



**Steven L. Imber**  
Practice Group Chair  
*Member of the Federation of  
Regulatory Counsel (FORC)*  
913.234.7469  
[simber@polsinelli.com](mailto:simber@polsinelli.com)



**Justin T. Liby**  
913.234.7427  
[jliby@polsinelli.com](mailto:jliby@polsinelli.com)



**Jennifer Osborn Nix**  
913.234.7472  
[josborn@polsinelli.com](mailto:josborn@polsinelli.com)

## New York Regulatory Action a Reminder That Insurers Cannot Outsource Their Regulatory Responsibilities

The New York Department of Financial Services' ("DFS") recently announced an extraordinary regulatory action in which two insurers have entered into a Consent Order with the DFS under which one of the insurers will pay a \$15 million fine and the second insurer will provide approximately \$40 million in remediation for alleged violations of New York insurance laws and regulations.

According to the DFS, the regulatory actions taken against the insurers were the result of a market conduct examination which found that required information such as premium notices, annual reports, cash surrender value notices, and annual privacy notices were not provided to approximately 15,000 policyholders from 2015 to 2017.

The DFS indicated the alleged violations were the result of one of the insurers ceding its life insurance business through several reinsurance agreements to a reinsurer and then entering into an administrative services agreement to have the reinsurer administer the policies. The reinsurer then outsourced the data system conversion and administration of the life business to an unaffiliated TPA.

Per a recent press release issued by the DFS, New York Insurance Superintendent Maria Vullo stated, "Insurers who outsource their responsibilities to third parties are still responsible to meet all of their obligations under the law...Given the increased frequency with which insurers use third party providers, insurers will be held accountable for any failures to meet their legal obligations even if that failure was the fault of a third party provider."

This extraordinary and significant regulatory action taken by the DFS against these insurers is a reminder that even in a state like New York, in which the DFS doesn't license and regulate TPAs, insurers cannot outsource their regulatory responsibilities and may be held strictly liable for alleged violations of insurance laws committed by TPAs or other third party providers.

## For More Information on our TPA Team

Polsinelli's TPA team provides TPA licensing services, TPA regulatory and compliance services, drafting and negotiating of administrative services agreements, and a number of other TPA services. Our TPA team includes attorneys who were former in-house counsel for TPAs, as well as attorneys who were formerly insurance regulators.

By leveraging its extensive experience representing TPAs, our TPA team helps clients avoid the learning curve and related cost implications that can be experienced by working with companies or attorneys less familiar with the regulatory and compliance needs of TPAs.

For questions regarding this information, please contact one of the authors, a member of Polsinelli's Third Party Administrators practice, or your Polsinelli attorney.

---

## For More Information

For questions regarding this alert or to learn more about how it may impact your business, please contact one of the authors, a member of our Third Party Administrator (TPA) Licensing and Compliance Services practice, or your Polsinelli attorney.

To learn more about our **Third Party Administrator (TPA) Licensing and Compliance Services** practice, or to contact a member of our TPA team, visit our website at [www.polsinelli.com/industries/third-party-administrators](http://www.polsinelli.com/industries/third-party-administrators)

To learn more about our **Insurance Business and Regulatory Law** practice, or to contact a member of our Insurance Business and Regulatory Law team, visit our website at [www.polsinelli.com/industries/insurance](http://www.polsinelli.com/industries/insurance)

## About this Publication

Polsinelli provides this material for informational purposes only. The material provided herein is general and is not intended to be legal advice. Nothing herein should be relied upon or used without consulting a lawyer to consider your specific circumstances, possible changes to applicable laws, rules and regulations and other legal issues. Receipt of this material does not establish an attorney-client relationship.

Polsinelli is very proud of the results we obtain for our clients, but you should know that past results do not guarantee future results; that every case is different and must be judged on its own merits; and that the choice of a lawyer is an important decision and should not be based solely upon advertisements.

Polsinelli PC. Polsinelli LLP in California.

