

User Unfriendly

We all complain about regulations. Grousing about excessive, intrusive, costly, ineffective, unnecessary, time-consuming, and annoying regulations is an apparent birthright given the amount of time and energy we often spend

that has the most direct and complete access to current industry information. With that access goes responsibility, including the responsibility to fully analyze and disseminate the information collected — a responsibility, it seems, that is largely ignored or

the usage of the Free Zone by class of risk: i.e., large risks meeting a minimum premium threshold; hard to place risks listed by regulation; and a new class of large commercial insureds as defined in the Non-Admitted and Reinsurance Reform Act (NRRRA), a part of the 2010 Federal Dodd-Frank legislation. The DFS's patronizing response to a Freedom of Information Law request for this breakdown was to suggest that the requesting party access the annual statement of each Free Zone licensee (of which there are over 200) for each year and do the math yourself (see *Insight*, IA, June 3, 2013).

There is, however, a recent example of how to make collected information available for the benefit of the industry and the public, but it does not come from the DFS; rather it comes from the Excess Line Association of New York (ELANY), New York's industry-run excess and surplus lines stamping office. Under the law, an excess lines broker is "required to use due care in selecting the unauthorized insurer from whom policies are procured under his license." Although this responsibility falls on each licensed excess line broker, ELANY has regularly collected and made available financial information about authorized excess line carriers as a service to its member excess line brokers. Now it has gone a step further!

Recently ELANY unveiled a new service: financial summaries for each foreign excess line insurer eligible to write business in New York. These summaries are not just available to member excess line brokers, but are publicly accessible on ELANY's website at <http://www.elany.org/es.aspx?m=elf>. The ELANY Bulletin announcing the new service states that the summaries "provide a snapshot of critical data for each eligible foreign insurer over the prior three years." In addition to the basics, such as compilations of assets, liabilities, policyholder surplus and loss reserves, each financial summary also provides RBC ratios, investment portfolio allocations, premium, income, and combined ratio trends, financial strength rat-

It is the regulator and not the licensees, their trade groups or the public that has the most direct and complete access to current industry information. With that access goes responsibility, including the responsibility to fully analyze and disseminate the information collected — a responsibility, it seems, that is largely ignored or marginalized.



Peter H. Bickford

on the subject. We who work in the insurance industry have the added joy of participating in a "regulated" industry, which means that we have subject-specific agencies adding additional layers of regulation to our work-related woes.

No matter the extent of our grousing most of us recognize the necessity for a broad regulatory landscape in our business if not the degree. But aside from the perceived excesses wrought upon us by overzealous legislators and regulators intent on protecting the public from our evil industry, there is another, less obvious but equally important role of the regulator to collect, assess and disseminate information about the industry to the public in fulfillment of its statutory obligations.

Insurance regulators regularly gather (at the industry's time and expense) a broad array of valuable information about the business of insurance from licensed entities — companies, brokers and others — through compulsory compliance with statutory and regulatory reporting requirements. Without the ability to compel companies to provide information, and because of anti-trust considerations, the insurance industry does not have the same means to collect, analyze or disseminate industry-wide information. It is the regulator and not the licensees, their trade groups or the public

marginalized.

Nowhere is the failure to fulfill this obligation more evident than in New York since the merger of the banking and insurance departments into the Department of Financial Services back in 2011! The first stated purpose of the new Financial Services Law is to "encourage, promote and assist banking, insurance and other financial services institutions to effectively and productively locate, operate, employ, grow, remain, and expand in New York state." In its failure to regularly and effectively assess and disseminate information about the industry, the new Department of Financial Services (DFS) minimizes this stated responsibility almost to the point of irrelevance.

The most significant example is the Incredible Shrinking Annual Report that, under the former insurance department, used to be a detailed review of the state of the industry and its participants. As reported in this column, the first report of the DFS was a mere shadow of the former insurance department reports (IA, June 18, 2012), and the second report was a mere shadow of the first, making it close to farcical in terms of meeting the statutory purpose (IA, July 22, 2013).

Another example is the failure of New York to make available any information on

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ings, company histories (including ultimate holding company information), and reinsurance information. In other words, these thumbnail summaries provide a great starting point for anyone interested in the financial strength and viability of a particular foreign excess line insurer.

Good luck trying to find anything comparable about licensed insurers from

the DFS! The DFS website would seem to be a logical independent resource for a member of the public to research the viability of particular carriers. Even with all its bells and whistles, however, the DFS website is far from helpful as a public resource. Although there is a "Consumer" menu, there is no site for financial information. There is a tab for "Insurance Products" that has a link to a page headed "Insurance Company Ratings and Stability." This page in turn refers you to

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