

EXCESS LINE ASSOCIATION OF NEW YORK

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COMMITTED TO SERVING THE EXCESS & SURPLUS LINES BROKER COMMUNITY

# ANNUAL REPORT 2014



## EXECUTIVE DIRECTOR'S REPORT

*Daniel F. Maher*

Let's begin with the conclusion from last year's Annual Report. The E&S marketplace is a dynamic one. ELANY always has a set of goals ahead and results to achieve to keep pace with the market. The reports of the Chairman of the Board and ELANY's Committee Chairs reflect on a number of 2014 objectives achieved and goals to be pursued going forward.



ELANY continues to roll up new milestones in support of a successful and reputable E&S industry. The hallmarks of our industry are freedom of rate and form, which provide the impetus to address unique, distressed and/or capacity risks and the superior financial strength of the insurers in this marketplace to bear and survive losses including catastrophes.

While the admitted market was relatively soft in 2014, the E&S market has bounced back from the great recession premium trough and has enjoyed a volume resurgence nationally and particularly in New York, with record

2014 premiums and transaction counts that exceed the previous record volume set in 2013. These results suggest that in addition to the economic turnaround driving economic activity and insurance transactions, the admitted market is not encroaching on the traditional territory of the E&S market in search for sustained premium volume. Whether this is due to more sophistication and maturity in the underwriting process or simply extreme fear of the low interest rate environment, in either event, it was positive news for 2014.

The passage of NARAB II (National Association of Registered Agents and Brokers) legislation by Congress, denied in 2014 but achieved in early 2015, is a great example of the types of uniformity and efficiency ELANY continues to pursue and support for its members. Uniformity in reporting requirements across state lines, efficiencies in compliance processes to reduce member costs while protecting the industry reputation, and the right to freedom of rate and form remain ELANY's core focus.

WHILE THE ADMITTED MARKET WAS RELATIVELY SOFT IN 2014, THE E&S MARKET HAS BOUNCED BACK FROM THE GREAT RECESSION PREMIUM TROUGH AND HAS ENJOYED A VOLUME RESURGENCE NATIONALLY AND PARTICULARLY IN NEW YORK, WITH RECORD 2014 PREMIUMS AND TRANSACTION COUNTS THAT EXCEED THE PREVIOUS RECORD VOLUME SET IN 2013.

## CHAIRMAN'S REPORT

Gary Hollederer

*2014* marked ELANY's 26<sup>th</sup> year of operation and my first year as Chairman of the Board. The 822 active members placed 181,000 policies and submitted 70,000 premium bearing endorsements. New York's gross excess line premium exceeded \$3.3 billion dollars, and 98% of all transactions were submitted to ELANY electronically, with 11% submitted programmatically. Growing the number of transactions submitted programmatically is one of ELANY's many goals to ease the compliance burden on members.

Statistically, liability insurance for the construction industry is a major source of premium, which drives the New York E&S market. In 2014, the New York construction industry premium was \$758,820,790 on 37,090 transactions, which accounted for 24% of the total New York E&S premium and 15% of policies and endorsements. Another transaction driver is coastal homeowner and dwelling policies, which totaled 19,873 homes or 25,867 transactions including endorsements. While this class of business is roughly 10% of the transaction

count, it represents less than 2% of the 2014 excess line premium.

ELANY's goal-oriented focus is to reduce broker compliance costs, increase efficiencies and uniformity by technology, legislation, regulatory reform or other means, and to inform and educate all for the protection of the market's reputation and proper use.

The methods by which ELANY pursues, achieves and implements such goals are noted in the Board Committee Reports in the following pages.

Ever mindful of the costs of operations, in 2014 ELANY sought and obtained approval to lower its stamping fee for the third successive fee cut. This does not, however, indicate a reduction in services is afoot. Quite to the contrary, in 2014, ELANY partnered with PIWA (Professional Insurance Wholesalers Association, Inc.) to implement a first of its kind E&O Hotline and best practices guidance for excess and surplus lines wholesale brokers. This is just one indication of ELANY's ever present, ongoing effort to deliver professional services for its members.



