



2018 ANNUAL REPORT

EXCESS LINE ASSOCIATION
OF NEW YORK

EXCESS LINE ASSOCIATION STAFF

Daniel F. Maher, *Executive Director*
Nancy Born, *Chief Administrative Officer*
& *Director of Operations*
Theresa Hetherington, *Stamping Office Manager*
Eugene Nunziata, *Education/Communications Director*
Brian Persaud, *Director of Information Technology*
Howard Greene, *Director of Strategic Initiatives*
Jason Alvarez, *Examiner*
Fazeda Ahamad-Raghunandan, *Examiner*
Mischelle Balkissoon, *Examiner*
Benedict Bardeguez, *PC Analyst/Helpdesk*
Christine Briglia, *Executive Assistant*
Christian Carbajal, *Examiner*
Lorraine Chin, *Examiner*
Angela Creed, *Examiner*
Eusebio Del Valle, *Examiner*
Melissa Downey, *Stamping Officer Supervisor*
Regina Graham, *Examiner*
Eduardo Jackson, *Examiner*
Jenny Kyi, *Examiner*
Felicita Lopez, *Examiner*
Emily Maldonado, *Examiner*
Traci Martin, *Examiner*
Erika McClain, *Examiner*
Darlene Moreta, *Administrative Assistant*
Deanna Olah, *Stamping Office Supervisor*
Beth Pfluger-Torres, *Stamping Office Supervisor*
Marguerite Phillip, *Examiner*
Cheryl Ragoonanan, *Examiner*
Randy Robertson, *Examiner*
Ivan Rodriguez, *PC Analyst/Helpdesk*
Kimberly Velez, *Examiner*
Damien Vittore, *Scanning Technician*
Keith Vittore, *Examiner*
Branan Whitehead, *Stamping Office Supervisor*



Photograph by Joe Martin,
photo editing by Kelly Maher.



2018 marks the completion of ELANY's 29th year of operation and the seventh consecutive year of record volume by both total market premium reported (over \$4.4 billion) and transactions processed (343,521). Congratulations to the brokers and underwriters who own these successful results by their extraordinary efforts in fulfilling the needs of New York insurance consumers.

The numerous projects mentioned elsewhere in this report demonstrate that 2018 was another very productive year for ELANY. ELANY has also launched several new initiatives in 2018 dedicating resources with a new focus, which I trust will pay dividends to ELANY's membership over the long haul. The thrust of these initiatives are designed to create new collaborative relationships with other market and industry participants to leverage ELANY's data and to present a much deeper and thorough analysis of the

marketplace. We expect the byproducts of these efforts to include the release of additional tools to assist members with new and ever expanding compliance requirements, including cyber security regulation and to reduce or eliminate certain operating costs that our broker members otherwise bear.

The E&S market continues to be a cutting edge innovator. Often the first to discover opportunities as industries, products and services change, our market leads the way in designing new insurance products to address emerging risks. As the E&S industry embraces these new realities and develops solutions, ELANY does its best to keep pace with these many changes and provide services commensurate with this very adaptive marketplace.

ELANY enjoys the benefit of a dedicated and knowledgeable Board of Directors as well as a management team and staff, whose primary focus is delivering professional services to ELANY members. 🏡

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EXECUTIVE
DIRECTOR'S
REPORT

Daniel F. Maher



2018 marks my first year as Chairman of ELANY. It has been my pleasure to lead the Board of which I have been a member since 2011. The ELANY Board interacts and oversees ELANY management and staff. Who is ELANY? In a few words, ELANY assists its membership in meeting compliance requirements of New York excess line law. Visit “**About ELANY**” on our website to watch a brief video and hear firsthand how the excess line industry has perceived ELANY for the past 30 years.

A major focus during my Chairmanship will be to assist ELANY in establishing a “brand” to enable ELANY to be well identified by all stakeholders in the marketplace. While ELANY is easily identified by compliance administrators, we hope to reach a larger broker community to share many other services that ELANY provides.

