NEW YORK STATE OF OPPORTUNITY. | Department of Financial Services

ANDREW M. CUOMO
Governor

LINDA A. LACEWELL
Superintendent

January 14, 2020

Ms. Jane Hamm
State Register/Office of Information Services
New York State Department of State
One Commerce Plaza
99 Washington Avenue, Suite 650
Albany, NY 12231

Re: State Administrative Procedure Act § 207
Three and Five-year Review of Agency Rulemakings

Dear Ms. Hamm:

Attached is the Department of Financial Services' initial three-year review and five-year review of rulemakings, prepared pursuant to Section 207 of the State Administrative Procedure Act, for publication in the January 30, 2019 State Register. The attached document is divided into four sections: (1) introduction; (2) insurance regulations promulgated in 2017, 2015, 2010, 2005, and 2000; (3) banking regulations promulgated in 2017, 2015, 2010, 2005, and 2000; and (4) financial services regulations promulgated in 2015 and 2017.

Sincerely yours,

Camielle Barclay

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cc: Sally Geisel
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Eamon Rock

INTRODUCTION

Pursuant to Section 207 of the State Administrative Procedure Act, Review of Existing Rules, the Department of Financial Services (the "Department") must review, after five years and at five-year intervals thereafter, rulemakings adopted on or after January 1, 1998. In addition, effective January 1, 2013, for any rule that requires a regulatory flexibility analysis, rural area flexibility analysis, or job impact statement, the Department must initially review that rule in the third calendar year after the year the rule first was adopted. The purpose of the review is to analyze the need for and legal basis of the adopted rulemakings. Please note that all references to the "Department" and the "Superintendent" prior to October 3, 2011 mean, respectively, the former Insurance Department or Banking Department and the former Superintendent of Insurance or Superintendent of Banking, as appropriate to the context, and that the references to laws cited are as of the date of the amendment to the regulations. Thereafter, "Department" and "Superintendent" mean, respectively, the Department of Financial Services and the Superintendent of Financial Services.

PART 1. INSURANCE REGULATIONS

Notice is hereby given of the following rules relating to insurance that the Department will review this year to determine whether they should be continued or modified. These rules were adopted in 2017, 2015, 2010, 2005, and 2000. These rules as published in the State Register ("Register") contain a regulatory flexibility analysis, a rural area flexibility analysis and/or a job impact statement. If no such analysis was filed, a statement setting forth why one or all those analyses was unnecessary was published in the Register. Public comment on the continuation or modification of the following rules is invited. Comments must be received within 60 days of the date of publication of this notice. Comments should be submitted to:

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Unless otherwise noted, the Department intends to continue the rules discussed herein without modification, while continually monitoring the regulations to ensure that the provisions remain consistent with related statutory and regulatory requirements.

The following rulemakings were adopted in 2017:

- Amendment to Part 12 (Insurance Regulation 50) (Agent Training Allowance Subsidies for Certain Life Insurance and Annuity Business) of Title 11 NYCRR, effective January 25, 2017.

Statutory Authority: Financial Services Law Sections 202 and 302, and Insurance Law Sections 301 and 4228.

This amendment to Insurance Regulation 50 permits an increase in training allowance limits that were initially set by statute in 1998, to adjust for inflationary increases that have arisen since the regulation was first promulgated on September 28, 2007.

- Addition of new Part 363 (Insurance Regulation 211) (Minimum Standards for the Form and Rating of Family Leave Benefits coverage, Including the Establishment and Operation of a Risk Adjustment Mechanism) to Title 11 NYCRR, effective May 31, 2017.

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 3201, 3217, 3221, and 4235, and Workers' Compensation Law ("WCL") Sections 204(2)(a), 208(2) and 209(3)(b).

This new Part implements the statutory mandates set forth in Insurance Law Section 4235(n) and WCL Sections 204(2)(a), 208(2), and 209(3)(b). This regulation establishes that family leave benefits coverage under WCL Article 9 must be community rated and may be subject to a risk adjustment mechanism, sets the procedures for publishing the maximum employee contribution, and requires issuers and self-funded employers to submit information electronically on claims.

- Amendment of Subpart 60-2 (Insurance Regulation 35-D) (Supplementary Uninsured/Underinsured Motorists Insurance) of Title 11 NYCRR, effective August 1, 2017.

Statutory Authority: Financial Services Law Sections 202 and 302, and Insurance Law Sections 301 and 3420.

This amendment interprets Insurance Law Section 3420(f)(2), in light of ensuing judicial rulings and experience, by establishing a standard form for supplementary uninsured/underinsured motorist ("SUM") coverage, in order to eliminate ambiguity, minimize confusion and maximize its utility.

This amendment clarifies an inadvertent misinterpretation to ensure that the SUM coverage will not provide less benefits than the mandatory uninsured motorist coverage. In addition, this amendment amends the 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, in accordance with the recommendation and authorization of the Supplementary Uninsured Motorist Optional Arbitration Advisory Committee, and amends all references in Sections 60-2.3 and 60-2.4 to "AAA/American Arbitration Association" to read "designated organization." Furthermore, this amendment incorporates various editorial revisions to the prescribed endorsement and other portions of the regulation to clarify the intent and application of the coverage.

Insurance Regulation was amended effective November 25, 2018, to conform with new Insurance law Section 3420(f)(2-a), which was implemented by Chapter 490 of the Laws of 2017 and Chapter 15 of the Laws of 2018.

- Addition of new Part 111 (Insurance Regulation 207) (Statement of Actuarial Opinion and Actuarial Opinion Summary for Property/Casualty Insurers) to Title 11 NYCRR, effective August 2, 2017.

Statutory Authority: Financial Services Law Sections 202 and 302, and Insurance Law Sections 301, 307, 316, and 4117.

This new rule incorporates Section 2A of the National Association of Insurance Commissioners' ("NAIC") Property and Casualty Actuarial Opinion Model Law (the "Model Law"), which requires an authorized property/casualty insurer to submit an annual statement of actuarial opinion ("SAO") unless

otherwise exempted by the insurer's domiciliary state, and Section 2B of the Model Law, which requires a domestic property/casualty insurer that must submit an SAO to submit an annual actuarial opinion summary ("AOS") written by the insurer's appointed actuary. This incorporation ensures that the Department meets NAIC accreditation standards and relieves the Department of the need to continue reissuing circular letters each year. The rule also requires an authorized property/casualty insurer to submit an AOS electronically, unless the Superintendent grants the insurer an exemption from filing electronically.

- Amendment to Part 52 (Insurance Regulation 62) (Minimum Standards for Form, Content, and Sale of Health Insurance, including Standards of Full and Fair Disclosure) of Title 11 NYCRR, effective August 20, 2017.

Statutory Authority: Financial Services Law Sections 202 and 302, and Insurance Law Sections 301, 3201, 3217, 3221, 4235, 4237, and 4303.

This amendment makes explicit that individual, group and blanket accident insurance policies and contracts that provide hospital, surgical, or medical expense coverage delivered or issued for delivery in New York State may not exclude coverage for medically necessary abortions and must provide such coverage at no cost sharing.

In addition, the amendment provides for an optional, limited exemption for religious employers. However, the amendment still ensures that medically necessary abortion coverage is maintained for any insured of a policy issued to a religious employer at no additional cost to the insured by requiring an insurer to issue a rider to each certificate holder of a policy issued to the religious employer that provides coverage for medically necessary abortions, at no premium to be charged to the certificate holder or religious employer.