...ELANY PARTNERED WITH PIWA (PROFESSIONAL INSURANCE WHOLESALERS ASSOCIATION, INC.) TO IMPLEMENT A FIRST OF ITS KIND E&O HOTLINE AND BEST PRACTICES GUIDANCE FOR EXCESS AND SURPLUS LINES WHOLESALE BROKERS.

## INFORMATION RESOURCES AND SECURITY COMMITTEE REPORT

*Margaret Beirne, Chairman*

*A*s we review 2014 year-end results, we note that the insurers on ELANY's eligibility list continue to be well rated and financially sound. We have noted some redeployment of capital with a few of the larger conglomerates as they move to streamline their operations. One of the more interesting developments has been merger and acquisition activity whereby a number of smaller and mid-sized insurers have been acquired by larger insurance groups. All eligible insurers have maintained the minimum surplus requirement. Of the 105 eligible foreign insurers, 92 are rated "A" or better by A. M. Best. The remainder are rated "A-," with the exception of two insurers, and those insurers are rated "B++" under review with positive implications. For the 33 alien insurers listed by ELANY, 25 are rated "A" or better by A. M. Best, 2 are rated "A-," and there are six alien insurers not rated by A.M. Best but have a Standard and Poor's rating of "A" or better.

Regulation 41 places the responsibility of monitoring the solvency of eligible insurers a broker places business with on the excess line licensee. It is known as the "due care" standard. The passage of the NRRRA (Nonadmitted Reinsurance Reform Act) in 2010 has diminished the ability of individual states to establish their own solvency requirements by preempting many of those standards. ELANY has directed its efforts at assisting excess line brokers, who must meet their statutory "due care" obligation within the framework permitted by the NRRRA.

To that end, ELANY continues to review the financials of all foreign excess line insurers writing business in New York. When evidence of financial deterioration is noticed, the insurer is contacted and asked how they are addressing the issues in question. If ELANY determines that serious financial issues remain, the insurer is asked to voluntarily withdraw. In addition,

financial summaries for all eligible foreign excess line insurers are maintained on the ELANY website. We encourage all brokers to visit the website and financial summaries frequently and to contact us if you have any questions, comments or concerns.

**ELANY HAS DIRECTED ITS EFFORTS AT ASSISTING EXCESS LINE BROKERS WHO MUST MEET THEIR STATUTORY "DUE CARE" OBLIGATION WITHIN THE FRAMEWORK PERMITTED BY THE NRRRA.**

During 2014, changes to Regulation 41 were promulgated that include, among other things, no longer requiring excess line brokers to obtain financial statements on alien insurers. Instead, excess line brokers must confirm that an alien insurer is eligible by referencing the NAIC's Quarterly Listing of Alien Insurers. However, no change was made to the excess line brokers' "due care" obligation regarding monitoring the solvency of the alien insurers they place business with on an excess line basis. In order to help excess line brokers continue to meet the "due care" standard, ELANY will continue to request that alien insurers provide the financial information they submit to the NAIC IID. Alien insurers that provide this information are reviewed by ELANY and currently listed on ELANY's website, where ELANY finds such insurers are financially sound.

Four foreign insurers were added to ELANY's eligibility list in 2014, and one foreign insurer voluntarily withdrew from New York during the year. Overall, 105 foreign insurers were eligible to write surplus lines business in New York. Under the provisions of the NRRRA, alien insurers listed on the NAIC Quarterly Listing of Alien Insurers are automatically eligible to write business in New York.



## PROCESSING COST PER TRANSACTION

The processing cost per transaction for the year 2014 was **\$19.58**.

*This is the second lowest cost in the history of ELANY.*

## PURCHASING GROUP BUSINESS

In 2014, **18,507** PG transactions were processed, representing **7.4%** of the total transactions processed and **\$25,343,611** of taxable premium, representing **.7%** of total New York taxable premium.

*Purchasing Group volume has fallen significantly since its 10-year high point in 2005.*

## EXEMPT COMMERCIAL PURCHASER (ECP) & EXPORT LIST TRANSACTIONS

**1,794** ECP transactions and **8,477** Export List transactions were processed in 2014.

*ECP and Export List transactions combined represent 6% of the total new and renewal transactions processed for 2014.*

## MULTISTATE TRANSACTIONS

In 2014, a total of **3,677** transactions were reported as multistate transactions with a gross written premium of **\$577,184,145**.

