Memorandum: New York's Impending Insurance Crisis

To: Adrienne Harris, *Superintendent, NYSDFS*
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From: Ted Walsh, *Chair of the Board, Big I NY*
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Superintendent Harris and Executive Deputy Superintendent Finston:

On behalf of our 1,400 independent insurance agency members and their some 12,000 employees, we write to address a concern that demands immediate attention: the deterioration of New York's insurance market. The current trajectory is perilous, and we are concerned that without intervention, New York is headed for a historic crisis of insurance availability.

Big I NY and NYSDFS share considerable alignment on the goals of ensuring a resilient financial system, empowering consumers and protecting them from harm, and ensuring the health of regulated entities. We recognize that many factors are outside the Department's control and respect the challenging position of NYSDFS and insurance regulators across the nation. However, considering the serious and urgent challenges facing the market, we urge the department to adopt a more responsive approach to insurance carriers' requests for rate adjustments and coverage offerings, as well as pursue efforts to reduce cost pressures, foster innovation, and ensure fair and responsive underwriting practices. Furthermore, we stress our willingness to collaborate, cooperate, and support the Department's efforts to protect consumers by stabilizing the insurance market.

NY Is Headed for a Crisis of Availability:

New York's current hard market is at risk of deteriorating into a crisis of availability, posing significant concerns for consumers across the state. Insurance carriers are increasingly tightening their underwriting guidelines, a move that restricts the number of policyholders they are willing to accept. Moreover, many carriers are opting to drop certain lines of business altogether, reducing the scope of coverage options available to individuals and businesses. Some are even exiting the market entirely due to mounting costs and an inability to obtain adequate rates. This trend not only limits the choices available to consumers but also makes it increasingly challenging for New Yorkers to secure the protection they need at affordable rates. As the insurance market continues to deteriorate, finding comprehensive and reasonably priced coverage has become an uphill battle for many residents. Unlike previous hard market cycles, the current hard market is affecting both personal and commercial lines. Increasingly, commercial customers are finding it difficult to obtain appropriate limits on a single policy, necessitating multiple layers of coverage, and even going bare.

The Evidence of a Coming Crisis is Mounting:

Independent insurance agents are uniquely well positioned to provide a comprehensive perspective of the challenging market conditions, and the reports are alarming. The vast majority of Big I NY member agencies surveyed report disruptions in the commercial market, including carriers limiting new business (87%), restricting coverage through exclusions or increased deductibles (100%), and non-renewing customers (87%). On the personal lines side, 100% report restricted coverage through exclusions or increased deductibles, non-renewals of customers, and carriers ceasing to offer coverage. In countless meetings with member agencies, we hear a common refrain: It is becoming more challenging, and in some cases impossible, to get customers the coverage they need. This is true across all lines of business and in all regions of NY, from Long Island to Buffalo, the Southern Tier to North Country, and everywhere in between. Veteran agents report they have experienced many hard market cycles, but nothing of this severity before.

