



# ANNUAL REPORT 2015

EXCESS LINE ASSOCIATION OF NEW YORK

COMMITTED TO SERVING THE EXCESS & SURPLUS LINES BROKER COMMUNITY



2015 SET NEW RECORD VOLUME FOR transactions and premium in the New York E&S market for the third year in a row. The brokers and underwriters in our industry deserve all of the credit for that growth, as it is a function of their success in meeting the unique needs of the insurance-consuming public.

I credit ELANY's senior management team and staff with its ability to handle the increase in scale without interruption in service or delays in responding to the needs of ELANY's members.

Nancy Born, ELANY's Director of Operations, with the able assistance of Theresa Hetherington, ELANY's Stamping Office Manager, oversees the examination staff to achieve a quick turnaround of transactions while verifying that the examination process is accurate and applied consistently across all transactions and brokers. ELANY's three Examination Supervisors, Deanna Olah, Beth Pfluger-Torres and Branán Whitehead, assist in achieving high productivity, as well as consistency and accuracy in the examination process.

IT Director Brian Persaud and his Help Desk team, Ben Bardeguéz and Ivan Rodríguez, keep all systems including the Electronic Filing System running 24/7, in addition to trouble shooting internal and

member systems issues while constantly working on system upgrades.

Gene Nunziata, ELANY's Communications/Education Director, handles many of the more sophisticated questions from members about what is or is not permitted in the marketplace and is integral to maintaining a sophisticated, state-of-the-art website as a major resource to the industry. Supervising Examiner Branán Whitehead lends a hand to Gene with a focus on internal education regarding the examination process.

ELANY's management team was fortunate to land Jim Davis in the fourth quarter of 2015 as our new Financial Director. His skill set for insurance company financial analysis is a perfect fit for the ELANY team.

Finally, our Executive and Administrative Assistants, Marie Peterson and Darlene Moreta, assist to keep the management team on task and on time internally while managing many of our meetings and events.

There is a lot in store for 2016 where ELANY members will feel and see improvements and efficiencies based on projects and upgrades completed in 2015.

Do not hesitate to contact ELANY for any assistance you may need or require. As the market continues to evolve, new products, new services and new questions emerge in this dynamic field. 🇺🇸



## EXECUTIVE DIRECTOR'S REPORT

*Daniel F. Maher*

*“There is a lot in store for 2016 where ELANY members will feel and see improvements and efficiencies based on projects and upgrades completed in 2015.”*



## CHAIRMAN'S REPORT

*Gary Holleder*

FORMED 27 YEARS AGO BY NEW YORK statute, ELANY operates as a nonprofit industry advisory association responsible to facilitate and encourage compliance with the excess line law. As you read this year's report, you will see that your Association has consistently done so and much more.

ELANY has continually invested in automation, as well as working with regulators to update laws with the purpose of simplifying the process and ultimately reducing the burden and costs associated with broker compliance. This has become an ongoing theme, in light of the significant increase in premiums and number of policies that are being written in the New York non-admitted market.

With this significant increase in premiums and policies comes additional risk to the consumer and the brokers, as well as the reputation of the E&S market. ELANY's Information Resources and Security Committee constantly monitors the financial condition of foreign insurers doing business in New York, as well as alien insurers to the extent they choose to provide information. To keep up with the activity, James (Jim) Davis joined the staff as Financial Director in 2015.

If you have not already done so, I would encourage you to visit ELANY's website to see some of the other benefits

your Association offers. While the site was recently redesigned, it remains easy to navigate. Among other changes, you will find an expanded educational section and a statistics section that shows nonadmitted activity in the state. Information can be found there such as taxable premiums/transaction counts, premium by insurer and by coverage with new features constantly being added.

Although the underlying goal remains unchanged, in an industry that is ever evolving and what seems at a faster rate, it is easy to conclude that the role of your Association has become increasingly important. As stated on the website, *"ELANY is a warehouse of solid information on the E&S marketplace. When you have questions, particularly on New York E&S laws and regulations and interpretations by the Department of Financial Services, consider ELANY to be one of your resources."* I encourage you to take advantage of the services your Association offers.

