

# EXCESS AND SURPLUS LINES LAWS IN THE UNITED STATES

INCLUDING DIRECT PROCUREMENT TAX LAWS  
AND INDUSTRIAL INSURED EXEMPTIONS

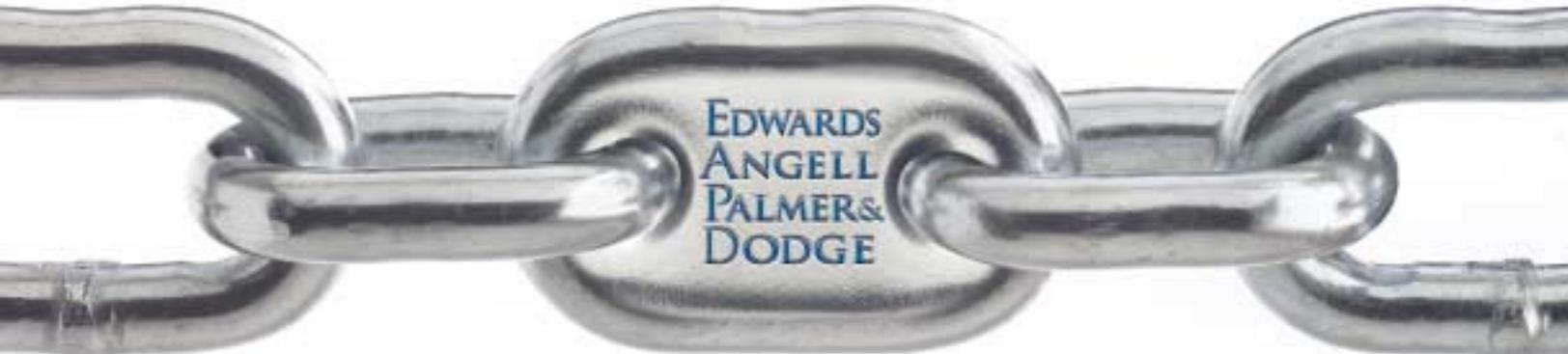
John P. Dearie, Jr. – Editor



INSURE



REINSURE



REALLY SURE

## EDWARDS ANGELL PALMER & DODGE

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# UPDATED MANUAL

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Please find enclosed the 2008 update to the Edwards Angell Palmer & Dodge LLP Excess and Surplus Lines Law Manual.

This is a completely updated version and should replace in entirety any previous version that you may have.

This manual is also available on our firm's website at <http://surplusmanual.eapdlaw.com>, and in PDF format. If you would like to receive a PDF version of this manual, please email [rcolon@eapdlaw.com](mailto:rcolon@eapdlaw.com).

We are also pleased to announce that Edwards Angell Palmer & Dodge LLP merged with the London law firm of Kendall Freeman on January 1, 2008. The combined firm has more than 600 attorneys and solicitors practicing in 11 offices. Our new London office is located at One Fetter Lane, London, EC4A, 1JB (Tel. +44(0) 207 583 4055). The office is five minutes walk from the Royal Courts of Justice and a short distance from Lloyd's Bank and the London Stock Exchange.

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# ELIGIBILITY AND FILING REQUIREMENTS BY STATE

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The following section sets forth a summary of the surplus lines eligibility and filing requirements of the various states for both foreign (U.S.) and alien surplus lines insurers. This information is based upon state surplus lines laws and regulations as well as responses to surveys that were sent to state insurance departments and surplus lines associations. Copies of applications and other pertinent forms may be obtained by contacting our firm or the state insurance departments directly.

It should be noted that most states treat reinsurance, independently procured/direct placement insurance, industrial insurance and insurance on subjects located out-of-state as outside the ambit of surplus lines regulation.

## **SURPLUS LINES LAWS – GENERALLY**

Every U.S. jurisdiction has a surplus lines law, although the regulation of surplus lines business is primarily focused on surplus lines brokers. Despite the increasing interest in the solvency of non-admitted insurers, which has made the approval process somewhat more detailed, there is still almost no rate and form regulation of surplus lines insurers. Only one jurisdiction (New Jersey) requires surplus lines insurers to participate in a guaranty fund and then only in connection with the insolvency of other surplus lines insurers. By contrast, licensed insurers in the U.S. are broadly regulated as to solvency, rates and forms, market conduct, permissible investments, leverage (whether as to capital structure, premium to surplus ratio, or limit of risk to surplus) and affiliate relationships. Licensed insurers are also required to participate in a variety of government mandated insurance programs and pay assessments levied by state guaranty funds in the event of insurer insolvencies.

In theory, surplus lines insurers may *not* compete directly with licensed insurers for business and should write only business that licensed insurers will not write. Such “surplus” business must be “exported” by specially licensed surplus lines brokers who ensure that the required diligent search of licensed insurers has been accomplished and who also make appropriate tax and other filings. Certain jurisdictions maintain lists of coverages which are deemed to be generally unavailable from the admitted market (“export” lists), obviating even the need for the broker to first attempt to place these kinds of insurance with licensed carriers. In order for an unauthorized insurer to avail itself of the opportunity to write business under the surplus lines laws of the various jurisdictions, it must first become an eligible surplus lines insurer in those jurisdictions.

## **NAIC APPROVAL**

A non-U.S. (alien) insurer wishing to accept surplus lines insurance typically starts the process with an application for inclusion on the Quarterly Listing of Alien Insurers published by the International Insurers Department (“IID”) of the

National Association of Insurance Commissioners (“NAIC”). This includes the establishment of a trust fund, for the benefit of its U.S. policyholders, which is revalued annually and currently calculated to be the lesser of:

- (a) \$100,000,000; or
- (b) for business written on or after January 1, 1998, 30% of any amount up to the first \$200,000,000 plus 25% of any amount up to the next \$300,000,000 plus 20% of any amount up to the next \$500,000,000 plus 15% of any amount in excess of \$1,000,000,000 of either the Company’s United States gross surplus lines liabilities or the Company’s direct non-admitted United States liabilities excluding liabilities arising from aviation, wet marine and transportation insurance and direct placements. The Trust Fund Minimum Amount may in no event be less than \$5,400,000.

The application also requires that the company provide copies of its articles of incorporation and by-laws, biographical affidavits of the insurer’s officers and directors, a business plan describing the insurer’s global business followed by a description of the proposed lines of U.S. business, and financial statements. This information must be updated annually. A more detailed description of the application procedure and the standards for inclusion on the NAIC Quarterly List are contained in the IID Plan of Operation (see Appendix E).

#### **ELIGIBILITY REQUIREMENTS OF INDIVIDUAL STATES**

Most states have individual eligibility and filing requirements apart from, or in addition to, those required by the NAIC Listing. In several jurisdictions, there is an official list of insurers, the “white list,” which are approved for use by surplus lines brokers. This list is published periodically and circulated to brokers. Also, in most jurisdictions, surplus lines insurers are required to provide annual statements/reports and related financial information. Alien and foreign surplus lines insurers must maintain minimum capital and surplus of at least \$15 million, although states often prefer higher amounts. As noted in the pages that follow, the level of detail varies by state, and may also include filing fees, biographical affidavits, articles of incorporation, details of reinsurance arrangements, a business plan, background investigations of officers and directors, and other data.

#### **INDEPENDENTLY PROCURED/DIRECT PLACEMENT INSURANCE**

Surplus lines is actually one of two methods of accessing the non-admitted market. The second method is known as a direct placement or independently procured placement. This takes place when an insured elects to go out of the state and purchase the desired insurance from an unauthorized carrier either directly with the company or through a broker or agent not licensed by the jurisdiction in which the risk is located, such as a Lloyd’s Broker.

The right of a U.S. citizen to leave the state to obtain insurance on a risk located in the state with an unlicensed company without being regulated by the state was first enunciated by the United State Supreme Court in its landmark decision *State Board of Insurance v. Todd Shipyards Corporation*. In that case, the High Court also upheld the right of the buyer to be free of taxation on the transaction if the only contact with the state was the fact that the insured risk was located in the state.

In *Todd Shipyards*, the insurance buyer was located out of state and purchased property coverage out of state from an unauthorized insurer. The only connection or nexus with the state in the *Todd Shipyards* transaction was the location of the insured property. Under this set of facts, the High Court concluded that under the McCarran-Ferguson Act, the state was precluded from taxing or regulating the transaction.

While a number of subsequent decisions have distinguished *Todd Shipyards*, the current case law would still protect a direct placement transaction from state regulation provided the following circumstances apply:

- The insured does not access the non-admitted insurer through a resident agent or surplus lines broker.
- There is no activity by the non-admitted insurer in the state either in the making or in the performance of the contract.
- The transaction takes place “solely” (or, in New York, “principally”) outside of the state where the insured is located.

Currently, only 39 U.S. jurisdictions have enacted self-procurement/direct placement statutes (see Appendix B). However, since these statutes govern actions by buyers that are “constitutionally guaranteed,” they are intended more to tax rather than to regulate the transaction. These statutes do not prescribe rules or procedures which would grant jurisdiction over a non-admitted carrier in a self-procurement transaction, but simply impose a tax on the insured for the privilege of procuring insurance on its own behalf. Thus, subject to the judicial limitations mentioned above, state statutory authority is not required for a citizen to leave the state and purchase insurance from a non-authorized carrier.

## **INDUSTRIAL INSURANCE**

There are 23 U.S. jurisdictions which currently exempt nonadmitted insurers from surplus lines regulation insurance procured by industrial insureds, and an additional 10 states where an “industrial insured” exemption is recognized with respect to captive insurers only (see Appendix C). State statutes define industrial insureds in various ways, but, in most states, the exemption applies to “sophisticated commercial buyers” having at least \$25,000 in annual premium for non-mandatory coverages, full-time risk managers or outside insurance consultants advising them of procuring insurance, and a certain number of full-time employees (usually 25) or amount of gross sales.

Any company that qualifies under the industrial insured exemption can procure insurance from an unauthorized insurer without leaving the state or following surplus lines procedural requirements. Thus, declinations from the admitted market are not necessary. There is no escape from premium taxes, however, since most states still seek to tax that portion of the premium allocable to in-state risks. The burden of filing and paying the tax will typically fall on the insured, since a surplus lines licensee is not required in the transaction.

The industrial insured exemption has not been adopted in some of the largest surplus lines states such as New York, Florida and Texas. Moreover, the NAIC Non-Admitted Insurance Model Act makes no provision for industrial insurance

other than to include a drafting note to the effect that individual states can consider exemptions for industrial insurance purchased by a sophisticated buyer.

### **OCEAN MARINE AND TRANSPORTATION INSURANCE**

The surplus lines laws of 42 of the 53 U.S. jurisdictions (including District of Columbia, Puerto Rico and U.S. Virgin Islands) provide some type of ocean marine and transportation exemption. Most of these states provide a complete exemption for “ocean marine” although these exemptions do not always extend to aviation or transport risks generally. Those jurisdictions which do not have a full statutory exemption (or require such business to be written by an eligible surplus lines insurer) include Connecticut, District of Columbia, Florida, Kansas, Massachusetts, Michigan, Minnesota, Mississippi, Oklahoma, Texas, and Wisconsin. In these states, insureds must follow the individual criteria for writing surplus lines business as set forth in the state’s surplus lines laws.

### **NONRESIDENT RECIPROCAL E&S BROKER LICENSING**

Historically, most states required that an agent or a broker be a resident of the state in order to obtain a surplus lines license. The passage in November 1999 of the Gramm-Leach-Bliley Act (“GLBA”) relaxed this rigid environment by calling for the creation of uniform or reciprocal producer licensing laws among states for insurance agents and surplus lines brokers. In response to this mandate, the NAIC adopted a Producer Licensing Model Act that attempts to comply with GLBA and provide states with a model for meeting these reciprocity requirements. As of January 2008, all the states have adopted this model law or similar legislation, while Florida, Puerto Rico and U.S. Virgin Islands are the lone U.S. jurisdictions not to have adopted some form of unrestricted reciprocal producer licensing legislation.

In general, a state is deemed to be reciprocal if it offers nonresident E&S broker licenses based upon the following four criteria to residents of states which have adopted the same four part criteria. The four requirements are that the nonresident present:

- 1) a request for licensure;
- 2) a certificate of good standing from the resident state insurance department;
- 3) the license application from its home state; and
- 4) payment of any requisite application fee.

A state will not be certified as a reciprocal state by the NAIC if it imposes requirements on a non-resident producer which have the effect of limiting or conditioning that producer’s activities because of its residence or place of operations (excepting countersignature requirements). Among the limitations that have been found to be inconsistent with the reciprocity requirements of GLBA are fingerprint requirements and surplus lines bonds as either a pre-licensing or post-licensing requirement.

## GENERAL INFORMATION:

1. Alabama **does not maintain** a list of eligible surplus lines insurers.
2. Alabama **does** have a Surplus Lines Association.
3. Alabama **does not** have an Export List.
4. Alabama has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 6%, payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Annual Statement/Report.**
2. **Surplus Line Broker Policy** listing: should be sent by email to surpluslines@insurance.alabama.gov.
3. **Annual Audit and Examination Fee** of \$750, accompanied by form PR (see Other Comments section #1).

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** \$2,500,000.
2. **Capital and Surplus:** \$15,000,000.

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Authorized** in at least one state.
2. **Capital and Surplus:** \$5,000,000.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Wet marine and transportation insurance.
2. Insurance on subjects located, resident or to be

performed wholly outside Alabama or on vehicles or aircraft owned and principally garaged outside Alabama.

3. Insurance on property or operation of railroads engaged in interstate commerce.
4. Insurance of aircraft owned or operated by manufacturers of aircraft or aircraft operated in scheduled interstate flight, or cargo of such aircraft or against liability, other than workmen's compensation and employer's liability, arising out of the ownership, maintenance or use of such aircraft.
5. The property and operations of the shipbuilding and ship repair industry engaged in interstate or foreign commerce and vessels, cargoes, watercraft, piers, wharves, graving docks, drydocks, marine railways and building ways, commonly known as wet marine.
6. Industrial insurance.

## OTHER COMMENTS OR REQUIREMENTS:

1. Pursuant to a Bulletin issued on May 25, 2004, the Alabama Department of Insurance ("ALDOI") instituted a system to electronically capture data reported by surplus lines brokers and surplus lines insurers, the purpose of which is to ensure that all policies written in Alabama on a surplus lines basis are reported to the ALDOI and all taxes due to the state of Alabama are paid.

The program compares data collected from surplus lines companies doing business in Alabama against the data collected from Alabama brokers, thus, surplus lines companies need to ensure that they have the correct name and license number of Alabama brokers placing business on their behalf. Any surplus lines company failing to cooperate with the ALDOI in this program will be deemed to be conducting "its affairs in a manner as to result in the avoidance of payment of tax," in violation of Section 27.10.26, Code of Alabama 1975, and will be subject to the penalties thereof, which in effect would mean

being “blacklisted” as an acceptable surplus line insurer in Alabama.

For information as to what information must be included in the electronic report, please refer to the ‘Instructions for Formatting the Excel Spreadsheet’ and the ‘Surplus Lines Unauthorized Insurance Policy Data’ example located on the ALDOI homepage at [www.aldoi.gov](http://www.aldoi.gov) under ‘Online Services’ then ‘Surplus Line Information.’

Form PR can be found on the ALDOI homepage under ‘Companies/Filing Requirements/Annual Audit Exam Transmittal Form PR.’

2. Onus is on broker to ascertain if insurer:
  - Is financially secure;
  - Has transacted business for 5 years in its domiciliary country or state unless it is a wholly owned subsidiary of an insurer authorized in Alabama;
  - Is not controlled by a foreign government;
  - Has not been declared ineligible; and
  - Has appropriate trust fund (if alien).

3. Every insurance contract procured and delivered as a surplus lines coverage must be initialed by, or bear the name and license number of, the surplus lines broker who procured it and must have stamped upon it the following:

**“This contract is registered and delivered as a surplus line coverage under the Alabama Surplus Line Insurance Law.”**

**GENERAL INFORMATION:**

1. Alaska **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Alaska **does not** have a Surplus Lines Association.
3. Alaska **does** have an Export List.
4. Alaska has not been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley but its laws (AS 21.27, 270) do permit reciprocal broker licensing in compliance with GLBA and do not impose any requirements other than an application, payment of a fee and confirmation that the person is licensed and in good standing in his home state.
5. **Surplus lines tax:** 2.7% for lines other than wet marine and transportation (+ 1% filing fee), .75% (wet marine, transportation), payable by broker. Must be paid by automated clearinghouse (ACH) system of electronic funds transfer. Penalty for late payment or for non-ACH payment (see Other Comments sections #2 and #4).

**ELIGIBILITY AND FILING REQUIREMENTS  
(ALL INSURERS):**

1. **Annual Statement/Report:** certified and in U.S. Dollars. Due annually 6 months after end of reporting period (9 months after reporting period for alien insurers).
2. **Application** (Form 08 -1241).
3. **Biographical Data.**
4. **Certificate of Authority** from Domiciliary Regulator (country or state).
5. **Filing Fee:** \$1000 (application), \$500 (renewal), and \$100 (for filing certified annual statement).
6. **Capital and Surplus:** Greater of \$15,000,000 or domiciliary requirement.
7. **Power of Attorney:** Appointment of Director to receive service of process (Form 08-253).
8. **Plan of Operation.**

9. **Designation of Person** to accept service of process (Form 08-254).
10. **Articles of Incorporation and By-laws.** (certified copies).
11. **Underwriting Policy.**
12. **List of Control of Insurer.**

**ELIGIBILITY AND FILING REQUIREMENTS  
(ALIEN INSURERS ONLY):**

1. **Trust Fund:** \$2,500,000 (except for alien mutual protection and indemnity associations).
2. **Valuation of Assets from Trustee.**

**ELIGIBILITY AND FILING REQUIREMENTS  
(FOREIGN INSURERS ONLY):**

Latest **Examination Report** (certified).

**TYPES OF INSURANCE EXEMPTED FROM SURPLUS  
LINES REGULATION:**

Wet marine and transportation insurance  
(over 50 displacement tons).

**OTHER COMMENTS OR REQUIREMENTS:**

1. Alaska eligibility list, export list, forms & instructions available at [www.dced.state.ak.us/insurance](http://www.dced.state.ak.us/insurance) (click "Company, Surplus Lines . . . Information").
2. A surplus lines broker is required to pay the Alaska Division of Insurance a late payment fee of \$50 a month plus 5% on the tax due, and interest of 1% on the tax due, for each calendar month or part of a month for the period the broker fails to pay the tax. Failure to pay tax on a timely basis will require the

- broker to pay a penalty of 25% of the tax due, not to exceed \$2,000, with a minimum penalty of \$100.
3. Alaska requires that an applicant seeking to be licensed as a surplus lines broker in Alaska be licensed as either an insurance producer or managing general agent for property and casualty lines of insurance.
  4. The calculation of the 2.7% surplus lines tax is based on gross premiums *written*, less any return premium, for surplus lines insurance. The calculation of the .75% wet marine and transportation tax is based on gross underwriting profit.
  5. Risks of state government or its political subdivisions, agencies of state government or political subdivisions, and aircraft primarily engaged in interstate or foreign commerce are exempt from premium tax (but not from surplus lines regulation).
  6. Alaska provides that in case of a health insurance market crisis, the Director will have the discretion to permit using nonadmitted carriers for health insurance under AS 21.34. This provision does **not** open the way to write health insurance by exception under AS 21.34, and specifically **may not be used** to secure a lower premium rate for obtaining a competitive advantage.
  7. The requirement to file affidavits of due diligence with the Division has been eliminated, but AS 21.34.20 still requires a producing broker to conduct and document a diligent search among admitted insurers. An affidavit is one acceptable method of documenting the search and needs to be maintained in the client's file. The producing broker will still need to provide documentation to the surplus lines broker. Only the requirement that it be filed with the Division has been removed.
  8. For purposes of AS 21.34.080, a transaction is "any placement of coverage as well as changes in coverage that result in an increase or decrease of premiums, taxes, or fees." This amendment should not be construed to include installment payments. AS 21.34.080(d).
  9. AS 21.34.100(a) requires that a certificate, cover letter, binder, or other evidence of insurance delivered to the named insured in lieu of the prompt delivery of the policy include "a summary of all material facts that would regularly be included in the policy, the description, the location of the subject of insurance, a general description of the coverages of the insurance, the premium and rate charged and taxes to be collected from the insured, the name and address of the insured, the name of each surplus lines insurer and the percentage of the entire risk assumed by each, the name of the surplus lines broker, and the license number of the surplus lines broker.
  10. The 30-day wording for the delivery of the policy, or other evidence of coverage if the policy is not available, was replaced by the word "promptly." 3 AAC 25.060 defines "promptly" as no later than 30 days after the earlier of the effective date of coverage or the date coverage is bound. AS 21.34.100(a).
  11. There is a mandatory penalty for late filing of the surplus lines monthly reports that may be paid at the same time as the late report. The late fee amount established by regulation 3AAC25.100 is as follows:
    - 1 – 30 days late: \$100
    - 31 – 60 days late: \$250
    - More than 60 days late: \$750
 The requirement for filing two copies of the monthly report has been removed. AS 21.34.170(a).
  12. Alaska requires that a non-admitted insurer which fails to pay the fee or file the financial statement required by Alaska statutes will be removed from the Alaska List of Eligible Surplus Lines Insurers. If the non-admitted insurer inadvertently failed to pay or file as required, the Director of Insurance may reinstate the insurer to the eligibility list if the insurer remedies the reason for removal from the list and pays the required late fee.

