

# REGULATORY AGENDA

---

## Department of Financial Services REVISED 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 the second half of 2016. Many of these items were previously published in the January 2016 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 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 in the 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 or  
Camielle Barclay, Senior Attorney  
New York State Department of Financial Services  
One State Street  
New York, NY 10004

Telephone Numbers: Sally Geisel - (212) 480-5287 and Camielle Barclay - (212) 480-5299

1. Summary description of proposal: Promulgation of new regulations governing paid family leave insurance coverage. Agency contact: Laura Evangelista, Deputy Superintendent for Insurance, Executive Office - 212-480-4738.

2. Summary description of proposal: Amendment of Part 101 to 11 NYCRR (Standards for Financial Risk Transfer Between Insurers and Health Care Providers) (Insurance Regulation 164) to permit, in consultation with the commissioner of the Department of Health, certain insurers to enter into financial risk transfer agreements with Accountable Care Organizations. Agency contact: Pascale Jean-Baptiste, Associate Attorney, Office of General Counsel - (212) 480-5289.

3. Summary description of proposal: Adoption of a new Part 5 to 11 NYCRR (Insurance Regulation 195) to implement the Superintendent’s authority under Insurance Law Section 316 to require an insurer or other person or entity making a filing or submission with the Superintendent to do so by electronic means, unless the insurer or other person or entity applies for, and the Superintendent grants, an exemption from the electronic filing requirement. Agency contact: Joana Lucashuk, Associate Attorney, Office of General Counsel - (212) 480-2125.

4. Summary description of proposal: Amendment of 11 NYCRR 28

(Professional Bail Bond Agents) (Insurance Regulation 42) to provide standards designed to prevent the use of bail bond businesses in furtherance of organized crime and to protect collateral given by indemnitors for the purpose of posting bail. Agency contact: Paul Zuckerman, Assistant Deputy Superintendent and Counsel for Insurance, Office of General Counsel – (212) 480-5286.

5. Summary description of proposal: Amendment of 11 NYCRR 25 (Public Adjusters) (Insurance Regulation 10) to address amendments made to the Insurance Law by Chapter 546 of the Laws of 2013. Agency contact: Joana Lucashuk, Associate Attorney, Office of General Counsel – (212) 480-2125.

6. Summary description of proposal: Adoption of new Part 111 to 11 NYCRR (Insurance Regulation 207) to require an authorized property/casualty insurer to submit with its annual statement a statement of actuarial opinion (“SAO”) and to require a domestic property/casualty insurer that files an SAO to file with the Superintendent an annual actuarial opinion summary, electronically. Agency contact: Joana Lucashuk, Associate Attorney, Office of General Counsel - (212) 480-2125.

7. Summary description of proposal: Adoption of new Sub-part 151-7 to 11 NYCRR 151 (Insurance Regulation 119) to establish requirements for health care facilities to obtain a workers’ compensation insurance premium credit for safe patient handling programs. Agency contact: Joana Lucashuk, Associate Attorney, Office of General Counsel - (212) 480-2125.

8. Summary description of proposal: Amendment of 11 NYCRR 82 (Insurance Regulation 203) to require a holding company and certain domestic insurers to describe their enterprise risk managements functions in their enterprise risk reports and to clarify certain language. Agency contact: Joana Lucashuk, Associate Attorney, Office of General Counsel - (212) 480-2125.

9. Summary description of proposal: Amendment of 11 NYCRR 65 (Insurance Regulation 68) and Part 68 (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 other applicable provisions of Article 2 of the Workers’ Compensation Law. Agency contact: Camielle A. Barclay, Senior Attorney, Office of General Counsel – (212) 480-5299.

10. Summary description of proposal: Adoption of a new part 35 to 11 NYCRR (Title Insurance Agents, Affiliated Relationships, and Required Disclosures) (Insurance Regulation 206) and amendments to certain other regulations, including 11 NYCRR 20 (Brokers and Agents - General) (Insurance Regulations 9, 18, and 29), 11 NYCRR 29 (Special Prohibitions) (Insurance Regulation 87), 11 NYCRR 30 (Producer Compensation Transparency) (Insurance Regulation 194), and 11 NYCRR 34 (Requirements Pertaining to the Location of an Insurance Agent or Broker at Each Place of Insurance Business: Reporting Requirements) (Insurance Regulation 125), to address amendments made to the Insurance Law by Part V of Chapter 57 of the Laws of 2014 regarding the licensing of title insurance agents and title insurance businesses. Agency contact: Paul Zuckerman, Assistant Deputy Superintendent and Counsel for Insurance, Office of General

Counsel - (212) 480-5286. (Rules on this subject were adopted on an emergency basis most recently on May 5, 2016.)

