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KATHY HOCHUL  
Governor



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ADRIENNE A. HARRIS  
Superintendent

**SENT VIA EMAIL**  
**Christopher.DeMarco@dos.ny.gov**

January 10, 2023

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 2023 Regulatory Agenda

Dear Christopher DeMarco:

Attached is the Department of Financial Services' Regulatory Agenda for publication in the January 25, 2023 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  
Principal Attorney  
(212) 480-7608

Cc: Christine Tomczak  
Camielle Barclay

**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 2023. Some of these items were previously published in the January 2022 Regulatory Agenda. **Items that already have 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 SAPA Sections 202-b and 202-bb.

**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  
Principal Attorney  
New York State Department of Financial Services  
One State Street  
New York, NY 10004  
(212) 480-7608  
Sally.Geisel@dfs.ny.gov

You may also obtain the current Insurance Regulations directly from Thomson Reuters Westlaw.

1. Summary description of proposal: Addition of 11 NYCRR 65-6 (Insurance Regulation 65-F) (Claims For Personal Injury Protection Benefits for Independent Livery Drivers) and amendments to 11 NYCRR 65 (Insurance Regulation 68) (Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparations Act) and 11 NYCRR 68 (Insurance Regulation 83) (Charges for Professional Health Services) 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 Workers’ Compensation Law Article 2. 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.

2. Summary description of proposal: Amendment to 11 NYCRR Appendix 13 (New York Motor Vehicle No-fault Insurance Law Denial of Claim Form, “NF-10”) and 11 NYCRR 65-3 (Insurance Regulation 68) (Claims for Personal Injury Protection Benefits) to include the e-mail address of an insurer representative

or third-party administrator; to update the mailing and email addresses of the designated organization where a claim may be submitted for arbitration; to remove the requirement that insurers submit duplicate copies of the NF-10 to an applicant or the applicant's authorized representative; and to remove the requirement that an insurer provide the applicant with notice and proof of claim for disability benefits (Workers' Compensation DB 450 form) on buff-colored paper. 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.

3. Summary description of proposal: Amendment to 11 NYCRR 65-4 (Insurance Regulation 68-D) (Arbitration) 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 (Insurance Regulation 68-B) (Rights and Liabilities of Self-Insurers), 11 NYCRR 65-3 (Insurance Regulation 68-C) (Claims for Personal Injury Protection Benefits), 11 NYCRR 65-4 (Insurance Regulation 68-D) (Arbitration), 11 NYCRR Appendix 13 (New York Motor Vehicle No-Fault Insurance Law Assignment of Benefits Form, "NF-3"), and New York Motor Vehicle No-Fault Insurance Law Denial of Claim 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 (Insurance Regulation 79) (Mandatory Underwriting Inspection Requirements for Private Passenger Autos) 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 65 (Insurance Regulation 68) (Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparations Act), 11 NYCRR 67 (Insurance Regulation 79) (Mandatory Underwriting Inspection Requirements for Private Passenger Automobiles), and 11 NYCRR 216 (Insurance Regulation 64) (Unfair Claims Settlement Practices and Claim Cost Control Measures) to conform to amendments to Insurance Law Section 2612 by Chapter 579 of the Laws of 2022. 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.

7. Summary description of proposal: Repeal of 11 NYCRR 1 and 2 (Insurance Regulation 1) (Definitions, and Promulgation of Regulations; Opinions) and 11 NYCRR 380 (Insurance Regulation 148) (Viatical Settlements) and Amendments to 11 NYCRR 60-1 (Insurance Regulation 35-A) (Minimum Provisions for Automobile Liability Insurance Policies) and 11 NYCRR 86 (Insurance Regulation 95) (Reports of

Suspected Insurance Frauds to Criminal Investigations Unit; Required Warning Statements) to repeal provisions that no longer apply to any person, fixes an incorrect grammatical construction, and corrects a date to be consistent with statute. Agency contact: Sally Geisel, Principal Attorney, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-7608; Sally.Geisel@dfs.ny.gov.