As my two-year term as Chairman comes to a close, I would be remiss if I did not express my gratitude to the Executive Director, Dan Maher, and his staff for their efforts in making your Association one of the premier stamping offices in the country. 🐦

*"...in an industry that is ever evolving and what seems at a faster rate, it is easy to conclude that the role of your Association has become increasingly important."*

AS WE REVIEW YEAR END RESULTS, we note that the insurers on ELANY's eligibility list continue to be financially sound. As of January 1, 2016, the minimum policyholders' surplus for ELANY eligible foreign insurers will increase to \$46 million. All eligible insurers will have met the minimum surplus requirement. Of the 108 foreign insurers, all are rated "A-" or better, with the exception of two insurers that are rated B++.

ELANY has noticed an increase in the number of companies interested in eligibility. We have noted some movement of surplus from larger groups as they realign capital within their holding companies. One other development entering 2016 will be the expansion of "partnership total return insurers" into both the standard and surplus lines marketplace. Total return insurers are normally sponsored by large groups supported by a large quantity of outside capital. These total return insurers share the following similar characteristics: an underwriting partner, an investment partner, underwriting and management fees to the sponsor, and a more aggressive investment philosophy than a standard insurer in pursuit of higher returns, coupled with the requisite higher investment fees related thereto. Further, these total return insurers will look towards issuing an IPO within a two- to six-year time period.

Revisions to Regulation 41 that were promulgated in 2014 include, among other things, no longer requiring excess line brokers to obtain financial statements for alien insurers. Instead, excess line brokers must confirm that an alien insurer is eligible by referencing the National Association of Insurance Commissioners (NAIC) 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. The insurers that provide this information are published on ELANY's list of eligible insurers.

Regulation 41 places the responsibility of monitoring the solvency of the eligible insurers a broker places business with on the excess line licensee. It is known as the "due care" standard. The passage of the Nonadmitted Reinsurance Reform Act (NRRRA) 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.

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 it is addressing the issues in question. If ELANY determines that serious financial issues remain, the insurer is asked to voluntarily withdraw. Financial summaries for all eligible foreign excess line insurers are maintained on the ELANY website. We encourage all brokers to visit the website and the financial summaries frequently and to contact us if you have any questions, comments or concerns.

Seven foreign insurers were added to ELANY's eligibility list in 2015, two insurers withdrew and one foreign insurer merged with an already eligible insurer. Overall, 108 foreign insurers are eligible to write surplus lines business in New York. Under the provisions of the NRRRA, all alien insurers listed on the NAIC Quarterly Listing of Alien Insurers are automatically eligible to write business in New York.

ELANY's current Financial Director joined us during 2015. Jim Davis recently retired after 29 years with the Department of Financial Services. Jim is a valuable resource, and we urge you to contact him with any questions you might have. 🏠



## INFORMATION RESOURCES AND SECURITY COMMITTEE REPORT

*Margaret Beirne,  
Chairman*

*"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."*

## PROCESSING COST PER TRANSACTION

The processing cost per transaction for the year 2015 was **\$18.32**.

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

## PURCHASING GROUP BUSINESS

In 2015, **20,685** PG transactions were processed, representing **7.2%** of the total transactions processed and **\$32,054,345** of taxable premium, representing **.9%** of total New York taxable premium.

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

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

**2,132** ECP transactions and **10,481** Export List transactions were processed in 2015.

*ECP and Export List transactions combined represent 6% of the total new and renewal transactions processed for 2015.*

## MULTISTATE TRANSACTIONS

In 2015, a total of **4,161** transactions were reported as multistate transactions with a gross written premium of **\$546,143,539**.

Of the total transactions, **2,612** were U.S. only, multistate with no tax allocation, and **1,549** were international where **\$68,331,954** of **\$270,284,660** was allocated to non U.S. exposures.