In 2018, ELANY embarked upon a number of new adventures. Moving its technology to a “cloud environment” is in the forefront. The greatest benefit is that ELANY will establish a more robust and redundant cyber-secure environment. ELANY’s IT Department,

along with our outside IT vendor Renaissance Systems Inc., continues to work tirelessly on this conversion.

Another exciting project involves the relocation of ELANY’s headquarters. ELANY management has spent considerable hours seeking the perfect space, which will enable ELANY, other trade associations, and ELANY members to access a free conference center available to them for meetings and educational programs. Stay tuned in 2019 for a 30th anniversary party in our new headquarters.

Thank you to Dan Maher and ELANY’s outside consultants working with the legislature to pass ELANY’s extender bill, which extends ELANY’s authority through June 2024.

As we move into 2019, we look forward to completion of our “cloud conversion project,” moving to new headquarters, and continuing to improve our already robust electronic filing system with educational videos and co-branding projects that Jim Richardson, Chairman of the Operations and Procedures Committee, and Dan Maher discuss in their reports contained within this Annual Report. 🇺🇸

In 2018, ELANY embarked upon a number of new adventures. Moving its technology to a “cloud environment” is in the forefront. The greatest benefit is that ELANY will establish a more robust and redundant cyber-secure environment.



Regulation 41 puts the responsibility for placing business with financially sound non-admitted insurers on the excess line licensee. To meet the “due care” requirement when writing business with an excess line insurer, the licensee is required to obtain, review and retain certain documents from each foreign insurer with whom they wish to do business. The law allows the licensee to be relieved of this responsibility to the extent that ELANY obtains these documents. ELANY monitors all foreign excess line insurers doing business in New York by, among other things, regularly reviewing their financials. Those insurers deemed acceptable can be found on ELANY’s voluntary List of New York E&S Insurers. These insurers, along with a financial summary for each foreign insurer, can be found on the ELANY website. Where concerns are identified regarding an insurer’s financial condition, ELANY will contact the insurer seeking additional information. When concerns are not addressed, the insurer will be asked to voluntarily withdraw from the New York market.

Foreign insurers, who desire to be included on ELANY’s voluntary List of New York E&S Insurers, are required to submit an application along with necessary documents. As of January 1, 2019, each insurer must have a minimum of \$47,000,000 in policyholders’ surplus and a license from the insurer’s domicile state permitting them to write the lines of business they seek to write in New

York in order to become an eligible excess line insurer in New York.

This past year, there were 119 foreign insurers appearing on ELANY’s voluntary List of New York E&S Insurers. Of these, 117 carried an AM Best rating of A- or better. The remaining two were rated B++. Two insurers were added to the List in 2018.

In 2014, a change to Regulation 41 no longer required the licensee to obtain financials on alien insurers. Instead, alien insurers can elect to provide their financials to the NAIC International Insurers Department (IID). Those meeting the NAIC standards are placed on the NAIC’s Quarterly Listing of Alien Insurers. Although ELANY is required to stamp policies written with insurers appearing on this list, this alone does not relieve the licensee of the “due care” obligation regarding monitoring their solvency, as well as meeting state laws and regulations.

Alien insurers can voluntarily submit their financials to ELANY. Those who do and meet ELANY standards will be included on ELANY’s voluntary List of Alien E&S Insurers. 146 alien insurers appear on the NAIC Quarterly Listing of Alien Insurers. 58 are insurers, and 88 are Lloyds syndicates. One alien insurer was added to this List in 2018.

Whenever there is a change to these lists, ELANY sends out a notification bulletin. The staff is always ready to provide additional information on each insurer, as well as answer any questions. 🐦

As of January 1, 2019,
each insurer must
have a minimum
of \$47,000,000
in policyholders’
surplus . . .