13. Every evidence of insurance negotiated, placed, or procured by a surplus lines broker must bear the name of the surplus lines broker, which may not be covered, concealed, or obscured by the producing broker, and the following legend in at least 10 point type:

**“This is evidence of insurance procured and developed under the Alaska Surplus Lines Law, AS 21.34. It is not covered by the Alaska Insurance Guaranty Association Act, AS 21.80.”**

## GENERAL INFORMATION:

1. Arizona **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Arizona **does** have a Surplus Lines Association (see Other Comments section #5).
3. Arizona **does** maintain an Export List (see Other Comments section #6).
4. Arizona has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 3%, payable by broker plus stamping fee of 0.20% on all business transacted on or after January 1, 2006. Transactions having an effective date of July 1, 2004 through December 31, 2005 will be charged at 0.25%. Those transactions having an effective date prior to July 1, 2004 will be charged at 0.35%.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Application** must be filed by broker on or before July 1 of each year.
2. **Broker's Sponsorship** (through a licensed resident surplus lines broker).
3. **Trust Deposit:** \$2,500,000.
4. **Sworn Statement** that the broker has ascertained the financial condition of the insurer by completion of the ADOI SL Form 110 – Ed 3/06.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

**Capital and Surplus:** follows NAIC requirements (see Appendix E).

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Certificate of Deposit**  
(ADOI SL Form 111 – Ed 2/28/06).
2. **Report of Examination** (certified).
3. **Annual Statement** (certified).
4. **Certificate of Compliance.**
5. **Capital and Surplus:** \$5,000,000.

## CLASSES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Ocean marine and foreign trade insurance.
2. Insurance on subjects located, resident or to be performed wholly outside Arizona, or on vehicles or aircraft owned and principally garaged outside Arizona.
3. Insurance on property or operations of railroads engaged in interstate commerce.

## OTHER COMMENTS OR REQUIREMENTS:

1. Arizona eligibility list available at [http://www.id.state.az.us/publications/WHITELISTna%20only07to08\\_Rev4.pdf](http://www.id.state.az.us/publications/WHITELISTna%20only07to08_Rev4.pdf).
2. Broker may rely on the information contained in the most recent NAIC Financial Review of Alien Insurers as prima facie evidence of an alien insurer's compliance.
3. Brokers placing insurance on ocean marine & foreign trade, out-of-state risks, vehicles or aircraft owned and principally garaged outside Arizona, and railroads engaged in interstate commerce, must keep a record for not less than three years from the expiration or cancellation date of the insurance in the same detail as required for surplus lines insurance. The record must be kept available in Arizona for examination by the Director of Insurance.

4. Director may require alien insurer to maintain larger trust deposit if public interest reasonably requires a larger deposit.
5. Contact information for the Surplus Lines Association of Arizona is as follows:
  - Gerry Silver
  - Surplus Lines Association of Arizona
  - 4041 North Central Avenue, Suite 515
  - Phoenix, Arizona 85012
  - Tel.: (602) 279-6344
  - Fax.: (602) 222-9332
  - E-mail: [gsilver@sla-az.org](mailto:gsilver@sla-az.org)
6. Arizona export list is available on the Arizona Surplus Lines Association filing systems (<http://68.166.10.228/>) and on the ADOI website (<http://www.id.state.az.us/insurers.html>). Changes were made to the Arizona export list in 2005 and in 2007 by Order amending Exhibit C
7. Any policy and any evidence of surplus lines coverage from an unauthorized insurer that is issued for delivery to the insured must contain a conspicuously stamped or written notice in bold faced type that states:  
**“Pursuant to Arizona Revised Statutes § 20-401.01, subsection B, paragraph 1, this policy is issued by an insurer that does not possess a certificate of authority from the Director of the Arizona Department of Insurance. If the insurer that issued this policy becomes insolvent, insureds or claimants will not be eligible for insurance guaranty fund protection pursuant to Arizona Revised Statutes Title 20.”**

## GENERAL INFORMATION:

1. Arkansas **does maintain** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Arkansas **does** have a Surplus Lines Association.
3. Arkansas **does not** have an Export List.
4. Arkansas has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 4% payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

**Annual Statement/Report:** certified.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** follows NAIC requirements.
2. **U.S. Trust Fund Report:** (location and balance) due by March 1.
3. **Capital and Surplus:** follows NAIC requirements (see Appendix E).

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Licensed** in at least 1 other state for the kind of insurance involved.
2. **Application** form.
3. **Admission fee:** \$500.
4. **Articles of Incorporation:** (certified).
5. **Report of Examination:** (certified).
6. **Market Conduct Examination:** (certified).
7. **Biographical Affidavits.**
8. **Appointment of Commissioner** as agent for Service of Process.

## 9. **Certificate of Compliance.**

## 10. **Certificate of Good Standing** (Arkansas Form).

## 11. Summary of **Reinsurance Agreements.**

## 12. Summary of the total market value of all bonds and stocks.

## 13. Copies of service, management and/or custodial agreements.

## 14. **Plan of Operation.**

## 15. **Capital and Surplus:** \$3,000,000 minimum.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Wet marine and foreign trade insurance.
2. Insurance on subjects located, resident, or to be performed wholly outside Arkansas or on vehicles or aircraft owned and principally garaged outside Arkansas.
3. Insurance on property or operation of railroads engaged in interstate commerce.
4. Insurance of aircraft owned or operated by manufacturers of aircraft, or aircraft operated in scheduled interstate flight, or cargo of the aircraft, or against liability, other than workers' compensation and employer's liability, arising out of the ownership, maintenance, or use of the aircraft.
5. Transactions subsequent to issuance of or relative to a policy covering only subjects of insurance not resident, located, or expressly to be performed in Arkansas at time of issuance, or covering property in course of transportation by land, air, or water to, from, or through Arkansas and including any preparation or storage incidental thereto, and lawfully solicited, written or delivered outside Arkansas.

**OTHER COMMENTS OR REQUIREMENTS:**

1. 1. Arkansas eligibility list available at <http://www.insurance.arkansas.gov/Finance/surpluslinespage/files/Surpluslineslist.pdf>. Foreign surplus lines insurers with some alien insurers listed – alien surplus lines companies are automatically eligible for surplus lines in this state if they appear on the NAIC Quarterly List. Link to all eligible surplus lines insurers via the company search database at: [http://www.insurance.arkansas.gov/is/companysearch/CoSearch.asp?s\\_NAME=&s\\_NAICID=&s\\_CoTYPE=SL+](http://www.insurance.arkansas.gov/is/companysearch/CoSearch.asp?s_NAME=&s_NAICID=&s_CoTYPE=SL+)
2. Every insurance contract procured and delivered as surplus lines coverage must be initiated by or bear the name of the surplus lines broker who procured it and must contain a conspicuous statement substantially similar to the following:

**“This contract is registered and delivered as a surplus line coverage under the Surplus Lines Insurance Law, and it may in some respects be different from contracts issued by insurers in the admitted markets, and, accordingly, it may, depending upon the circumstances, be more or less favorable to an insured than a contract from an admitted carrier might be. The protection of the Arkansas Property and Casualty Guaranty Act does not apply to this contract. A tax of four percent (4%) is required to be collected from the insured on all surplus lines premiums.”**

## GENERAL INFORMATION:

1. California **does maintain** a list of eligible surplus lines insurers. (see Other Comments section #15).
2. California **does** have a Surplus Lines Association (see Other Comments section #14).
3. California **does** maintain an Export List.
4. California has not been certified as a reciprocal state by the NAIC but **does** allow non-resident brokers to secure surplus lines broker or special lines surplus broker licenses in California (see Other Comments section #11).
5. **Surplus lines tax:** 3% (+ stamping fee of 0.125%, payable by broker).

## ELIGIBILITY AND FILING REQUIREMENTS

### (ALL INSURERS):

1. **Capital and Surplus:** \$15,000,000 (no exemptions for smaller insurers serving “unique and specialized” niche markets).
2. **Seasoning:** 3 years of prior operating history.
3. **Surplus Lines Broker Sponsorship:** eligibility must be requested in writing by a California-licensed surplus lines broker to the Department of Insurance.
4. **Filing Fee:** \$5,198 (initial application), \$2,599 (subsequent annual renewal), \$289 (per type of updated financial documents), and \$41 (per type of updated non-financial documents).
5. **Annual Financial Statement:** certified, in U.S. Dollars, not older than 12 months.
6. **Audited Financial Report:** certified or verified, no older than 12 months.
7. **License or Certificate of Authority:** certified.
8. **Certificate of Compliance or Certificate of Good Standing** (or other equivalent certificate) from domiciliary regulator.
9. **Market Conduct Report:** certified or verified.
10. **Regulatory Disclosure Statement:** verified.
11. **Proposed Products** in California.

12. **Appointment of Agent for Service of Process** in California.

13. **Biographical Affidavits** of insurer’s officers and directors.

14. **List of Brokers** authorized to issue policies on behalf of the insurer.

15. Any additional information or documentation required by the Commissioner which is relevant to the financial stability, reputation, and integrity of the non-admitted insurer.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** \$5,400,000.
2. **Trust Agreement:** certified.
3. **Quarterly Valuation of Assets from Trustee:** verified.
4. **Standard IID Financial Reporting Format:** certified or verified.

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Quarterly Financial Statements:** certified or verified.
2. **Report of Examination:** certified.
3. **Management Discussion and Analysis.**
4. **Actuarial Opinion.**
5. **Risk Based Capital (RBC) Summary Report.**

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Insurance against perils of navigation, transit or transportation upon hulls, freights or disbursements, or other shipowner interests; upon goods, wares, merchandise and all other personal property and

interests therein, in course of exportation from or importation into any country, or transportation coastwise, including transportation by land or water from point of origin to final destination and including war risks; and marine builders' risk, drydocks and marine railway, including insurance of ship repairers' liability, and protection and indemnity insurance, but excluding insurance covering bridges or tunnels.

2. Reinsurance of the liability of an admitted insurer.
3. Insurance on property or operations of railroads engaged in interstate commerce.
4. Aircraft or spacecraft coverage.

**OTHER COMMENTS OR REQUIREMENTS:**

1. Exempted coverages listed above must be placed by and through a special lines surplus lines broker. The California Insurance Code as amended by AB 816 exempts special lines surplus lines brokers from placing business with an eligible surplus lines insurer.
2. The California Insurance Code as amended by AB 2869 allows a licensed California surplus lines broker to issue policies, in addition to certificates, provided the authority to so issue is granted by the insurer(s) and notification is given by the insurer(s) to the California Department of Insurance.
3. The California Insurance Code as amended by SB 1906 requires regulatory review of each individual Lloyd's syndicate.
4. The California Insurance Code as amended by AB 328 exempts eligible surplus line insurers from filing "Pre-Answer Bonds" with the courts before the insurers initiate or defend a lawsuit filed against them.
5. The California Insurance Code as amended by AB 245 permits surplus lines brokers to rely upon disclosure statements obtained by another licensee as evidence that it was obtained from the insured.
6. Revision to Regulation 2174 increased filing fees for new submissions and annual renewals, and also clarified annual renewal filing requirements by only requiring submissions of documentation that was not previously filed with the Department.
7. Insurance Code Section 1773 permits surplus lines brokers to advertise and solicit in any advertising or marketing medium; these advertisements may include the name of specific nonadmitted insurers as well as the nonadmitted insurance products available, as long as:
  - the nonadmitted insurer is legally authorized to accept placements from the surplus line broker;
  - the nonadmitted insurer's name is not used in connection with any of its own nonadmitted insurance products;
  - the insurer's unlicensed status, and the nonadmitted status of the insurance products are disclosed in the ad in type no smaller than any telephone or fax number or address shown in the ad;
  - the ad does not contain any knowingly false or misleading information; and
  - the ad does not contain any information about rates.
8. Insurance Code Section 1760.5(h) permits special lines surplus line brokers to advertise and solicit business in the same manner as surplus line brokers. With respect to nonadmitted insurers that are members of groups of insurers, the new law allows surplus line brokers and special lines surplus line brokers to use the name of the group in their advertising.
9. Insurance Code Sec. 703.1 permits California listed companies to advertise if:
  - their unlicensed status is disclosed;
  - the ad is truthful;
  - the ad does not discuss premiums or rates; and
  - specific products are not mentioned in media of general circulation. The prohibition against advertising specific products in "media of general circulation" does not extend to advertising in insurance trade press as well as other trade, industry and special interest publications.

10. For nonadmitted companies not on the California eligibility list, advertising is permitted in any media except media targeted primarily at California insureds or prospective insureds, as long as they meet the standards set out for California listed companies and do not advertise any information about a specific product. (Insurance Code Section 703.1(b).
11. California permits a non-resident license to be issued to a surplus lines broker and a special lines surplus broker if the non-resident broker holds that type of license in the state or territory of the U.S. where the resident license is maintained. The non-resident surplus lines broker is also required to keep in the state where he or she is licensed complete records of the business transacted by him or her with nonadmitted insurers under his or her California non-resident surplus lines broker license.
12. The California legislature in 2007 enacted legislation which amends and repeals Section 1764.1 of the California Insurance Code, relating to non-admitted insurers. The old law which extended to January 1, 2008 gave California applicants and policyholders the right to notice of the power to cancel a policy within five days under specified circumstances, and required that the broker fee be returned and the premium be pro-rated when a policy is cancelled. The new law, by repealing the January 1, 2008 termination date, extends these provisions indefinitely. The new law also allows California brokers to extend existing surplus lines policies by 90-days without having to make a filing with the California Surplus Lines Association. This provision does not allow any changes in coverage, terms, conditions or limits. Any additional premium charged for the extension is determined pro rata, based on the same rate of premium as the existing surplus line policy.
13. The California legislature in 2007 enacted legislation which requires every applicant for a business entity license to provide names of all persons who may exercise the power and perform the duties under the license. The new law also provide that whenever a surplus line broker licensed as an organization desires to change the persons who are authorized to transact business under the license, it shall immediately file an application with the Commissioner of Insurance reflecting the change. The legislation requires all natural persons named to take and pass the qualifying examination, and become individually licensed as a surplus line broker. Also, surplus lines brokers who are only transacting on behalf of a licensed surplus lines broker organization are no longer required to file a \$50,000 surplus lines bond. However, all other surplus lines brokers who are also placing surplus lines business through their individual license, must still comply with the \$50,000 bond requirement.
14. Contact information for the Surplus Lines Association of California is as follows:  
 Ted Pierce, Executive Director  
 The Surplus Lines Association of California  
 388 Market Street, 11th Floor  
 San Francisco, California 94111  
 Tel.: (415) 434-4900  
 Fax.: (415) 434-3716  
 E-mail: [tedpierce@slacal.org](mailto:tedpierce@slacal.org).
15. California List of Eligible Surplus Lines Surplus Lines Insurers (LESLI) is available at [http://www.sla-cal.org/carrier\\_info/lesli/lesli.pdf](http://www.sla-cal.org/carrier_info/lesli/lesli.pdf).
16. The following notice shall be provided to policyholders and applicants for surplus lines insurance and shall be printed in English and in the language principally used by the surplus lines broker and nonadmitted insurer to advertise, solicit, or negotiate the sale and purchase of surplus line insurance. The surplus line broker and nonadmitted insurer shall use the appropriate bracketed language for application and issued policy disclosures:  
**“NOTICE**  
**1. THE INSURANCE POLICY THAT YOU (HAVE PURCHASED) (ARE APPLYING TO PURCHASE) IS BEING ISSUED BY AN INSURER THAT IS NOT LICENSED BY THE**

**STATE OF CALIFORNIA. THESE COMPANIES  
ARE CALLED NONADMITTED OR  
SURPLUS LINE INSURERS.**

- 2. THE INSURER IS NOT SUBJECT TO THE  
FINANCIAL SOLVENCY REGULATION AND  
ENFORCEMENT WHICH APPLIES TO  
CALIFORNIA LICENSED INSURERS.**
- 3. THE INSURER DOES NOT PARTICIPATE  
IN ANY OF THE INSURANCE GUARANTEE  
FUNDS CREATED BY CALIFORNIA LAW.  
THEREFORE, THESE FUNDS WILL NOT  
PAY YOUR CLAIMS OR PROTECT YOUR  
ASSETS IF THE INSURER BECOMES  
INSOLVENT AND IS UNABLE TO MAKE  
PAYMENTS AS PROMISED.**
- 4. CALIFORNIA MAINTAINS A LIST OF  
ELIGIBLE SURPLUS LINE INSURERS  
APPROVED BY THE INSURANCE  
COMMISSIONER. ASK YOUR AGENT  
OR BROKER IF THE INSURER IS ON  
THAT LIST.”**

## GENERAL INFORMATION:

1. Colorado **maintains** a list of eligible surplus lines insurers. It is published and located at the DOI website at [www.dora.state.co.us/insurance](http://www.dora.state.co.us/insurance).
2. Colorado **does** have a Surplus Lines Association (see Other Comments section #4).
3. Colorado **does not maintain** an Export List (see Other Comments section #5).
4. Colorado has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 3%.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Application.**
2. **Filing Fee:** non-refundable filing fee of \$1,095 (\$2,435 if company's Colorado premium is between \$1,000,001 and \$10 million; \$3,770 if company's Colorado premium exceeds \$10 million).
3. **Other items** determined to be necessary by the Commissioner as warranted by any special circumstances.
4. **Gross premium report:** by March 1.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **A statement** from the trustee of the market value of the irrevocable trust, which must be in a qualified United States Financial Institution for the benefit of U.S. policyholders, in an amount at least equal to

\$5,400,000. In addition, a listing of underlying securities comprising the trust must be submitted.

2. **NAIC Listing.**

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. A certified copy of the most recent **Report of Examination** and company's response.
2. **Certificate of Deposit** evidencing a minimum \$2,500,000 market value.
3. **Certificate of Authority/Compliance** which must specify authorized lines in the state of domicile or port of entry.
4. **Auditors Report.**
5. **Capital and Surplus:** \$15,000,000.
6. Unless a foreign insurer files their annual statement electronically with the NAIC, a hard copy of that document is also required.
7. In the case of an insurance exchange, provide evidence that the exchange meets the requirements of section 10-15-108(1)(b)(11), C.R.S.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Insurance on vessels or crafts or their hulls or cargoes or on marine builders' risks or marine protection and indemnity or other risks, including strikes and war risks commonly insured under ocean or wet marine forms of policy.
2. Insurance on subjects located, resident, or to be performed wholly outside Colorado or on vehicles or aircraft owned and principally garaged outside Colorado.

3. Insurance on the operations of railroads engaged in transportation in interstate commerce and their property used in such operations.
4. Insurance on aircraft owned or operated by manufacturers of aircraft or on aircraft operated in commercial scheduled interstate flight or the cargo of such aircraft or against liability, other than workers' compensation and employers' liability, arising out of the ownership, maintenance, or use of such aircraft.
5. Insurance on satellites or other devices intended for launch beyond the earth's atmosphere.

**OTHER COMMENTS OR REQUIREMENTS:**

1. Brokers placing exempted coverages above are required to keep a full and true record, for not less than three years, of each such coverage in the same detail as required for surplus lines insurance. The record must be kept available in the State for examination by the Commissioner of Insurance.
2. Commissioner may approve insurance pools, underwriting associations or other programs on a non-admitted basis.
3. "Approved" list may be obtained from the Dept's website: [www.dora.state.co.us/insurance](http://www.dora.state.co.us/insurance).
4. The Surplus Lines Association of Colorado is no longer gathering tax data on behalf of the DOI but otherwise continues to be active on a local and national level. Contact information is as follows:  
John Wethey  
Surplus Lines Association of Colorado  
1575 Vine Street  
Denver, Colorado 80206-1309  
Tel.: (303) 331-9399  
Fax.: (303) 331-9006  
E-mail: [surplusline@earthlink.net](mailto:surplusline@earthlink.net)

The Association also maintains a website at [www.colosla.org](http://www.colosla.org).

5. Although Colorado does not have an export list, there is a provision in the statute that relieves the due diligence requirement with respect to placements made on behalf of "exempt commercial policyholders" as defined in Section 10-4-1402 of the Colorado Insurance Laws.
6. All surplus lines insurance contracts must include the following:

**"This contract is delivered as surplus line insurance under the Nonadmitted Insurance Act. The insurer issuing this contract is not admitted in Colorado but is an approved nonadmitted insurer. There is no protection under the provisions of the Colorado Insurance Guaranty Association Act."**

If the policy is written on a claims-made basis, the following must also appear on the policy:

**"This policy is a claims-made policy which provides liability coverage only if a claim is made during the policy Period or any applicable extended reporting Period."**

If an automobile policy does not provide the basic complying policy coverages in section 10-4-620, C.R.S. the following must appear on the policy:

**"This policy does not meet the statutory requirements of this State's financial responsibility laws. It does not provide liability coverage for bodily injury and property damage."**

The provisions of section 10-5-101.5 (1)(b), C.R.S. shall apply to policies of property and casualty insurance issued or delivered in this state by an unauthorized insurer affording coverage only on property located temporarily or permanently, or operations conducted temporarily or permanently outside the boundaries of the United States of

America, its territories or possessions when the policy is placed by licensed property and casualty producers or brokers of this state, who shall remain responsible for verifying that the insuring company is licensed or authorized by the appropriate regulatory bodies to transact the business of insurance in that jurisdiction, and contains the following disclaimer:

**“This policy is issued by an insurance company that is not regulated by the Colorado Division of Insurance. The insurance company may not provide claims service and may not be subject to service of process in Colorado. If the insurance company becomes insolvent, insureds or claimants will not be eligible for protection under Colorado insurance law.”**

These required disclosures must be affixed to the declaration page of the contract given to the insured. A copy, bearing the disclosures, must also be maintained by the broker. In the case of the issuance of a binder prior to the formal policy, such disclosure must also appear on the binder.