## ELANY ACTIVE MEMBERS

There were **803** active members for the year **2015**.

## TAXABLE PREMIUM PER STAMPED DOCUMENT

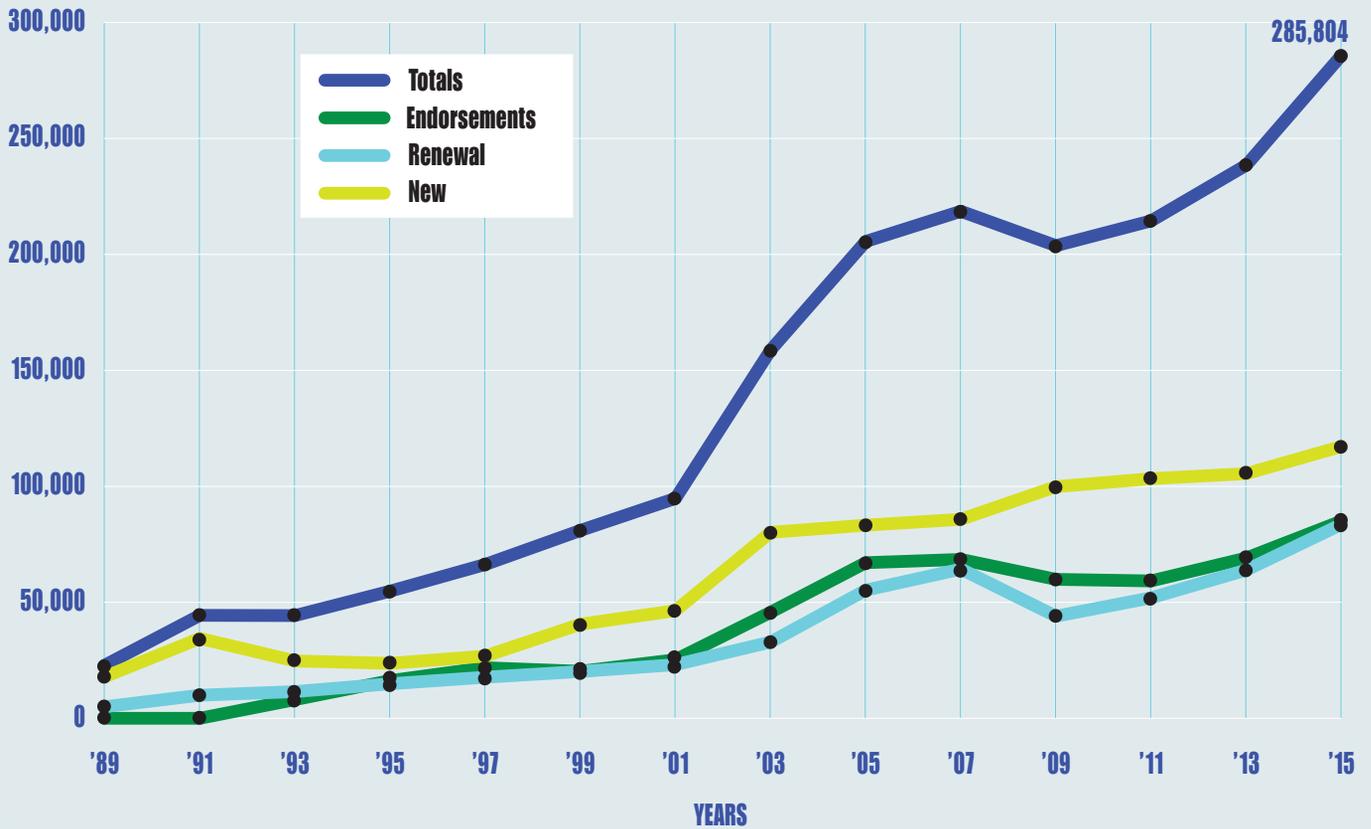
In 2015, **\$12,460** was the average taxable premium per stamped document.