8. Summary description of proposal: Amendment to 11 NYCRR 80-1 (Insurance Regulation 52) (Holding Companies), 11 NYCRR 81 (Insurance Regulation 53) (Subsidiaries of Insurance Companies), and 11 NYCRR 82 (Insurance Regulation 203) (Enterprise Risk Management and Own Risk and Solvency Assessment; Group-Wide Supervision), regarding implementation of an annual group capital calculation and liquidity stress test. 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 255 (Insurance Regulation 168) (Confidentiality Protocols for Victims of Domestic Violence and Endangered Individuals) to conform to changes made to Insurance Law Section 2612 by Chapter 579 of the Laws of 2022. 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.

10. Summary description of proposal: Amendment to 11 NYCRR 60-1 (Insurance Regulation 35-A) (Minimum Provisions for Automobile Liability Insurance Policies) to conform to changes made to Insurance Law Section 3420(g) by Chapter 735 of the Laws of 2022 regarding supplemental spousal liability insurance. 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.

11. Summary description of proposal: Amendment to 11 NYCRR 27 (Insurance Regulation 41) (Excess Line Placements Governing Standards) to conform to changes made to Insurance Law Section 2118(b)(3)(C) by Chapter 833 of the Laws of 2022 regarding excess line affidavit requirements. 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.

12. Summary description of proposal: Amendment to 11 NYCRR 83 (Insurance Regulation 172) (Financial Statement Filings and Accounting Practices and Procedures) to adopt the latest edition of the Accounting Practices and Procedures Manual ("Manual") published by the National Association of Insurance Commissioners and to take an exception with respect to captive life reinsurance. Agency contact: Michael Campanelli, Principal Attorney, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5290; Michael.Campanelli@dfs.ny.gov.

13. Summary description of proposal: Amendment to 11 NYCRR 125 (Insurance Regulation 20) (Credit for Reinsurance) to provide the Superintendent with greater discretion in the approval process for reciprocal jurisdiction reinsurers that are not domiciled in a jurisdiction that is a party to a covered

agreement. Agency contact: Michael Campanelli, Principal Attorney, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5290; Michael.Campanelli@dfs.ny.gov.

14. Summary description of proposal: Amendment to 11 NYCRR 216 (Insurance Regulation 64) (Unfair Claims Settlement Practices and Claim Cost Control Measures) to update the regulation to clarify certain provisions 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.

15. Summary description of proposal: Amendment to 11 NYCRR 111 (Insurance Regulation 207) (Statement of Actuarial Opinion and Actuarial Opinion Summary for Property/Casualty Insurers) 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.

16. Summary description of proposal: Addition of a new Part to 11 NYCRR (Insurance Regulation 204) (Property Travel Insurance Policies) to provide a framework for insurers to issue property travel insurance to certain specified groups. The new Part will set forth the groups to which an insurer may issue property travel insurance on a group basis and clarify the meaning of trip cancellation insurance and trip interruption insurance. 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.

17. Summary description of proposal: Repeal of 11 NYCRR 145 (Insurance Regulation 103) (Implementation of Private Passenger Automobile Insurance Statistical Data Monitoring System) to eliminate the requirement that each insurer and statistical agent monitor private passenger automobile statistical data in accordance with the provisions of the Statistical Data Monitoring System. 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.

18. Summary description of proposal: Amendment to 11 NYCRR 53 (Insurance Regulation 74) (Life and Annuity Cost Disclosure and Sales Illustrations) 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.

19. Summary description of proposal: Amendment to 11 NYCRR 103 (Insurance Regulation 213) (Principle-Based Reserving) 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.

20. Summary description of proposal: Amendment to 11 NYCRR 52 (Insurance Regulation 62) (Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) 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.

21. Summary of description of proposal: Amendment to 11 NYCRR Part 52 (Insurance Regulation 62) (Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) and Part 215 (Insurance Regulation 34) (Advertisements of Accident and Health Insurance) 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.

22. Summary description of proposal: Amendment to 11 NYCRR 52 (Insurance Regulation 62) (Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) 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.

