

## Regulatory Impact Statement for the Proposed Third Amendment to 11 NYCRR 82 (Insurance Regulation 203)

1. Statutory authority: Financial Services Law §§ 202 and 302 and Insurance Law §§ 301, 316, 1501(a), 1503(c), 1604, 1702, and 1717(c).

Financial Services Law § 202 establishes the office of the Superintendent of Financial Services (“Superintendent”). Financial Services Law § 302 and Insurance Law § 301, in material part, authorize the Superintendent to effectuate any power accorded to the Superintendent by the Financial Services Law, Insurance Law, or any other law, and to prescribe regulations interpreting the Insurance Law.

Insurance Law § 316 permits the Superintendent to promulgate regulations to require electronic filings.

Insurance Law § 1501 sets forth definitions relating to holding companies, including “group capital calculation instructions,” while Insurance Law § 1503(c) requires an ultimate holding company to file with the Superintendent a group capital calculation (“GCC”) by June 30 of each year when New York is the lead state of the holding company system.

Insurance Law §§ 1604 and 1702 set forth definitions and GCC filing requirements that are comparable to those set forth in Insurance Law §§ 1501 and 1503(c).

2. Legislative objectives: To implement Chapter 344 of the Laws of 2023 (“Chapter 344”), which imposed an annual GCC filing requirement on certain ultimate holding companies and domestic insurers with subsidiaries, for which New York is the lead state (collectively, “entities”), to comply with the bilateral agreements between the U.S. and E.U. and U.S. and U.K. on prudential measures regarding insurance and reinsurance.

3. Needs and benefits: Insurance Law Article 15 sets forth standards for the regulation of holding company systems, while Insurance Law Articles 16 and 17 set forth standards for the regulation of domestic insurers that have subsidiaries. Chapter 344 amended Insurance Law Articles 15, 16, and 17, in relevant part, to impose an annual GCC filing requirement on certain entities to comply with the bilateral agreements between

the U.S. and E.U. and U.S. and U.K. on prudential measures regarding insurance and reinsurance. States must have a worldwide GCC in place to avoid the E.U. or U.K. imposing its own GCC on that group and, therefore, all the U.S. insurers within the group. The GCC will also become a National Association of Insurance Commissioners (“NAIC”) accreditation standard, with which the Department of Financial Services (“DFS”) must comply to maintain its accreditation.

Chapter 344 permits the Superintendent to exempt an entity, when New York is the lead state, from filing an annual GCC or accept a limited GCC filing in accordance with criteria specified by the Superintendent in a regulation. The NAIC’s Insurance Holding Company System Model Regulation (“model Regulation”) sets forth circumstances under which the Superintendent may further exempt entities from having to file a GCC or accept a limited GCC filing. The model Regulation also sets forth the criteria for when a non-United States jurisdiction is considered to “recognize and accept” the GCC for the purpose of determining whether an entity is exempt from filing a GCC under the law. This regulation adopts the language in the model Regulation, and requires entities to make GCC filings electronically, subject to a hardship exception already set forth in 11 NYCRR Section 82.6.

4. Costs: This regulation will not impose any costs on entities because it merely requires an entity to submit GCC filings electronically, sets forth the criteria for when a non-United States jurisdiction is considered to “recognize and accept” the GCC for the purpose of determining whether an entity is exempt from filing a GCC under the law, and gives the Superintendent discretion to exempt an entity from filing a GCC or accept a limited GCC filing. To the extent entities incur any costs, such as the cost of having to perform a group capital calculation and file it, it is a result of Chapter 344 and not this regulation.

While DFS may incur costs to review the GCC filings, this is a consequence of Chapter 344 and not this regulation, and DFS should be able to absorb any cost in its ordinary budget.

This rule does not impose compliance costs on local governments.

5. Local government mandates: This regulation 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: This regulation will not impose any paperwork on entities because it merely requires an entity to submit GCC filings electronically, sets forth the criteria for when a non-United States jurisdiction is considered to “recognize and accept” the GCC for the purpose of determining whether an entity is exempt from filing a GCC, and gives the Superintendent discretion to exempt an entity from filing a GCC or accept a limited GCC filing. To the extent entities have any additional paperwork, such as having to file a GCC, it is a result of Chapter 344 and not this regulation.