Of the total transactions, **2,041** were U.S. only, multistate with no tax allocation, and **1,635** were international where **\$82,949,658** of **\$271,392,219** were allocated to non U.S. exposures.

## ELANY ACTIVE MEMBERS

There were **822** active members for the year **2014**.

## TAXABLE PREMIUM PER STAMPED DOCUMENT

In 2014, **\$13,103** was the average taxable premium per stamped document.

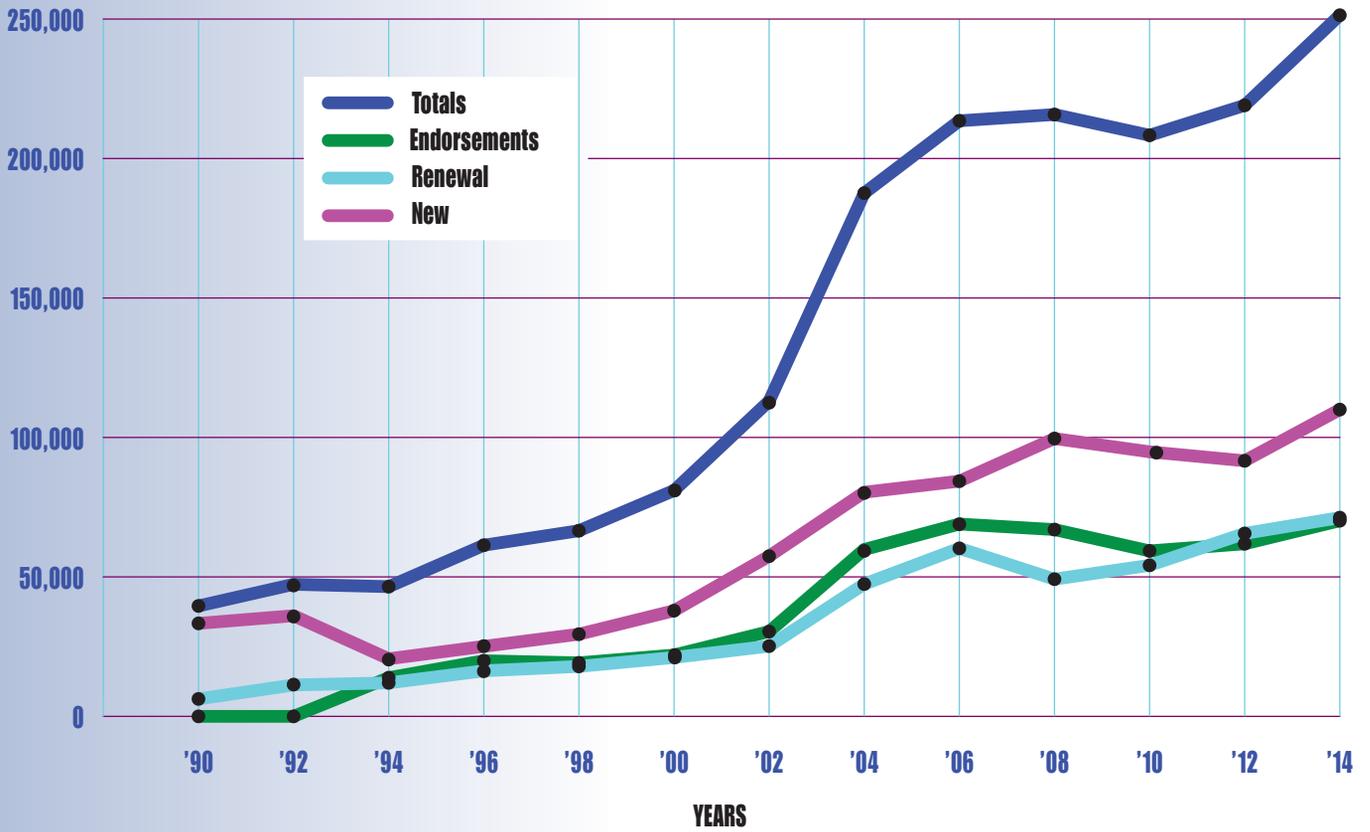
*This was the fifth highest average in ELANY's history.*