## GENERAL INFORMATION:

1. Connecticut no longer makes available a list of eligible surplus lines insurers (see Other Comments section #1).
2. Connecticut **does not** have a Surplus Lines Association.
3. Connecticut **does maintain** an Export List (see Other Comments section #1).
4. Connecticut has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 4% payable by broker. State of Connecticut, its agencies and municipalities, are tax exempt.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Annual Statement/Report.**
2. **Power of Attorney.**
3. **Filing or renewal fee:** \$1,000 (application); \$63 (renewal).
4. **Quarterly Balance Sheet** (NAIC Format Quarterly Statement).
5. **Application or Letter of Intent.**
6. **Biographical Data.**
7. **Charter and By-Laws.**
8. **Certificate of Compliance from Domiciliary Regulator.**
9. **Annual and Quarterly Questionnaire. (SL-6) for alien applicants.**
10. **Agent's Sponsorship.**
11. **Quarterly Premium Report** which identifies the writing broker (SL-10).
12. **Reinsurance Data.**
13. **Statement of trusted surplus in the U.S.**

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** \$5,400,000 (minimum).
2. **Capital and Surplus:** \$15,000,000.
3. **NAIC Listing** (may be waived upon affirmative finding of acceptability by Commissioner).

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Capital and Surplus:** \$15,000,000.
2. **Report of Examination.**
3. **Plan of Operation.**
4. **Report of Auditors** for the previous 2 fiscal years.
5. **Statement of Corporate Structure or Ownership.**
6. **All Agreements** that affect the affairs of the insurer.
7. **Holding Company Registration Statement.**

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

Industrial Insurance, which is defined as “(i) an insured which procures the insurance of any risk by the use of the services of a full-time employee acting as an insurance manager or buyer on the services of a regularly and continuously retained qualified insurance consultant and (ii) whose aggregate annual premiums for insurance, including life, accident and health insurance, total at least fifty thousand dollars.”

**OTHER COMMENTS OR REQUIREMENTS:**

1. A schedule of insurers authorized to underwrite in Connecticut can be obtained from the Department's website at [www.ct.gov/cid](http://www.ct.gov/cid). Companies coded with a "K" are authorized surplus lines insurers. Connecticut's Export list is also available on the Department's website.
2. The following disclosure statement is required on all surplus lines policies issued in Connecticut. Each such policy shall bear on its cover, in not less than ten point bold red type, the following:

**"NOTICE**

**This policy is not protected by the  
Connecticut Guaranty Association."**

## GENERAL INFORMATION:

1. Delaware **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Delaware **does not** have a Surplus Lines Association.
3. Delaware **does not** have an Export List.
4. Delaware has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 1.75%, payable by broker, 5.0% (wet marine and transportation insurance); 0.25% (special premium tax, except for wet marine).

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Annual Statement/Report** (certified and in U.S. Dollars).
2. **Application.**
3. **Biographical Data.**
4. **Business Plan.**
5. **Certificate of Authority from Domiciliary Regulator.**
6. **Charter and By-laws** (certified by Domiciliary Regulator).
7. **Examination Report.**
8. **Filing Fee or Renewal Fee:** \$100.
9. **Name of Claims Supervisor.**
10. **Power of Attorney Form.**
11. **Prior Operating History:** 3 years.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Capital and Surplus:** follows NAIC requirements (see Appendix E).
2. **Trust Fund Requirement:** Not less than \$400,000.
3. **Valuation of Assets from Trustee.**
4. **NAIC Listing** automatically puts company on eligibility list.

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

**Licensed** for at least 3 years in its domiciliary state for the same kinds of insurance being offered on a surplus lines basis.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Wet marine and transportation insurance.
2. Insurance on subjects located, resident or to be performed wholly outside Delaware or on vehicles or aircraft owned and principally garaged outside Delaware.
3. Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.
4. Insurance of aircraft owned or operated by manufacturers of aircraft or of aircraft operated in commercial interstate flight or cargo of such aircraft or against liability, other than workers' compensation and employers' liability, arising out of ownership, maintenance or use of such aircraft.

## OTHER COMMENTS OR REQUIREMENTS:

1. Delaware eligibility list available at [http://delawareinsurance.gov/departments/documents/bulletins/SurplusBull5/EligibleList\\_07-12-07.xls](http://delawareinsurance.gov/departments/documents/bulletins/SurplusBull5/EligibleList_07-12-07.xls).
2. Every insurance contract procured and delivered as a surplus lines coverage must have stamped upon it, initialed by or bearing the name of the surplus lines broker who procured it, the following:  
**“This insurance contract is issued pursuant to the Delaware Insurance Laws by an insurer neither licensed by nor under the jurisdiction of the Delaware Insurance Department.”**

## GENERAL INFORMATION:

1. District of Columbia **does not maintain** a list of eligible surplus lines insurers.
2. District of Columbia **does not** have a Surplus Lines Association.
3. District of Columbia **does not** have an Export List.
4. District of Columbia has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 2%, payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Annual Statement/Report:** not necessary; will accept for informational purposes.
2. **Capital and Surplus:** \$300,000 capital; \$300,000 surplus.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

None.

## OTHER COMMENTS OR REQUIREMENTS:

1. The District of Columbia has no formal process for approving unauthorized insurers. However, the burden is on the surplus lines broker to establish that:
  - A local market is unavailable for the insurance to be placed, and
  - The surplus lines insurer accepting the business is financially sound.
  - There is no refund tax for cancellations or reduction in premium (other than for flat cancellation).
2. The District of Columbia insurance statutes and regulations do not address disclosure requirements in surplus lines policies. However, under the Unfair Trade Act (the "Act"), a notice should be provided or the company could be in violation of the Act.

## GENERAL INFORMATION:

1. Florida **maintains** a list of eligible surplus lines insurers. (see Other Comments section #8).
2. Florida **does** have a Surplus Lines Association/Stamping Office, the Florida Surplus Lines Service Office (FSLSO) (see Other Comments section #3).
3. Florida **does not** have an Export List.
4. Florida has enacted legislation which includes provisions from the 2000 NAIC Producer Licensing Model Act, intended to meet the standards of the Gramm-Leach-Bliley Act.
5. **Surplus lines tax:** 5% plus 0.10% service fee paid by the insured to the surplus lines agent, who remits to the FSLSO. (Note: The service fee charged by the FSLSO was reduced from 0.2% to 0.1% effective 4/01/07. The service fee percentage charged on the premiums is based on the effective date of the policy. The service fee for all endorsements, audits, installments, cancellations or return of premium transactions applicable to policies/certificates effective prior to 4/01/07 will be the same percentages as the inception date of the policy/certificate being endorsed.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Application:** includes service of process form.
2. **Annual Statement/Report:** certified and converted to U.S. dollars.
3. **Biographical affidavits:** investigative background report and fingerprint cards also required.
4. **Certificate of Authority.**
5. **Eligibility** must be requested by Florida Surplus Lines Service Office as a condition of Department approval.
6. **Gross Premium Report** (filed electronically) due quarterly for foreign surplus lines insurers and

annually for alien surplus lines insurers. Report must include risks exempt from surplus lines tax.

## 7. Prior Operating History.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** \$5,400,000 (not required for alien insurers writing ocean marine and/or aviation risks *only*).
2. **Capital and Surplus:** \$15,000,000 in aggregate.
3. **IID financial Format.**

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Report of Examination.**
2. **Certificate of Compliance.**
3. **Quarterly Financial Statements** and most recent annual statement.
4. **Report of Auditors.**
5. **Surplus:** \$15,000,000.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Wet marine and transportation risks (see Other Comments section #1).
2. Aviation risks, including airport and products liability incidental thereto and hanger keepers liability (see Other Comments Section #1).

## OTHER COMMENTS OR REQUIREMENTS:

1. Exempted coverages listed above require placement through licensed Florida surplus lines agent, eligibility

- with Department for such coverages based on finding that insurer is able to meet its financial obligations.
2. Insurer must have three years business history (requirement may be waived if insurer provides not readily available product or has operated for one year and has combined capital and surplus of \$25,000,000).
  3. Contact information for the FLSO is as follows:  
Florida Surplus Lines Service Office  
1441 Maclay Commerce Drive, Suite 200  
Tallahassee, Florida 32312  
Tel.: (850) 224-7676  
Fax.: (850) 513-9624  
E-mail: [gpullen@fslso.com](mailto:gpullen@fslso.com)
  4. The Florida legislature enacted law in 2004 which allows for the issuance of a non-resident surplus lines agent license to a non-resident individual provided that the individual is licensed in his or her home state as a resident general lines and a resident surplus lines agent. There is an additional requirement that, under the laws of the individual's home state, residents of Florida may be licensed in a similar manner as a non-resident surplus lines agent in the applicant state. This legislation was enacted to implement a U.S. District Court case in 2004 which held that the restriction in Florida of issuing surplus lines licenses to only Florida residents (as well as the Florida Countersignature Law) was unconstitutional. As a result of that decision, the Florida Insurance Commissioner is now enjoined from enforcing those particular provisions of the Florida Law.
  5. In 2005, the Florida Office of Insurance Regulation approved by order (OIR-05-013M) an assessment fee of 6.84% to be levied by Citizen's Property Insurance Corporation ("Citizens") on applicable surplus lines policies issued or renewed on or after January 1, 2006. The assessment is calculated as a percentage of the transaction's premium, as defined by Section 626.932(b) Florida Statutes, (excluding the premium receipts tax, the FLSO service fee and the \$2.00/\$4.00 Emergency Management Preparedness and Assistance surcharge, and will be collected from the surplus lines broker on a quarterly basis. The assessment is refundable on a proportional basis for return endorsements and cancellations. It will only apply to certain surplus lines coverages as set forth in FLSO Bulletin 2005-04 which can be found at: <http://www.fslso.com/docspubs/bulletin-2005-04.pdf>.
  6. In 2007, the Florida legislature enacted legislation which requires a retail agent to inform a policyholder that coverage may be available and less expensive from Citizens Property Insurance Corporation ("Citizens") before export to the surplus lines insurance market. The notice must also include information that Citizens assessments are higher and that Citizens coverage may not be less than the property's existing coverage. Legislation was also enacted by the Florida legislature in 2007 that states if a policyholder pays for a surplus lines insurance policy with a bad check, or fails to maintain membership in an organization necessary to obtain insurance coverage, the policy may be cancelled for nonpayment of premium. If a bad check is the initial premium payment, the policy is retroactively void unless payment is tendered within the earlier of 5 days after actual notice by certified mail is received by the applicant, or 15 days after notice is sent to the applicant by certified or registered mail.
  7. The Office of Insurance Regulation (OIR) in 2007 directed the FLSO by order to collect, on behalf of the Florida Hurricane Catastrophe Fund (FHCF), an emergency assessment fee of 1% on applicable surplus lines policies issued or renewed with an effective date on or after January 1, 2007. The premium on all property and casualty policies is subject to the assessment, except the following: Medical Malpractice, Workers Compensation and Accident and Health. The "Assessment Period" begins on each January 1 and continues for 12 months. The emergency assessment will be assessed in each successive "Assessment Period" until further order of OIR.

8. Florida eligibility list is available at [http://www.fslso.com/search/ins\\_search.asp](http://www.fslso.com/search/ins_search.asp).
9. Each surplus lines agent through whom a surplus lines coverage is procured must write or print on the outside of the policy and on any certificate, cover note, or other confirmation of the insurance his or her name, address, and identification number and the name and address of the producing agent through whom the business originated and must have stamped or written upon the first page of the policy or the certificate, cover note, or confirmation of insurance the words:

**“THIS INSURANCE IS ISSUED PURSUANT TO THE FLORIDA SURPLUS LINES LAW. PERSONS INSURED BY SURPLUS LINES CARRIERS DO NOT HAVE THE PROTECTION OF THE FLORIDA INSURANCE GUARANTY ACT TO THE EXTENT OF ANY RIGHT OF RECOVERY FOR THE OBLIGATION OF AN INSOLVENT UNLICENSED INSURER.”**

## GENERAL INFORMATION:

1. Georgia **does maintain** a list of eligible surplus lines insurers for alien insurers only (see Other Comments #1).
2. Georgia **does not** have a Surplus Lines Association.
3. Georgia **does not** have an Export List.
4. Georgia has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 4%, payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

**Capital and Surplus:** \$10,000,000, plus 10 years operating history, for alien insurers; \$3,000,000 for foreign insurers.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Insurance on subjects located, resident, or to be performed wholly outside Georgia or on vehicles or aircraft owned and principally garaged outside Georgia.
2. Insurance on property or operation of railroads engaged in interstate commerce.
3. Insurance of aircraft owned or operated by manufacturers of aircraft or operated in scheduled interstate flight, or cargo of the aircraft, or against liability, other than workers' compensation and employers' liability, arising out of the ownership, maintenance, or use of the aircraft.

## OTHER COMMENTS OR REQUIREMENTS:

1. Georgia alien eligibility list is available at Insurance Department website at <http://www.inscomm.state.ga.us/DOCUMENTS/ApprovedAlienInsurers.pdf>.
2. Surplus lines insurers are required to furnish their brokers with a copy of their annual statement/report.
3. Every insurance contract procured and delivered as a surplus lines coverage must be initialed by or bear the name of the surplus lines broker who procured it and must have printed or stamped upon it the following: **“This contract is registered and delivered as a surplus line coverage under the Surplus Line Insurance Law, O.C.G.A. Chapter 33-5.”**

## GENERAL INFORMATION:

1. Hawaii **does not maintain** a list of eligible surplus lines insurers.
2. Hawaii **does not** have a Surplus Lines Association.
3. Hawaii **does not** have an Export List.
4. Hawaii has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 4.68%, payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

Broker is obligated to ascertain the financial condition of an insurer (see Other Comments section #2).

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** \$5,400,000.
2. Broker must maintain in his office evidence of the financial responsibility of the insurer. Evidence of a \$5,400,000 trust fund for the benefit of U.S. policyholders is prima facie evidence of responsibility.

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

The broker must maintain in his office a *current* certificate, in proper form, from the regulatory authority in the domicile of the unauthorized insurer, to the effect that the insurer has capital and surplus, or its equivalent under the laws of its domiciliary jurisdiction, which equals the minimum capital and surplus requirements of Hawaii for that kind of insurer.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Ocean marine insurance.
2. Insurance on subjects located, resident, or to be performed wholly outside Hawaii, or on vehicles or aircraft owned and principally garaged outside Hawaii.
3. Insurance of aircraft or cargo of such aircraft, or against liability, other than workers' compensation and employers' liability, arising out of the ownership, maintenance, or use of such aircraft.

## OTHER COMMENTS OR REQUIREMENTS:

1. Upon request of the Commissioner, the broker must immediately submit documentary evidence as to the financial responsibility of the insurer.
2. See Hawaii Revised Statutes (HRS) § 431 Article 8 - Unauthorized Insurers and Surplus Lines.
3. Every insurance contract procured and delivered as surplus lines coverage, including any evidence of insurance other than a policy, must:
  - (1) Bear the name and address of the surplus lines broker who procured it, and
  - (2) Have stamped or written conspicuously upon the first page of the contract the following:  
**“This insurance contract is issued by an insurer which is not licensed by the State of Hawaii and is not subject to its regulation or examination. If the insurer is found insolvent, claims under this contract are not covered by any guaranty fund of the State of Hawaii.”**

**GENERAL INFORMATION:**

1. Idaho **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Idaho **does** have a Surplus Lines Association (see Other Comments section #2).
3. Idaho **does** have an Export List (see Other Comments section #1).
4. Idaho has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 1.5% (plus stamping fee of 0.25%), payable by broker.

**ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):**

1. **Filing Fee:** \$500 with application, \$500 renewal fee (due March 1).
2. **Annual Statement/Report.**
3. **Application or Letter of Intent** listing types of business company wishes to write, agreeing to abide by Idaho Law and that the company will only accept business placed through Idaho licensed surplus lines brokers.

**ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):**

1. **Trust Fund:** follows NAIC requirements (see Appendix E).
2. **Capital and Surplus:** follows NAIC requirements.
3. **NAIC Listing.**

**ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):**

1. **Annual Statement.**

2. **Certificate of Compliance.**
3. **Report of Auditors.**
4. **Actuarial Opinion.**
5. **Management Discussion and Analysis.**

**TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:**

1. Ocean marine and foreign trade insurances.
2. Insurance on subjects located, resident, or to be performed wholly outside of Idaho, or on vehicles or aircraft owned and principally garaged outside Idaho.
3. Aircraft and cargo in interstate flight (property and liability).
4. Insurance of aircraft owned or operated by manufacturers of aircraft, or of aircraft operated in commercial scheduled interstate flight, or cargo of such aircraft, or against liability, other than workers' compensation and employers' liability, arising out of the ownership, maintenance, or use of such aircraft.

**OTHER COMMENTS OR REQUIREMENTS:**

1. Eligibility and export lists available at <http://www.doi.state.id.us/insurance/SurplusLinesList.aspx?&nopages=YES>.
2. Contact information for the Idaho Surplus Lines Association is as follows:  
Wendy J. Tippetts  
Surplus Lines Association of Idaho, Inc.  
595 South 14th Street  
Boise, Idaho 83702-6836  
Tel.: (208) 336-2901  
Fax.: (208) 336-2901  
E-mail: [wendy@idahosurplusline.org](mailto:wendy@idahosurplusline.org)
3. Brokers placing exempted coverages above are required to keep a full and true record, for not less than five years, of each such

coverage in the same detail as required for surplus lines insurance. The record must be kept available in the state for examination by the Director of Insurance.

4. Every insurance contract procured and delivered as a surplus lines coverage must have stamped upon it, in red ink with at least ten (10) point bold print, and bear the name of the surplus lines broker who procured it, the following:

**THIS SURPLUS LINES CONTRACT IS ISSUED PURSUANT TO THE IDAHO INSURANCE LAWS BY AN INSURER NOT LICENSED BY THE IDAHO DEPARTMENT OF INSURANCE. THERE IS NO COVERAGE PROVIDED FOR SURPLUS LINE INSURANCE BY EITHER THE IDAHO INSURANCE GUARANTY ASSOCIATION OR BY THE IDAHO LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION.**

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**(Name of Broker & Lic #).**

**GENERAL INFORMATION:**

1. Illinois **does not maintain** a list of eligible surplus lines insurers.
2. Illinois **does have** a Surplus Lines Association (see Other Comments section #5).
3. Illinois **does not** have an Export List.
4. Illinois has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 3.5%, payable by broker and may be passed on to the insured, plus stamping fee of 0.1% and 1% fire marshal tax on property premium.

**ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):**

1. **Power of Attorney** is required in the policy.
2. **Annual Statement/Report:** in U.S. dollars.
3. **Capital and Surplus:** \$15,000,000 (see Other Comments or Requirements sections #1-4).

**TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:**

1. Insurance of property and operations of railroads or aircraft engaged in interstate or foreign commerce.
2. Insurance of vessels, crafts or hulls, cargoes, marine builders' risks, marine protection and indemnity, or other risks including strikes and war risks insured under ocean or wet marine forms of policies.
3. Industrial Insurance, but only when procured directly from the insurer by the insured without the use of an insurance producer.

**OTHER COMMENTS OR REQUIREMENTS:**

1. The onus is on the surplus lines producing broker to ascertain that standards of solvency and management

are adequate and that the company has a minimum \$15,000,000 in surplus.

2. Insurance may be placed with an insurer not meeting these standards if the surplus lines producing broker gives written notice to the insured to that effect.
3. The Director of Insurance can declare a company ineligible.
4. An Illinois insurer with a minimum surplus of \$15,000,000 may be designated a "domestic surplus lines insurer" and write Illinois risks as such.
5. Contact information for the Surplus Lines Association of Illinois is as follows:

David Ocasek, Executive Director  
Surplus Line Association of Illinois  
100 South Wacker Drive, Suite 350  
Chicago, Illinois 60606-4020

Tel.: (312) 263-1993

Fax.: (312) 263-1996

E-mail: [docasek@slai.org](mailto:docasek@slai.org)

6. When making a diligent effort to first place insurance with licensed insurers, a surplus line producer need not get a declination from any residual market (certain exceptions for personal lines).
7. Surplus lines Insurance contracts from unauthorized insurers, other than domestic surplus line insurers, shall have stamped or imprinted on the first page thereof in not less than 12-pt. bold face type the following legend:

**"Notice to Policyholder: This contract is issued, pursuant to Section 445 of the Illinois Insurance Code, by a company not authorized and licensed to transact business in Illinois and as such is not covered by the Illinois Insurance Guaranty Fund." Insurance contracts delivered under this Section from domestic surplus line insurers as defined in Section 445a shall have stamped or imprinted on the first page thereof in not less than 12-pt. bold face type the following legend:**

**"Notice to Policyholder: This contract is issued by a domestic surplus line insurer,**

**as defined in Section 445a of the Illinois Insurance Code, pursuant to Section 445, and as such is not covered by the Illinois Insurance Guaranty Fund.”**

8. For further information, contact Illinois Division of Insurance website at <http://www.Idfpr.com/doi/default2.asp>.

**GENERAL INFORMATION:**

1. Indiana **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Indiana **does not** have a Surplus Lines Association.
3. Indiana **does not** have an Export list.
4. Indiana has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 2.5%, payable by broker.

