

**NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES**  
**Criminal Investigations Unit (CIU)**

**Guidelines for Insurers' Submission of Fraud Prevention Plans**

**Statutory requirement & Instruction for filing fraud prevention plans:**

- Section 409(a) of the New York Insurance Law requires insurers writing 3000 or more policies in the following lines of business: Personal and commercial automobile, workers' compensation and accident and health (A&H) to submit a fraud prevention plan (Plan) to the New York State Department of Financial Services (Department). For insurers writing A&H, Section 409(f) states that "policies" refer to individuals. Additionally, HMOs with 60,000 or more enrollees shall file a (Plan).
- The (Plan) must comply with NYIL §409 and Reg. 95, §86.6, and must indicate compliance with §405. If a fraud warning is shown in the Plan, the warning must comply with §403 and Reg. 95, §86.4(a) for non-auto warnings and Reg. 95 §86.4(b) for auto warnings.
- Insurers operating in states in addition to New York, that have a multi-state Plan may submit the multi-state Plan. An addendum addressing specific New York requirements may be included with the Plan filing.
- It is not necessary to submit a new Plan annually but, Plans should be updated to reflect material changes to the Plan (e.g., change of SIU vendor provider, change from in house to vendor, change of vendor, significant changes to the number of SIU personnel, new SIU management or investigators, changes to lines of business written, significant holding company changes, etc.) As a general rule if a Plan is 5 or more years old, we would expect that enough minor (or significant) changes to the environment, infrastructure or personnel would merit a new Plan. Therefore, unless an insurer business and environment have been very stable, insurers should revise Plans approximately every 5 years, if not sooner.
- All Plans should be submitted via the Fraud Prevention Plans portal application, accessible on the Department's website.

**Please note the following regarding the drafting the Plan:**

- **These guidelines are provided to assist insurers in developing a fraud prevention plan (Plan) that complies with NYIL §409, NYIL §405 and Department Regulation 95.**
- **Plans that are received in a template format, based on these guidelines, rather than as an organized fraud prevention plan document, are not acceptable.**

**THE FOLLOWING IS A GUIDE AND SHOULD NOT BE USED AS A TEMPLATE**

**Fraud Prevention Plan Requirements**

**1. New York Insurers covered by the Plan**

Provide a list of all insurer's names and corresponding NAIC codes (must be affiliated, e.g., under the same Group Code number) that are covered by the Plan.

**2. Executive Approval of Plan, Management of SIU [Reg. 95 §86.6(b)]**

Provide the name, title, mailing address, e-mail address and telephone number of the executive officer responsible for the SIU.

Confirm that this executive has reviewed & approved the Plan.

**3. Implementation of Plan [NYIL §409(b)]**

NYIL §409(b)(1) requires that the Plan provide for the time and manner of implementation.

**4. Overview of performance of SIU Function [NYIL §409(b)]**

Indicate whether the SIU is in-house or performed by a 3<sup>rd</sup> party or an affiliate.

**Internal** - The SIU is internal; staffed by the insurer's employees

**Affiliated** - The SIU function is performed by an affiliate of the insurer

**External** - If the insurer contracts with a vendor to perform SIU functions. See below.

**If external vendors are used:**

- If the insurer contracts with a vendor to perform SIU functions, a copy of the executed contract detailing the services must be submitted with the Plan.
- If the insurer uses investigative vendors to perform specific tasks such as on- street field work, surveillance, taking of statements and other specific tasks such as social media searches or medical reviews, provide a list of the services provided by 3<sup>rd</sup> parties. If a vendor is used for specific limited services and the investigation is managed in house or by the insurer's SIU vendor, a contract for those services is not necessary however, please list the vendors used and the service provided.

**5. Overview of performance of Claims Department(s)**

Are all claim settlement functions performed in house by the insurers employees?

