

New York DFS Issues Guidance and Request for Plans Related to COVID-19

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The New York Department of Financial Services (DFS) recently issued Circular No. 5 that requires **every** regulated insurance entity to submit its plans to address the operational risk and identify, monitor and manage the financial risk posed by COVID-19. The report must be made on line by April 9, 2020. The circular can be found [here](#).

The plan must cover a number of complex topics and must “reflect the entity’s size, complexity and activities.” DFS says the plan should, at a minimum, address the following:

1. Preventative measures tailored to the entity’s specific profile and operations to mitigate the risk of operational disruption, which should include identifying the impact on consumers and vendors.
2. A documented strategy addressing the impact of the outbreak in stages, so that the entity’s efforts can be appropriately scaled, consistent with the effects of a particular stage of the outbreak.
3. Assessment of all facilities, systems, policies and procedures necessary to continue critical operations and services if members of the staff are unavailable for longer periods or are working off-site, including the effectiveness and security of remote access.
4. Employee protection strategies, critical to sustaining an adequate workforce during the outbreak, including employee awareness and steps that employees can take to reduce the likelihood of contracting COVID-19.¹
5. Assessment of the preparedness of critical third-party service providers and suppliers.
6. Development of a communication plan to effectively communicate with consumers and vendors, and to deliver important news and instructions to employees, along with establishing forums for questions to be asked and addressed.

Contact Information

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7. Testing of the plan to ensure that the policies, processes and procedures are effective.
8. Governance and oversight of the plan, including identifying the critical members of a response team, to ensure ongoing review and updates to the plan, including the tracking of relevant information from government sources.

According to the DFS, “[i]t is critical that your risk management programs include a plan to assess and monitor the financial risk that may arise from COVID-19.” Such a plan, at a minimum, should include the following assessments:

1. Assessment of the overall impact of COVID-19 on reserve requirements, consumers’ ability to make timely premium payments and resources required to timely process claims.
2. Assessment of the credit risk of counterparties and business sectors impacted by COVID-19.
3. Assessment of the credit exposure to counterparties and business sectors impacted by COVID-19 arising from investing and other financial transactions.
4. Assessment of the scope and the size of admitted assets or other investments adversely impacted by COVID-19 that currently are in, or potentially may move to, nonperforming/delinquent status, including consideration of stress testing and/or sensitivity analysis of such assets or investments.
5. Assessment of the valuation of assets and investments that may be, or have been, impacted by COVID-19.
6. Assessment of the overall impact of COVID-19 on earnings, profits, capital and liquidity.

Senior management and directors are “directly responsible for ensuring that appropriate plans are in place, and that sufficient resources are allocated to implement such plans. The senior management is responsible for ensuring that effective policies, processes, and procedures are in place to execute the plan, and for communicating the plan throughout the entity to ensure consistency in approach so that employees understand their roles and responsibilities.”

Akin Gump is ready to assist. Please contact Shawn Hanson with your questions and comments by phone at 1-415-765-9528 or by email at shanson@akingump.com. You can also reach him by cell phone at 1-415-867-7583.

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