

**RE: NYDFS CYBERSECURITY REGULATION PROPOSED REVISIONS –  
INACTIVE BROKER EXEMPTION**

The New York Department of Financial Services (DFS) has published [proposed revisions](#) to its [cybersecurity regulation](#). We are happy to report that a new full exemption for inactive brokers that ELANY proposed and advocated on behalf of has been included. The exemption is contained in a new proposed subsection (e) of Section 500.19, which reads:

(e) An individual insurance broker subject to Insurance Law section 2104, who qualifies for the exemption pursuant to subdivision 500.19(c) of this Part and has not for any compensation, commission or other thing of value acted or aided in any manner in soliciting, negotiating or selling any insurance or annuity contract or in placing risks or taking out insurance on behalf of another for at least one year shall be exempt from the requirements of this Part, provided such individuals do not otherwise qualify as a covered entity for purposes of this Part.

The proposed language would fully exempt brokers who 1) have not received compensation, commission or anything of value for acting or aiding in soliciting, negotiating, selling or placing an insurance policy for at least one year, and 2) do not directly or indirectly operate, maintain, utilize or control any information systems, and that do not, and are not required to, directly or indirectly control, own, access, generate, receive or possess nonpublic information as defined by the regulation.

ELANY sought this exemption for brokers who are no longer acting as brokers but wish to maintain their license as a credential, such as retirees or those who teach but are no longer brokering business. Currently, inactive brokers must comply with certain requirements of the regulation, such as conducting risk assessments. Because inactive brokers do not maintain nonpublic information, applying requirements to them makes little sense and has proven to be a confusing burden. The DFS listened to our arguments with an open mind, and we commend them for responding in a positive way.

ELANY formed a producer group coalition to pursue this change and we thank Big I of NY, Professional Insurance Agents of New York, Professional Insurance Wholesalers Association of New York State, Council of Insurance Brokers of Greater New York, NAIFA-NY, and New York State Association of Health Underwriters for their active support.

THE EXEMPTION IS A PROPOSAL AND IS NOT YET IN EFFECT. We expect a final revised regulation to be adopted during the first half of 2023.

Should you have any questions regarding the content of this bulletin, please direct them to Howard Greene at [hgreene@elany.org](mailto:hgreene@elany.org) or (646) 292-5591.