INFORMATION
RESOURCES
AND SECURITY
COMMITTEE
REPORT

Gary Holleder, Chairman



2018 STATISTICAL FACTS

PROCESSING COST PER TRANSACTION

The processing cost per transaction for the year 2018 was **\$19.93**.

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

PURCHASING GROUP BUSINESS

In 2018, **22,523** PG transactions were processed, representing **6.6%** of the total transactions processed and **\$22,915,047** of taxable premium, representing **.5%** 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 (NEW/RENEWAL/ENDORSEMENTS)

2,598 ECP transactions and **26,903** Export List transactions were processed in 2018.

ECP and Export List transactions combined represent 9% of the total transactions processed for 2018.

MULTISTATE TRANSACTIONS

In 2018, a total of **4,225** transactions was reported as multistate transactions with a gross written premium of **\$552,622,694**. Of the total transactions, **2,442** were U.S. only, multistate with no tax allocation, and **1,783** were international where **\$87,954,669** of **\$293,536,411** was allocated to non-U.S. exposures.

ELANY ACTIVE MEMBERS

There were **837** active members for the year 2018.

TAXABLE PREMIUM PER STAMPED DOCUMENT

In 2018, **\$12,616** was the average taxable premium per stamped document.

This was the seventh highest in ELANY's history.