## ELECTRONIC AFFIDAVIT SUBMISSIONS

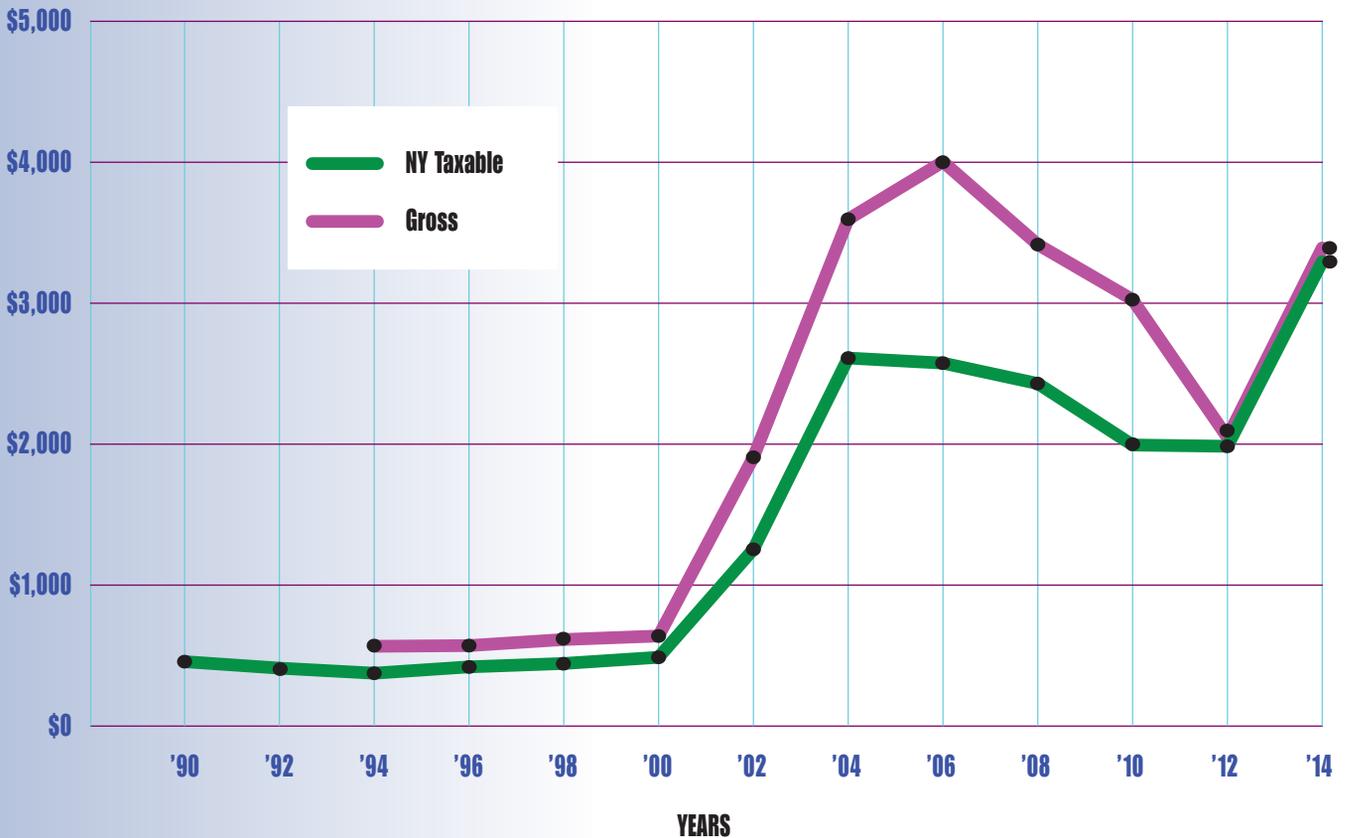
In 2014, **98%** of all transactions processed were submitted electronically, of which **11%** were submitted programmatically. **88%** of active excess line brokers file electronically.

