

**RE: SECTION 2118 DEPARTMENT OF FINANCIAL SERVICES (DFS) FINES FOR COMPLIANCE
INFRACTIONS**

The New York State Department of Financial Services (DFS) recently fined an excess line broker for making inaccurate representations in connection with affidavit “declination” and “diligent search” compliance requirements of Section 2118 of the New York Insurance Law.

The law requires brokers to make a “good faith” attempt to place each risk with a licensed insurer subject to certain exceptions, such as “export list” coverages or an insured who meets the definition of an “exempt commercial purchaser” (ECP).

An investigation by the DFS determined that the excess line broker only obtained declinations from three licensed insurers once annually and thereafter used the same declinations with respect to all other insureds covered under a particular insurance program.

Excess line brokers are advised to take note of the DFS’s position that three risk specific declinations must be obtained for each risk placed with an excess line insurer unless an exception applies.

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