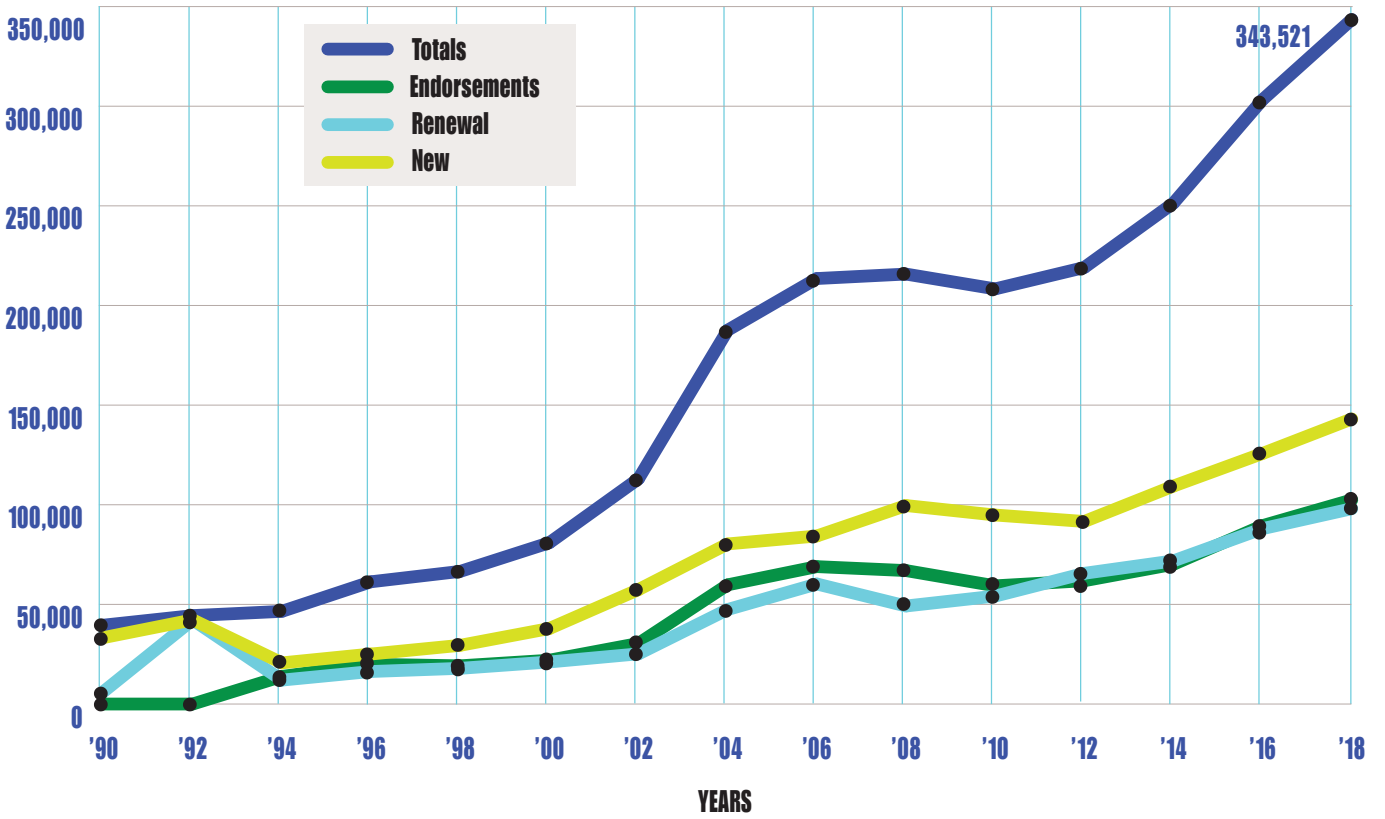
ELECTRONIC AFFIDAVIT SUBMISSIONS

In 2018, **99%** of all transactions processed were submitted electronically, of which **14%** were submitted programmatically. **96%** of active excess line brokers file electronically. 

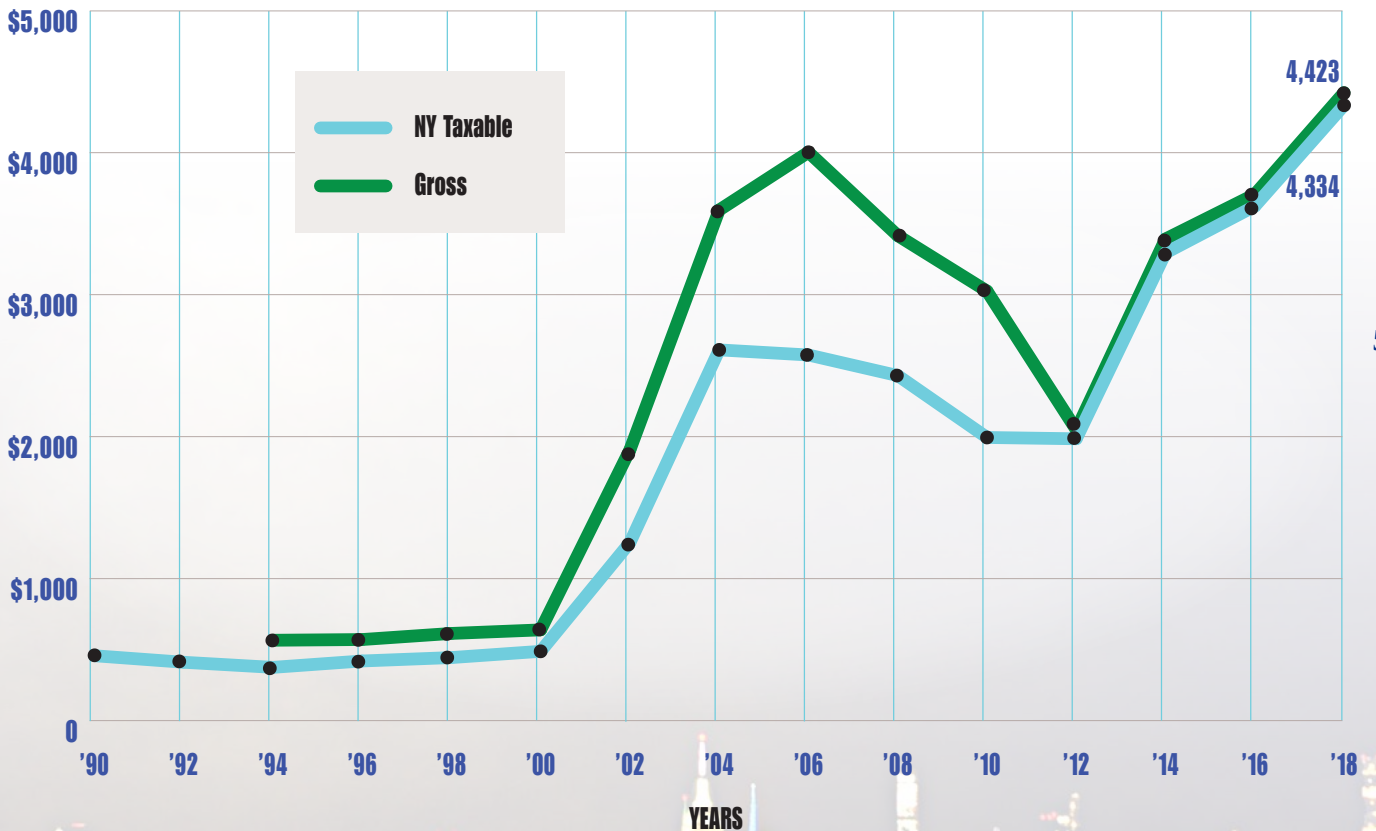
*All figures and statistics are based on
New York taxable calendar year premium.*