**ELIGIBILITY AND FILING REQUIREMENTS****(ALL INSURERS):**

1. **Annual Statement/Report.**
2. **Actuarial Opinion** by March 31st of each year.

**ELIGIBILITY AND FILING REQUIREMENTS****(ALIEN INSURERS ONLY):**

1. **Trust Fund:** follows NAIC requirements (see Appendix E).
2. **Capital and Surplus:** follows NAIC requirements (see Appendix E).
3. **Statement of Assets in Trust.**
4. **NAIC Listing:** If alien insurer appears on NAIC Quarterly List, it is approved to do business in Indiana.

**ELIGIBILITY AND FILING REQUIREMENTS****(FOREIGN INSURERS ONLY):**

Burden on surplus lines broker to determine the eligibility of a foreign insurer.

**TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:**

1. Transactions in the state relative to a policy issued or to be issued outside the state, involving insurance on vessels, crafts, hulls or cargoes, marine builder's risks, marine protection and indemnity or other risks, including strikes and war risks commonly insured under ocean or wet marine forms of policy.
2. Industrial Insurance (see Other Comments section #3).

**OTHER COMMENTS OR REQUIREMENTS:**

1. Indiana eligibility list available at at <http://www.in.gov/cgi-bin/idoi/ssDisplay-2.pl?file=SurplusLines&letter=a>.  
Above list applies to foreign surplus lines only; alien surplus lines companies are automatically eligible for surplus lines in this state if they appear on the NAIC Quarterly List of Alien Insurers.
2. Insurance Commissioner may order surplus lines broker to cancel unauthorized insurer's policies if he/she believes financial condition of such insurer does not warrant continuation of the risk.
3. Commercial insureds which purchase insurance under the "industrial insured" exception to the state's unauthorized insurers statute must notify the Department of such transactions and, among other things, document that the purchased coverage was not available in the admitted market.
4. The Indiana legislature enacted legislation in 2007 which removes the requirement that resident surplus lines brokers file a bond with the Insurance Commissioner. Effective July 1, 2007, resident surplus

lines producers are no longer required to hold a tax guarantee bond in the amount of \$20,000. The surplus lines license was extended from a one year license to a two year license. The surplus lines fees increased from \$20 to \$80 for a resident surplus lines producer/agency and \$120 for a non-resident surplus lines producer/agency.

**GENERAL INFORMATION:**

1. Iowa **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Iowa **does** have a Surplus Lines Association.
3. Iowa **does not** have an Export list.
4. Iowa has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 1%, payable by soliciting agent.
4. Maintain the greater of either minimum capital and surplus of \$5,000,000 or risk-based capital pursuant to Iowa Code Chapter 521E (see Other Comments Section #2).
5. Seasoning: actively in operation for at least 3 years without significant changes in ownership or management during that 3 year period.
6. For renewal: \$100 renewal fee, quarterly financial statements, and submission of other documents and materials listed on the Department's website, [www.iid.state.ia.us](http://www.iid.state.ia.us).

**ELIGIBILITY AND FILING REQUIREMENTS****(ALL INSURERS):**

1. **Annual Statement/Report:** in U.S. dollars.
2. **List of Agents used in State:** (preferred).

**ELIGIBILITY AND FILING REQUIREMENTS****(ALIEN INSURERS ONLY):**

1. **Trust Fund:** follows NAIC requirements (see Appendix E).
2. **Capital and Surplus:** follows NAIC requirements (see Appendix E).
3. The State's statutory eligibility requirements are not applicable to alien insurers listed with the NAIC.

**ELIGIBILITY AND FILING REQUIREMENTS****(FOREIGN INSURERS ONLY):**

1. **NAIC UCAA Expansion Application**, available through the Department's website, [www.iid.state.ia.us](http://www.iid.state.ia.us), or through the NAIC website, [www.naic.org/industry](http://www.naic.org/industry).
2. Designation of a licensed Iowa resident producer qualified to write excess and surplus lines insurance.
3. Remittance of the greater of a \$100 filing fee or a retaliatory fee, and a \$500 examination fee for all new applicants.

**TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:**

Insurance on vessels, craft or hulls, cargoes, marine builder's risks, marine protection and indemnity or other risks including strikes and war risks commonly insured under ocean marine or wet marine forms of policies.

**OTHER COMMENTS OR REQUIREMENTS:**

1. Iowa eligibility list available at [http://www.iid.state.ia.us/ia\\_company\\_listing/results.asp?Type=7&Pageno=0&linksback=companymain](http://www.iid.state.ia.us/ia_company_listing/results.asp?Type=7&Pageno=0&linksback=companymain).
2. These financial and management requirements may be waived, upon finding that an insurer will be offering coverages for which there is an unavailability of capacity and/or an extraordinary market need.
3. A producer who places coverage with a qualified surplus lines carrier must deliver to the insured, within 30 days of the date the policy is issued, a notice that states the following:  
**"This policy is issued, pursuant to Iowa Code section 515.147, by a nonadmitted company in Iowa and as such is not covered by the Iowa Insurance Guaranty Association."**

A producer may comply with this rule by typing or stamping a verbatim copy of this language in a clear and conspicuous place on the policy.

4. As of January 1, 2007, the Iowa Insurance Department adopted filing procedures for Iowa surplus lines brokers in order to eliminate individual affidavits and instead require the electronic filing of quarterly and annual premium reports. Payment of premium tax should still be made by check. All reports and payments should be submitted through the Department's website, [www.iid.state.ia.us](http://www.iid.state.ia.us).

Under these procedures, quarterly reports are due on or before April 10, July 10, October 10 and January 10. Each report must summarize the surplus lines insurance issued during the prior calendar quarter. If quarterly reports are not filed by the due date, the producer or entity will be fined \$100 on the day after the report was due and an additional \$100 on the first of each month thereafter until the report is filed. The annual report shall be filed and the premium tax paid on or before March 1. Failure to file on or before the due date and pay the tax will result in a \$500 fine.

## GENERAL INFORMATION:

1. Kansas maintains a list of eligible surplus lines insurers (see Other Comments section #1).
2. Kansas **does not** have a Surplus Lines Association.
3. Kansas **does not** have an Export List.
4. Kansas has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley (see Other Comments section #3).
5. **Surplus lines tax:** 6%, payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Annual Statement/Report:** certified by domiciliary regulator.
2. **Annual Premium Report:** by Kansas broker listing risk, premium, amount and address of risk.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** follows NAIC requirements (see Appendix E).
2. **Capital and Surplus:** follows NAIC requirements (see Appendix E).
3. **NAIC Listing.**

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Capital and Surplus:** equal to or greater than \$1,500,000.
2. **Non-refundable filing fee:** \$200 (for both initial filing and relisting).

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

None.

## OTHER COMMENTS OR REQUIREMENTS:

1. Kansas eligibility list available at [http://www.ksinsurance.org/industry/agent/docs/ES\\_app.pdf](http://www.ksinsurance.org/industry/agent/docs/ES_app.pdf).
2. Non-admitted insurers cannot write primary automobile, medical malpractice for Kansas defined health care providers, e.g., workers' compensation, and any coverages which can be placed in the Kansas Fair Plan.
3. Requirements and license application for non-resident surplus lines brokers may be obtained from the Kansas Insurance Department's website at [www.ksinsurance.org/agent/company\\_services/agent/agency/excess\\_lines\\_application](http://www.ksinsurance.org/agent/company_services/agent/agency/excess_lines_application).
4. Any policy issued under the provisions of Kansas surplus lines law shall have stamped or endorsed in a prominent manner thereon, the following:  
**"This policy is issued by an insurer not authorized to do business in Kansas and, as such, the form, financial condition and rates are not subject to review by the Commissioner of insurance and the insured is not protected by any guaranty fund."**

## GENERAL INFORMATION:

1. Kentucky **does not** maintain a list of eligible surplus lines insurers.
2. Kentucky **does** have a Surplus Lines Association.
3. Kentucky **does not** have an Export List.
4. Kentucky has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 3%, payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Annual Statement/Report:** certified and in U.S. dollars preferred, plus \$100 annual statement fee.
2. **Service of Process** form.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** follows NAIC requirements (see Appendix E).
2. **Statement of Assets in Trust.**
3. **Capital and Surplus:** follows NAIC (see Appendix E).
4. NAIC Listed insurers acceptable but insurer must have been in business for 3 years or make \$300,000 deposit. On third anniversary of company, deposit may be withdrawn.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Ocean marine and foreign trade insurances.

2. Insurance on vessels, craft of hulls, cargoes, marine builder's risk, marine protection and indemnity or other risks, including strikes and war risks commonly insured under ocean or wet marine forms of policy.
3. Insurance on subjects located in, resident of, or to be performed wholly outside of Kentucky, or on vehicles or aircraft owned and principally garaged outside Kentucky.
4. Insurance on operations or railroads engaged in transportation in interstate commerce and their property used in such operations.
5. Insurance of aircraft owned or operated by manufacturers of aircraft or of aircraft operated in commercial interstate flight or cargo of such aircraft or against liability other than workers' compensation and employers' liability arising out of the ownership, maintenance or use of such aircraft.
6. Industrial Insurance.

## OTHER COMMENTS OR REQUIREMENTS:

Every insurance contract procured and delivered as a surplus lines coverage must have conspicuously stamped upon the face page, initialed by or bearing the name of the surplus lines broker who procured it, the following: **“This insurance has been placed with an insurer not licensed to transact business in the Commonwealth of Kentucky but eligible as a surplus lines insurer. The insurer is not a member of the Kentucky Insurance Guaranty Association. Should the insurer become insolvent, the protection and benefits of the Kentucky Insurance Guaranty Association are not available.”**

**GENERAL INFORMATION:**

1. Louisiana **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Louisiana **has** a Surplus Lines Association for brokers only.
3. Louisiana **does not** have an Export List.
4. Louisiana has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 5%, payable by broker.

**ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):**

1. **Examination Fee:** \$1,050 due March 1.
2. **Annual Statement/Report:** due April 15.
3. **Application.**
4. **Biographical Affidavits.**
5. **Fingerprints of officers and directors.**
6. **Interrogatories.**

**ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):**

1. **NAIC Reporting Format:** due July 31.
2. **Statement of Total Premiums Written in Louisiana:** due April 15.
3. **Trust Fund:** Not less than the greater of \$5,400,000 or 30% of the company's U.S. surplus liabilities, excluding liabilities from exempt business, not to exceed \$60,000,000 (see Other Comments section #4).
4. **Statement of Assets in Trust.**
5. **Capital and Surplus:** follows NAIC requirements (see Appendix E).
6. **NAIC Listing.**

**ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):**

1. **Report of Examination.**
2. **Certificate of Deposit.**
3. **Certificate of Compliance.**
4. **Charter & By-Laws.**
5. **Quarterly Financial Statements.**
6. **Plan of Operation.**
7. **Report of Auditors.**
8. **Actuarial Opinion.**
9. **IRIS Report.**
10. **Investigative Reports.**
11. **Service of Process Form.**
12. **Consent to be Sued Form.**
13. **Reinsurance Agreements.**
14. **Market Conduct Report.**
15. **Management Discussion and Analysis.**
16. **Capital & Surplus:** \$15,000,000.
17. **Statutory Deposit:** \$100,000.

**TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:**

1. Insurance on property and operation of railroads or aircrafts engaged in interstate or foreign commerce.
2. Insurance on vessels, crafts, hulls, cargoes, marine builders' risks, marine protection and indemnity, or other risks, including strikes and war risks commonly insured under ocean or wet marine forms of policy (see Other Comments sections # 2 and #3).
3. Transactions in Louisiana involving a policy lawfully solicited, written, and delivered out of state, covering subjects of insurance not located, or expressly to be performed in, Louisiana at the time of issue, and which transactions are subsequent to the issuance of the policy.
4. Transactions involving risks located in Louisiana where the policy or contract of insurance for such risk was principally negotiated and delivered outside Louisiana, and was lawfully issued in a

state or foreign country in which the foreign or alien insurer was authorized to operate an insurance business, and where such insurer has no contact with Louisiana except in connection with inspections or losses required by virtue of the contract or policy of insurance covering the risk located in Louisiana, including transactions involving the operation of workers' compensation claims offices.

**OTHER COMMENTS OR REQUIREMENTS:**

1. Louisiana eligibility list available at [www.lds.state.la.us/search\\_forms/white\\_list/white\\_list.aspx](http://www.lds.state.la.us/search_forms/white_list/white_list.aspx).
2. The definition of marine insurance does not involve vessels and watercraft under five tons of gross weight.
3. Coverage for any wet marine risk arising out of the exploration, discovery, development, or production for any mineral, the maintenance, shutting in, or the plugging and abandoning of any oil or natural gas or other marine mine, may only be placed with an insurer appearing on the Louisiana Surplus Lines Eligibility List.
4. Louisiana deems compliance with the IID Plan of Operation Standard form trust requirement to be in compliance with Louisiana Law.
5. The Louisiana Surplus Lines Association webpage is [www.LSLA.bizland.com](http://www.LSLA.bizland.com).
6. The following disclosures are required on the declaration pages of surplus lines policies: First, the premium, tax, and any fees charged should be separately stated and itemized. Second, every surplus lines contract in Louisiana must have stamped or printed upon it in red or, if not in red, offset by a black border and signed by the surplus lines broker who procured it, in bold type and in not less than ten-point type, the following:

**“NOTICE**

**This insurance policy is delivered as a surplus line coverage under the Insurance Code of the State of Louisiana. In the event of insolvency of the company issuing this contract, the policyholder or claimant is not covered by the Louisiana Insurance Guaranty Association which guarantees only specific policies issued by an insurance company authorized to do business in Louisiana. This surplus lines policy has been procured by the following licensed Louisiana surplus lines broker:**

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**Signature of Licensed Louisiana Surplus Lines Broker or Authorized Representative**

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**Printed Name of Licensed Louisiana Surplus Lines Broker”**

7. The policy should be countersigned by an authorized countersignature of the producer; this countersignature is now integrated with the stamp.
8. If the risk being placed is a personal lines policy, the producer procuring the policy should keep a properly executed affidavit signed by the insured, stating that the risk is placed with an approved unauthorized company.

## GENERAL INFORMATION:

1. Maine **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Maine **does not** have a Surplus Lines Association; however, there is a New England SLA which Maine brokers may become members of.
3. Maine **does not** have an Export List.
4. Maine has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 3% of difference between gross premiums and return premiums (within 45 days of end of each quarter), payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Power of Attorney.**
2. **Capital and Surplus:** \$500,000 capital, \$500,000 surplus.
3. **Annual Statement/Report:** certified and in U.S. dollars.
4. **Application or Letter of Intent.**
5. **Biographical Data.**
6. **Charter & By-Laws.**
7. **Certificate of Authority** from Board of Trade or state of domicile.
8. **Annual Premium Report** on direct marine business.
9. **Summary of Reinsurance Data** (transactions) on all types of business worldwide by July 1. It should include a summary of net retentions, by line or risks, and a list of reinsurers for all types of business worldwide for prior year.
10. Specific description of the lines of business to be written in Maine.
11. **Latest Examination Report.**

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** \$1,000,000.
2. **Statement of Assets in Trust.**

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Wet marine and transportation insurance.
2. Insurance on subjects located, resident, or to be performed wholly outside of Maine, or on vehicles or aircraft owned and principally garaged outside Maine.
3. Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.
4. Insurance of aircraft owned or operated by manufacturers of aircraft or of aircraft operated in commercial interstate flight or cargo of such aircraft or against liability other than workers' compensation and employers' liability arising out of the ownership, maintenance or use of such aircraft.

## OTHER COMMENTS OR REQUIREMENTS:

1. Eligibility list available at <http://www.maine.gov/pfr/insurance/company/slcompanies.htm>.
2. The most effective way to get approval as a surplus lines insurer in Maine is to provide a unique or "special" program for which there is a "need" in Maine.
3. Exempted coverages (1-4 above) must be placed with an eligible surplus lines insurer; however, surplus lines brokers are not required to perform a diligent search of the admitted market prior to placing the coverage.
4. Per Title 24-A § 2412-A of the Maine Insurance Laws, any contract of insurance issued to a large

commercial policyholder pursuant to this section, is also exempt from the diligent search requirement.

5. Every insurance contract procured and delivered as a surplus lines coverage must have stamped upon it, and bearing the name of the producer with surplus lines authority who procured it, the following:

**“This insurance contract is issued pursuant to the Maine Insurance Laws by an insurer neither licensed by nor under the jurisdiction of the Maine Bureau of Insurance.”**

## GENERAL INFORMATION:

1. Maryland **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Maryland **does** have a Surplus Lines Association (see Other Comments section #5).
3. Maryland does have an Export List (see Md. Regulations §31.03. 06.10).
4. Maryland has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 3%, payable by broker. Premium includes a membership fee, survey fee, inspection fee, service fee, or other similar fee in consideration for an insurance contract.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Application or Letter of Intent** (see Other Comments section #2).
2. **Certificate of Authority** from state of domicile.
3. **Policyholders surplus:** \$6,500,000 minimum.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

If company is on the **NAIC List** then nothing need be filed, eligibility is automatic.

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Affidavit of Filing** (of Financial Statement with NAIC).
2. **Certificate of Deposit.**
3. **Appointment of Commissioners** as Agent for Service of Process.

4. **\$1,000 Filing Fee and \$1,000 Fraud Fee.**
5. **Report of Examination.**
6. **Actuarial Opinion.**
7. **Management Discussion and Analysis.**
8. **Trust deposit:** \$100,000 (may be in domiciliary state).

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Wet marine and transportation insurance except: (i) any pleasure craft that is under 60 feet in length and is owned and used for pleasure and not for business, hire, or other commercial use; (ii) fishing vessels under 50 gross tons weight that are not part of a fleet of 3 or more vessels; and (iii) charter or head boats under 50 gross tons and that are not part of a fleet of 3 or more vessels.
2. Insurance on subjects located, resident, or to be performed wholly outside of Maryland or on vehicles or aircraft owned and principally garaged outside Maryland.
3. Insurance on property or operation of railroads engaged in interstate commerce.
4. Insurance of aircraft owned or operated by manufacturers of aircraft, or aircraft operated in scheduled interstate flight, or cargo of the aircraft, or against liability, other than workers' compensation and employers' liability, arising out of the ownership, maintenance, or use of the aircraft.
5. Transactions subsequent to issuance of or relative to a policy covering only subjects of insurance not resident, located, or expressly to be performed in Maryland as of time of issuance covering property in course of transportation by land, air, or water to, from, or through Maryland and including any preparation or storage incidental thereto, and lawfully solicited, written or delivered outside Maryland.
6. Industrial Life Insurance.

**OTHER COMMENTS OR REQUIREMENTS:**

1. Maryland eligibility list available at [www.mdinsurance.state.md.us](http://www.mdinsurance.state.md.us).
2. Insurer is also required to file annually with the Commissioner a written request to be approved as surplus lines insurer with a certificate of deposit and certificate of compliance from the state of domicile.
3. When a policy is procured through a surplus lines broker which is licensed in the state and payment is not made directly to the surplus lines broker or insurer, a copy of any applicable premium finance agreement or other notice of premium finance agreement must be sent to the surplus lines broker.
4. A surplus lines broker is required to return any gross unearned commissions to the insurer within a reasonable time but not longer than 45 days after a written request by the insurer.
5. Contact information for Maryland Excess & Specialty Lines Brokers Association:  
David Riffert, Treasurer  
Tel.: (301) 439-4700.
6. The same requirements apply to non-resident brokers as resident brokers. Licenses are processed by the Maryland Insurance Administration.
7. Maryland surplus lines brokers are permitted to recover the cost of inspection for the placement of surplus lines insurance if the brokers do not have a financial interest in and do not receive compensation from the person that performs the inspection. Brokers are required to make clear and conspicuous written disclosure of any financial interest in the person performing such an inspection.
8. Maryland prohibits the procurement of surplus lines insurance for coverage of condominium associations.
9. Reports, affidavits and returns that are required to be filed in regard to surplus lines insurance are deemed to be in compliance with the state's filing requirement if the information is transmitted electronically on or before the filing date in a manner approved by the Insurance Commissioner.
10. The Maryland legislature enacted legislation in 2007 which alters the date by which an affidavit for surplus lines insurance (showing declinations of coverage from admitted insurers) must be filed with the Maryland Insurance Commissioner. Under the legislation, the affidavit must be filed with the Maryland Insurance Commissioner on or before the 45th day after the last day of the calendar quarter in which the surplus lines insurance was placed. Under the old law, an affidavit had to be filed with the Commissioner on or before the 45th day after the last day of the month in which the surplus lines insurance was placed.
11. Each insurance contract or confirmation procured must be:
  - (1) endorsed or stamped conspicuously in boldface type on the first page of the insurance contract or confirmation as follows:  
**“This insurance is issued by a nonadmitted insurer not under the jurisdiction of the Maryland Insurance Commissioner”**; and
  - (2) accompanied by a written disclosure, as prescribed by the commissioner of insurance, that:
    - (i) is written in clear, plain English; and
    - (ii) explains that the insurer does not possess a certificate of authority from the commissioner of insurance to engage in the insurance business in the State.

