



Department of Financial Services

ANDREW M. CUOMO
Governor

LINDA A. LACEWELL
Superintendent

May 13, 2020

TO: All Authorized Property/Casualty Insurers

RE: CALL FOR SPECIAL REPORT PURSUANT TO SECTION 308, NEW YORK INSURANCE LAW ON LIABILITY POLICIES WRITTEN IN NEW YORK AND COVERAGE EXCLUSIONS OR CONDITIONS THAT MIGHT PERTAIN TO LOSSES RELATED TO COVID-19

Pursuant to Section 308 of the New York Insurance Law, the Department of Financial Services (“DFS”) hereby instructs each authorized property/casualty insurer (collectively, “Insurers”) to provide certain information regarding any type of commercial liability insurance it has written in New York and details on the exclusions or conditions to coverage provided in the types of policies for which it has ongoing exposure in New York. For the purpose of this letter, DFS considers commercial liability insurance to mean coverage for commercial policyholders for claims involving bodily injury and/or property damage resulting from an insured’s products, services or operations. Types of commercial liability insurance policies include, without limitation, the following policies: Commercial General Liability, Directors & Officers, Commercial Umbrella, Commercial Excess, Professional Liability, Business Owner, Commercial Multiple Peril, and Specialized Multiple Peril.

By way of background, in connection with the novel Coronavirus (“COVID-19”) and how it may impact New York businesses seeking to reopen, policyholders have urgent concerns about the coverages provided by their commercial liability insurance policies. Given the potential impact of COVID-19 as businesses reopen, DFS considers Insurers’ obligations to policyholders a heightened priority. In the interest of the timely and equitable fulfillment of insurance contracts, as well as the availability of necessary coverage, Insurers must explain the benefits under their policies and the protections provided in connection with COVID-19. As New York enters its reopening phase, it is critical for Insurers to continue to assist policyholders with their policies and related claims.

Each Insurer should provide to DFS:

1) An explanation of the existence of communicable disease or similar exclusions in such Insurer’s commercial liability insurance and other policies that might be relied upon to deny coverage for claims alleging negligence or other wrongdoing in connection with COVID-19, whether due to transmission or exposure in a workplace or business environment or otherwise. Such exclusions will include, without limitation, proprietary exclusions and exclusions prepared

by rate service organizations such as, without limitation, Insurance Service Organization, American Association of Insurance Services, and the Underwriters Rating Board. Examples of standard language should be provided for each type of policy.

2) An explanation of any addition of, or plan to add, a COVID-19-related exclusion to any policy of such Insurer in New York, whether for in-force, renewal or new policies. Where such addition has occurred or is contemplated, please list and describe the implicated policy/ies. Please provide projections of timeframes for any such changes.

3) An explanation of any decision or plan of such Insurer to stop offering any products, or make any new product filings in New York, in any way due to COVID-19-related risks or existing adverse economic conditions (and if so, which products). Where such action has occurred or is contemplated, please list and describe the implicated policy/ies. Please provide projections of timeframes for any such changes.

4) A list of the types of its current policies for which the pricing included recognition for potential coverage exposure for COVID-19-like losses. Accompanying that list should be an estimation of the portion of the premium charged for such exposure for each type of policy. Such estimation should be an aggregate figure for all policyholders issued a policy in a line of business.

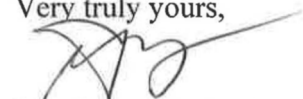
All responses should be sent to DFS.Property-Casualty.Letters@dfs.ny.gov on or before May 21, 2020. Insurers should acknowledge receipt of this letter by sending an email to the same address within two business days of receipt. All information submitted in response to this request should be emailed to the same email address. Please include the phrase “308 Letter – C-19 Exclusions” in the subject line of the e-mail. Any Insurer that writes none of the business described herein should submit a representation signed by an officer or other authorized representative of the Insurer in lieu of complying with the provisions below.

All records that support your responses and any follow-up communications are subject to examination by DFS and the Insurer must retain those records in accordance with 11 NYCRR 243 (Insurance Regulation No. 152). In addition, the Insurer must preserve all documents and records related to the subject matter of this letter until notified otherwise.

DFS is committed to working with its regulated entities to identify and address potential areas for further consideration and possible enhancement. Please feel free to identify any such areas, especially potential changes that, in your view, are non-controversial or technical in nature and could simplify or facilitate regulatory compliance.

Thank you in advance for your attention to the above.

Very truly yours,



Deputy Superintendent Stephen Doody