*This averaged seventh highest in ELANY's history.*

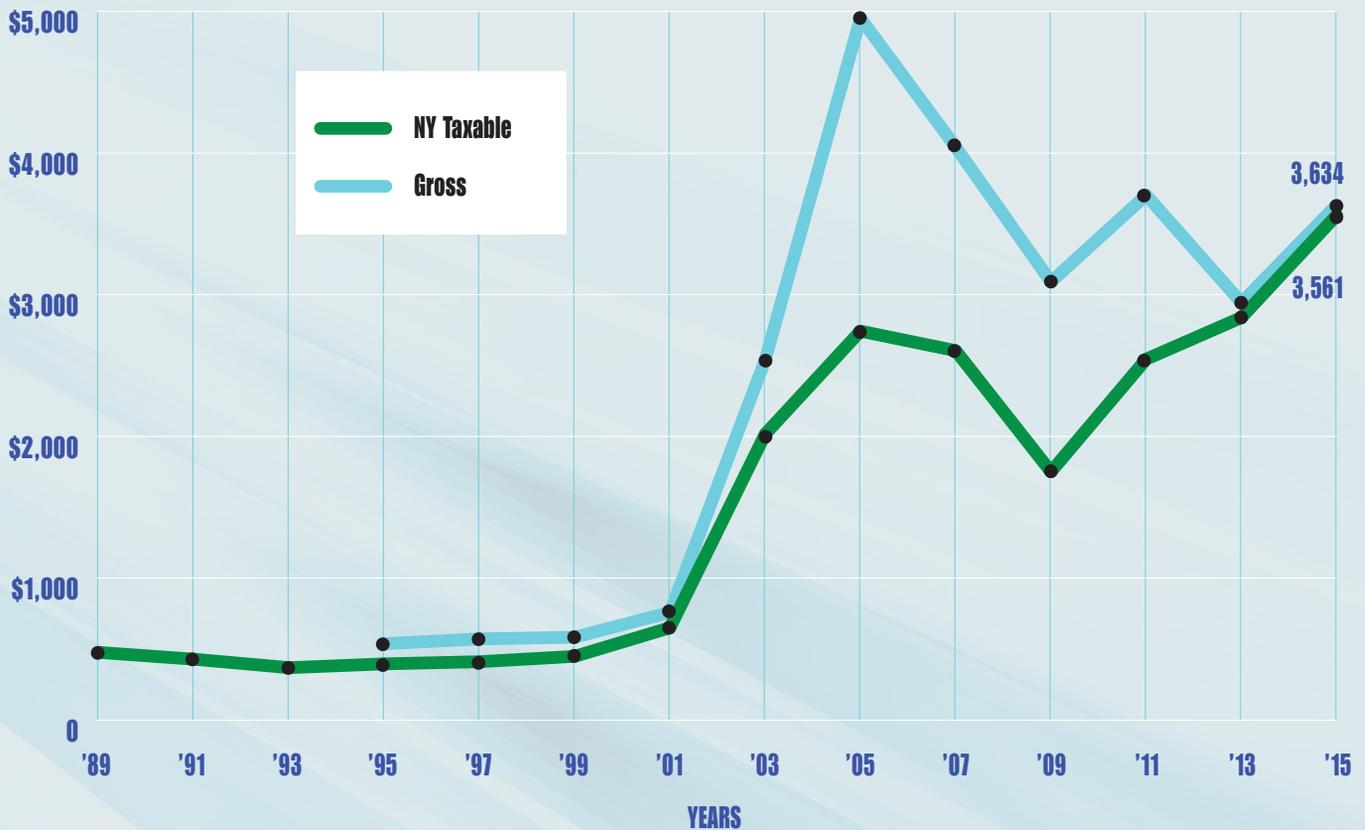
## ELECTRONIC AFFIDAVIT SUBMISSIONS

In 2015, **98%** of all transactions processed were submitted electronically, of which **11%** were submitted programmatically. **88%** of active excess line brokers file electronically. ➡