## GENERAL INFORMATION:

1. Massachusetts **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Massachusetts **does** have a Surplus Lines Association (see Other Comments section #5).
3. Massachusetts **does not** have an Export List.
4. Massachusetts has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 4%, payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Application.**
2. **Filing fee:** \$1,275.
3. **Power of Attorney.**
4. **Statement of Assets in Trust.**
5. **Application or Letter of Intent** establishing that the company is stable and well-run.
6. **Biographical Data.**
7. **Special Financials:** NAIC form required.
8. **Licensed in a State.**
9. **Deposit:** \$700,000 in Massachusetts for the benefit of Massachusetts policyholders.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

**Trust Fund:** \$20,000,000.

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

**Capital & Surplus:** \$20,000,000.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

Wet marine, transportation and inland marine (see Other Comments section #3).

## OTHER COMMENTS OR REQUIREMENTS:

1. Eligibility list available at Massachusetts Insurance Department website at <http://www.mass.gov/Eoca/docs/doi/Companies/SurplusLines.pdf>.  
List of Foreign Surplus Lines Insurers only.
2. Company seeking approval as a surplus lines insurer must be admitted to transact business in one or more states in the U.S. for at least the previous three years. Company must maintain \$300,000 in net assets.
3. Insurance can be written on ocean, coastwide marine risks, transportation and inland navigation risks but licensed broker not permitted to do so unless unauthorized insurer is eligible to write surplus lines business in Massachusetts and has net cash assets of at least \$1,000,000. The net asset and deposit requirements may be waived by the Commissioner upon evidence that coverage is not available from companies that meet the requirements and company not meeting the requirements has officers and directors who are of good repute, has management that will carry out its contracts in good faith, and the company will file the reports required. For other types of insurance, affidavit that insurance can not be placed with licensed companies is necessary.
4. The form of the capital and surplus and deposit amounts are restricted by M.G.L. §175:63.
5. New England Surplus Lines Association Massachusetts contact:  
Julie Sonier - Tel.: 1-800-262-7475.

6. M.G.L. §175:168 prohibits accident and health, workers' compensation, compulsory motor vehicle liability and life insurance coverage placements in the surplus lines market.
7. Assured must sign affidavit (Form BR-7), which must also be signed by broker, stating that he was informed by his insurance broker that the type and amount of insurance could be obtained from insurer's not admitted in Massachusetts and that:
  - A. The surplus lines insurer with whom the insurance was placed is not licensed in Massachusetts and is not subject to Massachusetts regulations; and**
  - B. In the event of the insolvency of the surplus lines insurer, losses will not be paid by the state insurance guaranty fund.**

## GENERAL INFORMATION:

1. Michigan **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Michigan **does** allow a Surplus Lines Association, but currently there is no active recognized Surplus Lines Association in the state.
3. Michigan **does** have an Export List.
4. Michigan has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 2.0% (plus 0.5% regulatory fee on premiums written in the state).

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Power of Attorney.**
2. **Annual Statement/Report:** translated and in U.S. dollars.
3. **Application:** including Opinion Letters from Accountants and Actuaries, Organizational Chart, Application, Interrogatories, 5 year Plan of Operation, Holding Company System Registration and Exam Report.
4. **Capital and Surplus:** \$7,500,000.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** \$1,000,000.
2. **Statement of Assets in Trust.**

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

None.

## OTHER COMMENTS OR REQUIREMENTS:

1. Michigan eligibility list available at [http://www.michigan.gov/documents/quarterly\\_surplus\\_lines\\_list\\_166029\\_7.pdf](http://www.michigan.gov/documents/quarterly_surplus_lines_list_166029_7.pdf).
2. Michigan surplus lines agents may place coverage with an insurer which is neither authorized nor recognized for surplus lines if it files the appropriate affidavit (Form 269) and attempts to place the insurance with an authorized or recognized insurer first.
3. Marine, inland navigation and transportation insurance constitute transactions of insurance for which a certificate of authority is not required in Michigan. Such transactions must still be written by eligible surplus lines insurers although the Michigan Insurance Department does not require the surplus lines broker to obtain declinations from admitted carriers.
4. Each policy, cover note, or other instrument evidencing surplus lines insurance which is to be delivered to an insured or a representative of an insured must have printed, typed, or stamped in red ink upon its face, in not less than 10-point type, the following notice:  
**“This insurance has been placed with an insurer that is not licensed by the state of Michigan. In case of insolvency, payment of claims may not be guaranteed.”**  
This notice must not be covered over or concealed in any manner.

## GENERAL INFORMATION:

1. Minnesota **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Minnesota **does not** have a Surplus Lines Stamping Office. (Permitted per Minnesota Statute 60A.208, but not yet implemented).
3. Minnesota **does** have an Export List (see Other Comments section #1).
4. Minnesota has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 3%, less returns and dividends, payable by individual licensee (no lines exempt from tax).

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Annual Statement/Report** (in U.S. dollars) by an independent CPA on statutory annual statement filed with local regulatory authorities for the latest three years. (For requalification: due August 1).
2. **Capital and Surplus** of at least \$3,000,000 (see Other Comments section #4).
3. Must be recognized by the Commissioner as an "eligible" surplus lines insurer.
4. **Certified Statutory Financial Statement and Return** as required by the insurer's domiciliary regulator. (For requalification: due August 1).
5. **Appointment of Attorney** to accept service.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **NAIC Listing.**
2. **NAIC Non-Admitted Insurers Application** including biographical affidavits and surplus lines business plan.

3. **Trust Certification:** The U.S. Counsel (Representative) shall certify that the trust required to be maintained under Minnesota 60D.206, Subd. 5 is in existence, that it will not expire from the last calendar year-end for at least (5) five years and has an unencumbered market value of at least \$1,500,000 (see Other Comments section #4), and shall submit copy of trust deed. Trustee shall provide a certified statement of market value. (For requalification: due April 1).
4. **NAIC IID Financial Format Reporting Format** (in U.S. dollars) including the appropriate footnotes, interrogatories, schedules, and certification of loss reserves. (For requalification: August 1).
5. **\$300 renewal fee.**

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Corporate resolution** to submit application.
2. **Affidavit** of other pending applications.
3. **Annual Statement and Filing Diskette** (3.5").
4. **SVO Compliance Certificates.**
5. **Actuarial Opinion.**
6. **Certificate of Compliance, Authority and Deposit.**
7. **Plan of Operation.**
8. **Reinsurance Summary.**
9. **Report of Examination.**
10. **Market Conduct Examination.**
11. **Investment policy.**
12. **Qualified Asset/Required Liabilities Report** (Form).
13. **Management/Managing General Agent agreements.**
14. **Holding Company Registration Statement.**

**TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:**

None.

**OTHER COMMENTS OR REQUIREMENTS:**

1. Minnesota eligibility and export lists available at <http://www.commerce.state.mn.us/LicenseLookupMain.html>. No direct link is available to Minnesota's Surplus Lines Eligibility List. Use the link above to connect to the online license look-up tool. Select "Insurance Company" from the "Choose" drop down menu which will redirect you to a different website called "sircon". Select Minnesota in the state drop down menu, then select company for entity type, active company list for inquiry type and surplus lines insurer for company type.
2. Individual licensees are responsible for making sure that surplus lines insurance is placed only with surplus lines insurers that are in stable and unimpaired financial condition.
3. An insurer recognized as an "eligible" surplus lines insurer by the Commissioner is considered to be stable and financially unimpaired.

4. As alien insurers must be included in the NAIC Quarterly Listing, such insurers must maintain NAIC capital and surplus and trust fund requirements, whenever greater than Minnesota Statute.
5. Lloyd's of London syndicates must be included in the NAIC IID's Listing and Supplement of Alien Insurers to be considered "eligible."
6. Each policy, cover note, or instrument evidencing surplus lines insurance from an eligible surplus lines insurer which is delivered to an insured or representative of an insured must have printed, typed, or stamped in red ink upon its face in not less than 10 point type, the following notice:  
**"THIS INSURANCE IS ISSUED PURSUANT TO THE MINNESOTA SURPLUS LINES INSURANCE ACT. THE INSURER IS AN ELIGIBLE SURPLUS LINES INSURER BUT IS NOT OTHERWISE LICENSED BY THE STATE OF MINNESOTA. IN CASE OF INSOLVENCY, PAYMENT OF CLAIMS IS NOT GUARANTEED."**  
This notice must not be covered or concealed in any manner.

## GENERAL INFORMATION:

1. Mississippi **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Mississippi **does** have a Surplus Lines Association (see Other Comments section #3).
3. Mississippi **does not** have an Export List.
4. Mississippi has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 4%, plus 0.25% stamping fee, payable by broker or agent, on all policies with effective dates of July 1, 2003 or after. (Note: Stamping fee continues to be 1% on all policies with effective dates prior to December 31, 2000 and 0.5% on policies with effective dates from January 1, 2001 to June 30, 2003).

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Filing or Other Renewal Fee:** \$500 due May 1.
2. **Annual Statement/Report:** certified.
3. **Application:** executed by company's U.S. representative, if alien.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** Follows NAIC requirements (see Appendix E).
2. Copy of **U.S. Trust Agreement**, certified by Trustee.
3. **Capital and Surplus:** follows NAIC requirements (see Appendix E).
4. **Statement of Trust Assets**, certified by Trustee.
5. **NAIC Listing.**

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Capital and Surplus:** Single Line – Capital: \$400,000 and Surplus: \$600,000. Multiple Lines – Capital: \$600,000 and Surplus: \$900,000.
2. **Quarterly Financial Statement(s).**
3. **Certificate of Compliance.**
4. **Certificate of Deposit.**
5. **Report of Examination.**
6. **Independent Audit Report.**
7. **Plan of Operation.**

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

Worker's Compensation Insurance.

## OTHER COMMENTS OR REQUIREMENTS:

1. Mississippi eligibility list available at <http://www.doi.state.ms.us/licapp/downloadlist.aspx>. Select "Company List" from the scroll down menu "Choose Company List to Download" then select "Surplus Lines – Alien" or "Surplus Lines – Foreign" from the scroll down menu "Choose License Type."
2. In order to be eligible, a foreign insurance company must not be designated as a regulatory priority company by the NAIC.
3. Contact information for the Mississippi Surplus Lines Association is as follows:  
Peggy Dronet, Executive Director  
Mississippi Surplus Lines Association  
2630 Ridgewood Road, Suite D  
Jackson, Mississippi 39216  
Tel.: (601) 713-1111  
Fax.: (601) 713-1122  
Website: [www.msla.org](http://www.msla.org).
5. The Mississippi legislature in 2007 enacted legislation which requires the surplus lines agent to collect a

nonadmitted policy fee for any and all risks on real property and contents in Mississippi. This fee is effective on all nonadmitted real property and contents premiums after January 1, 2008, for policies effective January 1, 2008 and after. The fee will be a minimum of five percent (5%) and is not subject to commissions and premium taxes. The Insurance Commissioner may change the fee from time to time.

6. Every insurance contract procured and delivered must have stamped upon it in bold ten-point type, and bear the name of the agent who procured it, the following:

**“NOTE:**

**This insurance policy is issued pursuant to Mississippi law covering surplus lines insurance. The company issuing the policy is not licensed by the State of Mississippi, but is authorized to do business in Mississippi as a nonadmitted company. The policy is not protected by the Mississippi Insurance Guaranty Association in the event of the insurer’s insolvency.’**

## GENERAL INFORMATION:

1. Missouri **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Missouri **does** have a Surplus Lines Association. (see Other Comments section #3).
3. Missouri **does not** have an export list.
4. Missouri has not been certified as a reciprocal state by the NAIC but does allow non-resident brokers to secure surplus lines broker licenses in Missouri.
5. **Surplus lines tax:** 5% (less return premium, and exclusive of state, federal, and local taxes), payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Power of Attorney.**
2. **Annual Statement/Report:** in U.S. dollars.
3. **Application.**
4. **Capital and Surplus:** \$1,200,000 (capital), \$1,200,000 (surplus).
5. **Deposit in State:** Dependent upon type or class of business.
6. **Biographical Data.**
7. **Charter & By-Laws.**
8. **Certificate of Authority from Board of Trade or state of domicile.**
9. **Gross Premium Report:** by July 1 (see Other Comments section #7).
10. **Sworn and signed Jurat page.**

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

**NAIC Listing** automatically puts company on eligibility list.

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

**Audited Financial Report** by independent auditors.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Wet marine and transportation, as defined by § 384.015 of Missouri Insurance Laws.
2. Transactions in Missouri relative to a policy issued or to be issued outside Missouri involving insurance on vessels, craft or hulls, cargoes, marine builders' risks, marine protection and indemnity or other risks, including strikes and war risks commonly insured under ocean or wet marine forms of policy, as defined by § 384.015 of Missouri Insurance Laws.

## OTHER COMMENTS OR REQUIREMENTS:

1. Missouri eligibility list available at [www.insurance.mo.gov](http://www.insurance.mo.gov) under Agents and Producers section.
2. A letter is required from the regulatory body having authority over the company's operations stating that, according to its records, the company is prompt and equitable in its loss payments to policyholders and payments are in accordance with policy provisions.
3. Contact information for the Surplus Lines Association of Missouri is:  
Walter A. Klein III  
Continental American Agency  
319 N. 4th Street, Rotunda Suite 100  
St. Louis, MO 63102-1985.
4. There is no bond requirement for either resident or non-resident surplus lines licensees.

5. Executive Order 07-06 which became effective August 28, 2007, transfers the function of collecting surplus lines taxes from the Missouri Department of Insurance, Financial Institutions and Professional Registration to the Missouri Department of Revenue, by type 1 transfer, as defined under the Reorganization Act of 1974.
6. Every evidence of insurance negotiated, placed or procured under the provisions of the Missouri surplus lines law and issued by a Missouri surplus lines licensee shall, on the face of the policy or declaration page of the policy, bear the name of the licensee and the following legend in 10-point type:  
**“This is evidence of insurance procured and developed under the Missouri Surplus Lines Laws. It is NOT covered by the Missouri Insurance Guaranty Association. This insurer is not licensed by the state of Missouri and is not subject to its supervision.”**
7. The report of Missouri business must include the name and address of the producer, name and address of the insured, policy number, effective date of the coverage and premium amount. This document has no bar code and may be transmitted by email to surpluslines@insurance.mo.gov.
8. The Missouri Department of Insurance in 2006 clarified its view that surplus lines taxes apply to policy fees as well as premium taxes. The change appears in Missouri’s Regulation, § 20 CSR 200-6.300 Surplus Lines Insurance Fees and Taxes. The department’s explanation of the amendments to sections (1), (2) and (3) of this rule is as follows:  
**“This amendment clarifies that any fee charged in connection with the placement of surplus lines insurance is subject to the surplus lines insurance premium tax, regardless of whether the fee is charged by the surplus lines insurer or the surplus lines licensee. As such the amendment is consistent with the current practice of the department and is intended to halt the avoidance of tax by merely shifting the stated source of fees from the insurer to the licensee.”**

## GENERAL INFORMATION:

1. Montana **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Montana **does** have a Surplus Lines Association (see Other Comments section #3).
3. Montana **does** have an Export List (see Other Comments section #4).
4. Montana has not been certified as a reciprocal state by the NAIC but **does** allow non-resident brokers to secure surplus lines licenses.
5. **Surplus lines tax:** 2.75% (+ 1% stamping fee and 2.5% additional tax on fire portions of surplus lines placements), payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Power of Attorney** (Commissioner is agent for service of process).
2. **Annual Statement/Report:** certified.
3. **Application:** detailing types of insurance company intends to write.
4. **Capital and Surplus:** \$15,000,000.
5. **Annual Premium Report.**

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **NAIC Listing.**
2. **Trust Fund:** \$5,400,000.
3. **Statement of Assets in Trust.**
4. **IID Financial Reporting Format.**

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Certificate of Compliance/Authority.**
2. **Plan of Operation.**
3. **Quarterly Financial Statements.**

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Wet marine and transportation insurance.
2. Insurance on subjects located, resident, or to be performed wholly outside of Montana or on vehicles or aircraft owned and principally garaged outside Montana.
3. Insurance on property or operation of railroads engaged in interstate commerce.
4. Insurance of aircraft owned or operated by manufacturers of aircraft, or aircraft operated in scheduled interstate flight, or cargo of the aircraft, or against liability, other than workers' compensation and employer's liability, arising out of the ownership, maintenance, or use of the aircraft.

## OTHER COMMENTS OR REQUIREMENTS:

1. Montana eligibility list available at <http://sao.mt.gov/forms/index.asp>. (See Lists).
2. All surplus lines business must be written through a surplus lines producer that is authorized by the Montana Insurance Department.
3. The contact person for the Montana Surplus Lines Agents Association is:  
Wendy Morgan  
Tel.: (406) 443-7324.

4. Montana Export List available at Montana Surplus Lines Association website at [www.mslaa.org/id9.html](http://www.mslaa.org/id9.html).
5. The diligent search requirement (3 declinations from admitted carriers) does not apply for a surplus lines broker if, by placing the account in the surplus lines market, there is a premium savings that is greater than both 10% and \$1,500. This can only be done with proof that the non-admitted carrier has at least a financial rating of "A" or greater.
6. Each insurance contract, cover note, or certificate of insurance procured and delivered as surplus lines insurance in Montana must be filed with the commissioner, or with the surplus lines advisory organization formed pursuant to § 33-2-321 of the Missouri Insurance Code, and endorsed as **"issued in an unauthorized insurer under The Surplus Lines Insurance Law, under surplus lines insurance producer's license No. ..."** and **"NOT covered by the property and casualty guaranty fund of this state if the unauthorized insurer becomes insolvent."**  
The surplus lines producer must properly fill in and sign the endorsement.

## GENERAL INFORMATION:

1. Nebraska **does not maintain** a list of eligible surplus lines insurers.
2. Nebraska **does not** have a Surplus Lines Association.
3. Nebraska **does not** have an Export List.
4. Nebraska has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 3%, payable by broker (see Other Comments section #2).

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Power of Attorney.**
2. **Annual Statement/Report.**
3. **Capital and Surplus:** \$1,000,000 capital, \$1,000,000 surplus.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** follows NAIC requirements (see Appendix E).
2. **NAIC Listing** makes company automatically eligible.

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

Nebraska Insurance Department will accept either hard copy or NAIC electronic filing of financial statement.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

Transactions in the state, relative to policies issued or to be issued outside the state, involving insurance on vessels, crafts or hulls, cargoes, marine builders' risks, marine protection and indemnity or other risks, including strikes and war risks commonly insured under ocean or wet marine forms of policy.

## OTHER COMMENTS OR REQUIREMENTS:

1. Burden is on broker to ascertain existence of trust fund.
2. Additional tax up to .75% imposed on lines allocated to peril of fire.
3. A surplus lines licensee must stamp or type upon the declaration page of each policy procured and delivered the following information:
  - (1) The licensee's name, business address, and surplus lines license number;
  - (2) the name under which the licensee transacts business if different than the licensee's own name; and
  - (3) the language:  
**"This policy is issued by a nonadmitted insurer, and in the event of the insolvency of such insurer, this policy will not be covered by the Nebraska Property and Liability Insurance Guaranty Association."**
4. Industrial insureds are required to file an annual report and remit the premium tax on self-procured insurance through a non-admitted carrier.

**GENERAL INFORMATION:**

1. Nevada **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Nevada **does** have a Surplus Lines Association (see Other Comments section #2).
3. Nevada **does** have an Export List (see Other Comments section #1).
4. Nevada has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 3.5%, payable by broker, plus .4% stamping fee applicable to all premiums.

**ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):**

1. **Application.**
2. **Filing Fee:** \$2,450 (with initial application only).
3. **Annual Statement/Report.**
4. **Gross Premium Report:** by March 1.
5. **Capital and Surplus:** \$15,000,000.

**ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):**

**Trust Fund:** follows NAIC requirements (see Appendix E).

**ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):**

**Trust deposit:** \$200,000 (in Nevada).

**TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:**

1. Wet marine and transportation insurance.

2. Insurance on subjects located, resident, or to be performed wholly outside of Nevada or on vehicles or aircraft owned and principally garaged outside Nevada.
3. Insurance of property and operations of railroads engaged in interstate commerce.
4. Insurance of aircraft of common carriers, or cargo of such aircraft, or against liability, operated in scheduled interstate flight, or other than employer's liability, arising out of the ownership, maintenance, or use of such aircraft.
5. Insurance of automobile bodily injury and property damage liability risks when written by Mexican insurers and covering Mexican but not U.S. risks.

**OTHER COMMENTS OR REQUIREMENTS:**

1. Nevada eligibility and export lists available at [www.nsla.org/applinsurerlist.asp](http://www.nsla.org/applinsurerlist.asp).
2. Contact information for the Nevada Surplus Lines Association is as follows:  
Lynn L. Twaddle, Executive Director  
Nevada Surplus Lines Association  
3710 Grant Drive, Suite A  
Reno, Nevada 89509  
Tel.: (775) 826-7898  
Fax.: (775) 826-7003  
E-mail: [LynnT@nsla.org](mailto:LynnT@nsla.org)
3. Each insurance contract procured and delivered as a surplus lines coverage must have conspicuously stamped upon it:  
**“This insurance contract is issued pursuant to the Nevada insurance laws by an insurer neither licensed by nor under the supervision of the Division of Insurance of the Department of Business and Industry of the State of Nevada. If the insurer is found insolvent, a claim under this contract is not covered by the Nevada Insurance Guaranty Association Act.”**

## GENERAL INFORMATION:

1. New Hampshire **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. New Hampshire **does** have a Surplus Lines Association.
3. New Hampshire **does not** have an Export List.
4. New Hampshire has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 2%, payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Annual Statement/Report** (4 previous years).
2. **Filing or Other Renewal Fee:** \$250.
3. **Power of Attorney.**
4. **Statement of Assets in Trust.**
5. **Capital and Surplus:** \$20,000,000.
6. **Biographical Data.**
7. **Charter & By-Laws.**
8. **Licensed in a state with an Insurance Commissioner.**
9. **Security Deposit and/or Surety Bond upon approval:** \$500,000.
10. **5 Year Prior Operating History.**
11. **Statutory Deposit:** \$500,000.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Transactions in New Hampshire relative to a policy issued or to be issued outside New Hampshire involving insurance on vessels, craft or hulls, cargoes, marine builder's risk, marine protection and indemnity or other risk, including strikes and war risks commonly insured under ocean or wet marine forms of policy.