- Amendment to Part 52 (Insurance Regulation 62) (Minimum Standards for Form, Content, and Sale of Health Insurance, including Standards of Full and Fair Disclosure) of Title 11 NYCRR, effective August 20, 2017.

Statutory Authority: Financial Services Law Sections 202 and 302, and Insurance Law Sections 301, 3216(i)(17) and (33), 3217, 3221(l), (8), (16), and (19), and 4303(j), (cc), and (qq).

This amendment requires an insurer to allow, where the prescription so provides, for the dispensing of an initial three-month supply of a contraceptive to an insured, and up to a 12-month prescribed supply for any subsequent dispensing of the same contraceptive prescribed by the same health care provider and covered under the same policy or contract or renewal thereof.

- Consolidated Amendment of Parts 20 (Insurance Regulations 9, 18 and 29) (Brokers, Agents and Certain other Licensees – General); 29 (Insurance Regulation 87) (Special Prohibitions); 30 (Insurance Regulation 194) (Producer Compensation Transparency); 34 (Insurance Regulation 125) (Requirements Pertaining to the Location of an Insurance Agent or Broker at Each Place of Insurance Business); and Addition of new Part 35 (Insurance Regulation 206) (Title Insurance: Title Insurance Agents, Affiliated Relationships, and Required Disclosures) of Title 11 NYCRR, effective October 18, 2017.

Statutory Authority: Financial Services Law Sections 202 and 302, and Insurance Law Sections 107(a)(54), 301, 2101(k), 2109, 2112, 2113, 2119, 2120, 2122, 2128, 2129, 2132, 2139, 2314, and 6409.

These rules are necessary in order to include title insurance agents in a number of existing regulations governing insurance producers and to clarify those regulations. In addition, the rules address unique circumstances involving title insurance agents, including affiliated persons' arrangements and required consumer disclosures.

- Consolidated Amendment of Part 27 (Insurance Regulation 41) (Excess Line Placements Governing Standards); Subpart 60-1 (Insurance Regulation 35-A) (Minimum Provisions for Auto Liability Insurance Policies); Subpart 60-2 (Insurance Regulation 35-D) (Supplementary Uninsured/Underinsured Motorists Insurance); Subpart 65-1 (Insurance Regulation 68-A) (Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparations Act – Prescribed Policy Endorsements); Subpart 65-3 (Insurance Regulation 68-C) (Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparations Act – Claims for Personal Injury Protection

Benefits); Subpart 65-4 (Insurance Regulation 68-D) (Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparations Act – Arbitration); Part 169 (Insurance Regulation 100) (Noncommercial Motor Vehicle Insurance Merit Rating Plans); Part 216 (Insurance Regulation 64) (Unfair Claims Settlement Practices and Claim Cost Control Measures); and Addition of new Subpart 60-3 (Insurance Regulation 35-E) (Transportation Network Companies: Minimum Provisions for Auto Liability Policies and other Requirements) of Title 11 NYCRR, effective October 25, 2017).

Statutory Authority: Financial Services Law Sections 202 and 302, Insurance Law Sections 301, 2115, 2118, 2305, 2307, 2334, 2335, 2601, 3420, 3455, 5102, 5105, and 5406 and Articles 23 and 51, Vehicle and Traffic Law ("VTL") Sections 1693, 1694 and 311, and Chapter 59 of the Laws of 2017 Part AAA.

Part AAA of Chapter 59 of the Laws of 2017, established a new Article 44-B of the VTL ("Article 44-B"), which was signed into law on April 10, 2017, and which took effect on June 29, 2017, regarding transportation network companies ("TNCs") and amended or added other laws to implement new Article 44-B. A TNC is a company that uses a digital network, such as an application on a phone, to connect people seeking rides with drivers who are interested in providing those rides. Although TNCs have several different models, the most typical model utilizes drivers that are not professional livery drivers and who use their own personal automobiles to provide those prearranged rides and it is that model that Chapter 59 recognizes. The new TNC laws necessitated a change to New York's motor vehicle financial responsibility requirements, including regulations promulgated by the Superintendent. In addition, the law provides that the Superintendent establish the provisions for policies satisfying the new financial responsibility requirements of Article 44-B.

The rules listed above have been adopted to implement the new TNC law, particularly to establish the minimum requirements for policies satisfying the financial responsibility requirements of Article 44-B, and to ensure that minimum insurance requirements are in place at all times with appropriate protections in order to protect the drivers and owners of the vehicles, and the general public.

- Amendment to part 101 (Insurance Regulation 164) (Standards for Financial Risk Transfer Between Insurers and Health Care Providers) of Title 11 NYCRR, effective November 3, 2017.

Statutory Authority: Financial Services Law Sections 202 and 302, Insurance Law Sections 301, 1102, 1109 and Articles 32, 41, 42, 43, and Public Health Law Section 4403(1)(c) and Article 29-E.

To advance the objectives of Public Health Law Article 29-E (which established a demonstration program to test the ability of accountable care organizations ("ACOs") to assume a role in delivering an array of health care services, from primary and preventive care through acute inpatient hospital and post-hospital care), the Commissioner of the New York State Department of Health ("Commissioner") adopted a new regulation (10 NYCRR 1003) ("ACO Regulation") that establishes standards for the issuance of certificates of authority to ACOs by the Commissioner. The Commissioner also adopted an amendment to 10 NYCRR 98 to: (1) expand the definition of an independent practice association ("IPA") to allow such entities to become certified as ACOs pursuant to Public Health Law Article 29-E and the ACO Regulation; and (2) upon certification, contract with third party health care payers.

This amendment to Insurance Regulation 164 expands the definition of "intermediary entity" to include ACOs as defined by the Commissioner's ACO Regulation and thereby permit insurers to enter into financial risk transfer arrangements with ACOs that are certified pursuant to Article 29-E and the ACO Regulation.

- Addition of new Part 228 (Insurance Regulation 208) (Title Insurance Rates, Expenses, and Changes) of Title 11 NYCRR, effective December 18, 2017.

Statutory Authority: Financial Services Law Sections 202 and 302, and Insurance Law Sections 301, 2110, 2119, 2303, 2304, 2306, 2315, and 6409 and Articles 23 and 24.

This new rule is necessary in order to: (a) ensure that title insurance corporations and title insurance agents comply with the Insurance Law; (b) level the playing field so that a title insurance corporation or title insurance agent is not selected based on which entity can provide the most lavish inducements; (c) help ensure that title insurance rates are not excessive; and (d) eliminate unreasonable and excessive markups

of ancillary charges. This rule provides consumers with additional protection against excessive rates and unreasonable closing costs.

- Amendment of Part 68 (Insurance Regulation 83) (Charges for Professional Health Services) of Title 11 NYCRR, effective January 23, 2018.

Statutory Authority: Financial Services Law Sections 202 and 302, and Insurance Law Sections 301, 2601, 5221, and Article 51.

This amendment to Insurance Regulation 83 limits insurers' reimbursement of no-fault insurance health care services provided outside New York State at the election of a New York State eligible injured person to the lowest of: (1) the amount of the fee in the region in New York State that has the highest applicable amount in the fee schedule for that service; (2) the amount the provider charged; and (3) the prevailing fee in the geographic location of the provider. If the jurisdiction where the out-of-state provider renders treatment has established a fee schedule for services rendered in connection with motor vehicle-related injuries, the prevailing fee shall be the amount prescribed in that fee schedule for the respective service. This limit on reimbursement does not apply to services provided out-of-state which: (1) would constitute emergency care; (2) are provided to a non-resident of this State; or (3) are provided to a New York State resident who, at the time of treatment, is residing in the jurisdiction where the treatment is being rendered for reasons unrelated to the treatment.