## NEW YORK EXCESS LINE TRANSACTION COUNT



## NEW YORK EXCESS LINE PREMIUM (IN MILLIONS)\*



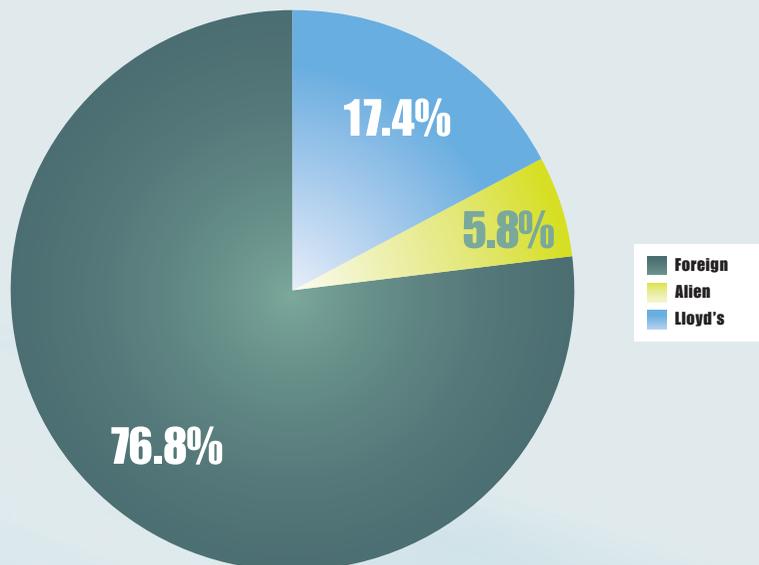
\*Tax allocation began in 1994.

All figures and statistics are based on New York taxable calendar year premium.

## 2015 NEW YORK TAXABLE PREMIUM BY INSURANCE GROUP

Group Name	Number of Companies	New York Premium	
Lloyd's of London		\$ 621,031,353	• 17%
American International Group, Inc.	3	\$ 605,792,898	• 17%
Nationwide Mutual Insurance Company	1	\$ 245,879,574	• 7%
Travelers Companies, Inc.	3	\$ 142,099,311	• 4%
W.R. Berkley Corporation	6	\$ 113,745,865	• 3%
Zurich American Insurance Group	2	\$ 107,778,762	• 3%
Arch Capital Group Ltd.	3	\$ 95,368,181	• 3%
XL Group PLC	2	\$ 85,358,747	• 2%
Chubb Corporation	2	\$ 84,958,309	• 2%
Argo Group International Holdings, Ltd.	1	\$ 84,727,336	• 2%
Berkshire Hathaway	4	\$ 82,666,116	• 2%
Fairfax Financial Holdings Limited	5	\$ 71,622,911	• 2%
Markel Corporation Group	5	\$ 69,540,417	• 2%
CNA Financial Corporation	2	\$ 63,863,384	• 2%
Axis Capital Group	2	\$ 63,228,706	• 2%
Ironshore, Inc.	3	\$ 60,604,813	• 2%
Ace Ltd.	3	\$ 59,121,268	• 2%
RLI Corp.	1	\$ 54,820,206	• 2%
AEGIS Ltd.	1	\$ 47,001,685	• 1%
Alleghany Corporation	4	\$ 46,592,302	• 1%
Catlin Group Ltd.	2	\$ 44,896,237	• 1%
Allied World Assurance Co Holdings, AG	2	\$ 39,008,844	• 1%
Starr International Group	1	\$ 38,189,342	• 1%
Swiss Re Limited	3	\$ 37,896,450	• 1%
Aspen Insurance Holdings Ltd.	2	\$ 34,664,309	• 1%
<b>SUBTOTAL Top 25 Groups</b>		<b>\$3,000,457,326</b>	
All Other	80	\$ 560,822,174	• 16%
<b>TOTAL NY Taxable Premium</b>		<b>\$3,561,279,500</b>	

### PERCENTAGE OF YEAR 2015 NY TAXABLE PREMIUM DISTRIBUTION BY ELIGIBLE INSURERS



All figures and statistics are based on New York taxable calendar year premium.

