Regulatory Impact Statement for the consolidated action to repeal Supervisory Procedure G 111 of 3 NYCRR, repeal Part 4 of 11 NYCRR (Insurance Regulations 3 and 97) and add a new Part 2 to 23 NYCRR

1. Statutory authority: Financial Services Law Sections 202 and 302; State Administrative Procedure Act Section 301.

Financial Services Law Section 202 establishes the Office of the Superintendent of Financial Services ("Superintendent").

Financial Services Law Section 302 empowers the Superintendent to, among other things, prescribe, amend, or withdraw rules and regulations involving financial products and services consistent with the Banking Law, Insurance Law, Financial Services Law, and any other law in which the Superintendent is given authority, including but not limited to governance of the procedures to be followed in the practice of the department.

State Administrative Procedure Act ("SAPA") Article 3 governs adjudicatory proceedings. SAPA Section 301 directs all state agencies subject to SAPA to adopt rules governing the procedures on adjudicatory proceedings and appeals.

2. Legislative objectives: The 2011 Laws of New York, Chapter 62 consolidated the former New York State Banking and Insurance Departments into the Department of Financial Services ("Department"), effective October 3, 2011, establishing one agency responsible for the regulation and oversight of banking, insurance, and other financial services industries. Accordingly, this rulemaking repeals the separate Banking and Insurance rules governing adjudicatory proceedings before the former individual departments, and replaces those rules with a new regulation, added to 23 NYCRR, that unifies the procedures for adjudicatory proceedings before the Department, ensuring greater clarity and the removal of any potential inconsistencies in the handling of adjudicatory proceedings before the Department.

3. Needs and benefits: The Financial Services Law empowers the Superintendent of Financial Services with more expansive authority than that held by the heads of the individual Banking and Insurance Departments
when those departments were separate agencies. To that end, the rule making repeals Supervisory Procedure G 111 of 3 NYCRR and Part 4 of 11 NYCRR and adds a new Part 2 to 23 NYCRR to encompass all persons who may be subject to a Department adjudicatory proceeding. New Part 2 to 23 NYCRR continues to uphold the public policy of expeditious and impartial adjudicatory proceedings and comply with the requirements of Executive Order No. 131 (December 4, 1989), which remains in effect pursuant to Executive Order No. 2 (January 1, 2011).

4. Costs: The rule making will not impose any costs on any person who may be impacted by the rule making.

5. Local government mandates: This amendment does not impose any program, service, duty, or responsibility upon a county, city, town, village, school district, fire district, or other special district.

6. Paperwork: No additional paperwork should result from the rule making.

7. Duplication: The rule making does not duplicate, overlap, or conflict with any existing New York or federal laws, rules, or other legal requirements.

8. Alternatives: The alternative to this rule making would be for the Department to not promulgate this regulation; however, doing so would leave in place two separate regulations relating to adjudicatory proceedings before the Department, which are inadequate to address the Department’s present need. The Department intends to hold hearings on investigations and enforcement activities that may have an impact upon both the Insurance and Banking authority of the Department, and others that may have an impact upon authority contained solely in the Financial Services Law. Thus, the option to not promulgate this rule making was rejected in favor of this unified regulation.

9. Federal standards: There are no minimum standards of the federal government for the same or similar subject areas.
10. Compliance schedule: The rule making will take effect immediately upon filing the notice of emergency adoption with the Secretary of State.
Regulatory Flexibility Analysis for Small Businesses and Local Governments for the consolidated action to repeal Supervisory Procedure G 111 of 3 NYCRR, repeal Part 4 of 11 NYCRR (Insurance Regulations 3 and 97), and add a new Part 2 to 23 NYCRR

1. Effect of the rule: The rule making has the potential to impact small businesses as defined by State Administrative Procedures Act (“SAPA”) Section 102(8), which are defined as both independently owned and operated and have 100 or less employees. Licensees and non-licensees that are small businesses may become parties to Department of Financial Services (“Department”) adjudicatory proceedings for having been charged with a violation of the Banking Law, Insurance Law, Financial Services Law, or any other law that authorizes the Superintendent of Financial Services to take action. The actual number of participants in adjudicatory proceedings in a given year may reach into the hundreds, based on prior history.

The rule making does not apply to any local government.

2. Compliance requirements: The rule making does not impose any recordkeeping, reporting or other affirmative acts upon any small business that may be impacted by this rule making, or any local government because the rule making does not apply to any local government.

3. Professional Services: No small business impacted by the rule making will need to retain professional services to comply with the rule making, or any local government because the rule making does not apply to any local government.

4. Compliance costs: The rule making does not impose any compliance costs on any small business or local government.

5. Economic and technological feasibility: No small business impacted by the rule making should experience any economic or technological impact as a result of the rule making, or any local government because the rule making does not apply to any local government.
6. Minimizing adverse impact: The Department believes that no small business will be adversely affected
by the rule making, or any local government because the rule making does not apply to any local government.

7. Small business and local government participation: The Department will comply with SAPA Section
202-b(6) by publishing the rule making in the State Register and posting the rule making on the Department’s
website.
Statement setting forth the basis for the finding that the consolidated action to repeal Supervisory Procedure G 111 of 3 NYCRR, repeal Part 4 of 11 NYCRR (Insurance Regulations 3 and 97) and add a new Part 2 to 23 NYCRR will not impose any adverse impact on rural areas.

The 2011 Laws of New York, Chapter 62 consolidated the former New York State Banking and Insurance Departments into the Department of Financial Services (“Department”), effective October 3, 2011, establishing one agency responsible for the regulation and oversight of banking, insurance, and other financial services industries. The Department finds that this consolidated rule making, which repeals the separate Banking and Insurance rules governing adjudicatory proceedings before the former individual departments, and replaces those rules with a new regulation, added to 23 NYCRR, to unify the procedures for adjudicatory proceedings before the Department, does not impose any additional burdens on persons located in rural areas, and will not have an adverse impact on rural areas because it applies uniformly to all persons that are resident or do business in both rural and non-rural areas of New York State.
Job Impact Statement for the consolidated action to repeal Supervisory Procedure G 111 of 3 NYCRR, repeal Part 4 of 11 NYCRR (Insurance Regulations 3 and 97), and add a new Part 2 to 23 NYCRR

The 2011 Laws of New York, Chapter 62 consolidated the former New York State Banking and Insurance Departments into the Department of Financial Services (“Department”), effective October 3, 2011, establishing one agency responsible for the regulation and oversight of banking, insurance, and other financial services industries. This rule making should not adversely impact job or employment opportunities in New York. This rulemaking repeals the separate Banking and Insurance rules governing adjudicatory proceedings before the former individual departments, and replaces those rules with a new regulation, added to 23 NYCRR, to unify the procedures for adjudicatory proceedings before the Department.

The Department has no reason to believe that the rulemaking will result in any adverse impact on job or employment, including self-employment, opportunities in New York.