11. Summary description of proposal: Adoption of a new part to 11 NYCRR addressing exclusions of coverage under commercial crime insurance policies. Agency contact: Paul Zuckerman, Assistant Deputy Superintendent and Counsel for Insurance, Office of General Counsel - (212) 480-5286.

12. Summary description of proposal: Amendment of 11 NYCRR 60-2 (Supplementary Uninsured/Underinsured Motorists Insurance) (Insurance Regulation 35-D) to replace references in Sections 60-2.3 and 60-2.4 to "AAA/American Arbitration Association" with "designated organization"; amend rules related to the manner in which the organization designated by the Superintendent to administer the SUM arbitration program assesses the cost of the program to the insurance industry; and clarify the intent and application of the coverage via various editorial revisions to the regulation and to the prescribed policy endorsement form. Agency contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau - (212) 480-5595.

13. Summary description of proposal: Amendment of 11 NYCRR 68 (Charges for Professional Health Services) (Insurance Regulation 83) to adopt specific rules for fees charged for health services rendered outside New York State. Agency contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau - (212) 480-5595.

14. Summary description of proposal: Amendment of 11 NYCRR 65-4 (Regulation Implementing the Comprehensive Motor Vehicle Insurance Repairs Act) (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: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau - (212) 480-5595.

15. Summary description of proposal: Amendment of 11 NYCRR 94 (Valuation of Individual and Group Accident and Health Insurance Reserves) (Insurance Regulation 56) to adopt a new individual disability income table for valuing active life and disabled life reserves in consideration of a proposed NAIC adoption of such table. Agency contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau - (518) 474-7929.

16. Summary description of proposal: Amendment of 11 NYCRR 98 (Valuation of Life Insurance Reserves) (Insurance Regulation 147) to adopt the existing NAIC standards for waiver of premium reserves, to adopt the 2017 CSO mortality table for valuing life insurance reserves, and to revise the standards for varying premium term life insurance policies and universal life products with secondary guarantees for those policies where the 2017 CSO table will be the minimum standard. Agency contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau - (518) 474-7929.

17. Summary description of proposal: Amendment of 11 NYCRR 83 (Financial Statement Filings and Accounting Practices and Procedures) (Insurance Regulation 172) to add an exception for proposed amendments expected to be adopted by the NAIC regarding policy reserves for life contracts, to revise lapse rates and economic volatility used in calculating the standard scenario reserve, to update the economic volatility assumption used in the stochastic modeling for variable annuities with guaranteed living benefits, and other revisions. Agency contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau - (518) 474-7929.

18. Summary description of proposal: Amendment of 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 an illustration; to modify the basis used for illustrations for life insurance policies with non-guaranteed elements, including universal life; to add additional requirements on the disciplined current scale underlying the illustrations; and to require additional disclosures for such policies. Agency contact: Rebecca Bollom, Associate Insurance Attorney, Life Bureau - (518) 474-4552.

19. 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 contract administration of separate account and variable annuity products. Agency contact: Peter Dumar, Chief Insurance Attorney, Life Bureau - (518) 474-4552.

20. Summary description of proposal: Amendment of 11 NYCRR 100 (Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits) (Insurance Regulation 179) to revise the title and adopt the 2017 CSO mortality table for valuing life insurance reserves in consideration of a proposed NAIC adoption of such table. Agency contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau - (518) 474-7929.

21. Summary description of proposal: Adoption of new part to 11 NYCRR to establish minimum standards for non-guaranteed elements in life insurance policies and annuity contracts and to establish minimum standards for written board criteria for determining non-guaranteed elements. Agency contact: William Carmello, Chief Actuary, Life Bureau - (518) 474-7929.

22. Summary description of proposal: Amendment of 11 NYCRR 12 (Agent Training Allowance Subsidies for Certain Life Insurance and Annuity Business) (Insurance Regulation 50) adjusting, as required by Insurance Law section 4228(e)(3)(G), the cumulative maximum training allowance subsidy limits for agents set forth in Insurance Law section 4228(e)(3)(C) - (E) for agents with respect to the types of policies specified in Insurance Law section 4228(a). Agency contact: James V. Regalbuto, Deputy Superintendent for Life Insurance, Life Bureau - (212) 480-5027.

23. Summary description of proposal: Adoption of a new Part to 11 NYCRR to establish guidelines regarding the proper expensing of title insurance premiums and additional charges by both insurers and their agents. Agency contact: Ellen R. Buxbaum, Associate Counsel, Civil Investigations, Financial Frauds & Consumer Protection Division - (212) 480-5383.

24. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Insurance Regulation 62) establishing minimum standards for the form, content, and sale of policies and contracts of accident and indemnity insurance. Agency contact: Jason St. James, Senior Insurance Attorney, Health Bureau - (518) 486-7815.

25. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Insurance Regulation 62) regarding a blanket accident insurance policy that is issued in accordance with General Business Law section 1015.11. Agency contact: Tobias Len, Assistant Chief, Health Bureau - (518) 486-7815.

26. Summary description of proposal: Adoption of a new part to 11 NYCRR and/or amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Insurance Regulation 62) establishing minimum standards for the form, content, and sale of policies and contracts of student accident and health insurance. Agency contact: Sarah L. Allen, Supervising Insurance Attorney, Health Bureau - (518) 486-7815.

27. Summary description of proposal: Amendment of 11 NYCRR 350 (Continuing Care Retirement Communities) (Insurance Regulation 140) to clarify and modify the actuarial reserve calculation, distribution allowances, allowable investments, and necessary filing requirements, in view of marketplace expansion in both the number and types of Continuing Care Retirement Communities. Agency contact: Christine Gralton, Assistant Chief, Health Bureau - (212) 480-5061.

28. Summary description of proposal: Amendment of 11 NYCRR 86 (Fraud Prevention Plans and Special Investigations Unit) (Insurance Regulation 95) to establish a requirement that a licensee required to submit a fraud prevention plan must revise its fraud prevention plan to reflect changes to the holding company, the lines of business that

affect the SIU, and changes to SIU personnel or the provider of SIU services. Agency contact: Kathleen Grogan, Principal Examiner, Criminal Investigations Unit – (212) 480-5683.

## 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  
New York State Department of Financial Services  
One State Street  
New York, NY 10004  
Telephone Number: (212) 709-1642

1. Summary description of proposal: Adoption of new rules to implement the provisions of legislation addressing the mortgage foreclosure-related issues in the state, including:

(a) rules governing the registration and financial responsibility requirements for mortgage loan servicers (rules on this subject were adopted on an emergency basis most recently on May 9, 2016); and

(b) rules governing the business conduct of mortgage loan servicers (rules on this subject were adopted on an emergency basis most recently on May 22, 2016).

2. Summary description of proposal: Amendments of Part 38 of the General Regulations of the Superintendent to enhance advertising, disclosure, and conduct rules for mortgage bankers and brokers and to incorporate applicable changes under federal laws and regulations.

3. Summary description of proposal: Amendment of the Superintendent's Regulations regarding the Banking Development District ("BDD") program.

4. Summary description of proposal: Various amendments of the Superintendent's Regulations regarding check cashers, licensed lenders, money transmitters, sales finance companies, premium finance agencies, and budget planners.

5. Summary description of proposal: Amendment of Part 41 of the General Regulations of the Superintendent to address threshold limits, the impact of lender paid fees, and otherwise to conform to the requirements of Section 6-I of the Banking Law.

6. Summary description of proposal: Amendment of Part 79 of the General Regulations of the Superintendent to incorporate advertising requirements for reverse mortgage loans and clarify the applicability of disclosure and filing requirements for HUD's Home Equity Conversion Mortgage program.

7. Summary description of proposal: Amendment of Parts 410 and 413 of the Superintendent's Regulations and Supervisory Procedures 101, 102, 103 and 104 to eliminate certain outdated regulatory requirements and to clarify language relating to the minimum licensing standards, and other requirements in connection with mortgage banker and mortgage broker applications.

8. Summary description of proposal: Adoption of new rules clarifying that when financial statements submitted to the Department are required by law or regulation to be audited, the external auditors who provide the audit opinion on the statements may not also perform bookkeeping services for the audited entity.

9. Summary description of proposal: Amendment of Supervisory Procedure CB 117 in connection with the Department's consideration of adopting the interagency change of control application used by the federal financial institutions regulatory agencies.

10. Summary description of proposal: Adoption of a new regulation formalizing the assessment process for persons regulated under the Banking Law. (Rules on this subject were adopted on an emergency basis most recently on June 9, 2016).

## III. Financial Services Regulations

For specific inquiries about the Financial Services Regulations included in this Regulatory Agenda, please contact the person identified in the item. For general inquiries about the item, or to obtain copies of current Financial Services Regulations, please contact the following:

Christine M. Tomczak, Assistant Counsel  
New York State Department of Financial Services  
One State Street  
New York, NY 10004  
Telephone Number: (212) 709-1642

1. Summary description of proposal: Adoption of a new regulation implementing Banking Law Section 9-w, creating a standard student loan shopping sheet for all New York schools of higher education. Agency contact: Max Dubin, Assistant Counsel, Financial Frauds and Consumer Protection Division – (212) 480-7232.

2. Summary description of proposal: Adoption of a new part to 23 NYCRR, 11 NYCRR, and 3 NYCRR, establishing standards for cyber security for persons and entities regulated by the Department of Financial Services. Agency contact: Alexander Sand, Counsel, Capital Markets Division – (212) 709-3825.