*All figures and statistics are based on calendar year premium except where otherwise noted.*

## NEW YORK EXCESS LINE TRANSACTION COUNT



## NEW YORK EXCESS LINE PREMIUM (IN MILLIONS)

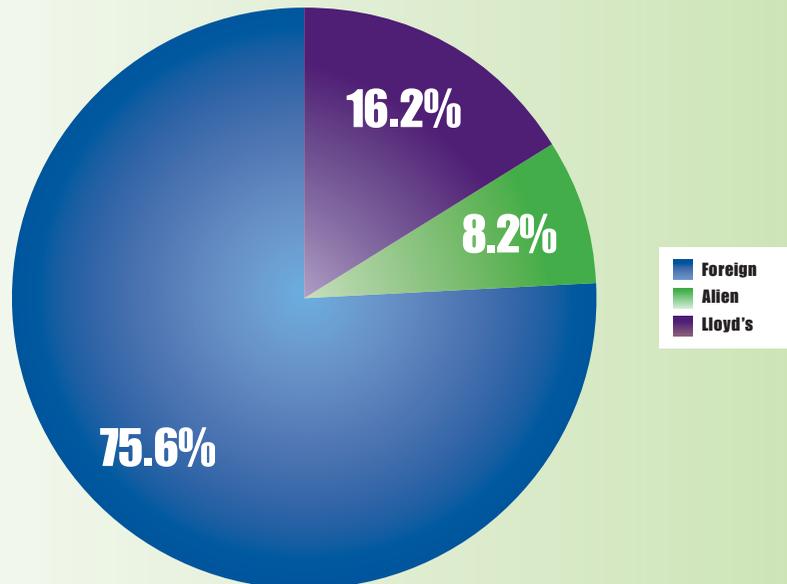


Tax allocation began in 1994.

## 2014 NEW YORK TAXABLE PREMIUM BY INSURANCE GROUP

Group Name	Number of Companies	New York Premium	
American International Group, Inc.	3	\$ 537,802,553	• 16%
Lloyd's of London		\$ 516,391,151	• 16%
Nationwide Mutual Insurance Company	2	\$ 231,807,632	• 7%
American Financial Group, Inc.	3	\$ 118,965,829	• 4%
Travelers Companies, Inc.	4	\$ 110,467,502	• 3%
Zurich Insurance Group Ltd.	2	\$ 107,076,589	• 3%
W.R. Berkley Corporation	5	\$ 102,153,720	• 3%
Arch Capital Group Ltd.	3	\$ 88,025,418	• 3%
Chubb Corporation	2	\$ 77,155,088	• 2%
CNA Financial Corporation	2	\$ 72,118,511	• 2%
XL Group plc	2	\$ 71,380,857	• 2%
Markel Corporation	6	\$ 70,538,585	• 2%
Berkshire Hathaway Inc.	5	\$ 66,148,748	• 2%
Axis Capital Holdings Limited	2	\$ 62,761,398	• 2%
Aspen Insurance Holdings Ltd.	2	\$ 61,746,527	• 2%
Argo Group International Holdings, Ltd.	1	\$ 60,888,440	• 2%
ACE Limited	3	\$ 52,886,940	• 2%
Ironshore, Inc.	3	\$ 52,698,200	• 2%
RLI Corp.	1	\$ 50,358,079	• 2%
Swiss Re Limited	3	\$ 47,520,004	• 1%
Fairfax Financial Holdings Ltd.	5	\$ 45,343,043	• 1%
Starr International Company, Inc.	1	\$ 43,167,495	• 1%
Catlin Group Limited	2	\$ 40,298,065	• 1%
Alleghany Corporation	4	\$ 39,166,005	• 1%
AEGIS Ltd.	1	\$ 38,121,087	• 1%
<b>SUBTOTAL</b>		<b>\$ 2,764,987,466</b>	
All other	76	\$ 528,962,735	• 16%
<b>TOTAL</b>		<b>\$ 3,293,950,201</b>	

### PERCENTAGE OF YEAR 2014 NY TAXABLE PREMIUM DISTRIBUTION BY ELIGIBLE INSURERS\*



\*Figures are on a risk attaching basis.