NEW YORK EXCESS LINE TRANSACTION COUNT



NEW YORK EXCESS LINE PREMIUM (IN MILLIONS)*



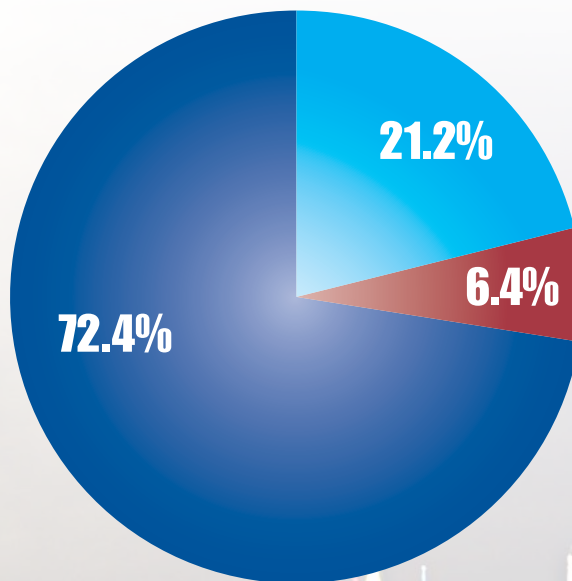
*Tax allocation began in 1994.

2018 NEW YORK TAXABLE PREMIUM BY INSURANCE GROUP

Group Name	Number of Companies	New York Premium	
Lloyds of London		\$ 919,606,827	• 21%
American International Group, Inc.	6	\$ 349,411,134	• 8%
Markel Corporation	6	\$ 197,406,765	• 5%
Fairfax Financial Holdings Limited	7	\$ 155,878,040	• 4%
Chubb Limited	5	\$ 151,875,794	• 4%
W.R. Berkley Corporation	5	\$ 149,824,293	• 3%
Argo Group International Holdings, Ltd.	2	\$ 148,376,014	• 3%
Travelers Companies, Inc.	3	\$ 140,061,000	• 3%
Berkshire Hathaway Inc.	6	\$ 138,061,696	• 3%
Nationwide Mutual Insurance Company	2	\$ 126,635,005	• 3%
AXA XL Group	5	\$ 117,325,634	• 3%
AXIS Capital Holdings Limited	2	\$ 110,293,853	• 3%
Liberty Mutual Holding Company Inc.	5	\$ 110,081,871	• 3%
American Financial Group, Inc.	3	\$ 94,554,967	• 2%
Sompo Holdings, Inc.	3	\$ 92,407,714	• 2%
Swiss Re AG	3	\$ 85,693,144	• 2%
RLI Corp	1	\$ 79,936,749	• 2%
Prosight Global Holdings Limited	1	\$ 76,853,159	• 2%
Arch Capital Group Ltd.	3	\$ 74,480,447	• 2%
Tokio Marine Holdings Inc.	4	\$ 68,083,089	• 1%
QBE Insurance Group Limited	2	\$ 63,330,126	• 1%
Alleghany Corporation	4	\$ 58,625,006	• 1%
James River Group Holdings, Ltd.	1	\$ 52,777,588	• 1%
Starr International Company, Inc.	1	\$ 52,127,306	• 1%
Zurich Insurance Group AG	2	\$ 48,693,979	• 1%
SUBTOTAL Top 25 Groups		\$ 3,662,401,200	
All Other	81	\$ 671,375,172	• 16%
TOTAL NY Taxable Premium		\$ 4,333,776,372	