2. Ocean marine insurance.
3. Industrial insurance.

## OTHER COMMENTS OR REQUIREMENTS:

1. New Hampshire eligibility list available at [www.nh.gov/insurance](http://www.nh.gov/insurance), click on "For companies".
2. Company must have been in business for five consecutive years.
3. In order for a company to be approved, it must:
  - have five consecutive years prior operating history;
  - provide a "meaningful insurance business" in New Hampshire;
  - provide a marketing plan of operation including description of products to be offered and marketing volume expected.
3. Every producer must have stamped in a form approved by the commissioner on the face of the binder or policy the following:  
**"The company issuing this policy has not been licensed by the state of New Hampshire and the rates charged have not been approved by the commissioner of insurance. If the company issuing this policy becomes insolvent, the New Hampshire insurance guaranty fund shall not be liable for any claims made against the policy."**

## GENERAL INFORMATION:

1. New Jersey **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. New Jersey **does** have a Surplus Lines Association (voluntary participation) but **does not** have a stamping office (see Other Comments section #2).
3. New Jersey **does** have an Export List (see Other Comments section #1).
4. New Jersey has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 3%, payable by surplus lines producer.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Annual Statement/Report.**
2. **Application or Letter of Intent.**
3. **Capital and Surplus:** Up to \$4,200,000 capital paid-up, or twice the amount of the minimum capital and surplus required by New Jersey for like admitted insurers if greater (\$19,500,000 maximum; minimum of \$15,000,000).
4. **Plan of Operation.**
5. **Market Conduct Statement.**
6. **Deposit in State:** \$25,000 to Surplus Lines Insurance Guaranty Fund (non-refundable), plus a refundable deposit for benefit of New Jersey policyholders (on a case-by-case basis upon the discretion of the Commissioner).
7. **Charter & By-Laws.**
8. **Certificate of Authority** from Board of Trade or state of domicile.
9. **Agents Sponsorship.**
10. **Reinsurance Data:** copies of the reinsurance contracts under which business is assumed or ceded.
11. **Biographical Data.**

12. **Loss Reserve Opinion** by qualified actuary: by July 31.

13. **Application processing fee:** \$3,500.

14. **Actuarial Opinion.**

15. **Auditor's Report.**

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** \$2,500,000 in a state or federally chartered bank.
2. **Statement of Assets in Trust.**
3. **NAIC Financial Format:** by July 31.
4. **Listing** of all jurisdictions where the applicant has applied for or withdrawn licenses or surplus lines approvals and results thereof during previous 10 years.
5. **Statement** of direct premiums written in New Jersey for previous year (alien company subject to a \$100 filing fee if it had no direct written premiums in New Jersey for previous year).

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Report of Examination:** most recent
2. **Certificate of Compliance.**

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Railroad or aviation risks engaged in interstate or international commerce.
2. Insurance of vessels, crafts or hulls, cargoes, marine builders' risks, marine protection and indemnity or other risks including strikes and war risks commonly insured under ocean or wet marine forms or policies.

**OTHER COMMENTS OR REQUIREMENTS:**

1. Eligibility and export lists available at <http://www.state.nj.us/dobi/sleo.htm>.
2. New Jersey Surplus Line Association website is [www.njsla.org](http://www.njsla.org).
3. Effective 2003, New Jersey eliminated the form approval requirements for surplus lines policies which brings New Jersey in line with all other states in providing surplus lines carriers freedom of form.
4. At the time of quotation, the originating producer shall provide to the applicant a copy of the form incorporated herein by reference as Exhibit A-1 in the Appendix to this chapter and retain a signed copy.

APPENDIX EXHIBIT A-1

Form to be used at the time of quotation:

The undersigned applicant has been advised by the undersigned originating insurance producer and understands that an insurance policy written by a surplus lines insurer is not subject to the filing or approval requirements of the New Jersey Department of Banking and Insurance. Such a policy may contain conditions, limitations, exclusions and different terms than a policy issued by an insurer granted a Certificate of Authority by the New Jersey Department of Banking and Insurance.

Applicant Signature

\_\_\_\_\_  
Applicant's Name (Print or Type)

\_\_\_\_\_  
Date of Applicant's Signature

\_\_\_\_\_  
Producer Signature

\_\_\_\_\_  
Producer Name (Print or Type)

\_\_\_\_\_  
Date of Producer Signature

\_\_\_\_\_  
New Jersey Producer License Reference Number

5. The following statement must appear on all Surplus Lines Policies, Evidence of Coverage and Renewal Policies or be provided or as a stand alone notice: **“This policy is written by a surplus lines insurer and is not subject to the filing or approval requirements of the New Jersey Department of Banking and Insurance. Such a policy may contain conditions, limitations, exclusions and different terms than a policy issued by an insurer granted a Certificate of Authority by the New Jersey Department of Banking and Insurance. The insurer has been approved by the Department as an eligible surplus lines insurer, but the policy is not covered by the New Jersey Insurance Guaranty Fund, and only a policy of medical malpractice liability insurance as defined in N.J.S.A. 17:30D-3d or a policy of property insurance covering owner-occupied dwellings of less than four dwelling units are covered by the New Jersey Surplus Lines Guaranty Fund.”**
6. Whenever any insurance risk or any part thereof is placed with an ineligible unauthorized insurer, as provided herein, the policy, binder or cover note must bear conspicuously on its face in boldface type the following notation: **“All or some of the insurers participating in this risk have not been admitted to transact business in the State of New Jersey, nor have they been approved as a surplus lines insurer by the insurance commissioner of this State. The placing of such insurance by a duly licensed surplus lines agent in this State shall not be construed as approval of such insurer by the insurance commissioner of the State of New Jersey. Such insurance is not covered by the New Jersey Property-Liability Insurance Guaranty Association or the New Jersey Surplus Lines Insurance Guaranty Fund.”**

## GENERAL INFORMATION:

1. New Mexico **does not** maintain a list of eligible surplus lines insurers.
2. New Mexico **does** have a Surplus Lines Association.
3. New Mexico **does not** have an Export List.
4. New Mexico has not been certified as a reciprocal state by the NAIC but **does** allow non-resident brokers to secure surplus lines broker licenses in New Mexico.
5. **Surplus lines tax:** 3.003%, payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Power of Attorney.**
2. **Annual Statement/Report:** certified.
3. **Application or Letter of Intent.**
4. **Annual Premium Report** (single figure acceptable) should be filed by March 1 of each year stating all direct business on New Mexico risks. (This coincides with due date for premiums).
5. **Certificate of Compliance** and **Certificate of Deposit** from domiciliary regulator due every March 1.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** Follows NAIC requirements (see Appendix E).
2. **NAIC Listing.**

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Articles of Incorporation & By-Laws.**
2. **Report of Examination.**
3. **Quarterly Financial Statements.**

4. **List of Management.**
5. **Conflict of Interest Form.**
6. **Reinsurance Contracts.**
7. **Plan of Operation.**
8. **A.M. Best's Galley Report.**
9. **IRIS Report.**
10. **Audited Financial Statements.**
11. **Actuarial Certification.**
12. **Special Deposit** (determined on approval).

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Wet marine and transportation insurance as defined in Section 59A – 7-5 NMSA 1978.
2. Insurance on subjects located, resident, or to be performed wholly outside of New Mexico or on vehicles or aircraft owned and principally garaged outside New Mexico.
3. Insurance on property or operation of railroads engaged in interstate commerce.
4. Insurance of aircraft of common carriers, cargo of such aircraft, or against liability, other than employer's liability, arising out of the ownership, maintenance or use of such aircraft.
5. Insurance of automobile bodily injury and property damage liability risks when written by Mexican insurers and covering risks in Mexico and not in the U.S.
6. Insurance independently procured.

## OTHER COMMENTS OR REQUIREMENTS:

1. Burden is on broker not to place insurance with financially unsound insurers whose capital and surplus is insufficient for the particular risk.

2. Every insurance contract procured and delivered as surplus lines insurance must bear the name, address and signature of the surplus lines broker who procured it and have stamped, printed or otherwise displayed prominently in boldface ten-point or larger type either upon its declarations page or by attachment of an endorsement, the form of which may be promulgated by the superintendent, the following:

**“This policy provides surplus lines insurance by an insurer not otherwise authorized to transact business in New Mexico. This policy is not subject to supervision, review or approval by the superintendent of insurance. The insurance so provided is not within the protection of any guaranty fund law of New Mexico designed to protect the public in the event of the insurer’s insolvency.”**

**GENERAL INFORMATION:**

1. New York excess lines brokers may only place insurance with those insurers that have made application to and been approved by the Excess Line Association of New York (ELANY) and agree to abide by N.Y. Regulation 41. (Eligibility list available on ELANY website at <http://www.elany.org/es-el-f.aspx>. (foreign); <http://www.elany.org/es-el-a.aspx>. (alien)).
2. New York **does** have an Excess Lines Association (see Other Comments section #5).
3. New York **does** have an Export List at [www.elany.org](http://www.elany.org).
4. New York **does** allow non-resident brokers to secure surplus lines licenses in New York on a reciprocal basis. Requirements for non-resident excess line broker available at [www.ins.state.ny.us/lic-brn.htm#tar1](http://www.ins.state.ny.us/lic-brn.htm#tar1).
5. **Surplus lines tax:** 3.6%, payable by broker to the state, plus 0.2% stamping fee payable to ELANY. (Additional fee of \$25 applies for late/erroneous filing.)

**ELIGIBILITY AND FILING REQUIREMENTS  
(ALL INSURERS)**

1. **Annual Statement/Report:** due March 15 (unless insurer's fiscal year does not operate on the calendar year).
2. **Capital and Surplus:** \$15,000,000.
3. **Annual Premium Report:** on Form EL-1 by March 15 of each year. Company must also report by e-mail or on diskette individual policy details including gross premium charges on each policy covering N.Y. risks, name and address of insured and excess line broker, effective date of coverage and policy number, and type and amount of coverage.
4. **Biographical Data:** (for ELANY only).
5. **Certificate of Authority.**
6. **Certification of Trust Assets:** quarterly.
7. **Report on Examination.**
8. **Actuarial Certification:** due March 15.

9. **Summary of Reinsurance Agreements.**10. **MGA Agreements.**11. **Three-year Business Plan.**

12. Executed **Power of Attorney** (NYSID only) (appointing Superintendent of Insurance as agent for service of process).
13. \$1,000 initial application fee payable to ELANY.
14. \$100 annual requalification fee payable to ELANY.

**ELIGIBILITY AND FILING REQUIREMENTS  
(ALIEN INSURERS)**

1. **Copy of NAIC Financial Reporting Format.**
2. **Trust Fund:** follows NAIC requirements (see Appendix E).

**ELIGIBILITY AND FILING REQUIREMENTS  
(FOREIGN INSURERS)**

1. **NAIC IRIS Ratios.**
2. **GAAP Financial Statement.**
3. **Trust Fund:** follows NAIC requirements (see "NAIC Approval" section of Introduction).

**TYPES OF INSURANCE EXEMPTED FROM SURPLUS  
LINES REGULATION:**

1. Ocean marine insurance, which is limited to vessels engaged in the transportation of goods and merchandise in either foreign or coastwide trades. It does not include yachts, pleasure crafts, fishing vessels and tugs (see Other Comments section #1).
2. Insurance in connection with ocean going vessels against, or against legal liability of the insured for, loss, damage or expense arising out of, or incident to, the ownership, operation, chartering, maintenance, use, repair or construction of any vessel, craft or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury,

- illness or death or for loss of or damage to the property of another person.
3. Insurance against legal liability arising out of the ownership, operation or maintenance of any motor vehicle or aircraft which is neither principally garaged nor principally used in New York, arising out of any activity carried on wholly outside of New York or arising out of the ownership, operation or maintenance of any property having a permanent situs outside of New York, but in case such property or risk is located in any other state, then exemption applies only if the insurer is authorized to do such business in such state and a licensed insurance broker of such state may lawfully place such insurance.

**OTHER COMMENTS OR REQUIREMENTS:**

1. New York Circular Letter No. 28 (1999) clarifies the Department's position that if a risk is placed by an unauthorized insurer involving a class of insurance other than ocean marine insurance, it should only be placed through an excess line broker licensed in New York. Such business must also be written pursuant to the surplus lines laws of the State of New York. Circular Letter No. 28 also states that it is the broker's responsibility to allocate the risk between ocean marine insurance and any other kind of insurance. Part of the risk that is other than ocean marine insurance, when placed with an unauthorized insurer, is subject to the payment of an excess line premium tax for the filing of affidavits and the stamping of the policies by ELANY as well as other applicable regulatory requirements of the Department. Circular Letter No. 22 (2000) opines that ocean marine insurance is "insurance covering damage to ships or vessels and the goods they carry while on the ocean or inland waters." While Circular Letter No. 22 does not so state, the Department has confirmed that pure marine protection and indemnity insurance is treated in the same manner as ocean marine insurance.
2. All filings must be submitted to both NYSID and ELANY unless otherwise stated. Electronic filing of broker affidavits as well as the electronic submissions for recording and stamping of declaration pages, cover notes, binders, endorsements, notices of excess line placement and other excess line insurance documents are permitted provided these methods of submitting for recording and stamping purposes are first approved by the Superintendent.
3. New York no longer requires the completion or filing of insured's affidavit (Part B) in connection with excess line placements. Instead of the insured's affidavit requirement, the law substitutes a requirement that such insureds be given notice containing certain information set forth in Section 27.5(e) of Regulation 41.
4. New York permits binding authority for licensed New York excess line brokers upon written authorization of non-admitted insurers. This binding authority power was extended by chapter amendment to include both in-state and out-of-state risks.
5. Contact information for ELANY is as follows:  
Daniel F. Maher  
Excess Line Association of New York  
One Exchange Plaza  
55 Broadway, 29th Floor  
New York, New York 10038  
Tel.: (646) 292-5500  
Fax.: (646) 292-5505  
E-mail: [dmaher@elany.org](mailto:dmaher@elany.org).

6. The following language is required to be prominently displayed on written confirmations of placement of coverage with excess line insurers and the notice that is required on insurance policies issued by excess line insurers in the state.

**“THE INSURER(S) NAMED HEREIN IS (ARE) NOT LICENSED BY THE STATE OF NEW YORK, NOT SUBJECT TO ITS SUPERVISION, AND IN THE EVENT OF THE INSOLVENCY OF THE INSURED(S), NOT PROTECTED BY THE NEW YORK STATE SECURITY FUNDS. THE POLICY MAY NOT BE SUBJECT TO ALL OF THE REGULATIONS OF THE INSURANCE DEPARTMENT PERTAINING TO POLICY FORMS.”**

7. New York permits excess lines brokers to place malpractice insurance for nursing homes and certain other facilities. For these types of risks, three declinations from insurers writing malpractice insurance are required. For doctors, dentists and general hospitals, a declination must be obtained from the resident market, known as the “MMIP” or the “Pool,” before placing primary coverage with an excess line insurer.
8. The Office of General Counsel of the NYSID issued 2 opinions in 2007 which state that policy fees charged by an excess line insurer are to be considered excess line premium subject to the excess line tax and the ELANY stamping fee.
9. The tenth amendment to Regulation No. 41 was promulgated on December 19, 2007. This amendment changes the maximum deposits required in which Alien insurance companies eligible in New York must put in trust to secure payment of judgments. The amendment is intended to conform New York regulation to new trust fund requirements adopted by the International Insurers Department of the National Association of Insurance Commissioners.

## GENERAL INFORMATION:

1. North Carolina **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
  2. North Carolina **does** have a Surplus Lines Association (see Other Comments section #2).
  3. North Carolina **does not** have an Export List.
  4. North Carolina has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
  5. **Surplus lines tax:** 5%, payable by broker.
3. **Actuarial Certification** of the loss and loss adjustment expense reserves.
  4. **Quarterly Financial Statements.**
  5. **NAIC IRIS Ratio.**

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

Aviation insurance/wet marine and transportation insurance.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Annual Report Statement:** converted to U.S. dollars.
2. **Capital and Surplus:** \$15,000,000 (see Comments #4 below).
3. **Filing Fee:** \$250 (initial filing), \$500 (annual renewal).
4. The completed Renewal Application and applicable fee must be submitted by January 1 of each year in order to renew a surplus lines insurer's eligibility to do business in North Carolina (see Other Comments #6).

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** \$5,400,000.
2. **NAIC Listing.**
3. **U.S. Trust Agreement.**

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Annual Statements** for the latest two years.
2. **Report of Examination.**

## OTHER COMMENTS OR REQUIREMENTS:

1. Eligibility list available at [http://www.ncdoi.com/PC/pc\\_surplus\\_forms.asp](http://www.ncdoi.com/PC/pc_surplus_forms.asp).
2. Contact information for the North Carolina Surplus Lines Association is as follows:  
Elaine Christian, Executive Director  
North Carolina Surplus Lines Association  
P.O. Box 41368  
Raleigh, North Carolina 27629-1368  
Phone: (919) 876-0687  
Website: [www.ncsla.com](http://www.ncsla.com).  
Select "Surplus Lines" from the menu on the left, and select "List of Authorized Surplus Lines Companies".
3. North Carolina provides for an affirmative finding of acceptability by the Commissioner based on stated factors pertaining to companies with \$4,500,000 to \$14,999,999 combined capital and surplus.
4. Lloyd's plans or other similar unincorporated groups individual insurers must maintain an irrevocable trust fund of not less than \$50,000,000 as security for all policyholders and creditors in the United States of each member of the Group. This trust fund must be held in a national bank or a member of the Federal Reserve System and must have an expiration date which at no time shall be less than five years in the future.

5. Insurance exchanges created by the laws of individual states must have and constantly maintain total capital and surplus, or the substantial equivalent thereof, of not less than \$50,000,000 in the aggregate. Each individual syndicate must have and constantly maintain total capital and surplus, or the substantial equivalent thereof, of not less than \$3,000,000.
6. Renewal Application and Instructions may be processed through the North Carolina Insurance Department's website by going to [www.ncdoi.com](http://www.ncdoi.com) and selecting "Industry" at the top of the page.
7. Every evidence of insurance negotiated, placed, or procured by the surplus lines licensee must bear the name of the licensee and the following legend in 10 point type and in contrasting color:

**"The insurance company with which this coverage has been placed is not licensed by the State of North Carolina and is not subject to its supervision. In the event of the insolvency of the insurance company, losses under this policy will not be paid by any State insurance guaranty or solvency fund."**

## GENERAL INFORMATION:

1. North Dakota **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. North Dakota **does** have a Surplus Lines Association.
3. North Dakota **does** have an Export List.
4. North Dakota has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 1.75% (2% life, 1.75% on accident and health), payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Power of Attorney, Affidavit and Data Forms.**
2. **Filing or Other Renewal Fee:** \$100 (non-refundable application fee); \$10 (power of attorney fee upon approval of application); \$10 for filing renewal affidavit.
3. **Agent's Sponsorship.**

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** follows NAIC requirements (see Appendix E).
2. **Capital and Surplus:** follows NAIC requirements (see Appendix E).
3. Alien insurer is approved if listed with NAIC and upon receipt of Trust Agreement, Annual Report and filing fees.

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Report of Examination.**
2. **Capital & Surplus:** \$1,000,000.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

Industrial Insured risks: subject to premium tax.

## OTHER COMMENTS OR REQUIREMENTS:

1. North Dakota eligibility list available at <http://www.nd.gov/ndins/pdf/579/surpluslines.pdf>.
2. A North Dakota surplus lines producer must provide an affidavit that he has performed a diligent search of the admitted market for placing the surplus lines insurance within 60 days after the effective date of a surplus lines policy.
3. Every policy issued must be endorsed as follows:  
**“THIS POLICY IS ISSUED PURSUANT TO THE NORTH DAKOTA SURPLUS LINES INSURANCE STATUTE UNDER THE SURPLUS LINES PRODUCER’S LICENSE OF \_\_\_\_ . THE INSURER IS A QUALIFIED SURPLUS LINES INSURER, BUT IS NOT OTHERWISE LICENSED BY THE STATE OF NORTH DAKOTA AND DOES NOT PARTICIPATE IN THE NORTH DAKOTA INSURANCE GUARANTY ASSOCIATION.”**

The surplus lines insurance producer must properly complete the endorsement by typing or printing the producer's full name in the space provided and must sign and date the endorsement.

**GENERAL INFORMATION:**

1. Ohio **does maintain** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Ohio **does not** have a Surplus Lines Association.
3. Ohio **does not** have an Export List.
4. Ohio has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 5%, payable by broker.