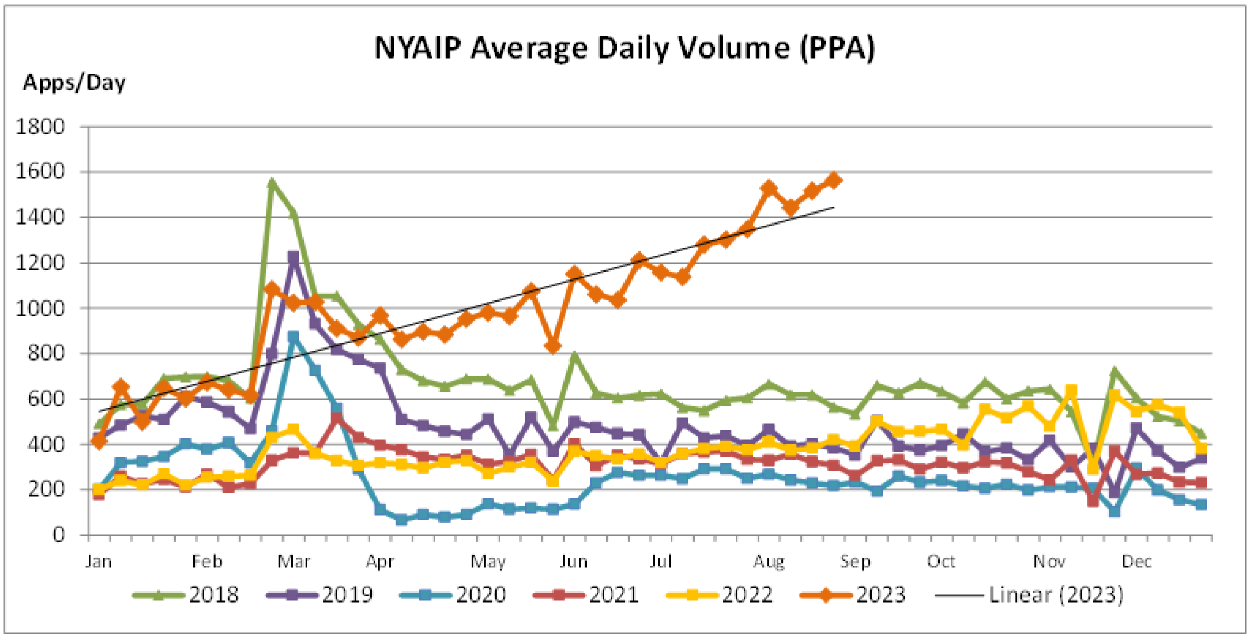
Independent agents and their customers are experiencing a dismaying drumbeat of coverage limitations, restrictions, and market exit. In the past twelve months, we have observed numerous troubling developments in the NY market[1], and there are likely many more we have not been made aware of. These include:

- **Sept. 2023**: A national carrier announced it will stop selling new BOP policies in New York effective Oct. 1, 2023, and limit new business for umbrella and excess policies effective Nov. 1, 2023.
- **Aug. 2023**: A national carrier announced it will no longer write new homeowners policies on Long Island with limits of insurance on the home of less than $2 million, effective Sept. 1, 2023. They will also require automatic water shut off devices in some homes. They will also not issue new business policies on condominium units in New York City unless they are part of a package of at least three other qualifying lines of business; other restrictions apply.
- **Aug. 2023**: A national carrier announced it is withdrawing from the preferred home and auto insurance markets.
- **July 2023**: A national carrier informed certain agencies that they have suspended them from placing New York Personal Auto business in their preferred rating company. The suspension was effective July 18, 2023.
- **July 2023**: A regional carrier announced a moratorium on writing new business effective Aug. 14, 2023.
- **Feb. 2023**: United Property & Casualty Insurance Co. is ordered by a Florida court to be liquidated.

[1] See Addendum: New York Hard Market Timeline

- **Jan. 4, 2023**: QBE Insurance Corp. submitted a withdrawal plan for all in-force homeowners policies in New York.
- **Nov. 2022**: A large regional carrier announced a moratorium on writing new homeowners business.
- **Oct. 7, 2022**: KB Insurance Co. (formerly LIG Insurance) announced it was leaving the U.S. market.
- **May 2022**: Kemper Personal Insurance submitted a withdrawal plan for homeowners, condominium, and renters insurance underwritten by two of its subsidiaries.

New York is in a perilous position with market capacity strained. The NY Auto Insurance Plan (NYAIP) is experiencing a historic surge in applications from consumers unable to obtain coverage in other markets, up 200% from January to August 2023, and on track to hit 300% by the end of the year.[2]



In addition to markets of last resort, business is also increasingly being placed in the excess market. 2023 excess lines transactions are on track for a 21% increase since 2020, with premium volume up 57%. [3]

The exit of one or even multiple national carriers with a large book of business would be highly disruptive, and there is a serious question if business could be absorbed by other carriers in the market.