PERCENTAGE OF YEAR 2018 NY TAXABLE PREMIUM DISTRIBUTION BY E&S INSURERS

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



Foreign
Alien
Lloyd's



TOP 10 INSURERS

Insurer	New York Taxable Premium	%
1 Lloyds Underwriters	\$ 919,606,827	21%
2 Lexington Insurance Company	\$ 194,751,762	4%
3 Scottsdale Insurance Company	\$ 125,910,385	3%
4 Colony Insurance Company	\$ 114,783,564	3%
5 Travelers Excess & Surplus Lines Company	\$ 114,402,031	3%
6 Indian Harbor Insurance Company	\$ 106,539,577	2%
7 United Specialty Insurance Company	\$ 105,513,716	2%
8 Axis Surplus Insurance Company	\$ 102,232,492	2%
9 Endurance American Specialty Insurance Company	\$ 90,264,590	2%
10 Evanston Insurance Company	\$ 87,469,286	2%
SUBTOTAL	\$ 1,961,474,230	45%
All Others	\$ 2,372,302,142	55%
TOTAL	\$ 4,333,776,372	100%

The top 10 insurers accounted for 45.3% of total premiums written in 2018, compared to 47.4 % in 2017 and 52.5% in 2016.

NEW YORK TAXABLE PREMIUM BY COVERAGE CATEGORY

Coverage Category	New York Taxable Premium	2017 Ranking
1 Primary GL & Other BI/PD	\$ 1,499,151,417	1
2 Primary Property Coverages	\$ 873,696,201	2
3 Excess Liability & Umbrella & Medical Malpractice Excess	\$ 646,647,291	3
4 E&O, D&O	\$ 470,116,596	4
5 Commercial Multiperil	\$ 185,246,688	5
6 Excess of Loss Property Coverages	\$ 166,945,723	6
7 Medical Malpractice & Miscellaneous Professional	\$ 126,759,014	7
8 Marine	\$ 88,667,733	9
9 Fidelity & Surety	\$ 80,152,356	11
10 Homeowners/Dwelling Coverage	\$ 63,359,134	10
11 Credit	\$ 48,741,701	12
12 Auto	\$ 47,653,284	8
14 Salary Protection	\$ 23,229,488	13
15 Miscellaneous/Not Otherwise Classified	\$ 13,409,746	14
TOTAL	\$ 4,333,776,372	

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



... the ELANY
extender bill was
passed by both
houses and signed
by the Governor in
December 2018.
The extender bill
now takes us to a
new sunset date
of June 30, 2024!

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INDUSTRY
LIAISON,
LEGISLATION &
REGULATION
COMMITTEE
REPORT

Joseph Caligiuri, Chairman

During 2018, ELANY continued to press for passage of two key pieces of insurance legislation. One bill would permit insurance of punitive damages in New York if passed. The second bill would repeal the requirement that excess line brokers obtain a declination from MMIP, the Medical Malpractice Insurance Pool, before placing primary medical malpractice insurance for a physician, dentist, or general hospital.