**ELIGIBILITY AND FILING REQUIREMENTS  
(ALL INSURERS):****Annual Statement/Report.****ELIGIBILITY AND FILING REQUIREMENTS  
(ALIEN INSURERS ONLY):**

1. **Trust Fund:** follows NAIC requirements (see Appendix E).
2. **Statement of Assets in Trust.**
3. **NAIC Listing** is prima facie evidence of eligibility.

**ELIGIBILITY AND FILING REQUIREMENTS  
(FOREIGN INSURERS ONLY):**

1. **Report of Examination.**
2. **Quarterly Financial Statements.**
3. **Plan of Operation.**
4. **\$1,000 Annual Fee.**
5. Letter setting forth history and background of the company.

**TYPES OF INSURANCE EXEMPTED FROM SURPLUS  
LINES REGULATION:**

Ocean marine insurance is exempt from reporting and taxation requirements when placed by a licensed agent.

**OTHER COMMENTS OR REQUIREMENTS:**

1. Ohio eligibility list is available at <http://www.ohioinsurance.gov/Company/CompanyIndex.asp?Menu=2>.
2. Commissioner may also require a deposit in the state.
3. Ohio Insurance Department prefers the following language to appear on the Declaration page of surplus lines policies:

**THE INSURANCE HEREBY EVIDENCED IS WRITTEN BY AN APPROVED NON-LICENSED INSURER IN THE STATE OF OHIO AND IS NOT COVERED IN CASE OF INSOLVENCY BY THE OHIO INSURANCE GUARANTY ASSOCIATION.**

4. An “employer insured” is subject to surplus lines regulation in Ohio. An “employer insured” is defined under Ohio laws as an insured “who procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly and continuously qualified insurance consultant; whose aggregate annual premiums for insurance on all risks total at least \$25,000; and who has at least 25 full-time employees. Such risks are subject to payment of the 5% surplus lines tax.
5. The Ohio Insurance Department now has an on-line reporting system for payment of the surplus lines tax. Information on this system can be found at <http://www.ohioinsurance.gov/Company/CompanyIndex.asp?Menu=2>.

## GENERAL INFORMATION:

1. Oklahoma **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Oklahoma **does not** have a Surplus Lines Association.
3. Oklahoma **does not** have an Export List.
4. Oklahoma has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 6%, payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Annual Statement/Report:** in U.S. dollars (by August 30 for alien insurers).
2. **Certificate of Approval Filing:** \$150 annually, due upon approval of application.
3. **Fraud Fee** of \$750 and **Designation of Agent Fee** of \$10, due upon approval.
4. **Certificate of Approval** (Renewal fee): \$650 (\$500 review fee/\$150 certificate of approval fee).
5. **Application Fee:** \$1,000.
6. **Annual Premium Report:** by Oklahoma broker listing risk, premium amount and address of risk due April 1.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Capital and surplus:** follows NAIC requirements (see Appendix E).
2. **NAIC Listing.**
3. **Trust fund:** follows NAIC requirements.

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Report of Examination.**
2. **Plan of Operation:** including lines of business and premium projections.
3. **Capital and Surplus:** combined \$15,000,000.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

None

## OTHER COMMENTS OR REQUIREMENTS:

1. Oklahoma eligibility list is available at [www.oid.state.ok.us/www.2.oid.state.ok.us/Other/Forms.asp#P&C](http://www.oid.state.ok.us/www.2.oid.state.ok.us/Other/Forms.asp#P&C).
2. Insurance contracts procured as surplus lines coverage shall contain in bold-face type notification stamped on the declaration page of the policy that such contracts are not subject to the protection of any guaranty association in the event of liquidation or receivership of the insurer.
3. Insurance contracts procured as surplus lines coverage must contain in boldface type notification stamped on the declaration page of the policy that such contracts are not subject to the protection of any guaranty association in the event of liquidation or receivership of the insurer.
4. Insurance may not be procured from unauthorized insurers in Oklahoma unless the interest of the insured cannot be procured from authorized insurers after direct inquiry to such insurers by a licensed surplus lines broker.
5. The bond requirement for non-resident surplus lines brokers was repealed effective July 14, 2007.

## GENERAL INFORMATION:

1. Oregon **does not** maintain an active list of eligible surplus lines insurers (see Other Comments section #1).
2. Oregon **does** have a Surplus Lines Association (see Other Comments section #2).
3. Oregon **does not** have an Export List.
4. Oregon has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 2% payable by broker, and an additional 1% on “fire” related coverages payable by broker, plus \$5 flat stamping fee applicable for each new or renewal (not endorsement) transaction (see Other Comments section #4).

## ELIGIBILITY AND FILING REQUIREMENTS

### (ALL INSURERS):

1. **Annual Statement/Report:** in U.S. dollars (affidavit of filing with NAIC acceptable for foreign insurers).
2. **Capital and Surplus:** \$5,000,000.

## ELIGIBILITY AND FILING REQUIREMENTS

### (ALIEN INSURERS ONLY):

**Trust Fund:** \$1,500,000; or listed on the NAIC Quarterly List of Alien Insurers as of the date of placement of the policy.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Wet marine and transportation insurance, reinsurance, life, health, annuities.
2. Independently procured insurance.

## OTHER COMMENTS OR REQUIREMENTS

1. The Oregon Surplus Lines Association at [www.slaor.org](http://www.slaor.org) does maintain a list of eligible surplus lines insurers in Oregon for informational purposes only, not for approval status.  
Oregon is a “broker responsible” state and therefore surplus lines eligibility status for both foreign and alien insurers is based on the broker’s determination that the insurer is acceptable.  
See <http://www.slaor.org/insurance.aspx>.  
See “Insurer List” tab for a list of nonadmitted insurers who have provided a certified copy of their current annual statements to the state of Oregon as required by ORS 735.415 (1)(c), indicating compliance with the minimum requirements of ORS 735.415(1)(c) as of the date of the statement.
2. Contact information for the Oregon Surplus Lines Association is as follows:  
Larry C. Boyd  
Surplus Lines Association of Oregon  
One Centerpointe Drive, Suite 310  
Lake Oswego, OR 97035  
Tel.: (503) 718-6700  
Fax.: (503) 718-6702  
E-mail: [LCBoyd@slaor.org](mailto:LCBoyd@slaor.org)
3. Each insurance policy or certificate of insurance negotiated, placed or procured by the surplus lines licensee must bear the name of the licensee and the following legend in bold type:  
**“This insurance was procured and developed under the Oregon surplus lines laws. It is NOT covered by the provisions of ORS 734.510 to 734.710 relating to the Oregon Insurance Guaranty Association. If the insurer issuing this insurance becomes insolvent, the Oregon Insurance Guaranty Association has no obligation to pay claims under this insurance.”**

4. The Surplus Lines Association of Oregon makes available to any interested party a “tax calculator” which enables interested parties to easily determine the taxes and changes applicable to a proposed transaction. The “tax calculator” may be assessed at the Association’s website: [www.slaor.org](http://www.slaor.org).

## GENERAL INFORMATION:

1. Pennsylvania **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Pennsylvania **does** have a Surplus Lines Association (see Other Comments section #4).
3. Pennsylvania **does** have an Export List.
4. Pennsylvania has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 3%, plus a non-refundable, annual stamping fee of \$15 per original filing.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Power of Attorney.**
2. **Application or Letter of Intent.**
3. **Capital and Surplus:** \$7,050,000 (minimum).
4. **Biographical Data.**
5. **Charter.**
6. **Certificate of Authority from Board of Trade.**
7. **Agent's Sponsorship** including certified statement setting forth the proposed kinds of insurance coverage and types of risk which the insurer intends to write and insure.
8. **Annual Premium Report:** by August 16.
9. **Seasoning requirements:** 3 years, or be an affiliate of an existing licensed insurer which has satisfied seasoning requirement.
10. **Claims Supervisor.**
11. **Service of Process** designee.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Annual Report:** in foreign and U.S. dollars, and accompanied by a copy of NAIC Financial Format.
2. **Trust Fund:** follows NAIC requirements (see Appendix E).
3. **Statement of Assets in Trust** and copy of Trust Agreement.
4. **NAIC Listing.**
5. State requires an alien insurer to requalify annually by filing by August 16 any changes in Charter, Certificate of Authority, Trust Fund Agreement, Service of Suit designee, Claims Supervisor, Biographical sketches, current financials and statement of PA premium volume.

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Summary of IRIS** ratios for 2 preceding calendar years.
2. **Latest Report of Examination** certified by domiciliary regulator.
3. **Latest Annual Audited Financial Report.**
4. **Certificate of Compliance** issued by domiciliary regulator.
5. **Annual Financial Statements** on NAIC approved forms for latest 2 years and certified by domiciliary regulator.
6. **Actuarial Certification** of loss and loss adjustment expense reserves and the Management Discussion and Analysis of financial condition for the latest 2 years.
7. **Quarterly Statements** as they become available.

**TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:**

1. Wet marine and transportation insurance which includes:
    - Insurance upon vessels, crafts or hulls and of interests therein or with relation thereto.
    - Insurance of marine builder's risks, marine war risks and contracts of marine protection and indemnity insurance.
    - Insurance of freights and disbursements pertaining to a subject of insurance coming within this definition.
    - Insurance of personal property and interest therein, in the course of exportation from or importation into any country, or in the course of transportation coastwise or on inland waters, including transportation by land, water or air from point of origin to final destination, in connection with any and all risks or perils of navigation, transit or transportation, and while being prepared for and while awaiting shipment, and during any delays, transshipment or reshipment incident thereto.
  2. Reinsurance.
  3. Life, health and annuities.
  4. Independently procured insurance.
  5. Coverage obtained from risk retention groups under the Risk Retention Amendments of 1986.
3. Sec. 1606 of Pennsylvania surplus lines law allows for the export of a portion not to exceed 25% of a risk to a non-admitted insurer which does not appear on the Department's eligible surplus lines list.
  4. Contact information for the Pennsylvania Surplus Lines Association is as follows:  
Robin Springer, Office Manager  
Pennsylvania Surplus Lines Association  
211 Welsh Pool Road, Suite 200  
Exton, Pennsylvania 19341  
Tel.: (610) 594-1340  
Fax.: (610) 594-7623  
E-mail: [Rspringer@psla.org](mailto:Rspringer@psla.org).
  5. Every evidence of insurance negotiated, placed or procured by the surplus lines licensee must bear the name of the licensee and the following legend in 10-point type:  
**"The insurer which has issued this insurance is not licensed by the Pennsylvania Insurance Department and is subject to limited regulation. This insurance is NOT covered by the Pennsylvania Insurance Guaranty Association."**

**OTHER COMMENTS OR REQUIREMENTS:**

1. Pennsylvania eligibility list available at <http://www.pasla.org/HTML/Forms.htm>.
2. Surplus lines insurer must advise state of any pending litigation in the United States involving an insurance department.

## GENERAL INFORMATION:

1. Puerto Rico **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Puerto Rico **does not** have a Surplus Lines Association.
3. Puerto Rico **does not** have an Export List.
4. Puerto Rico **does not** allow non-resident brokers to secure surplus lines broker licenses in Puerto Rico. Pursuant to Section 10.110 of the Insurance Code of Puerto Rico, only agents or brokers with an office located in Puerto Rico, may be granted a surplus lines broker license.
5. **Surplus lines tax:** 9%, payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Annual Statement/Report:** certified and in U.S. dollars.
2. **Filing Fee:** \$1,051 Certificate of Eligibility, \$300 Application for Status of Eligibility.
3. **Application.**
4. **Certificate of Eligibility.**

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

**Deposit in State:** Alien insurers (not domiciled within a state of the U.S.), must deposit \$50,000 (with PR bank or Secretary of Treasury of PR) and submit the certificate of deposit to the Office of the Commissioner.

## TYPES OF INSURANCE EXEMPTED FROM REQUIREMENT THAT RISK BE PROCURED FROM AN ELIGIBLE SURPLUS LINES INSURER:

Air and ocean marine risks (see Other Comments or Requirements #6).

## OTHER COMMENTS OR REQUIREMENTS:

1. Puerto Rico eligibility list available at [http://www.ocs.gobierno.pr/ocspr/Portals/0/Regulados/Lic\\_Expedidos/asliex.pdf](http://www.ocs.gobierno.pr/ocspr/Portals/0/Regulados/Lic_Expedidos/asliex.pdf).
2. When a particular risk cannot be insured in whole or in part with an eligible surplus lines insurer, the surplus lines broker may place the risk with an unauthorized insurer if the insurer submits a \$20,000 special deposit with the Secretary of the Treasury of the Commonwealth of Puerto Rico, through the Commissioner.  
For such placements the policy must state conspicuously on its face the following recital in red letters: **“All or a number of the insurers participating in this insurance have not been authorized to transact business in Puerto Rico nor approved as surplus line insurers by the Commissioner of Insurance of this Commonwealth. The transaction of this insurance by a licensed surplus line insurance broker shall not be construed to mean that the Commissioner of Insurance of Puerto Rico approves of such insurer.”**
3. Surplus lines coverage on medical malpractice business is not limited to be only in excess of authorized coverage, whenever the amount offered by authorized insurers in primary coverage is not enough to apply for excess coverage. In such case, the surplus lines broker may discard the available primary coverage and obtain the entire coverage in the surplus lines market.

4. Surplus lines policies on medical malpractice are exempted from premium taxes.
5. Company seeking eligibility status must have been in business at least 5 years.
6. Air and ocean marine risks subject to surplus lines premium tax provisions.
7. A risk must be circulated among (offered to) at least five authorized insurers before it may be exported by a licensed surplus lines broker to the surplus lines market. The broker may assume that the risk is exportable if he does not receive any communication from the authorized insurers among which the risk was offered.

## GENERAL INFORMATION:

1. Rhode Island **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Rhode Island **does not** have a Surplus Lines Association.
3. Rhode Island **does** have an Export List.
4. Rhode Island has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 3%, payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Annual Statement/Report:** certified and in U.S. dollars.
2. **Filing or Other Renewal Fee:** \$100.
3. **Power of Attorney.**
4. **Certificate of Authority:** from domiciliary regulator.
5. **Application.**
6. **Biographical Data.**
7. **Annual Premium Report:** by July 31 (required by Rhode Island Division of Taxation. Reports and Questions should be addressed to Division of Taxation).
8. **Charter and By-Laws.**
9. **Detailed Marketing Plan** certified by corporate secretary.
10. **Certificate of Compliance** from the company's country or state of domicile and a limitation, either in the charter or by statute, that a company cannot retain any one net risk in excess of 10% of its capital and surplus.
11. **Prior operating experience** of at least 3 years (continuous).

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** \$5,000,000.
2. **Capital and Surplus:** follows NAIC requirements (see Appendix E).
3. **NAIC Listing.**

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. If publicly traded, company's most recent form 10K and 10Q.
2. **Certificate of Deposit** executed by domiciliary state official having custody of the deposit.
3. **\$15,000,000 minimum capitalization** (paid-in capital of not less than \$1,000,000 and a surplus of not less than \$2,000,000. If mutual company, a surplus of not less than \$15,000,000).
4. **Actuarial Certification** of loss reserves.
5. **Report of Examination.**
6. **Report of Independent Auditors.**
7. **Rating of A- or better.**

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Policies issued outside Rhode Island involving insurance on vessels, crafts, or hulls, cargoes, marine protection and indemnity or other risks including strikes and war risks commonly insured under ocean marine or wet marine forms.
2. Out-of-state risks.

3. Industrial Insurance which is defined as an insured:
  - Which procures the insurance of any risk by the use of the services of a full time employee acting as insurance manager or buyer or the services of a regularly and continuously retained qualified insurance consultant;
  - Whose aggregate annual premiums on all risks excluding workers' compensation and group total at least twenty-five thousand dollars (\$25,000); and
  - Which has at least twenty-five (25) full-time employees.
3. Every application form for insurance from a surplus lines insurer, every affidavit form executed by the insured, and every policy (on its front and declaration pages) issued by the surplus lines insurer, shall contain in ten (10) point type the following notice:  
**NOTICE**  
**THIS INSURANCE CONTRACT HAS BEEN PLACED WITH AN INSURER NOT LICENSED TO DO BUSINESS IN THE STATE OF RHODE ISLAND BUT APPROVED AS A SURPLUS LINES INSURER. THE INSURER IS NOT A MEMBER OF THE RHODE ISLAND INSURERS INSOLVENCY FUND. SHOULD THE INSURER BECOME INSOLVENT, THE PROTECTION AND BENEFITS OF THE RHODE ISLAND INSURERS INSOLVENCY FUND ARE NOT AVAILABLE.**

**OTHER COMMENTS OR REQUIREMENTS:**

1. Rhode Island eligibility list available at [www.dbr.state.ri.us/divisions/insurance/licensed.php](http://www.dbr.state.ri.us/divisions/insurance/licensed.php).
2. Rhode Island exempts an insured and surplus lines brokers from the requirement of filing an affidavit when obtaining surplus lines insurance for certain insurable interests. The exempted risks include: amusement parks and devices, environmental improvement and/or remediation sites, vacant property or property under renovation, demolition operations, event cancellation due to weather, railroad liability, discontinued products, fireworks and pyrotechnics, warehouseman's legal liability, excess property coverage and contingent liability.

## GENERAL INFORMATION:

1. South Carolina **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. South Carolina **does** have a Surplus Lines Association (see Other Comments section #8).
3. South Carolina **does not** have an Export List.
4. South Carolina has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 4%, payable by broker (see Other Comments section #5).

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Annual Statement/Report.**
2. **Power of Attorney:** Designation of the Director of Insurance of South Carolina as its Attorney to Accept Service (Form SCID 1027ELSI).
3. **Agent's Sponsorship:** (through a licensed resident broker).
4. **Annual Premium Report:** by September 15.
5. **Application** (Form 1000A).
6. **Projected nationwide and S.C. direct premiums by line of business for next 3 years.**
7. **Charter and By-Laws.**

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** Follows NAIC requirements (see Appendix E).
2. **Statement of Assets in Trust.**
3. **NAIC Listing.**
4. **IID Financial Statement.**
5. **Name of U.S. Counsel/Attorney-in-Fact.**

6. **Copy of U.S. Trust Agreement and Summary of Deposits.**
7. **Affidavit of Compliance** (Form 1008).
8. For requalification purposes, as long as an alien eligible surplus lines insurer remains on the NAIC Quarterly Listing of Alien Insurers, it will remain on the South Carolina Insurance Department's approved list of alien surplus lines insurers.

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Holding Company Registration Statement,** if applicable.
2. **Statement of Actuarial Opinion.**
3. **Report on Examination.**
4. **Biographical Data.**
5. **Retaliatory Statement.**
6. **IRIS Results.**
7. **Plan of Operation.**
8. **Management Discussion and Analysis.**
9. **Certificate of Compliance.**
10. **Pro forma balance sheets and income statements: for next 3 years.**

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Contracts of insurance covering risks of transportation and navigation and transactions in South Carolina relative to a policy issued or to be issued outside of South Carolina involving insurance on vessels, craft or hulls, cargoes, marine builders' risks, marine protection and indemnity, or other risks, including strikes and war risks commonly insured under ocean or wet marine forms of policy. (see Other Comments section #4).
2. Industrial Insurance.
3. Life and health insurance and annuities.

**OTHER COMMENTS OR REQUIREMENTS:**

1. South Carolina eligibility list available at <http://www.doi.state.sc.gov/Eng/Public/Company/Company.aspx>.
2. An alien insurer is not permitted to write any class of business in South Carolina for which it is not authorized by its charter.
3. Initial application materials with cover letter must be submitted by a licensed, resident broker for company to be added to eligibility list.
4. Wet marine business (within state's territorial waters) is not exempt from surplus lines regulation.
5. 2% municipal tax may also be imposed in some South Carolina municipalities.
6. South Carolina Insurance Department has determined that it has the authority to require, on a case-by-case basis, a \$150,000 special deposit requirement (\$300,000 if the company is writing more than \$50,000 in premiums) for all surplus lines insurers.
7. Surplus lines policies in South Carolina must contain the following disclosure statement pursuant to South Carolina Code Section 38-45-110 (2002):  
**“This company has been approved by the director or his designee of the South Carolina Department of Insurance to write business in this State as an eligible surplus**

**lines insurer, but it is not afforded guaranty fund protection.”**

8. Contact information for South Carolina's Surplus Lines Association:  
Tapley O. Johnson, Jr. OPCU  
South Carolina Surplus Lines Brokers Association  
c/o TAPCO Underwriters, Inc.  
21 Meeting Street  
Charleston, S.C. 29401  
Phone: (843) 720-2191  
Email: [tapco@mindspring.com](mailto:tapco@mindspring.com)

## GENERAL INFORMATION:

1. South Dakota **does not maintain** a list of eligible surplus lines insurers.
  2. South Dakota **does not** have a Surplus Lines Association.
  3. South Dakota **does not** have an Export List.
  4. South Dakota has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
  5. **Surplus lines tax:** 2.5% (3.0% for fire insurance), payable by broker, or individual (if self-procured).
3. Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.
  4. Insurance of aircraft owned or operated by manufacturers of aircraft, or aircraft operated in scheduled interstate flight, or cargo of the aircraft, or against liability, other than workers' compensation and employer's liability, arising out of the ownership, maintenance, or use of the aircraft.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Power of Attorney.**
2. **Surplus lines broker sponsorship.**
3. **Premium Report:** due April 1.
4. **Financial filings.**

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** follows NAIC requirements (see Appendix E).
2. **NAIC Listing.**

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Ocean marine and foreign trade insurance.
2. Insurance on subjects located, resident, or to be performed wholly outside of South Dakota or on vehicles or aircraft owned and principally garaged outside of South Dakota.