Does the insurer use any vendor(s), agent(s) or TPA(s) to perform all or a portion of claims functions on the lines of business (LOBs) addressed by §409 (personal and commercial auto, workers' compensation and accident & health)? This refers to situations in which the vendor has decision making authority regarding claims payment or denial.

If Yes, address the following:

If any vendor performs claim settlement functions and investigative functions or contracts with a 3<sup>rd</sup> party for performance of investigative functions, on any LOBs addressed by §409(a), copies of executed contracts must be provided with the Plan submission.

If the claims TPA contracts with the SIU TPA, executed copies of both contracts must be provided. (See # 8 below)

## 6. Overview of Performance of Underwriting Department(s)

If multiple vendors, MGAs, or TPAs are used or if the insurer has an internal underwriting department and also contracts with an underwriting vendor on any of the lines addressed by §409, respond to the following for each entity that performs claims functions.

Are all underwriting functions performed in house?

Does the insurer use any vendor(s), agent(s) or TPA(s) to perform all or a portion of underwriting functions on the (LOBs) addressed by §409? (This refers to situations in which the vendor has decision making authority regarding acceptance or declination of a risk.)

If any vendor MGA or TPA performing underwriting functions, on behalf of the insurer, on the LOBs addressed by §409 also performs the SIU function or contracts with a vendor for performance of the SIU function, copies of executed contracts must be provided with the Plan submission. If the underwriting vendor contracts with the SIU vendor, executed copies of both contracts must be provided with the Plan submission (See # 9 below).

## 7. Relationship of SIU to Claims Department(s) ;[NYIL §409(b) & (c)]

If multiple vendors are used or if the insurer has an internal claims department and also contracts with a claims vendor on any of the lines addressed by §409, the Plan should address the following for each entity that performs claims functions.

The Insurer must have a Fraud Detection and Procedures Manual for claims personnel, as required by NYIL §409(c)(6). This manual should include the “red flags” used to detect fraud and procedures that should be followed when a fraud is suspected. Describe how is the manual maintained:

Electronic  Hard Copy  Both

Describe the relationship of the SIU with the claims department to include the following:

- a. The procedure for detecting fraud, including “red flags.” If the company writes personal or commercial automobile insurance, workers’ compensation, or accident and health insurance, the Plan must specifically address these lines of insurance.
- b. The criteria for referral of a case to the SIU.
- c. The individual authorized to make referrals to the SIU.
- d. The referral process to the SIU (e.g., medium used, is supervisor approval required, etc.).
- e. The procedures for the periodic review of claims practices.
- f. Describe the in-service training program for identification of “red flags” and evaluation of suspected insurance fraud. Include the titles of training courses with hours of devotion. Are records retained that describe the training? Address introductory training and training for experienced claims personnel.
- g. Does the SIU (or other unit) perform post-payment claims analysis? Is this analysis performed electronically via data mining to identify potentially fraudulent claims?

## 8. Relationship of SIU to Underwriting Department(s); [NYIL §409(b) & (c)]

If multiple vendors, or MGA’s are used or if the insurer has an internal underwriting department and a vendor or MGA that makes decisions regarding risk acceptance or declination on any of the lines addresses by §409, the Plan should address the following for each entity performing underwriting functions.

The Insurer must have a Fraud Detection and Procedures Manual for underwriting personnel, as required by NYIL §409(c)(6). This manual should include the “red flags” used to detect fraud and procedures that should be followed when a fraud is suspected. Describe how is the manual maintained:

Electronic  Hard Copy  Both

Describe the relationship of the SIU with the underwriting department to include the following:

- The procedure for detecting fraud including “red flags.” If the company writes personal or commercial automobile insurance, workers’ compensation, or accident and health insurance, the Plan must specifically address these lines of insurance.
- The criteria for referral of a suspect transaction (or potential transaction) to the SIU.
- The individual authorized to make referrals to the SIU.
- The referral process to the SIU (e.g., medium is used, is supervisor approval required?)
- The procedures for the periodic review of underwriting methods.
- The in-service training programs for identification and evaluation of suspected insurance fraud. Include the titles of training courses with hours of devotion. Are attendance records retained?
- Are automated techniques and/ or databases employed to verify information provided in the application at the time of issuance and after issuance of the policy?
- Provide an assessment of the company’s vulnerability to fraud, considering the lines of business written, underwriting standards and marketing strategy

