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New York Working to Re-Establish the New York Insurance Exchange

The New York Insurance Exchange (“Exchange”) may be back. The idea of re-establishing the Exchange has the strong support of Governor Paterson, Mayor Bloomberg, and a number of legislators in Washington, D.C. and Albany, NY. In addition, New York Superintendent James J. Wrynn has now formed a Working Group (the “Working Group”) to study how best to rebuild the Exchange.

The original Exchange, created by statute in 1978, was an attempt to emulate Lloyd’s of London (“Lloyd’s”) and capture some of the business that was being placed overseas and offshore. The concept was to create a marketplace in New York, the financial services capital of the U.S., for reinsurance and more complex risks that were, for a number of reasons, being placed outside of the U.S. During the same period, Illinois and Florida also opened their own insurance exchanges. For a number of reasons, none of these operations were successful.

The New York statute that created the original Exchange remains on the books and allows underwriting syndicates to write several types of business:

- Reinsurance of all kinds, including life reinsurance;
- Non U.S. direct business;
- Surplus lines insurance in other states; and
- New York risks rejected by the New York Free Trade Zone (which permits a New York licensed property/casualty insurer to write insurance exempt from the normal New York rate and form filing requirements on certain unusual or high loss hazard, or difficult to place risks).

This legislation is broad enough to permit the creation of a new Exchange but may need revision or new regulations to meet the needs of today’s markets and to avoid the challenges that the first Exchange faced.

To start this endeavor, Superintendent Wrynn invited a number of interested parties, including Stewart Keir, our Locke Lord colleague and former Chief of the New York Insurance Department Insurance Exchange and Excess Line Bureau, to participate in the Working Group. The Working Group met with the Superintendent on January 21, 2010, and is scheduled to have a number of additional meetings over the coming months with the goal of having a final proposal for action in or about September 2010.

The Superintendent indicated the Exchange:

- Must benefit the insurance industry;
- Should have a New York City situs and back-office operations upstate;
- Should seek to be rated by a recognized rating agency;
- Should have an advanced technology platform, standardized forms, contract certainty and expeditious claims handling; and
- Should work with and complement Lloyd’s.

Sub-groups will be established to work on specific areas:

- Regulatory oversight
- Capitalization
- Tax
- Operations and technology
- Multi-state issues
- Markets
- Government relations

If all proceeds on time and the results are favorable, the Superintendent would like the new Exchange to be up and running by 2011.

Our firm will be following developments closely and participating in this process. If any of our clients or friends have questions or wish to raise issues, they are invited to give the authors a call.

About the Authors

Stewart Keir is a Financial & Regulatory Specialist in Locke Lord’s insurance and reinsurance practice. For over 32 years, Mr. Keir was an insurance regulator, and for over 12 years, he has advised and assisted clients and attorneys on regulatory issues, transactions and related matters.

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