- Amendment of Part 154 (Insurance Regulation 150) (Private Passenger Motor Vehicle Multi-Tier Programs) of Title 11 NYCRR, effective March 13, 2018.

Statutory Authority: Financial Services Law Sections 202 and 302, and Insurance Law Sections 301, 2301, 2303, and 2349, and Insurance Law Article 23.

This amendment to Insurance Regulation 150 makes clear that an insurer may not use a policyholder's occupational status or educational level as a factor in either initial tier placement or tier movement unless the insurer demonstrates, to the Superintendent's satisfaction, that the use of occupational status or educational level attained in initial tier placement or tier movement does not result

in a rate that violates Insurance Law Article 23. This rule accords with the public policy objectives that the New York State Legislature sought to advance in Insurance Law Sections 2301, 2303, and 2349.

- Amendment to Part 48 (Insurance Regulation 210) (Life Insurance and Annuity Non-Guaranteed Elements) of Title 11 NYCRR, effective March 19, 2018.

Statutory Authority: Financial Services Law Sections 202 and 302, and Insurance Law Sections 301, 1106, 1113, 3201, 3203, 3209, 3219, 3220, 3223, 4216, 4221, 4223, 4224, 4231, 4232, 4238, 4239, 4240, 4511, 4513, 4518 and Article 24.

This rule addresses several issues that have been highlighted by company announcements, media commentary, and complaints received by the Department regarding the determination and readjustment of non-guaranteed elements in life insurance policies, particularly with respect to universal life, indeterminate premium term life, and whole life insurance, and annuity contracts. The rule assists consumers to better understand at the time of purchase and upon any adverse readjustment of non-guaranteed elements how life insurance policies and certain annuity certificates and contracts with non-guaranteed elements subject to change at the discretion of the insurer or fraternal benefit society operate, and thereby reduce consumer dissatisfaction and the number of lapsed policies. The rule accomplishes this by requiring additional disclosures at the time the policy, contract or certificate is issued and by requiring notice to be provided in advance of any adverse change in the current scale of non-guaranteed elements, in order to give the owner enough time to address any projected insufficiency.

The following rulemakings were adopted in 2015:

- Amendment to Subpart 65-4 (Insurance Regulation 68-D) (Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparations Act - Arbitration) of Title 11 NYCRR, effective February 4, 2015.

Statutory Authority: Financial Services Law Sections 202 and 302, and Insurance Law Sections 301 and 5221 and Article 51 of the Insurance Law.

This amendment to Insurance Regulation 68-D: (1) eliminates the $60 minimum attorney's fee; (2) eliminates the $60-or-$80 attorney-fee limit that applies during the conciliation phase of the arbitration process; and (3) increases the maximum fee to be awarded to an attorney who prevails in court or at arbitration to $1,360. These changes to the current fee structure should reduce the backlog of pending lawsuits and arbitrations by creating a more expeditious process to resolve disputes. The amendment should also reduce no-fault fraud and abuse by making billing practices more transparent, because when an action is consolidated, multiple services billed by a health service provider will be presented in a single legal action, allowing the finder of fact in arbitration or court to identify any questionable billing patterns, whereas with separate legal proceedings, billed services are spread out among multiple arbitrators or judges, making fraudulent and abusive billing more difficult to detect.

- Addition of new Part 227 (Insurance Regulation 202) (Regulation of Force-Placed Insurance) of Title 11 NYCRR, effective February 6, 2015.

Statutory Authority: Financial Services Law Sections 202, 301, and 302, and Insurance Law Sections 301, 308, 2110, 2303, and 2304 and Articles 21, 23, 24 and 34.

This new Part 227 ensures that force-placed insurance market participants comply with New York law. This rule is also necessary to protect homeowners and investors from the harm caused by the multiple law violations.

- Amendment to Part 67 (Insurance Regulation 79) (Mandatory Underwriting Inspection Requirements for Private Passenger Automobiles) of Title 11 NYCRR, effective April 1, 2015.

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 301, 3411, 5303, and Article 53.

Inspections of automobiles have been mandatory since 1977 in order to combat insurance fraud, and only under limited circumstances has the current rule permitted insurers to waive or defer inspections. However, with advances in technology to combat automobile physical damage insurance fraud, certain provisions of the current rule have been rendered obsolete or unduly burdensome to insurers and insureds.

This amendment to Insurance Regulation 79 has been updated to reduce unnecessary expenses to insurers and consumers, while maintaining necessary requirements to combat fraud. The amendment also clarifies various provisions of the regulation, including the types of automobiles subject to the inspection requirement, as well as expands the optional inspection waivers available to insurers.

The Department is considering adding a new subpart to Insurance Regulation 79 pertaining to automobile photo inspections.

- Consolidated Amendment to Parts 98 (Insurance Regulation 147) (Valuation of Life Insurance Reserves) and 100 (Insurance Regulation 179) (Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits and Recognition and Application of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities) of Title 11 NYCRR, effective April 1, 2015.

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 1304, 1308, 4217, 4218, 4221, 4224, 4240, and 4517.

Insurance Regulation 147 is amended to recognize mortality improvement beyond the valuation date for universal life policies that guarantee that coverage remains in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement, issued on or after January 1, 2015. Additionally, a lapse rate of two percent may be used for the first five years, followed by a rate of no more than one percent for the remaining life of the policy.

Insurance Regulation 179 is amended consistent with mortality improvement. Because insureds are generally living longer, the amendment applies a 1.0 percent mortality improvement factor to the current mortality table (2001 CSO) for up to 40 years, and it applies a 0.5 percent mortality improvement factor thereafter through attained age 80. The mortality rates linearly grade from attained ages 81 through 90. These factors will apply only during the first segment.

- Amendment to Part 21 (Insurance Regulation 60) (Replacement of Life Insurance Policies and Annuity Contracts) of Title 11 NYCRR, April 21, 2015.

Statutory Authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 2123, 2403 and 4226.

This amendment to Insurance Regulation 60 changes the time in which a completed Disclosure Statement must be presented or delivered to an applicant from "no later than at the time the applicant signs the application" to "prior to the delivery of the replacement policy," achieving the stated goals of the National Association of Insurance and Financial Advisors – New York State and gaining the life insurance industry's support while still retaining the current regulation's significant consumer protections. In addition, this amendment will benefit insureds, insurance producers and insurers by:

- allowing an insurance producer to bind coverage for a consumer more quickly, subject to an insurer's underwriting requirements, because the insurance producer will be able to accept the consumer's application immediately without waiting for a completed Disclosure Statement;
- enabling the underwriting process to proceed immediately, thereby expediting the policy issuance process. Applicants who are determined to replace their existing coverage are, reportedly, often aggravated or upset that they must wait several weeks to apply for new coverage. Some applicants seek a quick exit from their current policies to avoid market losses (such as with variable annuities), but must wait several weeks before a new application can be completed;
- facilitating more insurance purchased over the internet. The current process of having to wait several weeks for a response from the replaced insurer effectively inhibits internet sales when replacements are involved;
- reducing the number of "revised" Disclosure Statements that are currently necessary to account for changes that occurred between the time the application was taken and the date that the policy is ultimately issued. The issuance of multiple Disclosure Statements can be confusing to policyholders, and

this amendment is expected to dramatically reduce the number of instances where "revised" Disclosure Statements are necessary;

- preserving the Disclosure Statement as a valuable tool for consumers to compare policies at the time of policy issuance and to review later if they have questions about the new coverage; and
- making it easier for insurance producers and insurers to comply with the regulation. Moving the Disclosure Statement to the back-end of the process will streamline the process and eliminate many of the technical issues that insurers encountered in the past.

