PREMIUM CHANGE EXPLANATIONS (Part BB of TED):

- First and foremost, there are significant concerns about compliance with the premium change explanation requirements in Part BB of TED within the very short effective date of 90 days from enactment. Complying with these requirements will take systems and programming changes which will be difficult, and perhaps impossible, within the 90 day time period. This is a particular problem given that renewals are sent out 45 days in advance of the end of the policy period – which will make the implementation time even less. Does the Department plan to exercise leniency when companies are making significant efforts toward implementation?
- For these reasons, clarity is also sought on the processing date the changes should be implemented.
- As written, Section 2356(b) seems to be bypassing the independent agency distribution model. The language seems pretty clear, stating "an insurer shall include its contact information." In the commercial lines space, however, for this type of thing normally an insured would reach out to their agent/broker, who would in turn then contact their underwriter, as needed. For companies who utilize the independent agency distribution system, would referring policyholders to their agent meet the contact information requirement – either in lieu of or in addition to providing the insurer's own contact information?
- For the Section 2356(a) > 10% increase mandatory explanation, can this be included in the <u>RENEWAL PACKET</u> rather than requiring a standalone communication to the insured?
- Do the reasons for the premium increase need to be specific? In other words,
    - Can we say "violation" or would we need to be more specific such as "speeding"?
    - Can we say "filed and approved rate change" or does it need to indicate the specific factors such as "driver age etc."
- Does the prominent notice on the <u>premium bill</u> literally mean that this notice must appear on the PREMIUM BILL itself or can it be noted elsewhere in the renewal packet?
- There is some AMBIGUITY in the <u>effective date interpretation</u> – 90 days after enactment (August 24, 2026) – Does that mean that on or before August 24, 2026, the business must be already doing these disclosures — there is a huge concern about the timing of being able to get things programmed for compliance.
- Regarding the content and specificity of the notices, it would be extremely difficult and expensive to customize for each policy. Clarity that 2356(a) is not requesting customization for each policy is needed. This is also important as there is ambiguity and confusion on the descriptions of what factors must be explained. Paragraphs (a) and (c) seem to contradict, because (a) says that increases in coverage are not included in the 10%, but (c) includes added vehicles and added drivers as examples.
    - (a) An insurer shall include a notice accompanying the premium bill that includes **the amount** of the premium increase from the prior policy period **and a written explanation**

for the premium increase, **including the primary rating factors** causing the increase, for a covered policy as defined in paragraph one and in subparagraph (A) of paragraph two of subsection (a) of section three thousand four hundred twenty-five of this chapter, where the total policy premium increase is in excess of ten percent, **exclusive of any premium increase due to insured value added.**

  - (c) For the purpose of this section**, primary rating factors shall include factors that resulted in a premium rate increase**, such as:
    - (1) individual claims history;
    - (2) **changes made to the policy, including the policyholder adding or replacing a vehicle, family members being added to the policy, or a change in address**;
    - (3) anticipated losses in the rating territory that would require a need for an increased premium; and
    - (4) increased costs associated with claims, including the increased cost of vehicle repairs, claims processing, or medical costs.

- Which policies are affected (e.g., are commercial policies affected, miscellaneous vehicle policies like motorcycles, rental, condo-owners, or manufactured homes)?
- The premium notice increase statement is really broad. How does activity changes play into this as an example? What happens when there are two or more impact reasons.
- Can the notice be sent digitally?
- How long will the notice requirement be in place regarding the "due to the reforms" language for rate reductions? In addition, how does the requirement work if there is more than one reason for the reduction?

FLEX FILING FOR AUTO (Part II of PPGG)

- There seems to be some ambiguity on the effective date in practice (6 months after enactment) – does this enactment date of the law apply to the flex filing submission date or effective date of the filing. In other words, could a company file for flex rating now with an effective date of December 1, 2026 [or sometime after the November 26, 2026 date]?
- Are rate neutral flex filings (0.0%), due to model year, tier redesign, etc., viewed as being allowable until the entirety of Insurance Law 2350 is repealed in 2030?

EXCESS PROFITS (Part KK of TED)

- Does the excess profit equate to 5% or 5 points?

DFS has provided responses to the below questions (see text in red).

- For commercial lines, if the premium increase is in excess of 10%, can the insurer rely on the conditional renewal notice in lieu of including section 2356(b)(1) notice accompanying the premium bill – the same as subsection (a) for personal lines – or does the commercial lines insurer have to include the 2351(b)(1) notice regardless of whether a conditional renewal notice is also sent?

  The insurer must send the Insurance Law section 2356(b)(1) notice regardless of whether the insurer also sends an Insurance Law section 3426 conditional renewal notice for a commercial policy. The only exception to the requirement in section 2356(b)(1) is when the insurer sends the notice required by section 2356(a) for personal line policies.

- Does the 2356(b)(1) notice requirement apply to all premium bills or only renewal premium bills?

  The Insurance Law section 2356(b)(1) notice applies just to the renewal premium bill. If the insured is paying in installments, the insurer only must provide the notice with the initial renewal premium bill and not with each subsequent premium installment bill.

- The new language highlighted in blue states "for a policy covering a motor vehicle". Would this include a multi-state commercial motor vehicle insurance policy issued in another state but also covering motor vehicles principally garaged or registered in NY – or only motor vehicle policies issued in NY?

  Insurance Law section 2302(a) states in relevant part that Insurance Law Article 23 applies to insurance "written on risks or operations in this state." Therefore, the quoted language in Insurance Law section 2356(b)(1) applies to any policy covering motor vehicles in this state and not just to a policy issued in New York.

- 2356(b)(1) refers to policies covering loss of or damage to real property used predominantly for residential purposes and does not include the section 3425 provision which limits the scope to 4 or less dwelling units – so is the 2356(b)(1) notice required also for larger commercial properties (more than 4 dwelling units, hotels, etc) predominantly used for residential purposes?

  Yes, Insurance Law section 2356(b)(1) applies to commercial properties subject to Insurance Law section 3426 that are used predominately for residential purposes.

- Do the part BB requirements apply to surplus lines?

  New Insurance Law section 2356 (Part BB) does not apply to excess line insurers because Insurance Law section 2302(a) states in relevant part that Insurance Law Article 23 applies to authorized insurers and section 2356 does not specifically mention excess line insurers.