7. Duplication: This regulation does not duplicate, overlap, or conflict with any existing state or federal rules or other legal requirements.

8. Alternatives: DFS considered not promulgating this regulation but decided it needed to promulgate the regulation because the regulation is necessary to maintain DFS’s NAIC accreditation.

9. Federal standards: The regulation does not exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance schedule: An entity must comply with the regulation upon publication of the Notice of Adoption in the State Register.

## Statement Setting Forth the Basis for the Finding that the Proposed Third Amendment to 11 NYCRR 82 (Insurance Regulation 203) Will Not Have a Substantial Adverse Impact on Small Businesses and Local Governments

This regulation will not impose any reporting, recordkeeping, or other compliance requirements, or have any impact, including any adverse impact, on any small business or local government. Chapter 344 of the Laws of 2023 amended Insurance Law Articles 15, 16, and 17 to impose an annual group capital calculation (“GCC”) filing requirement on certain ultimate holding companies and domestic insurers with subsidiaries for which New York is the lead state (collectively, “entities”), to comply with the bilateral agreements between the U.S. and E.U. and U.S. and U.K. on prudential measures regarding insurance and reinsurance.

The regulation sets forth the criteria for which the Superintendent of Financial Services may further exempt entities from having to file a GCC or accept a limited GCC filing. The regulation also sets forth the criteria for when a non-United States jurisdiction is considered to “recognize and accept” the GCC for the purpose of determining whether an entity is exempt from filing a GCC under the law. The regulation further requires entities to submit their annual GCC filings electronically, subject to a hardship exception already set forth in 11 NYCRR Section 82.6.

## Statement that the Proposed Third Amendment to 11 NYCRR 82 (Insurance Regulation 203) Will Not Have an Adverse Impact or Impose Compliance Requirements on Rural Areas

The Department of Financial Services finds that this amendment will not have any adverse economic impact or impose compliance requirements on rural areas. Chapter 344 of the Laws of 2023 amended Insurance Law Articles 15, 16, and 17 to impose an annual group capital calculation (“GCC”) filing requirement on certain ultimate holding companies and domestic insurers with subsidiaries for which New York is the lead state (collectively, “entities”), to comply with the bilateral agreements between the U.S. and E.U. and U.S. and U.K. on prudential measures regarding insurance and reinsurance.

The regulation sets forth the criteria for which the Superintendent of Financial Services may further exempt entities from having to file a GCC or may accept a limited GCC filing. The regulation also sets forth the criteria for when a non-United States jurisdiction is considered to “recognize and accept” the GCC for the purpose of determining whether an entity is exempt from filing a GCC under the law. The regulation further requires entities to submit their annual GCC filings electronically, subject to a hardship exception already set forth in 11 NYCRR Section 82.6.

## Statement Setting Forth the Basis for the Finding that the Proposed Third Amendment to 11 NYCRR 82 (Insurance Regulation 203) Will Not Have a Substantial Adverse Impact on Jobs and Employment Opportunities

This regulation should not adversely impact jobs or employment opportunities in New York State. Chapter 344 of the Laws of 2023 amended Insurance Law Articles 15, 16, and 17 to impose an annual group capital calculation (“GCC”) filing requirement on certain ultimate holding companies and domestic insurers with subsidiaries, for which New York is the lead state (collectively, “entities”), to comply with the bilateral agreements between the U.S. and E.U. and U.S. and U.K. on prudential measures regarding insurance and reinsurance.

The regulation sets forth the criteria for which the Superintendent of Financial Services may further exempt entities from having to file a GCC or accept a limited GCC filing. The regulation also sets forth the criteria for when a non-United States jurisdiction is considered to “recognize and accept” the GCC for the purpose of determining whether an entity is exempt from filing a GCC under the law. The regulation further requires entities to submit their annual GCC filings electronically, subject to a hardship exception already set forth in 11 NYCRR Section 82.6.