The following rulemakings were adopted in 2010:

- Repeal of Part 163 and Adoption of a new Part 163 (Insurance Regulation 153) (Flexible Rating for Nonbusiness Automobile Insurance Policies) of Title 11 NYCRR, effective January 6, 2010.

Statutory Authority: Insurance Law Sections 201, 301, 2350 and Article 23.

This new Part 163 adopted rule re-established flexible rating for nonbusiness automobile insurance policies as required by Insurance Law Section 2350, which was enacted by section 13 of Chapter 136 of the Laws of 2008. Section 2350 permits insurers to put into in effect nonbusiness automobile insurance rates without the Superintendent's prior approval, provided that the overall average rate level does not result in an increase above five percent from the insurer's prior rate level in effect during the preceding 12 months. Section 2350 also limits the overall average rate level decreases without prior approval up to five percent from the insurer's current rate level regardless of when it went into effect. The former Insurance Regulation 153, implementing the former flex rating system, had been repealed when the former section 2350 had expired and a new Insurance Regulation 153 was adopted to establish rules and provide guidance to insurers to implement the requirements of the newly enacted Section 2350.

- Adoption of a new Part 30 (Insurance Regulation 194) (Producer Compensation Transparency) of Title 11 NYCRR, effective January 1, 2011.

Statutory Authority: Insurance Law Sections 201, 301 and Article 21.

Insurance Regulation 194 requires an insurance producer to disclose the following: its role in the transaction; that the producer will receive compensation from the insurer based upon the sale of the policy; that the compensation paid by insurers may vary; and that the purchaser may obtain from the producer, upon request, information about the compensation the producer expects to receive from the sale of the policy. The regulation also requires that upon the customer's request, the producer disclose the amount of compensation for the policy selected and any alternative quotes presented. The required disclosures should minimize the potential conflicts that arise from producer compensation because insurance customers can request information about the compensation for the insurance policy and alternative policies quoted.

- Repeal of Part 135 (Insurance Regulation 67) (Reporting of Reserve Liabilities by Public Retirement Systems) of Title 11 NYCRR, effective March 3, 2010.

Statutory Authority: Insurance Law Sections 201, 301, 307(a); Retirement and Social Security Law Sections 15, 315; Education Law Section 523; Administrative Code of the City of New York Sections 13-183, 13-266, 13-378, 13-562; and the Rules and Regulations of the Retirement Board of the Board of Education of the City of New York Section 25.

Insurance Regulation 67 required reporting of certain financial transactions and reserve liabilities by public retirement systems maintained by the City of New York and the State of New York. The regulation referred to items in an annual statement form that was made obsolete by the replacement of a new form in 2007, which included the reporting requirements and filing instructions that were formerly set forth in Insurance Regulation 67. Thus, Insurance Regulation 67 was repealed to eliminate requirements relating to a previous annual statement form that is no longer in use and eliminated regulatory provisions that are no longer applicable to any person.

- Addition of new Subpart 151-3 (Insurance Regulation 119) (Workplace Safety and Loss Prevention Incentive Program) of Title 11 NYCRR, effective April 21, 2010.

Statutory Authority: Insurance Law Sections 201, 301 and 308, and Chapter 6 of the Laws of 2007.

Subpart 151-3 was adopted to comply with WCL § 134(6)(c), which requires the Superintendent to promulgate regulations to establish workers compensation premium credits for employers insured by the State Insurance Fund or another workers compensation insurer that implement a safety incentive program, drug and alcohol prevention program, or a return to work program, and to require re-certification on an annual basis.

- Consolidated Amendment of Parts 52 (Insurance Regulation 62) (Minimum Standards for the Form, Content, and Sale of Health Insurance, Including Standards for Full and Fair Disclosure), 215 (Insurance Regulation 34) (Advertisements of Accident and Health Insurance), 360 (Insurance Regulation 145) (Rules to Assure an Orderly Implementation of Ongoing Operation of Open Enrollment and Community Rating of Individual and Small Group Health Insurance), 361 (Insurance Regulation 146) (Establishment and Operation of Market Stabilization Mechanisms for Individual and Small Group Health Insurance and Medicare Supplement Insurance), and Addition of Part 58 (Insurance Regulation 193) (Minimum Standards for the Form, Content and Sale of Medicare Supplement Insurance) to Title 11 NYCRR, effective May 3, 2010.

Statutory Authority: Federal Social Security Act (42 U.S.C. Section 1395ss); Insurance Law Sections 201, 301, 3201, 3216, 3217, 3218, 3221, 3231, 3232, 4235, and Article 43.

In 1992, Congress enacted the federal Omnibus Budget Reconciliation Act of 1990 which establishes uniform requirements to govern Medicare supplement insurance. In 1992, the Department amended regulatory provisions pertaining to the rules for the regulation of Medicare supplement insurance to ensure compliance with federal standards. In 2008, Congress amended federal law to revise the standards governing Medicare supplement insurance plans. These regulations were amended to conform to federal requirements, as set forth in the revised NAIC's Medicare Supplement Insurance Minimum Standards Model Act.

- Amendment to Part 68 (Insurance Regulation 83) (Charges for Professional Health Services) of Title 11 NYCRR, effective September 22, 2010.

Statutory authority: Insurance Law Sections 201, 301, 2601, 5221, and Article 51.

This rule established, for the purposes of no-fault reimbursement, a fee schedule for dental services because at the time the Workers' Compensation Board ("WCB") had not established a fee schedule for such services. In 2009, the WCB adopted a dental fee schedule effective March 1, 2009. This amendment repealed Part A of Appendix 17-C to Part 68 that pertains to the fee schedule previously established by the then-Insurance Department for dental services. The charges for dental services are covered by the fee schedule established by the WCB.

- Amendment to Part 125 (Insurance Regulations 17, 20, and 20-A) (Credit for Reinsurance from Unauthorized Insurers) of Title 11 NYCRR, effective January 1, 2011.

Statutory Authority: Insurance Law Sections 110, 201, 301, 307(a), 308, 332, 1301(a)(9), 1301(c), and 1308.

This rule applies to insurers authorized to do business in New York State and addresses whether a ceding insurer may take credit on its balance sheet, as an asset or deduction from reserves, for reinsurance recoverable from an unauthorized assuming insurer. The amendment established certain requirements for ceding insurers and reinsurers and placed the onus on ceding insurers to prudently manage their risk.

Effective March 20, 2013, the Department adopted another amendment to Part 125 to establish rules governing when an authorized ceding insurer may take credit on its balance sheet for a reinsurance recoverable.

The following rulemakings were adopted in 2005:

- Amendment to Part 39 (Insurance Regulation 144) (Partnership for Long-Term Care Program) of Title 11 NYCRR, effective January 26, 2005.

Statutory Authority: Insurance Law Sections 201, 301, 3201, 3217, 3221, 3229, 4235, 4237 and article 43; Social Services Law 367-f.

By Chapter 454 of the Laws of 1989, as amended by Chapter 659 of the Laws of 1997, the Legislature enacted the Partnership for Long-Term Care Program ("the Program") to provide that citizens

of New York State who purchase a long-term care insurance policy/certificate under the Program, and who exhaust benefits under such policy/certificate, will become eligible for long-term care protection through the New York State Medicaid program. Insurance Regulation 144 establishes the standards and requirements relating to the Program. This amendment was necessary to expand the plan design options under the New York State Partnership for Long-Term Care Program. Prior to the amendment, there was only one plan design offered.