## TOP 10 INSURERS\*

Insurer	New York Taxable Premium	%
1. Lloyd's Underwriters	\$ 537,151,683	16%
2. Lexington Insurance Company	\$ 371,410,393	11%
3. Scottsdale Insurance Company	\$ 215,659,214	6%
4. Steadfast Insurance Company	\$ 104,819,731	4%
5. American Empire Surplus Lines Insurance Company	\$ 100,297,748	3%
6. Travelers Excess & Surplus Lines Company	\$ 95,218,029	3%
7. Arch Specialty Insurance Company	\$ 88,579,837	3%
8. Indian Harbor Insurance Company	\$ 77,977,834	2%
9. AIG Specialty Insurance Company	\$ 75,281,574	2%
10. AIG Europe Limited	\$ 66,947,661	2%
<b>SUBTOTAL</b>	<b>\$1,733,343,704</b>	<b>52%</b>
All Others	\$1,591,491,422	48%
<b>TOTAL</b>	<b>\$3,324,835,126</b>	<b>100%</b>

The top 10 insurers accounted for 52.1% of total premiums written in 2014, compared to 53.5% in 2013, 53.7% in 2012 and 62.4% in 2011.

## TOP 10 PERILS\*

Peril	New York Taxable Premium	2013 Ranking
1. General Liability	\$ 1,305,924,840	1
2. Errors & Omissions	\$ 439,086,925	3
3. All Risk	\$ 425,556,175	2
4. Additional Property Coverage	\$ 294,182,510	4
5. Multiple Peril	\$ 195,494,750	5
6. Umbrella Liability	\$ 134,966,723	6
7. Fire	\$ 97,468,290	7
8. Miscellaneous Professional	\$ 94,673,838	8
9. Environmental Impairment	\$ 71,018,077	9
10. Inland Marine	\$ 66,095,885	10
<b>SUBTOTAL</b>	<b>\$3,124,468,013</b>	
All Others	\$ 200,367,113	
<b>TOTAL</b>	<b>\$3,324,835,126</b>	

All figures and statistics are based on calendar year premium except where otherwise noted.

\*Figures are on a risk attaching basis.

## INDUSTRY LIAISON, LEGISLATION & REGULATION COMMITTEE REPORT

*Joseph Caligiuri, Chairman*

**2014** was not a big year for new insurance legislation or regulation in New York, which is often the case in election years. One bill, which impacts producers and was substantially supported by PIA (Professional Insurance Agents of New York) and IIABA (Independent Insurance Agents & Brokers of America), was legislation intended to prevent amendments to the standard language of certificates of insurance when such terms were not consistent with the actual language of the insurance policy.

The Certificate of Insurance bill, which became Chapter 552 of the laws of 2014, required technical amendments following its passage. Governor Cuomo signed into law A.4616/S.3681, which clarifies the types of insurance certificates that must be approved by the New York State Department of Financial Services, adds “addendum” to the definition of a certificate, and sets forth the penalty for violating the law. The technical amendments also remove a specific reference to the standardizing body that issues certificate of insurance forms [ACORD and ISO] and extends the effective date of Chapter 552 of 2014 from 19 days to 180 days from passage. As a result, the law will take effect on July 28, 2015.

New York’s scaffold law remains an issue of notoriety in Albany. The law holds both contractors and property owners liable in the event of an injury during construction, repair or demolition work, regardless of whether an injured worker was at fault. Critics say the law has led to unnecessary lawsuits and increased construction costs. There are advocates, who strongly support

amendments to this law and equally powerful interests, who oppose any change.

Transportation Network Companies (TNCs), such as Uber and Lyft, were the subject of substantial legislative debate in 2014 in both New York and many other states. While legislation was passed in several states, at least in so far as mandating certain minimum auto liability insurance coverage, the states have yet to coalesce around a single standard approach to TNC insurance and that debate will continue into 2015.

