and signed by the parties hereto.

26. This Consent Order constitutes the entire agreement between the Department and the Company and supersedes any prior communication, understanding, or agreement, whether written or oral, concerning the subject matter of this Consent Order.

27. Each provision of this Consent Order shall remain effective and enforceable against the Company, its successors, and assigns, until stayed, modified, suspended, or terminated by the Department.

28. In the event that one or more provisions contained in this Consent Order shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Consent Order.

29. No promise, assurance, representation, or understanding other than those contained in this Consent Order has been made to induce any party to agree to the provisions of this Consent Order.

30. Nothing in this Consent Order shall be construed to prevent any consumer or any other third party from pursuing any right or remedy at law.

31. This Consent Order may be executed in one or more counterparts and shall become effective when such counterparts have been signed by each of the parties hereto (the "Effective Date").

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