ELANY was pleased to have Senator Jim Seward and Assemblyman Anthony Brindisi sponsor and carry the punitive damages insurance bill.

New York is one of only two states that bars insurance for any punitive damages assessed. In New York, in 1979, the Court of Appeals determined that punitive damages were not insurable because they are designed to punish the wrongdoer and deter further misbehavior, *Hartford v. Village of Hempstead* (48 N.Y. 2d 218). All subsequent New York cases on the issue have largely been constrained to follow the *Hartford* case. While the *Hartford* case remains New York's leading statement on this issue of public policy, it is a difficult one to enforce and administrate in the face of interstate commerce. This policy, set by the judiciary over thirty-five years ago, has not been reconsidered despite the national trend. This legislation seeks to fix an antiquated policy and align New York State with the rest of the nation.

Many insureds desire this coverage and purchase it if they operate primarily in one of 48 states that permit some level of coverage. In New York, for those insureds who insist on purchasing the coverage, the New York

brokers and carriers are forced to advise that you can buy the coverage in Bermuda or overseas but it cannot be sold to you in New York. ELANY, as well as many brokers and carriers, hope the practical approach proposed in the legislation prevails.

Throughout 2018, ELANY has also continued discussions with the Legislature on 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. Senator Jim Seward and Assemblyman Kevin Cahill sponsored this legislation. Doctors and hospitals complain that premiums are already too high, while the insurers in the market contend they are desperate for rate increases. As a result, there are only four licensed insurers that assume a significant volume of such business insuring approximately 52% of the entire New York market, with the rest of the admitted market writing about seven percent in total. Of these four insurers, three are not able to obtain a financially secure rating from a nationally recognized rating agency, and two of the three insurers report themselves to be financially impaired or insolvent. New York also maintains a residual market, the Medical Malpractice Insurance Pool ("MMIP"). MMIP exists to underwrite all medical malpractice risks rejected by licensed insurers but they write less than 200 accounts per year. The remainder of the New York market is spread among risk retention groups, which are exempt from most New York insurance consumer protection laws.

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2018 was another busy year for ELANY. For the eighth year in a row, the New York E&S marketplace saw new records set for both premium and transactions.

The impending need to facilitate and manage the increasing number of transactions led the ELANY Operations & Procedures Committee, and subsequently the entire ELANY Board, to unanimously vote in favor of Management's proposal to move all Information Technology functionality to a cloud-based system, in lieu of the current local hardware-based IT System. Once completed, the benefits of this "move to the cloud" will be many and will better position ELANY for future growth, servicing efficiency and adaptability. The change will also enhance our efforts towards the goal of automatic/programmable filings for our members.

Beyond ELANY's statutory duties, we were pleased to continue to offer our broker

members free Cyber Security Training to meet certain New York State regulatory requirements. To date, we have funded the training of over 10,000 broker member employees since the inception of the Regulation in 2017. Additionally, ELANY is actively pursuing opportunities to partner with a number of professional broker associations by providing support for CE Credit Courses in conjunction with the periodic events of these other associations.

Follow ELANY on LinkedIn to stay up to date on legislation, regulations, and news impacting the E&S community. Also, visit our website and view our training videos, the "Hot News" section, and "Statistics" section for details you will not find anywhere else. ELANY remains focused on keeping our broker membership well informed on all matters that impact them in the New York E&S market. We welcome any feedback you may have as we update our website with new tools and resources for your benefit. 🇺🇸

Beyond ELANY's statutory duties, we were pleased to continue to offer our broker members free Cyber Security Training to meet certain New York State regulatory requirements. To date, we have funded the training of over 10,000 broker member employees, since the inception of the Regulation in 2017.



**OPERATIONS &
PROCEDURES
COMMITTEE**

*James Richardson,
Chairman*



Once again in 2018, ELANY helped those affected by numerous natural disasters with close to \$100,000 in total charitable contributions.