On the federal level, the expectation that a TRIA (Terrorism Risk Insurance Act) extension would be adopted before Congress adjourned was not met. However, a TRIA extension was passed in early 2015 and carried with it the NARAB II legislation. Once the operations for NARAB II are put in place, brokers will have the option of obtaining all nonresident producer licenses through its facilities. Once implemented, it should create great efficiencies for multistate excess and surplus lines brokers.

ELANY is prepared and focused to support positive, beneficial legislation on the federal and state level in the best interest of our members. We have a top-notch team in place, both in Albany and New York City, to continue our relentless pursuit of being the best state in the nation for the E&S industry. In closing, ELANY will stay true to the industry’s core main objective, protecting freedom of rate and form and by closely monitoring legislation and regulation for the ultimate benefit and protection of the E&S consumer in New York State!



ELANY IS PREPARED AND FOCUSED TO SUPPORT POSITIVE, BENEFICIAL LEGISLATION ON THE FEDERAL AND STATE LEVEL IN THE BEST INTEREST OF OUR MEMBERS. WE HAVE A TOP-NOTCH TEAM IN PLACE, BOTH IN ALBANY AND NEW YORK CITY...

## OPERATIONS & PROCEDURES COMMITTEE

*Janet Pane, Chairman*

Every year, the ELANY Operations & Procedures Committee reviews the business landscape and the advancements in technology in order to establish a plan that will help us optimize our business performance. ELANY's operational plan not only considers the necessary system upgrades required to keep up with the constant changes and demands of our service platforms, but we also look at the industry's learning and development needs.

The E&S market could never be described as static; and with transaction counts at an all-time high in ELANY history, we have added staff and improved our operating systems to handle the new surge of filings. It is clear that ELANY's electronic platform must be a robust, state-of-the-art, 24/7 processing platform to meet the needs of our members as we now have 88% of active brokers and 98% of all transactions submitted using our electronic filing system.

In 2014, ELANY completed an extensive hardware upgrade as well as a software replacement/upgrade program that will be seamless to members but will reduce ELANY's overall costs, improve efficiency, and will improve ELANY's ability to develop and produce unique analytic reports. ELANY's new operating systems now have excess capacity, maximum speed and redundancy to minimize service interruptions.

ELANY also began website upgrades in 2014. The first project improved ELANY's ability to manage website content more easily. The second project addresses the need to access website information when working remotely or traveling and will use responsive website design to optimize the webpage display for a variety of mobile devices.

On the education front, ELANY added two videos to the website. The first video focuses on how to create the Part C affidavits electronically, and the second explains, compares, and contrasts the attributes of the E&S market to those of the Free Trade Zone. ELANY has also partnered with PIA (Professional Insurance Agents Association of New York) and IIABNY (Independent Insurance Agents and Brokers of New York, Inc.) in presenting E&S compliance webinars for their respective members.

Lastly, Board member David Isenberg has been running a series of educational Lunch and Learns for the ELANY staff examiners designed to improve and round out the staff knowledge and to improve the service quality provided by ELANY to our members. These programs have been well received.

I expect 2015 to be another dynamic year of change, and it is our hope you will feel the benefits of the many improvements we have made to our service delivery at ELANY.

IT IS CLEAR THAT ELANY'S ELECTRONIC PLATFORM MUST BE A ROBUST, STATE-OF-THE-ART, 24/7 PROCESSING PLATFORM TO MEET THE NEEDS OF OUR MEMBERS...



# AUDIT AND FINANCE COMMITTEE REPORT

John Buckley, Chairman

**2014** was a dynamic year for the excess and surplus lines market in New York, with the total net taxable premium increasing 16% to \$3.294 million. Stamping fees increased 16% as well, to just under \$7 million, representing the largest stamping fees figure since 2004.

Expenses for 2014 totaled \$4,922,114, five percent under ELANY's budget approved by the Board of Directors.

The fund balance at year-end 2014 was \$22,578,905, an increase of \$2.3 million from \$20,285,365 at year-end 2013. As a result of ELANY's monitoring of the fund balance, the

Board applied to and received approval from the New York State Department of Financial Services for a stamping fee reduction from .2% to .18%. This reduction will apply to policies incepting on or after July 1, 2015, giving members ample time to adjust computer systems and procedures. The New York excess line tax remains at 3.6%.