23. Summary description of proposal: Amendment to 11 NYCRR 39 (Insurance Regulation 144) (Minimum Standards for the New York State Partnership for Long-Term Care Program) to add minimum daily benefit amounts for January 1, 2024 – January 1, 2033. Agency contact: Martin Wojcik, Associate Attorney, Health Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 474-3397; Martin.Wojcik@dfs.ny.gov.

24. Summary description of proposal: Amendment to 11 NYCRR 86 (Insurance Regulation 95) (Reports of Suspected Insurance Frauds to Criminal Investigations Unit; Required Warning Statements) 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.

25. Summary description of proposal: Amendment to 11 NYCRR 86 (Insurance Regulation 95) (Reports of Suspected Insurance Frauds to Criminal Investigations Unit; Required Warning Statements) 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.

26. Summary description of proposal: Amendment to 11 NYCRR Chapter XXII concerning duties, accountability, and transparency of pharmacy benefit managers operating in New York, pursuant to Public Health Law section 280-a. Agency contact: Eamon Rock, Deputy Superintendent of Pharmacy Benefits, Pharmacy Benefits Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 402-3386; Eamon.Rock@dfs.ny.gov.

27. Summary description of proposal: Amendment to 11 NYCRR Chapter XXII to establish minimum standards for licensure as a pharmacy benefit manager in New York, pursuant to Insurance Law section 2906. Agency contact: Eamon Rock, Deputy Superintendent of Pharmacy Benefits, Pharmacy Benefits Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 402-3386; Eamon.Rock@dfs.ny.gov.

28. Summary description of proposal: Amendment to 11 NYCRR Chapter XXII with respect to reporting requirements for pharmacy benefit managers operating in New York, pursuant to Insurance Law section 2904. Agency contact: Eamon Rock, Deputy Superintendent of Pharmacy Benefits, Pharmacy Benefits Bureau, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257; (518) 402-3386; Eamon.Rock@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

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

1. Summary description of proposal: Amendment to Part 38 of the General Regulations of the Superintendent, 3 NYCRR Part 38 (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, 3 NYCRR Part 41 (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, 3 NYCRR Part 79 (Reverse Mortgage Loans), to implement the new Banking Law Section 6-o (Reverse cooperative apartment unit loans for persons sixty-two years of age or older) concerning reverse mortgages for cooperative apartments.
4. Summary description of proposal: Promulgate a new regulation to implement the requirements of the recently enacted Banking Law § 28-bb. This section establishes requirements for mortgage bankers comparable to the requirements of the Community Reinvestment Act for banks that seek to eliminate redlining and other forms of housing discrimination caused by illegal credit practices.
5. Summary description of proposal: Amendment to Part 322.7 of the Superintendent's Regulations, 3 NYCRR Part 322.7 (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.
6. Summary description of proposal: Amendment to 3 NYCRR 400.1(C)(8) to eliminate the requirement that every licensed location maintain a dimension of at least 480 square feet.
7. Summary description of proposal: Amendment to Part 400.2 of the Superintendent's Regulations, 3 NYCRR Part 400.2 (Books, Records and Microfilm), to eliminate outdated regulatory requirements (i.e. maintenance of records on microfilm) in connection with check cashers books and records).
8. 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, 3 NYCRR, to include a reporting requirement for each licensee to submit to the Superintendent an independent audited annual financial statement after the licensee's fiscal year end. Part 403 will be amended to include a requirement for the submission of annual reports by sales finance companies and to harmonize the filing of annual and audit reports.
9. Summary description of proposal: Amendment to Part 403 (Sales Finance Companies), 3 NYCRR, to include a requirement for the submission of annual reports by sales finance companies and to harmonize the filing of annual and audit reports.
10. Summary description of proposal: Amendment to Part 420 of the Superintendent's Regulations, 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 also obtain current Financial Services Regulations directly from [Thomson Reuters Westlaw](#).



1. 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: Martha Lees, Deputy General Counsel, Office of General Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004; (212) 480-5282; Martha.Lees@dfs.ny.gov.