[2] AIPSO New Application Reporting

[3] Excess Lines Association of New York. NY Premium and Transactions by Risk Type. https://www.elany.org/ny-premium-and-transactions-by-risk-type *2023 projection assumes July-December 2023 premium and transaction volume is the same as January-June 2023 figures.*

Many Factors are Contributing to Current Market Conditions:

Increasing Catastrophic Events: New York has witnessed a surge in catastrophic events in recent years, including hurricanes and flooding. Globally, catastrophic events have strained reserves and taxed the capacity of both the insurance and reinsurance market. 2022 was the eighth year in a row the U.S. suffered at least 10 catastrophes causing over a billion dollars in losses. [4] Natural disaster losses from 2020-2022 in the U.S. exceeded $275 billion in 2022 dollars–the highest ever three-year total for U.S. insurers.[5]

Inadequate Premiums: The regulatory environment in New York has been extremely stringent, making it challenging for insurance carriers to adjust their rates and coverage offerings swiftly in response to changing market conditions.

Litigation Costs: The state's legal environment has become increasingly litigious, driving up the cost of claims settlements and legal fees for insurance companies. These rising expenses further erode carriers' profitability.

Reinsurance Cost and Availability: Insurance carriers rely on reinsurance to manage their risk exposure. Reinsurance capacity has dwindled in recent years and costs have skyrocketed, making it harder for them to provide coverage for catastrophic events. Multiple carrier partners report that reinsurance increases of 30% are typical, and indeed preferable to the alternative of being unable to secure coverage at all.

Supply Chain Issues: Disruptions in the supply chain have put upward pressure on insurance costs by driving up the expenses associated with replacing damaged or lost assets.

Inflation: The cost of goods and services has risen significantly in past years, affecting the cost of materials and labor necessary for repairs or replacements, impacting property and casualty insurance rates.

[4] NOAA National Centers for Environmental Information (NCEI) U.S. Billion-Dollar Weather and Climate Disasters (2023), https://www.ncei.noaa.gov/access/billions/time-series

[5] Aon 2023 Weather, Climate and Catastrophe Insight.

Rate Adequacy and More Responsive and Consistent Filing Review and Approval Are Crucial:

Rate adequacy is crucial to shoring up the short-term stability of the market. Troublingly, New York is underperforming compared to the country in Private Passenger Auto, Commercial Auto and Commercial Multi-Peril.[6]

New York Combined Ratio and Lines of Business

State and Line of Business	2022 Direct Premium Written (DPW)	2021 to 2022 DPW-Growth	2022 Direct Combined Ratio	5-Year Average Combined Ratio
NY-Homeowners	$6,826,438,000	9.3%	84.0%	84.8%
NY-Private Passenger Auto	$15,275,581,000	2.3%	111.4%	99.7%
NY-Commercial Auto	$3,334,371,000	8.0%	112.8%	112.7%
NY-Commercial Multi-Peril	$5,037,255,000	9.5%	99.3%	100.7%
NY-Total All Lines	$58,987,103,000	7.2%	97.9%	96.7%
US-Homeowners	$133,656,737,000	11.7%	101.0%	99.0%
US-Private Passenger Auto	$277,227,216,000	6.3%	106.2%	94.4%
US-Commercial Auto	$59,573,485,000	11.2%	103.7%	103.0%
US-Commercial Multi-Peril	$54,526,633,000	10.8%	97.2%	99.5%
US-Total All Lines	$861,723,105,000	9.7%	98.2%	94.6%

Many carriers have been unable to obtain adequate rate in NY for several years, which has compounded to create a precarious situation. Our carrier partners report their appetite to write business in NY is negatively impacted. They are left with little alternative but to dramatically tighten underwriting guidelines, limit coverage, and even exit the market entirely. One carrier reported, *"…the inability to receive proper rate consideration timely has challenged our commitment to the state."* Another stated, *"Red flags all over past 12 months and even more lately, and more severe."* Yet another noted that *"With respect to personal lines, there is now a crisis occurring in the state thanks to the inability to secure proper rate in alignment to loss trend and inflation factors*." Without adequate rate to accurately price risk, market disruptions are likely to continue at an accelerating pace, severely impacting NY policyholders.