Effective June 1, 2012, The Department adopted another amendment to Insurance Regulation 144 to amend minimum standards for inflation protection, to add a new plan and add disclosure requirements relating to reciprocity.

Effective January 1, 2014, the Department adopted another amendment to Insurance Regulation 144 to amend the minimum daily benefit amounts for 2014 through 2023 for the New York State Partnership for Long-Term Care Program.

- Addition of new Part 217 (Insurance Regulation 178) (Prompt Payment of Health Insurance Claims) to Title 11 NYCRR, effective February 2, 2005.

Statutory Authority: Insurance Law Sections 201, 301, 1109, 2403, 3224 and 3224-a.

Chapters 637 and 666 of the Laws of 1997, which amended the Insurance Law relating to the settlement of claims for health care and payment for health care services, took effect January 22, 1998. The legislation was intended to set timeframes within which insurers and health maintenance organizations must pay undisputed claims for health care services submitted by subscribers and health care providers. One area of continuing concern had been determining when a claim was deemed to be "clean," and therefore ready for payment. This regulation created claims payment guidelines for determining when a health care insurance claim is considered complete and ready for payment. By its terms, the regulation is applicable only to claims submitted on paper.

Effective December 27, 2006, the Department adopted an amendment to Insurance Regulation 178 to update the claim payment guidelines for determining when a health care insurance claim is considered complete and ready for payment.

Effective July 15, 2009, the Department adopted another amendment to Insurance Regulation 178 to facilitate the timely processing and payment of health insurance claims in those circumstances where the patient is covered by more than one policy issued by different insurers.

- Amendment to Part 52 (Insurance Regulation 62) (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) of Title 11 NYCRR, effective September 7, 2005.

Statutory Authority: Federal Social Security Act (42 U.S.C. section 1395ss) and Insurance Law Sections 201, 301, 3201, 3216, 3217, 3218, 3221, 3231, 3232, 4235, 4237, and Article 43

The federal Medicare Prescription Drug, Improvement and Modernization Act of 2003 ("MMA") included several changes to the standardized Medicare supplement insurance plans. The Act charged the NAIC's Senior Issues Task Force, with the task of updating the standards for Medicare supplement insurance. This updating of standards was accomplished through adoption of a revised Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act on September 8, 2004. This amendment conforms Regulation 62 to the requirements of the MMA.

- Amendment to Part 41 (Insurance Regulation 143) (Accelerated Payment of Death Benefits under a Life Insurance Policy) of Title 11 NYCRR, effective December 7, 2005.

Statutory Authority: Insurance Law Sections 201, 301, 1113, 1304, 3201, 3209, 4217 and 4517.

Chapter 537 of the Laws of 2000 added Sections 1113 (a)(1)(C) and (D) to the Insurance Law, allowing insurers to offer an insured the option of accelerating the death benefit under a life insurance policy when the insured is chronically ill and may need additional financial resources to assist with meeting long term needs and expenses. Access to the death benefit of a life insurance policy provides an alternate way for insureds to meet increasing long-term care needs and related expenses. The legislation

also required that the accelerated death benefit payments for chronic illness be federally tax-qualified. The standards set forth by this regulation provide consumers with proper disclosure about this benefit, and they have helped to ensure the favorable federal tax treatment for the payment of the benefits.

The following rulemakings were adopted in 2000:

- Addition of Part 261 (Insurance Regulation 161) (Prepaid Legal Services Plans), Addition of Part 262 (Insurance Regulation 162) (Legal Services Insurance), Amendment to Part 26 (Insurance Regulation 25) (Independent Adjusters), Amendment to Part 161 (Insurance Regulation 129) (Flexible Rating System; Rating Plans; Tort Reform Re-filing Requirements), Amendment to Part 260 (Insurance Regulation 132) (Experimental Monoline Prepaid Legal Services Plans), Amendment to Part 73 (Insurance Regulation 121) (Claims-Made Policies; Scope of Application; Minimum Standards), Amendment to Part 71 (Insurance Regulation 107) (Legal Defense Costs in Liability Policies) (State Register of March 22, 2000) of Title 11 NYCRR, effective March 22, 2000.

Statutory Authority: Insurance Law Sections 201, 301, 1113(a)(29), and 1116, and Article 23; Chapter 65 of the Laws of 1998.

Prior to enactment of Chapter 65 of the Laws of 1998, Insurance Law Section 1116 of the authorized insurers to offer experimental plans of prepaid legal services insurance, and, except in connection with such plans, the Insurance Law did not authorize insurers to provide legal services insurance. Chapter 65 added a new paragraph 29 to Insurance Law Section 1111(a), effective April 1, 1999 setting forth a new kind of insurance entitled "legal services insurance." Legal services insurance means insurance providing legal services or reimbursement of the cost of legal services. Chapter 65 also amended Insurance Law Section 1116 (retitled "Prepaid legal services plans and legal services insurance").

These new regulations and amendments to existing regulations implemented the legislative purpose to make affordable legal services insurance and prepaid legal services plans available in New York, subject to appropriate safeguards and limitations.

Effective January 10, 2007, the Department adopted an amendment to Part 262. Prior to this amendment, legal services insurance that was written as part of a policy of liability insurance was subject to the filing and approval requirements of Insurance Law Article 23 and did not qualify as a special risk coverage pursuant to 11 NYCRR 16 (Insurance Regulation 86). Thus, a liability policy that might otherwise be exempt from Article 23 filing requirements, except for the fact that it includes legal services insurance coverage, was required to be submitted to the Department for approval before it could be used. This rule permits legal services insurance to qualify as a special risk only if the coverage of the policy of liability insurance of which it is a part also qualifies as special risk coverage pursuant to Insurance Law Article 63 and Insurance Regulation 86, and the policy is written on that basis.

- Amendment to Part 50 (Insurance Regulation 47) (Separate Accounts and Separate Account Annuities) of Title 11 NYCRR, effective April 26, 2000.

Statutory Authority: Insurance Law Sections 201, 301, 3201, 4240 and 4527.

New York Insurance Law section 4240 authorizes insurers to provide life insurance and annuity benefits that vary according to the investment experience of an insurer's separate account. This amendment to Insurance Regulation 47 allows insurers to utilize additional methods in calculating variable annuity payments where the Superintendent has determined the methods to be fair, equitable, reasonable and not less favorable to participants or annuitants than the methods previously employed. The amendment is consistent with the legislative objective of permitting insurers to provide variable annuity income payments to consumers that equitably reflect the investment performance of the separate account.

- Amendment to Part 70 (Insurance Regulation 101) (Medical Malpractice Insurance Rate Modifications, Provisional Rates, Required Policy Provisions and Availability of Additional Coverages) of Title 11 NYCRR, effective June 23, 2000.

Statutory Authority: Insurance Law Sections 201, 301, 1113(a)(13) and (14), 3426, 3436, 5504, 5907, 6302, 6303 and Article 23 of the Insurance Law; and Chapter 147 of the Laws of 1999 as amended by Part JJ of Chapter 407 of the Laws of 1999.

This amendment establishes physicians and surgeons' medical malpractice insurance rates and appropriate surcharges for the policy year July 1, 1999 through June 30, 2000 and establishes rules to collect and allocate surcharges to recover deficits based on past experience.

