



COMPLIANCE ADVISOR

Declaration Pages and Binders: The Most Important Documents

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THE EXCESS LINE ASSOCIATION OF NEW YORK

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Declaration Pages and Binders: The Most Important Documents

I. Why Are Declarations Pages and Binders the Most Important Documents, You Ask?

ELANY strives to process every transaction submitted on the first try. Declarations pages and binders which lack required information or are otherwise erroneous must be replaced whereas corrections can be made to affidavits. This Compliance Advisor is for excess line brokers, insurers, and any other person or party which issues such policy documentation.

II. Binder and Declaration Page Information Required by Law and Regulation

A. Insurer(s)

The full and proper name of each participating insurer or syndicate number(s) in the case of Lloyds must be set forth.

Where more than one insurer participates in insuring the risk, the percentage of each insurer's participation must be stated.

B. Insured's Name and Address

A street address is required.

C. The Type or Class of Coverage

The type or class of coverage should reflect the name of the coverage by which it is commonly known such as general liability, Directors and Officers liability or fire and extended perils. Use of trademark names such as "Superior Business Protection" requires ELANY staff to make further inquiries which delays the process. Use ELANY's [coverage codes](#) and names as guidance.

D. Policy Term

The inception and expiration date must be shown. ELANY cannot process policies which are "continuous."

E. Gross Premium

The Gross premium for the entire term of the policy must be set forth. It should not be displayed as the aggregate of premium fees and or taxes. In some cases, a policy will display an estimated gross premium, or a minimum earned feature, or a minimum and deposit premium. As long as the gross written premium for the policy is unambiguously displayed ELANY can process the transaction. The Department of Financial Services has expressed objections to ELANY processing policies where the premium is so small in relation to the risk assumed and policy limits, that the premium has been seriously understated. If a policy contemplates monthly or periodic reporting, it should nevertheless display an estimated annual premium which can be adjusted by a final premium endorsement.

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F. Policy Limits

For the entire policy or each coverage or peril insured, where applicable, should be set forth.

G. Bold Disclosure Legend

This is required by [Regulation 41](#) and must be added by the excess line broker.

H. Fees and Taxes

ELANY discourages fees and taxes from being displayed on binders and declaration pages. If the document does display these charges, they must be calculated accurately. If a fee is shown as a “Policy Fee,” it will be subject to excess line tax on the assumption that the fee was charged by the insurer. If the fee is payable to any producer in the chain of placement, it should be referred to as a producer or broker fee.

I. Aspire to:

- a) Consolidate all of the necessary information into the first two pages of the declarations pages. Some policies spread this information out over 6 to 10 pages which slows the process tremendously.
- b) Add a description of the business in which the insured is engaged. Excess line brokers are required to provide this information, and it would be much easier if the policy reflected a description such as “general contractor” or “electrician.”

III. Mistakes / Errors Which Will Cause Transactions to Be Suspended or Rejected

In addition to the issues noted above beware of the following:

A. Handwritten Changes, Use of White Out

ELANY cannot assume that such changes were made by a person with authority to make them so these documents are rejected.

B. Submission of Quotes, Applications, Invoices or Proposed Wordings

These documents are not binders or declaration pages and cannot be processed as such.

C. Binders or Declarations Pages with Ineligible Unauthorized Insurers as Participants

ELANY will process binders and declarations pages where all insurers are either licensed or eligible in New York but must suspend transactions where an ineligible unauthorized insurer participated on the risk.

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D. Layered and Subscription Policies

Such policies must show the premium for each layer and the percentage of each insurer's participation on each layer. Participating insurers can issue separate policies incorporating another insurer's policy language by reference if it wants to utilize its own policy number or it can participate as a subscriber to the policy utilizing the policy number for all participants. (This is sometimes an issue where one insurer may choose to cancel coverage which may be easier with separate policies).

IV. Conclusion

Excess line licensees are obligated to submit documents to ELANY. ELANY distributes guidance including this "Compliance Advisor" to make the process as simple as possible.



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This advisor is not intended to be nor should it be construed as legal advice. These guidelines are provided for your consideration and for use in consultation with your legal counsel.