## TOP 10 INSURERS

Insurer	New York Taxable Premium	%
1. Lloyd's Underwriters	\$ 621,031,353	17%
2. Lexington Insurance Company	\$ 351,504,456	10%
3. Scottsdale Insurance Company	\$ 228,307,875	6%
4. Travelers Excess & Surplus Lines Company	\$ 121,772,356	3%
5. Steadfast Insurance Company	\$ 107,268,212	3%
6. AIG Specialty Insurance Company	\$ 104,291,990	3%
7. American Empire Surplus Lines Insurance Company	\$ 96,827,586	3%
8. Arch Specialty Insurance Company	\$ 94,851,308	3%
9. Indian Harbor Insurance Company	\$ 85,352,747	2%
10. Colony Insurance Company	\$ 84,727,336	2%
<b>SUBTOTAL</b>	<b>\$ 1,895,935,219</b>	<b>53%</b>
All Others	\$ 1,665,344,281	47%
<b>TOTAL</b>	<b>\$ 3,561,279,500</b>	<b>100%</b>

*The top 10 insurers accounted for 53.2% of total premiums written in 2015, compared to 52.2% in 2014 and 53% in 2013.*

## NEW YORK TAXABLE PREMIUM BY COVERAGE CATEGORY

Coverage Category	New York Taxable Premium	2014 Ranking
1. Primary GL & Other BI/PD	\$ 1,108,843,528	1
2. Primary Property Coverages	\$ 734,670,290	2
3. Excess Liability & Umbrella & Medical Malpractice Excess	\$ 488,964,546	3
4. E&O, D&O	\$ 449,895,013	4
5. Excess of Loss Property Coverages	\$ 196,897,820	5
6. Commercial Multiperil	\$ 153,034,160	6
7. Medical Malpractice & Miscellaneous Professional	\$ 107,082,083	7
8. Marine	\$ 84,542,868	8
9. Fidelity & Surety	\$ 66,507,497	10
10. Homeowners/Dwelling Coverage	\$ 59,616,637	9
11. Auto	\$ 40,946,827	11
12. Credit	\$ 33,711,021	12
13. Salary Protection	\$ 22,020,085	13
14. Miscellaneous	\$ 14,547,125	14
<b>TOTAL</b>	<b>\$ 3,561,279,500</b>	

*All figures and statistics are based on New York taxable calendar year premium.*

IN 2015, GOVERNOR CUOMO WAS presented 718 two-house bills of which he vetoed roughly 130. Of those bills the Governor signed into law, ELANY counted six that impacted the property and casualty industry. The most significant of those bills was a chapter amendment to the “Certificate of Insurance” legislation, originally passed in 2014.

Property and casualty insurance legislation has not been a priority in Albany in the recent past. Though the industry continues to press for reforms and modernization, there is no single compelling crisis creating a public outcry that must be immediately addressed.

In 2015, Senator James Seward and Assemblyman Kevin Cahill introduced legislation to establish insurance requirements for services offered by Transportation Network Companies (TNC). The TNC bill, S.4108C/A.8195, is designed to eliminate insurance gaps and ensure that private-passenger auto insurance policyholders are not forced to subsidize TNC business activities. Transportation Network Companies (also referred to as “ride-share” companies) use smartphone communications technology to connect individuals, who want a ride with drivers for a fee. Because the drivers generally use their personal vehicles, there are insurance coverage issues, as the typical standard personal automobile insurance policy contains a “livery” exclusion that applies when the vehicle is being rented out or used to carry passengers for hire.

Another bill, S.4444C, also sponsored by Senator Seward would amend the law to provide the necessary authority for peer-to-peer, car sharing companies to purchase group insurance for the car sharing program, thereby providing insurance coverage for the vehicles enrolled in the program during the periods in which those vehicles are being rented and in the control of the peer-to-peer, car sharing program. Furthermore, this bill would provide for the necessary insurance coverage needed to

protect both consumers and vehicle owners so that peer-to-peer, car sharing companies may operate in the state of New York.