Effective June 20, 2001, the Department adopted an amendment to Insurance Regulation 101, which established the framework for the rates and forms of policies of physicians' medical malpractice insurance. This amendment establishes the rates and surcharges for primary policies of physicians and surgeons' medical malpractice insurance effective July 1, 2000.

Since 2001, the Superintendent has continued to establish physicians and surgeons' medical malpractice insurance rates and appropriate surcharges pursuant to Section 40 of Chapter 266 of the laws of 1986 and amendments thereof. The Superintendent's authority has been extended periodically by the Legislature.

- Amendment to Part 126 (Insurance Regulation 114) (Trust Agreements) of Title 11 NYCRR, effective August 21, 2000.

Statutory Authority: Insurance Law Sections 201, 301, and 1301(a)(14).

This amendment specifically permits a trust company to be the trustee under a trust agreement. Previously, the regulation required that the trustee be a bank that either was a member of the Federal Reserve or New York State charter.

- Amendment to Subpart 62-4 (Insurance Regulation 96) (Anti-Arson Application) of Title 11 NYCRR, effective September 27, 2000.

Statutory Authority: Insurance Law Sections 201, 301 and 340.

New York Insurance Law section 3403 specifies the circumstances under which an anti-arson application must be completed by an applicant for a new or renewal policy or binder covering the perils of fire or explosion. Insurance Regulation 96 creates the anti-arson application form that elicits the disclosure of certain types of information. The regulation also provides for cancellation of coverage if the application is not received within the statutorily mandated time frame.

Chapter 456 of the Laws of 1999 added a new subsection to Insurance Law section 3403, which allows the Superintendent to suspend or waive the requirement that the insurer use the anti-arson application upon renewal of policies if substantially equivalent information can be obtained by the insurer by other means. This amendment to Insurance Regulation 96 establishes a procedure whereby an insurer may request such suspension or waiver.

- Amendment to Part 360 (Insurance Regulation 145) (Open Enrollment and Community Rating of Individual and Small Group Health Insurance) of Title 11 NYCRR, effective January 3, 2001.

Statutory authority: Insurance Law Sections 201, 301, 1109, 3201, 3216, 3217, 3221, 3232, 3233, 4235, 4237, Articles 43 and 45; and Chapter 501 of the Laws of 1992

Chapter 501 of the Laws of 1992 was enacted to increase access to affordable health insurance coverage through mandatory community rating and open enrollment. Insurance Regulation 145 was first promulgated in 1993 to ensure that the objectives of the legislation were realized. This amendment prohibits premium discounts and per case charges – mechanisms that tended to result in coverage for smaller groups becoming more expensive and less accessible relative to larger groups. The amendment also prohibits insurers from establishing commission payment schedules that would make agents and brokers reluctant to spend time and resources selling and procuring coverage to smaller groups.

- Amendment to Part 361 (Insurance Regulation 146) (Pooling Mechanism for Individual and Small Group Health Insurance) of Title 11 NYCRR, effective December 13, 2000.

Statutory authority: Insurance Law Sections 201, 301, 1109, 3201, 3216, 3217, 3221, 3231, 3232, 3233, 4235, 4304, 4305, 4317, 4318, 4321, 4322, and Article 45; and Chapter 501 of the Laws of 1992, and Chapter 504 of the Laws of 1995.

Chapter 501 of the Laws of 1992 established requirements for open enrollment, community rating and portability of individual and small group health insurance coverage, and it also provided for a pooling mechanism for individual and small group health insurance to ensure the stabilization of health insurance markets and premium rates. Chapter 504 of the Laws of 1995 specifically required the phase-out of

demographic based pooling mechanisms and the expansion of pooling processes designed to share the risk of or equalize high cost claims or the claims of high cost persons.

This amendment implements the legislative objective of Chapter 504, while also retains and enhances consumer protections, by assuring that coverage is made available to all segments of the population at reasonable rates.

Effective May 22, 2002, the Department adopted another amendment to Part 361 to implement and assure the ongoing operation of open enrollment and community rating, including mechanisms designed to ensure the stability of the individual and small group health insurance markets. Chapter 504 of the Laws of 1995 provided for modification of pooling processes designed to share the risk of insurers and HMOs providing individual and small group health insurance

coverage.

This amendment exercises the statutory authority and responsibility placed upon the Superintendent to implement and assure the ongoing operation of open enrollment and community rating, including mechanisms designed to ensure the stability of the individual and small group health insurance markets. Chapter 504 permitted the Superintendent, after January 1, 2000, to establish more than one type of mechanism for insurers and HMOs to share risks or prevent undue variation in claims costs. This amendment phased out (as of January 1, 2000) pooling based on demographics for individual and small group coverage, other than Medicare supplement insurance, and replaces them with modified specified medical condition pools. The rule continues a demographic pooling mechanism for Medicare supplement insurance.

Effective June 25, 2008, the Department adopted another amendment to Part 361 to phase out the existing market stabilization pool. Payments, collections and data reports were not required in 2005, and the new pooling methodology established by the amendment was established in 2006 and became fully operational in 2008.

Effective May 5, 2010, Insurance Regulation 146 was amended as part of a consolidation of regulations that were amended to address Medicare Supplement Insurance as discussed *supra*.

Effective August 15, 2018, the Department amended Insurance Regulation 146 to authorize the Superintendent to implement a market stabilization pool for the small group health insurance market if, after reviewing the impact of the federal risk adjustment program on this market, the Superintendent determines that a market stabilization mechanism is a necessary amelioration. The rule: (1) ameliorates a possible disproportionate impact that federal risk adjustment may have on insurers and health maintenance organizations; (2) addresses the needs of the small group health insurance market in New York; and (3) prevents unnecessary instability in the health insurance market.

- Adoption of Part 310 (Regulation 167) (Product or System Group Policies) of Title 11 NYCRR, effective October 18, 2000.

Statutory Authority: Insurance Law Sections 201, 301, 3446 and article 23 and Chapter 187 of the Laws of 1999.

Chapter 187 of the Laws of 1999 added a new Section 3446 to the Insurance Law, which permits a group policy to be issued to a manufacturer, distributor, or installer of a product or system, or to a trustee on behalf of more than one manufacturer, distributor or installer. The regulation implements Insurance Law Section 3446 by establishing requirements for issuance of certificates to group members, payment of premium, and cancellation and renewal.

PART 2. BANKING REGULATIONS

Notice is hereby given of the following rules relating to banking that the Department will review this year to determine whether they should be continued or modified. These rules were adopted in 2017, 2015, 2010, 2005, and 2000. These rules as published in the Register contain a regulatory flexibility analysis, a rural area flexibility analysis, and/or a job impact statement. If no such analysis was filed, a statement setting forth why one or all of those analyses was unnecessary was published in the Register.

Public comment on the continuation or modification of the above rules is invited. Comments must be received within 60 days of the date of publication of this notice. Comments should be submitted to:

Christine M. Tomczak
Assistant Counsel
New York State Department of Financial Services
One State Street
New York, NY 10004
Telephone: (212) 709-1642
Email: christine.tomczak@dfs.ny.gov

There were no new Banking regulation amendments or adoptions in 2017, 2015 or 2010.