The total number of documents processed in 2014 was the largest in ELANY history at 251,373, an increase of approximately 13,000 from 2013.

The ELANY staff continues to strive to meet its 48-hour goal of returning stamped documents and works hard with the Audit and Finance Committee to control expenses. Even with the increase in transactions processed, the cost per transaction remains under \$20 at \$19.58.

ELANY's Audit and Finance Committee and professional staff continue to review, monitor and address its financials to maintain a strong financial position.



## 2014 REVENUES

Stamping Fees . . . . .	\$ 6,933,640
Investment & Miscellaneous Income . . . . .	282,015
<b>TOTAL . . . . .</b>	<b>\$ 7,215,655</b>

## 2014 EXPENSES

Payroll . . . . .	\$ 2,298,860
Depreciation . . . . .	73,656
Computer Charges . . . . .	170,609
Rent & Utilities . . . . .	468,959
Professional Fees . . . . .	376,112
Postage/Printing/Stationery . . . . .	50,723
All Other . . . . .	1,483,195
<b>TOTAL . . . . .</b>	<b>\$ 4,922,114</b>

**FUND BALANCE . . . . . \$22,578,905**

*The annual independent audit of the Association's books and records has been completed and copies are available at the ELANY offices for members to review.*

AS A RESULT OF ELANY'S MONITORING OF THE FUND BALANCE, THE BOARD APPLIED TO AND RECEIVED APPROVAL FROM THE NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES FOR A STAMPING FEE REDUCTION FROM .2% TO .18%.

## EXCESS LINE ASSOCIATION STAFF

Daniel F. Maher, *Executive Director*

Nancy Born, *Director of Operations*

Theresa Hetherington,  
*Stamping Office Manager*

Eugene Nunziata,  
*Education/Communications  
Director*

Brian Persaud,  
*Director of Information  
Technology*

Sharon Pereira Marks,  
*Financial Director*

Fazeda Ahamad-  
Raghunandan, *Examiner*

Benedict Bardeguez,  
*PC Analyst/Helpdesk*

Christian Carbajal, *Examiner*

Lorraine Chin, *Examiner*

Cheryl Coleman, *Examiner*

Eusebio Del Valle, *Examiner*

Melissa Downey, *Examiner*

Joseph Farella, *Examiner*

Regina Graham, *Examiner*

Heather Jacobson, *Examiner*

Jenny Kyi, *Examiner*

Donald Lipkins,  
*Scanning Technician*

Felicita Lopez, *Examiner*

Traci Martin, *Examiner*

Darlene Moreta,  
*Administrative Assistant*

Bryan Nebel, *Examiner*

Deanna Olah,  
*Examination Supervisor*

Ronald Parris, *Examiner*

Brian Vidal Persaud, *Examiner*

Marie Peterson,  
*Executive Assistant*

Beth Pfluger-Torres,  
*Examination Supervisor*

Ivan Rodriguez,  
*PC Analyst/Helpdesk*

Kevin Stidworthy, *Examiner*

Keith Vittore, *Examiner*

Branan Whitehead,  
*Examination Supervisor*

## BOARD OF DIRECTORS

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*Vice Chairman*  
Willis North America, Inc.

JOHN A. BUCKLEY  
*Treasurer*  
NIF Services of New York, Inc.

LANCE BECKER  
*Secretary*  
Arthur J. Gallagher Risk  
Management Services, Inc.

DAVID ISENBERG  
PIA Management Services, Inc.

KEVIN MCGILL  
Frenkel & Company

DONALD PRIVETT  
Worldwide Facilities, Inc.

JAMES RICHARDSON  
General Star Management  
Company

ROBERT SHAPIRO  
Global Facilities, Inc.

JOSEPH F. CALIGIURI  
*Immediate Past Chairman*  
Lighthouse Specialty  
Brokers, Inc.

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JOHN McPARLAND, CPA  
*Independent Accountant*  
McGladrey LLP



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