ELANY has urged the legislative sponsors of the TNC legislation to permit the excess line market to provide the necessary automobile coverage when purchased by a TNC to assure that insurance carriers will be available to write these risks should legislation containing an insurance mandate pass in 2016.

At the behest of ELANY, Senator Seward has introduced legislation, S.6909, allowing insurers to provide coverage for punitive damages. New York is one of only two states that bars insurance coverage for any punitive damages assessed. Coverage for punitive damages is regularly sold in most states, and New York insureds often purchase this coverage in Bermuda and elsewhere. Insureds desire the coverage, while insurers and brokers are happy to sell it. This legislation seeks to fix an antiquated public policy and align New York State with the rest of the nation.

ELANY also initiated discussions in 2015 with the Governor’s staff, and later with the Legislature, to introduce a medical malpractice reform bill, as many believe New York State continues to suffer from a malfunctioning medical malpractice insurance marketplace that has often been described as a crisis.

Currently, there are only four insurers, who assume a significant volume of individual doctor medical malpractice risks. These four carriers insure over 80% of the entire New York market. Of those four insurers, three are not able to obtain a financially-secure rating from a nationally-recognized rating agency, and the fourth insurer is the residual market, Medical Malpractice Insurance Pool (MMIP). MMIP exists to underwrite all medical malpractice risks rejected by licensed insurers. The remainder of the New York market is spread among risk retention groups that are exempt from many New York insurance consumer-protection laws. *continued on page 10*



INDUSTRY  
LIAISON,  
LEGISLATION  
& REGULATION  
COMMITTEE  
REPORT

*Joseph Caligiuri,  
Chairman*

*“ELANY and its  
team of professional  
advocates  
remain focused  
on promoting  
legislation to protect  
consumer interests  
and needs...”*

THE E&S MARKET IN NEW YORK HAS seen another record-breaking year of growth. Over the last three years, total premium increased by 25% with transaction count growing by 19%. Risks in the Construction industry represent 26% of the overall market and are a driving force for the increase.

In 2015, ELANY focused on efficiency and improving the usability of our website. With more members accessing the site from mobile devices, the team has implemented a Responsive Design approach to improve the website display experience when working remotely.

A member survey was conducted to solicit feedback on what portions of the site are the most helpful and where we could focus continued effort in 2016. We were very pleased to review the feedback and learn that:

- 93% of respondents found the site easy to navigate,
- 97% of respondents highly valued the substance and content of the site,
- 97% of respondents regularly reviewed the ELANY bulletins on the site to stay informed, and
- 98% of respondents rated the overall customer service experience and responsiveness as exceptional.

*“The E&S marketplace is in a growth mode, and the ELANY staff is making the adjustments necessary to stay focused on service delivery and to ensure we provide the best education and information to our many members.”*

The site delivers improved analytics to members in the Statistical Section, where you will find three years of premium and transaction count data. Reports are broken down by industry code (SIC), coverage, insurers/insurer groups, and by transaction type. ELANY provides deep insight into the E&S marketplace and allows members to analyze year-over-year trending.

The Operations & Procedures Committee oversaw numerous advancements in the ELANY technology platforms this year. Investments in the overall architecture, such as the completion and deployment of hardware replacements and software upgrades, allow our staff to work in an optimized environment and boost productivity in order to dedicate more time to individual member service.

On the education front, ELANY created two videos that have been added to the website. The first video focuses on how to create the Part C affidavits electronically. The second compares and contrasts the attributes of the E&S market to those of the Free Trade Zone.

