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New York Adopts Holding Company Act Amendments

On July 31, 2013, Governor Cuomo signed into law New York Assembly Bill 7807A, which adopts key changes to the regulation of insurance holding company systems in New York under Article 15 of the New York Insurance Law and the regulation of New York domestic insurers under Articles 16 and 17 of the New York Insurance Law. The Bill was part of the New York Department of Financial Services (DFS) 2013 legislative program and was branded the DFS's "core mission" bill because it contained amendments necessary for New York to maintain its NAIC accreditation.

Key changes implemented by the Bill include:

- Amendments to Section 302 of the Insurance Law that give the Superintendent express authority to participate in supervisory colleges.
- Amendments to Sections 1503, 1604 and 1717 of the Insurance Law that require insurance holding companies, domestic property/casualty insurers and parent companies of domestic life insurers to adopt formal enterprise risk management (ERM) functions and file enterprise risk reports annually with the Superintendent by April 30.
- Amendments to Section 1505 of the Insurance Law to amend the reporting thresholds for sales, purchases, exchanges, loans, extensions of credit and investments between domestic insurers and affiliates in the same holding company system. Section 1505 is also amended to require 45-days' notice before a domestic insurer may enter into a reinsurance agreement with an affiliate (rather than the 30-days' notice required for other affiliate transactions).
- Amendments to Sections 1506, 1603 and 1710 of the Insurance Law to require insurance holding companies, domestic property/casualty insurers and parent companies of domestic life insurers to provide the Superintendent with 30-days' notice prior to divesting control in a domestic insurer.
- Amendments to Sections 1604, 1608, 1712 and 1717 of the Insurance Law to bring reporting requirements for domestic property/casualty insurers and their subsidiaries and parent companies of domestic life insurers more in line with reporting requirements for insurers that are part of an insurance holding company system, including annual registration filing requirements and prior notice requirements for certain affiliate transactions.

The changes took effect on July 31, with the exception of (i) amendments to Sections 1503, 1604 and 1717 that relate to ERM and annual registration filing requirements, which become effective 90 days after the Bill's effective date (October 29, 2013), and (ii) amendments to Sections 1505, 1608 and 1712 that relate to prior notice requirements for affiliate transactions, which only apply to transactions entered into on or after the Bill's effective date.

With respect to enterprise risk, the Bill formalizes and implements a reporting regime for requirements that the DFS first introduced in 2011. In December 2011, the DFS issued Circular Letter 2011-14, which required all New York domestic insurers to adopt formal ERM functions "appropriate for the nature, scale, and complexity" of their risks and outlined criteria that the DFS would consider when evaluating an insurer's ERM function.

New York is the most recent state to adopt amendments to its insurance holding company law to reflect amendments to the NAIC Model Insurance Holding Company System Regulatory Act and Regulation that

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were implemented in 2010 as part of the NAIC's "Solvency Modernization Initiative." The NAIC is currently considering which elements of the NAIC Model Holding Company Act amendments states will be required to adopt in order to maintain their NAIC accreditation. To date, the following states have adopted the NAIC Model Holding Company Act amendments in some form: California, Connecticut, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maine (effective January 1, 2014), Maryland (effective January 1, 2014), Mississippi, Nebraska, Nevada (effective October 1, 2013), New Hampshire (effective January 1, 2014), New York, Oklahoma (effective November 1, 2013), Oregon, Pennsylvania, Rhode Island, Texas, Vermont, West Virginia and Wyoming.



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