The growth in the New York E&S marketplace continued in 2018, with written premium increasing ten percent over 2017 figures to \$4.33 billion and filed transactions increasing 5.6% to 343,521.

Stamping fee revenue was \$7.4 million for the year, approximately \$700,000 higher than in 2017.

Total expenses for 2018 were \$6,847,431, an 11% increase over 2017. Salaries, EDP, Rent, and Communications/Education expense categories, including ELANY’s cyber security training for members, represent a large percentage of total expenses. See nearby chart for the breakout of key expenses.


Once again in 2018, ELANY helped those affected by numerous natural disasters with close to \$100,000 in total charitable contributions.

The Audit and Finance Committee continues to work closely with ELANY management and staff to monitor and manage the Association’s expenses.

Even as the number of filed transactions increased, the ELANY staff continued to meet our turnaround commitment time of 48 hours for properly filed documents. The average cost per transaction for 2018 was \$19.93

per transaction. ELANY’s staff and EDP personnel work tirelessly to fine tune their procedures to make the process more effective and efficient for members.

ELANY’s fund balance at December 31, 2018 increased by \$1,352,587 to \$29,117,542.

Copies of the annual independent audit of the Association’s operations are available at the ELANY offices for members to review. 

2018 REVENUES	
Stamping Fees.....	\$ 7,831,826
Investment & Miscellaneous Income.....	368,192
TOTAL	\$ 8,200,018
2018 EXPENSES	
Payroll	\$ 3,235,966
Depreciation	174,751
Computer Charges.....	617,853
Rent & Utilities	421,863
Professional Fees	223,092
Charitable Contributions	99,750
Communications/Education	207,159
All Other	1,866,997
TOTAL	\$ 6,847,431
FUND BALANCE.....	\$ 29,117,542

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.



AUDIT AND FINANCE COMMITTEE REPORT

John Buckley, Chairman



INDUSTRY LIAISON, LEGISLATION & REGULATION COMMITTEE REPORT

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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, if this legislation passes. New York 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.

At the end of the 2018 session, there was a great deal of change in Albany. The Democrats took control as the majority party in the Senate and continued its dominant majority in the Assembly. We lost some good legislators, such as Senator Bill Larkin to retirement and Assemblymen Joe Morelle and Anthony Brindisi, who both moved on as newly elected members of Congress. We wish our new Congressmen great success, and we wish Senator Bill Larkin great happiness in retirement. There will

be challenges ahead as we familiarize newly elected officials with the E&S market. We are lucky to have veteran leaders Senator Breslin and Assemblyman Cahill as Chairmen of the respective Senate and Assembly Insurance Committees.

Lastly, on legislation in 2018, the ELANY extender bill was passed by both houses and signed by the Governor in December 2018. The extender bill now takes us to a new sunset date of June 30, 2024! We extend our sincere appreciation to our legislative sponsors, Senator Jim Seward and Assemblyman Dan Rosenthal, for their efforts and to Governor Andrew Cuomo as well.

ELANY continues to be focused on positive, beneficial legislation in the best interest of our members and the New York state excess and surplus marketplace. Our strong legislative team is consistent, experienced and has their finger on the pulse of Albany, New York City and all of New York State. As I pen this report, our team just returned from extremely productive legislative meetings in Albany, which signaled to us a cautious, yet positive, outlook for 2019. We continue to stay true to our core value of freedom from rate and form, which ultimately benefits the New York state excess and surplus consumer! 🇺🇸





BOARD OF DIRECTORS

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Arthur J. Gallagher & Co.

JOSEPH F. CALIGIURI

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ROBERT SHAPIRO

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General Star Management
Company

GARY HOLLEDERER

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JANET PANE

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Willis Towers Watson

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Treasurer

NIF Services of New York, Inc.

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Frenkel & Company

JOHN McPARLAND, CPA

Independent Accountant

RSM US LLP

ERIC KELLER

Secretary

RPS Keller

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