**9. Staffing of SIU - For all SIUs (internal, external, affiliated); [NYIL §409(b), Reg. 95, §86.6]**

If the insurer has multiple external SIUs and/or an internal and external SIUs, provide the following for each SIU.

The name, title, mailing address, e-mail address and telephone number of the SIU Manager.
The number of investigators who will be conducting insurance fraud investigations in New York, including the names, titles and resumes of the investigators to demonstrate that each investigator meets the educational and employment qualifications for a fraud investigator as stated in NYIL §409(b)(3) and §86.6(c) of Regulation 95: <ul style="list-style-type: none"> <li>an associate's or bachelor's degree in criminal justice or a related field; or</li> <li>five years of insurance claims investigation experience or professional investigation experience with law enforcement agencies; or</li> <li>seven years of professional investigation experience involving economic or insurance-related matters; or</li> <li>an authorized medical professional to evaluate medical-related claims.</li> </ul>
The names, titles and resumes of the investigators (summary of qualifying experience) who will be conducting insurance fraud investigations in NYS.
The geographical location and assigned territories for each investigator assigned to New York.
The percentage of New York insurance fraud investigations as a percentage of total investigations
An assessment of optimal caseload per investigator or other metric to assess investigator productivity.
An organization chart showing the reporting lines within the SIU
Justification for the number of investigators, preferably via metrics such as optimal caseload.
Job descriptions for investigators.
The geographical location and assigned territories for each investigator
Describe the training program for investigators as required by §86.6(b)(6) of Reg. 95. Provide the titles of training courses with hours of devotion, including training that was provided by external entities. Address introductory training and training for experienced investigators.
The names and job titles of SIU support staff, not qualified as investigators (e.g., data analysts, translators, and
If claims or underwriting vendors are used, does the company review all referrals and/or cases sent to the SIU vendor from MGA/TPA/vendor?

**10. For Internal SIUs only**

Provide a copy of the organization chart showing the SIU Reporting to general management

**11. For Affiliated Entity SIUs Only; [Reg. 95 §86.6(b)]**

Provide the name of the affiliated entity that performs SIU services.

Provide a organizational chart showing or description of the relationship of the servicer to the insurer.

## 12. For External SIUs/Investigative Vendor(s) Only; NYIL [§409(b), Reg. 95, §86.6]

Provide copies of executed contracts between the insurer and the vendor for each vendor contracted to perform the SIU functions
The agreement(s) must state that the SIU will provide any and all assistance requested by the Insurance Frauds Bureau and any other law enforcement agency in the investigation and prosecution of insurance fraud and related crimes and cooperate with the NYSDFS in any examination of the implementation of the fraud plan.
Does the MGA/TPA/vendor perform all or a portion of the fraud investigations?
Provide name, address and telephone number of the contact person at the vendor.
Does the vendor use a third-party administrator (TPA) for of fraud investigations, other than specific tasks such as on street tasks or social media searches? If yes, provide a copy of the agreement detailing the investigative services provided by the TPA
Provide the name of the person at the insurer who the vendor reports to.
Does the MGA/TPA/vendor provide the insurer with reports concerning referrals and cases?
If claims or underwriting vendors are used, does the insurer review all claims referred to the SIU vendor?