The E&S marketplace is in a growth mode, and the ELANY staff is making the adjustments necessary to stay focused on service delivery and to ensure we provide the best education and information to our many members. 📌



## OPERATIONS & PROCEDURES COMMITTEE

*Janet Pane, Chairman*



**AUDIT AND  
FINANCE  
COMMITTEE  
REPORT**

*John Buckley, Chairman*

*“We are proud to report that the average cost per transaction in 2015 was \$18.32, the lowest cost per transaction in ELANY’s history.”*

2015 CONTINUED A MULTI-YEAR trend of increased New York excess and surplus lines activity, both in terms of premiums written and transactions processed by ELANY. The net taxable premium in 2015 increased 8% to \$3,561,279,500, while there were 285,804 filed transactions, an increase of 13.7%. Both the number of transactions processed and the net taxable premium figures represent the highest figures reported in ELANY’s 25+ year history.

Stamping fee revenues increased 3.6% to just under \$7.2 million. This increase occurred despite a stamping fee reduction of .02% on business incepting on or after July 1, 2015.

ELANY’s fund balance at the end of 2015 increased by \$2,292,387 to a healthy \$24,871,290.

Even with the increased number of transactions to handle, the ELANY staff remains committed to meeting the 48-hour turnaround goal for returning stamped documents to our members. In addition, the staff works with the Audit and Finance Committee to monitor expenses. We are proud to report that the average cost per

transaction in 2015 was \$18.32, the lowest cost per transaction in ELANY’s history.

The Audit and Finance Committee meets regularly with ELANY’s professional staff to monitor and review ELANY’s financial condition and to assist with maintaining its solid financial position. ➡

**INDUSTRY LIAISON,  
LEGISLATION & REGULATION**

*continued from page 8*

New York Insurance Law §2118(e)(2)(A) (ii) currently requires excess line brokers to obtain a declination from the residual market, MMIP, before the broker can place primary malpractice insurance in the excess line market. Repealing the MMIP declination requirement will provide doctors, dentists and general hospitals a broader array of choices, products, terms and conditions to suit a professional’s particular insurance needs. While all insurers, including MMIP, will be permitted to continue to make available their malpractice insurance products, the addition of excess line insurers will allow insureds greater choice in the selection of insurance policies that best suit their needs from a number of additional, highly-rated insurers.

While excess line brokers will continue to be required to diligently search the licensed market before placing coverage with an excess line insurer, the insured professional will be permitted to accept an offer of coverage from an excess line insurer when the policy terms and conditions are superior to those offered by MMIP.

ELANY and its team of professional advocates remain focused on promoting legislation to protect consumer interests and needs, to maintain a viable and financially strong excess line industry and maintain its core values of freedom of rate and form in order to deliver its unique insurance products. ➡

**2015 REVENUES**

Stamping Fees .....	\$ 7,187,047
Investment & Miscellaneous Income .....	341,352
<b>TOTAL .....</b>	<b>\$ 7,528,399</b>

**2015 EXPENSES**

Payroll .....	\$ 2,404,621
Depreciation .....	127,599
Computer Charges .....	329,241
Rent & Utilities .....	430,749
Professional Fees .....	447,875
Postage/Printing/Stationery .....	47,894
All Other .....	1,448,033
<b>TOTAL .....</b>	<b>\$ 5,236,012</b>

**FUND BALANCE.....\$24,871,290**

*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.*

## 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*

James Davis, *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*

Emily Maldonado, *Examiner*

Traci Martin, *Examiner*

Darlene Moreta,  
*Administrative Assistant*

Deanna Olah,  
*Stamping Office Supervisor*

Brian Vidal Persaud, *Examiner*

Marie Peterson,  
*Executive Assistant*

Beth Pfluger-Torres,  
*Stamping Office Supervisor*

Ivan Rodriguez,  
*PC Analyst/Helpdesk*

Keith Vittore, *Examiner*

Branan Whitehead,  
*Stamping Office Supervisor*

## BOARD OF DIRECTORS

GARY HOLLEDERER  
*Chairman*  
Russell Bond & Co., Inc.

JANET PANE  
*Vice Chairman*  
Willis Towers Watson

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

LANCE BECKER  
*Secretary*  
Arthur J. Gallagher & Co.

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*  
RSM US LLP



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