The following rulemakings were adopted in 2005:

- Adoption of New Part 6.7 of the General Regulations of the Superintendent (Additional Authority of Banks, Trust Companies, Savings Banks and Savings and Loan Associations Pursuant to Banking Law §§ 14-g and 14-h; Additional Authority of Banks and Trust Companies to Underwrite and Deal in Certain Securities, including Municipal Bonds)

a. Description of rule: This rule gives New York state-chartered banks and trust companies the power to underwrite and deal in certain securities including municipal bonds.

b. Legal Basis for the rule: Banking Law §§ 13.4, 14, 14-g and 14-h.

c. Need for rule: This rule is necessary to give New York state-chartered banks and trust companies parity with national banks in underwriting and dealing in municipal revenue bonds and other government securities.

- Amendment to Part 70.2 of the General Regulations of the Superintendent (Interlocking Directors and Officers of Banking Organizations and Bank Holding Companies: Exceptions)

a. Description of rule: This rule allows for an executive officer of a bank, trust company, bank holding company, foreign banking corporation, national bank, savings bank, savings and loan association or federal savings and loan association to be the executive officer of any other such institution.

b. Legal Basis for the rule: Banking Law §§ 130(3)(b), 143(3)(b), 209(3), 247(5)(b), 399(5)(b) and 399-a(2).

c. Need for rule: This rule is needed to eliminate the requirement that interlock permissions granted by the Banking Board must be expressed in a special regulation.

- Amendments to Part 95.2 of the General Regulations of the Superintendent (Borrowings by Credit Unions)

a. Description of rule: This rule outlines borrowings by credit unions.

b. Legal Basis for the rule: Banking Law §§ 14, 453(7) and 454(9).

c. Need for rule: This rule was repealed.

- Amendments to Part 96.2 of the General Regulations of the Superintendent (Lending Limits for Credit Unions: Fully Secured Loans)

a. Description of rule: This rule describes how a credit union may make a loan to a member secured by that member's shares.

b. Legal Basis for the rule: Banking Law §§ 14, 453(5) and 454(6).

c. Need for rule: This rule is needed to conform the regulation to changes in the Banking Law intended to provide New York state-chartered credit unions with powers comparable to, and competitive with, those of federally-chartered credit unions.

- Amendments to Part 96.6 of the General Regulations of the Superintendent (Lending Limits for Credit Unions: Maximum Amount of Loan)

a. Description of rule: This rule provides the maximum amount that a credit union may loan to a member without permission of the superintendent and that a loan to a member may not exceed 25 percent of the net worth of the credit union.

b. Legal Basis for the rule: Banking Law §§ 14, 453(5) and 454(6).

c. Need for rule: This rule is needed to conform the regulation to changes in the Banking Law intended to provide New York state-chartered credit unions with powers comparable to, and competitive with, those of federally chartered credit unions.

- Amendments to Part 97.5 of the General Regulations of the Superintendent (Investment in Credit Union Organizations: Aggregate Limitation)

a. Description of rule: This rule sets forth the aggregate limit of a credit union's investments in the stock, capital notes and debentures of credit union organizations.

b. Legal basis for the rule: Banking Law §§ 14, 453(14-a), 454(19) and 460-a.

c. Need for rule: This rule is needed to conform the regulation to changes in the Banking Law intended to provide New York state-chartered credit unions with powers comparable to, and competitive with, those of federally chartered credit unions.

- Amendments to Part 113 of the General Regulations of the Superintendent (Investment by Credit Unions in the Shares of Central Credit Unions Located in this State)

a. Description of rule: This rule sets forth the limitations of investment by credit unions in the shares of central credit unions located in this state.

b. Legal basis for the rule: Banking Law §§ 14, 453(14-a), 454(19) and 460-a.

c. Need for rule: This rule was repealed.

- Amendments to Part 207 of the General Regulations of the Superintendent (Permission to Serve as an Executive Officer, Director or Trustee of Banks, Trust Companies, Savings Banks, Savings and Loan Associations, Foreign Banking Corporations, National Banks, Federal Savings and Loan Associations and Banking Holding Companies)

a. Description of rule: This rule allows executive officer and director interlocks at banking organizations.

b. Legal Basis for the rule: Banking Law §§ 130(3)(b), 143(3)(b), 209(3), 247(5)(b) and 399-a(2).

c. Need for rule: This rule is needed to allow an individual to serve as both an executive officer of an institution and a director of another institution.

- Amendment to Part 301.5 of the Superintendent's Regulations (Security at Automated Teller Machines: Type and Frequency of Video Tapes or Digital Recording Media for ATM surveillance systems)

a. Description of rule: The rule sets forth the requirements for the quality and maintenance of surveillance equipment at Automatic Teller Machines.

b. Legal basis for the rule: Banking Law §§ 12 and 75-n.

c. Need for rule: Part 301.5 provides detailed standards regarding the retention of surveillance image records.

- Adoption of New Part 326 of the Superintendent's Regulations (Maintenance of Reserves by Credit Unions)

a. Description of rule: This rule outlines the maintenance of reserves by credit unions.

b. Legal Basis for the rule: Banking Law §§ 12 and 458-a.

c. Need for rule: This rule is needed to conform the regulation to changes in the Banking Law intended to provide New York state-chartered credit unions with powers comparable to, and competitive with, those of federally chartered credit unions.

- Adoption of New Part 327 of the Superintendent's Regulations (Investments by Credit Unions in the Shares of Corporate Credit Unions Located in this State)

a. Description of rule: This rule outlines the requirements for investments by credit unions in the shares of corporate credit unions located in New York.

b. Legal Basis for the rule: Banking Law §§ 12, 454 and 454(14).

c. Need for rule: This rule is needed to conform the regulation to changes in the Banking Law intended to provide New York state-chartered credit unions with powers comparable to, and competitive with, those of federally chartered credit unions

- Amendments to Supervisory Policy G 4 (Public Accommodation Offices, Adjoining Facilities, and Adjacent Facilities)

a. Description of rule: This rule outlines the procedure for the establishment of public accommodation offices, adjoining facilities and adjacent facilities.

b. Legal Basis for the rule: Banking Law § 195.

c. Need for rule: This rule is needed to provide for an expedited branch application process for well-rated institutions; provide simplified application forms; eliminate outdated or unnecessary informational requirements; and establish more consistent applications requirements for different types of banking institutions.

- Amendments to Supervisory Policy G 6 (Branching Policy for Banking Organizations)

a. Description of rule: This rule outlines the Department's policy regarding authorization of branches of state-chartered banking organizations.

b. Legal Basis for the rule: Banking Law § 195.

c. Need for rule: This rule is needed to provide for an expedited branch application process for well-rated institutions; provide simplified application forms; eliminate outdated or unnecessary informational requirements; and establish more consistent applications requirements for different types of banking institutions.

- Amendments to Supervisory Procedure G 104 (Application for a Public Accommodation Office)

a. Description of rule: This rule describes the requirements for a public accommodation office application.

b. Legal Basis for the rule: Banking Law §§ 12 and 29

c. Need for rule: This rule is needed to provide for an expedited branch application process for well-rated institutions; provide simplified application forms; eliminate outdated or unnecessary informational requirements; and establish more consistent applications requirements for different types of banking institutions.

- Amendments to Supervisory Procedure G 105 (Application for a Change of Location or a Change of Designation of Principal Office)

a. Description of rule: This rule describes the process for the filing of a change of location or a change of designation of principal office.

b. Legal Basis for the rule: Banking Law §§ 12 and 28.

c. Need for rule: This rule is needed to provide for an expedited branch application process for well-rated institutions; provide simplified application forms; eliminate outdated or unnecessary informational requirements; and establish more consistent applications requirements for different types of banking institutions.