A more responsive and consistent approach to coverage changes and new product offerings is also desperately needed. In addition to adequate rate, carriers need greater flexibility to underwrite down the cost curve. Our carrier partners frequently describe a lengthy, opaque, and frustrating approval process for new coverages and coverage changes. Inconsistent desk rules and applications held for executive review with no follow-up response are recurring pain points. Requests which are granted in days or weeks in other states take months or even years in NY, when they are granted at all. One large carrier partner stated that *"NY is alone in our states with respects to amount and timeliness of approvals."* As such, many coverage options available in other states, which may offer consumers cost-saving enhancements or better tailored coverage, remain unavailable in NY. The sluggish and

[6] Source: *A.M. Best Financial Suite, Real Insurance Solutions Consulting.

inconsistent approval process prevents carriers from rapidly responding to the changing market. If present staffing levels are a barrier to swift review and approval, we suggest offering carriers the option to cover the cost of a third-party consultant to conduct the review, as was recently done in Connecticut.

DFS And Industry Partners Can, And Must, Work Together:

The health of New York's insurance market is at stake, and it is of vital importance to consumers that an availability crisis is averted. Big I NY offers the Department our full cooperation and collaboration in this undertaking. We are prepared to engage our members in support of initiatives to stabilize the insurance market, including public and member education, assessing and reporting on the health of the market, and legislative and regulatory advocacy. We are at a critical inflection point, and swift action must be taken.

We appreciate your serious attention to this matter.

ADDENDUM: NEW YORK HARD MARKET TIMELINE

- **May 2022**: Kemper Personal Insurance submitted a withdrawal plan for homeowners, condominium, and renters insurance underwritten by two of its subsidiaries.
- **Oct. 7, 2022**: KB Insurance Co. (formerly LIG Insurance) announced it was leaving the U.S. market.
- **Nov. 2022**: A large regional carrier announced a moratorium on writing new homeowners business.
- **Nov. 2022**: A large regional carrier implemented new mandatory hurricane deductibles:
    - 2% for all properties on Long Island that were not previously subject to a mandatory hurricane deductible.
    - 2% for all properties outside Long Island that are within 1 mile of the coast.
- **Nov. 11, 2022**: Erie Insurance submitted a plan to withdraw its Mobile HomeProtector program effective July 1, 2023.
- **Jan. 4, 2023**: QBE Insurance Corp. submitted a withdrawal plan for all in-force homeowners policies in New York.
- **Feb. 2023**: Multiple carriers announced they will stop providing personal auto coverage for Kia and Hyundai vehicles.
- **Feb. 2023**: United Property & Casualty Insurance Co. is ordered by a Florida court to be liquidated.
- **July 2023**: A regional carrier announced a moratorium on writing new business effective Aug. 14, 2023.
- **July 14, 2023**: A national carrier informed certain agencies that they have suspended them from placing New York Personal Auto business in their preferred rating company. The suspension was effective July 18, 2023.
- **Aug. 2023**: A national carrier announced it is withdrawing from the preferred home and auto insurance markets.
- **Aug. 2023**: A national carrier announced it will no longer write new homeowners policies on Long Island with limits of insurance on the home of less than $2 million, effective Sept. 1, 2023. They will also require automatic water shut off devices in some homes. They will also not issue new business policies on condominium units in New York City unless they are part of a package of at least three other qualifying lines of business; other restrictions apply.
- **Sept. 2023**: A national carrier announced it will stop selling new BOP policies in New York effective Oct. 1, 2023, and limit new business for umbrella and excess policies effective Nov. 1, 2023.
- **Sept. 2023**: Two national insurance companies will non-renew certain BOP policies insuring certain classifications of business in New York with expiration dates of Dec. 1, 2023 and later.