## 13. SIU Investigations and SIU procedures, for all SIUs; NYIL §409(c), §405

Describe the SIU's case management system
Describe the process for review and evaluation of referrals
Describe the procedures for case investigations
How is the manual for investigators maintained? Hard copy or electronic?
Provide a list of databases used by investigators (e.g.: ISO, DMV).
Describe the relationship of the SIU with law enforcement agencies and prosecutors required by NYIL §409(c)(1), including: <ol style="list-style-type: none"><li>Description of relationship between the SIU and the IFB.</li><li>Criteria for referral of a case to IFB and law enforcement.</li><li>Name of the individual authorized to make referrals to the IFB.</li><li>Description of the policy to avoid duplication (without notification) of concurrent referrals by SIU to more than one law enforcement agency</li></ol>
Indicate the SIU's compliance with NYIL §405(a) {emphasis added}: <p>"(a) Any person licensed or registered pursuant to the provisions of this chapter... who has reason to believe that an insurance transaction or life settlement act may be fraudulent, or has knowledge that a fraudulent insurance transaction or fraudulent life settlement act is about to take place, or has taken place shall, <u>within thirty days after determination by such person that the transaction appears to be fraudulent</u>, send to the superintendent on a form prescribed by the superintendent, the information requested by the form and such additional information relative to the factual circumstances of the transaction and the parties involved as the superintendent may require. The superintendent shall accept reports of suspected fraudulent insurance transactions or fraudulent life settlement acts from any self-insurer, including but not limited to self-insurers providing health insurance coverage or those defined in section fifty of the workers' compensation law, and shall treat such reports as any other received pursuant to this section."</p>

## 14. Restitution and Recoveries; [NYIL §409(c)]

The Plan must contain a provision that addresses savings and recoveries, including court-ordered restitution. NYIL §409(c)(4) states that the Plan shall provide for: <p>"Coordination with other units of an insurer for the investigation and initiation of civil actions based upon information received by or through the special investigations unit."</p>
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## 15. Internal/Employee Fraud; [§409]

The Plan should include a section to address employee fraud.
Internal fraud should be reported to the DFS Criminal Investigations Unit per Section 405.

## 16. Public Awareness Program; [NYIL §409(c)(5)]

Has the insurer joined the National Health Care Anti-Fraud Association (NHCAA)?
Has the insurer joined the New York Alliance Against Insurance Fraud (NYAAIF)?
If the insurer has developed an in-house program, provide the following: <ul style="list-style-type: none"><li>• Description of the media (e.g., radio, television, print, website, etc.).</li><li>• Budget for the next year.</li><li>• Target audience (must include general public).</li><li>• Sample hard/electronic copies, 800 number, company website.</li></ul>
If the Company has an internet program, provide the following: <ul style="list-style-type: none"><li>- The name of the insurer's external advertising agency and the amount paid to that agency in the previous year</li><li>- Documentation to support the amount paid to the advertising agency such as invoice(s) for the previous year. Provide the names of websites that contained the advertisements and include a link to the advertisements.</li><li>- The budget for current/upcoming year. Provide the name of advertising agency to be used for the current/upcoming year's program. Provide a proposal provided that describes the current/upcoming year's program. State if any of the current/upcoming year's public awareness budget been spent to date? If fund have been disbursed for the current year's public awareness program, provide details such as amount spent and the supporting invoice.</li><li>- Details on the current/upcoming year's program such as names of websites, duration of ads on those websites, website address, location of advertisements on the website, metrics to be provided to the insurer to demonstrate effectiveness of ads (clicks, impressions, etc.)</li><li>- Links to the websites used and the location of the public awareness advertisement on the webpage for the current program</li><li>- Explain how these websites reach the <b>general public</b>.</li><li>- Does the insurer receive metrics regarding website views including clicks and impressions, etc. on a periodic basis? Please provide the details regarding how often metrics are provided and the metrics</li></ul>

## 17. Fraud Data Reporting Requirement; [NYIL §409(c)]

NYIL §409(c)(2) requires that the Plan provide for the reporting of fraud data to a collection firm designated by the Department. Currently, no organization has been established; however, the Plan must contain a statement to comply with §409(c)(2).
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