- Amendments to Supervisory Procedure G 108 (Evidence of Compliance with Executive Law § 296-a)

a. Description of rule: This rule describes the procedure that a person, corporation, partnership or other entity must follow when filing certain applications to evidence that it is in compliance with Executive Law § 296-a.

b. Legal Basis for the rule: Executive Law § 296-a and Banking Law § 9-d.

c. Need for rule: This rule is needed to provide for an expedited branch application process for well-rated institutions; provide simplified application forms; eliminate outdated or unnecessary informational requirements; and establish more consistent applications requirements for different types of banking institutions.

- Amendments to Supervisory Procedure CB 103 (Application for Commercial Bank Branch Offices)

a. Description of rule: This rule describes the application process for institutions wishing to open branch offices.

b. Legal Basis for the rule: Banking Law §§ 11 and 29.

c. Need for rule: This rule is needed to provide for an expedited branch application process for well-rated institutions; provide simplified application forms; eliminate outdated or unnecessary

informational requirements; and establish more consistent applications requirements for different types of banking institutions.

- Amendments to Supervisory Procedure SB 101 (Application for Savings Bank Branch Offices)

a. Description of rule: This rule describes the application process for savings banks wishing to open branch offices.

b. Legal Basis for the rule: Banking Law §§ 12 and 29.

c. Need for rule: This rule is needed to provide for an expedited branch application process for well-rated institutions; provide simplified application forms; eliminate outdated or unnecessary informational requirements; and establish more consistent applications requirements for different types of banking institutions.

The following rulemakings were adopted in 2000:

- Adoption of New Part 41 of the General Regulations of the Superintendent (Restrictions and Limitations on High Cost Home Loans)

a. Description of rule: The rule sets forth the guidelines for the making of high cost mortgage loans by regulated lenders.

b. Legal basis for the rule: Banking Law §§ 6-I, 6-l, 13 and 14.

c. Need for rule: Part 41 establishes various consumer protections with regard to the making of high cost mortgage loans.

- Amendment to Part 301.5 of the Superintendent's Regulations (Security at Automated Teller Machines: Type and Frequency of Video Tapes or Digital Recording Media for ATM surveillance systems)

a. Description of rule: The rule sets forth the requirements for the quality and maintenance of surveillance equipment at Automatic Teller Machines.

b. Legal basis for the rule: Banking Law §§ 12 and 75-n.

c. Need for rule: Part 301.5 provides detailed standards regarding video tape quality and usage.

PART 3. FINANCIAL SERVICES REGULATIONS

Notice is hereby given of the following rules relating to financial services that the Department will review this year to determine whether they should be continued or modified. These rules as published in the Register contain a regulatory flexibility analysis, a rural area flexibility analysis, and/or a job impact statement. If no such analysis was filed, a statement setting forth why one or all of those analyses was unnecessary was published in the Register. Public comment on the continuation or modification of these rules is invited. Comments must be received within 60 days of the date of publication of this notice. Comments should be submitted as indicated in the summaries below.

The following rulemakings were adopted in 2017:

- Adoption of new Part 500 (Cybersecurity Requirements for Financial Services Companies) of Title 23 NYCRR

Statutory Authority: Financial Services Law Sections 102, 201, 202, 301, 302 and 408.

The Financial Services Law is intended to ensure the safe and sound operation of the financial system. Cybercriminals present an ever-growing threat to that system. They can cause significant financial losses for Department-regulated entities and for New York consumers who use the products and services of those entities. In addition, the private information of such consumers may be revealed and/or stolen by cybercriminals for illicit purposes. The adopted rule is intended to ensure that all financial services providers regulated by the Department have and maintain cybersecurity programs that meet certain minimum cybersecurity standards in order to protect consumers and continue operating in a safe and sound manner.

The contact for this rulemaking is Thomas S. Eckmier, Deputy General Counsel – tom.eckmier@dfs.ny.gov; (212) 709-1661.

- Adoption of new Part 501 (Nationwide Multistate Licensing System and Registry) of Title 23 NYCRR

Statutory Authority: Banking Law Sections 10, 14, 359, 371, 498-b, 561, 587 and 649, and Financial Services Law Sections 102, 201, 202, 301, 302, 309 and 408.

The adopted rulemaking allows regulated entities and applicants, which choose to do so, to use the Nationwide Multistate Licensing System and Registry ("NMLS") in making submissions to the Department. The Department anticipates that this will prove both easier and more cost effective for those entities which choose to take advantage of the permitted use of NMLS.

The contact for this rulemaking is Thomas S. Eckmier, Deputy General Counsel – tom.eckmier@dfs.ny.gov; (212) 709-1661.

The following rulemakings were adopted in 2015:

- Amendment of Part 1 (Debt Collection by Third-Party Debt Collectors and Debt Buyers) of Title 23 NYCRR

Statutory Authority: Financial Services Law Sections 202, 302, and 408.

The Financial Services Law is intended to promote the reduction and elimination of fraud, criminal abuse, and unethical conduct by, and with respect to, banking, insurance and other financial services institutions and their customers. Debt collectors have the potential to cause significant harm to New York's consumers and residents when engaging in overzealous, mistaken, or fraudulent debt collection. Debt collection practices can contribute to personal bankruptcies, marital instability, loss of jobs, and invasions of individual privacy. The adopted rule is intended to ensure that any debt collector that collects on debt from a New York consumer or resident meet certain minimum disclosure standards, such as requiring additional information in the debt collector's initial communications with a consumer and disclosing when a statute of limitations for a debt may be expired, prior to accepting payment on the debt. It also requires debt collectors to provide additional documentation to New York consumers or residents that dispute the validity of a charged-off debt or right of the debt collector to collect on a charged-off debt.

The contact for this rulemaking is Bruce Wells, Associate Counsel – bruce.wells@dfs.ny.gov; (212) 709-3802.

- Adoption of new Part 200 (Virtual Currencies) of Title 23 NYCRR.

Statutory Authority: Financial Services Law Sections 102, 104, 201, 202, 206, 301, 302, 303, 304-a, 305, 306, 309, 404 and 408; Banking Law Sections 10, 14, 36, 37, 39, 40, 44, 44-a, 78, 128, 225-a, 600, 601-a and 601-b; and Executive Law Section 63.

The adopted rule provides a comprehensive framework for the licensing and supervision by the Department of persons who engage in virtual currency business activity. Consistent with the goals of the Financial Services Law, this framework is intended to protect New York consumers and users of virtual currency, to ensure that virtual currency businesses operate safely and soundly, and to support continued growth and innovation in this constantly developing area of financial services.

The contact for this rulemaking is Thomas S. Eckmier, Deputy General Counsel – tom.eckmier@dfs.ny.gov; (212) 709-1661.

- Adoption of new Part 400 (Independent Dispute Resolution for Emergency Services and Surprise Bills) of Title 23 NYCRR.

Statutory Authority: Financial Services Law Sections 202, 301, 302, and Article 6, Insurance Law Section 301, and Part H of Chapter 60 of the Laws of 2014

Part H of Chapter 60 of the Laws of 2014 provided new rights and obligations, effective March 31, 2015, concerning disputes involving bills by health care providers. Health care plans, physicians, and when applicable, other health care providers and patients, have the right to request a review by an independent dispute resolution entity ("IDRE") to resolve a payment dispute regarding a bill for certain emergency services or surprise bills. This Part implements the requirements of Financial Services Law Article 6 by establishing a dispute resolution process and the standards for such process, including criteria and the process for certifying and selecting an IDRE.

The contact for this rulemaking is Emily Donovan, Associate Attorney – emily.donovan@dfs.ny.gov; (518) 473-4177.