## OTHER COMMENTS OR REQUIREMENTS:

1. Burden is on broker to satisfy himself that company is financially solvent and has requisite trust fund. If alien insurer does not have trust fund then application for eligibility must be made to Director of Insurance.
2. South Dakota insurance business written by a *non-admitted* company **must** be placed through a:
  - Resident or non-resident producer, licensed as a Surplus Lines Broker, or
  - Surplus Lines Broker for risk retention groups or risk purchasing groups - Restricted License
3. A Surplus Lines Broker license may be issued to a Non-Resident agent, in good standing in his state, doing business pursuant to the Federal Risk Retention Act of 1986. The surplus lines broker authority in this instance is limited to the solicitation of commercial liability to only purchasing group or risk retention group members located in South Dakota.
4. A 2.5% tax on self-procured insurance is payable by the insured. The responsibility to inform such insured of his duty to remit the premium tax is placed upon the underwriting insurer, due to his status as the sophisticated party in the insurance transaction.

5. Every insurance contract procured and delivered as a surplus lines coverage must be initialed by or bear the name of the surplus lines broker who procured it and have stamped upon it, in ten point or larger, boldface type, the following:

**“THIS INSURANCE CONTRACT IS ISSUED  
BY A NON-ADMITTED INSURER WHICH  
IS NOT LICENSED BY NOR UNDER THE  
JURISDICTION OF THE SOUTH DAKOTA  
INSURANCE DIRECTOR.”**

## GENERAL INFORMATION:

1. Tennessee **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Tennessee **does not** have a Surplus Lines Association.
3. Tennessee **does not** have an Export List.
4. Tennessee has not been certified as a reciprocal state by the NAIC but **does** allow non-resident brokers to secure reciprocal surplus lines broker licenses in Tennessee if the applicant's home state grants non-resident licenses to residents of Tennessee on the same basis.
5. **Surplus lines tax:** 2.5% on premiums other than fire premiums, 3.25% on fire premiums or the fire portion of any combination premium, and 4.4% on excess risks of workers' compensation.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Annual Statement/Report:** certified and in U.S. dollars (late or incomplete filings subject to a penalty of \$100 per day).
2. **Filing or Other Renewal Fee:** \$675 review fee; \$440 listing fee; \$515 annual statement filing fee (after approval); \$270 annual renewal fee (due March 1).
3. **Agent Sponsorship.**
4. **Certificate of Authority.**
5. **Corporate Structure Chart.**
6. **Three Year Prior Operating History.**
7. **Plan of Operation.**
8. Estimated number of agents that will market policies in Tennessee.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** \$750,000.
2. **Statement of Assets in Trust.**
3. **NAIC Listing:** automatically confers eligibility.

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Report of Examination.**
2. **Quarterly Financial Statements:** on request.
3. **Capital and Surplus:** same as that of a domestic insurer, transacting the same type of business.
4. **Actuarial Opinion** (must contain original signatures and notary).
5. **Certificate of Compliance** issued by domiciliary state.
6. **Management Discussion and Analysis.**
7. **Certificate of Deposit** from the company's state of domicile.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Transactions in Tennessee involving policies lawfully solicited, written and delivered outside of Tennessee covering only subjects of insurance not resident, located or expressly to be performed in Tennessee at the time of issuance or covering property in the course of transportation by land, air or water, to, from or through Tennessee and including any preparation or storage incidental thereto, and which transactions are subsequent to the issuance of such policies.
2. Industrial Insurance.
3. Agents are liable for premium and/or surplus lines tax for 1 and 2 above.

## OTHER COMMENTS OR REQUIREMENTS:

1. Tennessee eligibility list available at [www.state.tn.us/commerce/insurance/surpluslines.html](http://www.state.tn.us/commerce/insurance/surpluslines.html).
2. The company must have been licensed in its country of domicile for at least three years, have competent management, and have not paid any penalties.

3. A \$15 fee is imposed for serving process on the Commissioner of Insurance in his capacity as agent of record for an insurance company.
4. Broker must also have a non-resident P&C license in Tennessee and pay a \$60 fee.
5. The following kinds of insurance are not eligible for surplus lines placements in Tennessee:
  - Primary personal auto;
  - Surety; and
  - Workers' compensation, except for excess workers' compensation.
6. The renewal information for surplus lines companies is also available at the following website: <http://www.state.tn.us/commerce/insurance/companyRes.html> (select "Surplus Lines Company Resources").
7. Every new or renewal insurance contract certificate, cover note or other confirmation of insurance procured and delivered as a surplus lines coverage must bear the name and address of the writing agent and must have stamped or affixed upon it the following:

**“This insurance contract is with an insurer not licensed to transact insurance in this state and is issued and delivered as a surplus line coverage pursuant to the Tennessee insurance statutes.”**

Such document must show the description and location of the subject of the insurance, coverage, conditions and term of the insurance, the premium and rate charged and premium taxes to be collected from the insured, and the name and address of the insured and insurer. If the direct risk is assumed by more than one (1) insurer, the document must state the name and address and proportion of the entire direct risk assumed by each insurer.

**GENERAL INFORMATION:**

1. Texas **does maintain** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Texas **does** have a Surplus Lines Association and a Stamping Office (see Other Comments section #8).
3. Texas **does not** have an Export List.
4. Texas has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley. (see Other Comments section #4).
5. **Surplus lines tax:** 4.85% (+ stamping fee of 0.06%), payable by broker. Note: The 0.06% stamping fee rate applies to each new or renewal surplus lines policy with an effective date on or after July 1, 2007. The 0.06% rate will apply also to policy date extensions if effective on or after this date. Policies effective on or before June 30, 2007 will run to expiration, cancellation, or next annual anniversary date (for multi-year policies) at the old stamping fee rate of .1%. This includes any subsequent endorsements, audits, cancellations, reinstatements, installments, and monthly or quarterly reports.

**ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):**

1. **Annual Statement/Report:** translated and in U.S. dollars: due June 1.
2. **Capital and Surplus:** \$15,000,000.
3. **Agent Sponsorship.**
4. **Certificate of Authority:** certified copy.
5. **Biographical Data:** must be current within 3 years.
6. **List of Surplus Lines Agents in Texas.**
7. **Three Year Business Plan:** due June 1.

**ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):**

1. **Trust Fund:** \$5,400,000 (in a Federal Reserve System Bank).
2. **Statement of Assets in Trust** and copy of Trust Agreement.
3. **Annual premium report:** by June 1.
4. **Actuarial Opinion:** due August 1.
5. **IID Preliminary Financial Information.**
6. **Standard IID Reporting Format:** due August 1.

**ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):**

1. **Latest Examination Report.**
2. NAIC Form 2 **Annual Statement** including page 14 for Texas, **Actuarial Opinion** and **Management Discussion and Analysis** of operations.
3. **NAIC IRIS Ratio Results.**
4. **Regulatory Disclosure Statement.**
5. **Examination Report.**
6. **GAAP/SAP Financial Statement:** by June 1.
7. **S.E.C. 10K Report:** due June 1.
8. **Plan of Operation.**
9. **Audited Financial Report.**
10. **Statement of Actuarial Opinion.**
11. **Quarterly Financial Statements:** due May 15, August 15 and November 15.

**TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:**

**NONE** (see Other Comments #3 below).

**OTHER COMMENTS OR REQUIREMENTS:**

1. Texas eligibility list available at <http://www.tdi.state.tx.us/webinfo/colists.html>.
2. Onus is on broker to ascertain financial stability of insurer.
3. Texas Insurance Code (Chapter 225) provides *tax* exemption for premiums on risks or exposures which are properly allocated to federal waters, international waters or under jurisdiction of a foreign government. Risks located in Texas waters are taxable under state law. Tax exemption does not pre-empt the reporting of the surplus lines policy to the Surplus Lines Stamping Office of Texas, unless 100% of the exposure is tax-exempt or located in other state(s).
4. If a non-resident broker license is being sought by a corporation or partnership, at least one officer or director must also obtain an individual surplus lines license to receive the corporate license for the agency or partnership. If there are any other officers, directors, partners or employees in the agency that will be doing the acts of a surplus lines agent, they will be required to have an individual surplus lines license as well. Applicant must also have either an underlying General Lines P&C Agent license or an MGA license in Texas.
5. All insurance companies, including surplus lines insurers, are required to promptly refund to the insured any unearned premium for a policy.
6. Rates charged by all insurers, including surplus lines insurers, must be "just, fair, reasonable, adequate, not confiscatory and not excessive for the risks to which they apply, and not unfairly discriminatory."
7. Texas no longer requires a surety bond or other proof of financial responsibility for licensure of surplus lines agents.
8. Texas Surplus Lines Association  
Website: [www.tsla.org](http://www.tsla.org).  
Contact: Jean Patterson, Executive Director  
Texas Stamping Office  
Website: [www.slsot.org](http://www.slsot.org).

Contact: Phil Ballinger, Executive Director

9. A policy issued by an eligible surplus lines insurer or a certificate of insurance issued by the surplus lines agent must contain a provision stating and designating the Person to whom the commissioner is to mail process. The plaintiff must supply this address in any citation served under this section.

A surplus lines document must state, in 11-point type, the following:

**This insurance contract is with an insurer not licensed to transact insurance in this state and is issued and delivered as surplus line coverage under the Texas insurance statutes. The Texas Department of Insurance does not audit the finances or review the solvency of the surplus lines insurer providing this coverage, and the insurer is not a member of the property and casualty insurance guaranty association created under Article 21.28- C, Insurance Code. Section 12, Article 1.14- 2, Insurance Code, requires payment of a (insert appropriate tax rate) Percent tax on gross premium.**

A surplus lines document must show:

- (1) the description and location of the subject of the insurance;
- (2) the coverage, conditions, and term of the insurance;
- (3) the premium and rate charged, and premium taxes to be collected from the insured;
- (4) the name and address of:
  - (A) the insured;
  - (B) the insurer; and
  - (C) the insurance agent who obtained the surplus line coverage; and
- (5) if the direct risk is assumed by more than one insurer:
  - (A) the name and address of each insurer; and
  - (B) the proportion of the entire direct risk assumed by each insurer.

**GENERAL INFORMATION:**

1. Utah **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Utah **does** have a Surplus Lines Association.
3. Utah **does** have an Export List (see Other Comments section #1).
4. Utah has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 4.25% (the insurer, all brokers involved in the transaction, and the policyholder are jointly and severally liable for payment). Also, stamping office fee of 0.25%; not applicable to ocean marine insurance.

**ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):**

1. **Annual Statement/Report:** due within 60 days of the date it is required by the domiciliary authority.
2. **Application.**
3. **Capital and Surplus:** \$15,000,000.
4. **Filing Fee:** \$1,002 (application); \$352 (renewal), plus retaliatory provision.
5. **Biographical Data.**
6. **Power of Attorney.**
7. **Statement of Assets in Trust.**
8. **Letter** addressed to Commissioner requesting to be on list.
9. **Prior Operating History** of at least 3 years.

**ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):**

NAIC listing.

**ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):**

1. **Report of Examination.**
2. **Certificate of Deposit.**
3. **Risk-Based Capital Report.**
4. **Statement** detailing the types of insurance products to be offered.
5. **Trust Fund:** \$2,500,000 in statutory deposit or irrevocable trust fund.

**TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:**

Ocean marine insurance.

**OTHER COMMENTS OR REQUIREMENTS:**

1. Utah eligibility and export lists available at [www.insurance.utah.gov/SurppLines.html](http://www.insurance.utah.gov/SurppLines.html).
2. For alien insurers to retain eligibility, the company need only continue its NAIC listing, file an Annual Report, and pay a \$250 Renewal Fee, and provide other information required in the annual review packet.
3. Applicant may be required to submit quarterly statements, changes in directors and officers, and updated accounting or financial information during the pendency of the application.

4. A policy issued must include a description of the subject of the insurance and indicate the coverage, conditions, and term of the insurance, the premium charged and premium taxes to be collected from the policyholder, and the name and address of the policyholder and insurer. If the direct risk is assumed by more than one insurer, the policy must state the names and addresses of all insurers and the portion of the entire direct risk each has assumed. All policies issued under the authority of this section must have attached or affixed to the policy the following statement:

**“The insurer issuing this policy does not hold a certificate of authority to do business in this state and thus is not fully subject to regulation by the Utah insurance commissioner. This policy receives no protection from any of the guaranty associations created under Title 31A, Chapter 28.”**

## GENERAL INFORMATION:

1. Vermont **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Vermont **does not** have a Surplus Lines Association.
3. Vermont **does not** have an Export List.
4. Vermont has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 3%, paid quarterly by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Annual Statement/Report:** certified and in U.S. dollars.
2. **Filing or Other Renewal Fee:** \$300 Annual Listing Fee: \$100 filing of Annual Report, subject to retaliation. Total due on or before March 1.
3. **Capital and Surplus:** \$10,000,000.
4. **Gross Premium Report:** by September 30.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** follows NAIC requirements.
2. **Statement of Assets in Trust.**

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Report of Examination.**
2. **Biographical Data.**
3. **Certificate of Deposit.**
4. **Certificate of Compliance.**
5. **Charter & By-Laws.**
6. **Plan of Operation.**

7. **Audited Financial Report.**
8. **IRIS Report.**

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Insurance on property or operations of aircraft or railroads engaged in transportation in interstate and foreign commerce.
2. Insurance on vessels, crafts, or hulls, cargoes, marine builder's risks, marine protection and indemnity or other risks including strikes and war risks commonly insured under ocean or wet marine forms of policy.
3. Transactions involving wet marine and transportation insurance covering property in the course of transportation by land, air, or water, to, from or through Vermont and including any preparation or storage incidental thereto.
4. Industrial Insurance.

## OTHER COMMENTS OR REQUIREMENTS:

1. Vermont eligibility list available at [http://www.bishca.state.vt.us/InsurDiv/Forms\\_CompanyLicensing/Insurer\\_Lists/index\\_authorized\\_insurers.html](http://www.bishca.state.vt.us/InsurDiv/Forms_CompanyLicensing/Insurer_Lists/index_authorized_insurers.html).
2. Vermont Insurance Department Bulletin 134 (November 8, 2001) clarifies the Department's policy on whether surplus lines liability carriers must provide coverage for punitive as well as compensatory damages. The Department allows surplus lines carriers to exclude punitive damages from surplus lines policies because that encourages the development of the surplus lines insurance market and the coverage of risks that would not otherwise be covered.

3. Each surplus lines broker through whom a surplus lines insurance coverage is procured shall endorse on the outside of the policy and on any confirmation of the insurance, his or her name, address and license number, and the name and address of the producer, if any, through whom the business originated. Where such coverage is placed with an eligible surplus lines insurer there shall be stamped or written conspicuously in no smaller than 10 point boldface type of a contrasting color upon the first page of the policy and the confirmation of insurance if any,  
**“The company issuing this policy has not been licensed by the state of Vermont and the rates charged have not been approved by the commissioner of insurance. Any default on the part of the insurer is not covered by the Vermont Insurance Guaranty Association.”**

## GENERAL INFORMATION:

1. The U.S. Virgin Islands **does maintain** a list of eligible surplus lines insurers (see Other Comments section #1).
2. The U.S. Virgin Islands **does not** have a Surplus Lines Association.
3. The U.S. Virgin Islands **does not** have an Export List.
4. The U.S. Virgin Islands **does not** allow non-resident brokers to secure surplus lines broker licenses in the U.S. Virgin Islands.
5. **Surplus lines tax:** 5% of quarterly gross premiums less returns, payable by licensed surplus lines broker on or before the first day of February, May, August and November of each year.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Annual Statement/Report.**
2. **Filing or renewal fee:** \$600 with initial application; \$350 re-certification; \$450 for late re-certification.
3. **Agent Sponsorship:** request to add company to eligibility list required from licensed surplus lines agent.
4. **Gross Premium Report** (due quarterly).

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** minimum of \$2,500,000.
2. **Capital and Surplus:** not less than \$7,000,000 in the aggregate.
3. Copy of **Trust Agreement:** with initial application.

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Capital & Surplus:** not less than \$7,000,000 in the aggregate.
2. **Examination Report.**
3. **IRS Tax Filings.**

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Ocean marine and foreign trade insurance.
2. Insurance on subjects located, resident, or to be performed wholly outside of the U.S. Virgin Islands, or on vehicles or aircraft owned and principally garaged outside of the U.S. Virgin Islands.
3. Insurance of aircraft owned or operated by manufacturers of aircraft, or aircraft operated in scheduled interstate flight, or cargo of the aircraft, or against liability, other than employer's liability, arising out of the ownership, maintenance, or use of the aircraft.

## OTHER COMMENTS OR REQUIREMENTS

1. U.S. Virgin Islands eligibility list available at [cheryl.peets@lgo-vi.gov](mailto:cheryl.peets@lgo-vi.gov).
2. Agents or brokers placing exempted coverages above are required to maintain a full and true record, for not less than five years, of each such coverage as required for surplus lines insurance. The record must be kept available in the U.S. Virgin Islands for the examination of the Commissioner of Insurance.
3. Surplus lines brokers must file a quarterly statement with the Commissioner on or before the first day of February, May, August, and November of each year.

4. Although certain types of insurance are exempted from surplus lines regulation, the taxes (5%) on the premiums collected on the portion of risks located in the U.S. Virgin Islands must be remitted to the Commissioner of Insurance.
5. Within thirty (30) days after the procuring of any surplus lines insurance, the surplus lines broker must execute and shall file with the Commissioner a written report, which shall include: the name and address of the insured; the identity of the insurer or insurers; a description of the subject and location of the risk; the amount of premium charged for the insurance; and such other pertinent information as the Commissioner may reasonably require.

## GENERAL INFORMATION:

1. Virginia **maintains** a list of eligible surplus lines insurers (see Other Comments section #1).
2. Virginia **does** have a Surplus Lines Association (see Other Comments section #6).
3. Virginia **does not** have an Export List.
4. Virginia has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley (see Other Comments section #3).
5. **Surplus lines tax:** 2.25%, (except workers' compensation) payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Annual Statement/Report:** translated and due no later than March 1 for foreign (unless the insurer's state of domicile or port of entry has established a later filing date), August 31 for alien.
2. **Power of Attorney:** The Clerk of the State Corporation shall be deemed to be appointed the agent for service of process.
3. **Capital and Surplus:** \$15,000,000.
4. **Plan of Operation** (for initial application).
5. **Reinsurance Data:** Including a summary of net retentions, by line or risks, and list of reinsurers for all types of business worldwide for prior year (for initial application).
6. **Broker Sponsorship** (for initial application).

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** \$2,500,000.
2. **Statement of Assets in Trust.**
3. **Copy of Trust Agreement.**

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Certificate of Compliance.**
2. **List of States:** (1) where presently licensed, (2) where license applications are pending, and (3) where the company operates or plans to operate as a surplus lines insurer (for initial application).

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Insurance on vessels or crafts, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine insurance policies, as distinguished from inland marine insurance policies. However, other provisions of Title 38.2 of the Code of Virginia may apply.
2. Insurance of the rolling stock and operating properties of railroads used in interstate commerce or of any liability or other risks incidental to the ownership, maintenance or operation of such railroads. However, other provisions of Title 38.2 of the Code of Virginia may apply.
3. Industrial Insurance.

## OTHER COMMENTS OR REQUIREMENTS:

1. Current list of foreign and alien approved insurers available at Virginia Insurance Department's website at <http://www.scc.virginia.gov/division/boi/external/app/companylookup>.
2. Exempted classes of insurance subject to premium taxes must be placed by a Virginia licensed surplus lines broker.
3. Broker must have a surplus lines broker license in home state and complete an application.

4. Virginia allows a surplus lines carrier to sell ultralight aircraft insurance as defined by the Federal Aviation Administration. Ultralight aircraft owners are required by state financial responsibility laws to either carry a \$100,000 insurance policy or deposit \$50,000 with the state Treasury.
5. A notice in a form prescribed by the Commission must be given to the insured by the surplus lines broker procuring the policy or by any duly licensed property and casualty insurance agent placing surplus lines business with the surplus lines broker. The notice must contain, but not be limited to, statements that the policy is being procured from or has been placed with an insurer approved by the Commission for issuance of surplus lines insurance in this Commonwealth, but not licensed or regulated by the Commission and that there is no protection under the Virginia Property and Casualty Insurance Guaranty Association against financial loss to claimants or policyholders because of the insolvency of an unlicensed insurer. The notice must also set forth the name, license number and mailing address of the broker. The notice must be given prior to placement of the insurance. In the event coverage must be placed and become effective within twenty-four hours after referral of the business to the surplus lines broker, the notice may be given promptly following such a placement. In addition, a copy of the notice must be affixed to the policy.
6. The Virginia Surplus Lines Association is a private organization and not sanctioned by the State Corporation Commission. Contact information is as follows: [gregpov@atlanticspecial.com](mailto:gregpov@atlanticspecial.com).

## GENERAL INFORMATION:

1. Washington **does not** maintain a list of eligible surplus lines insurers.
2. Washington **does** have a Surplus Lines Association (see Other Comments section #3).
3. Washington **does not** have an Export List.
4. Washington has not been certified as a reciprocal state by the NAIC but **does** allow non-resident brokers to secure a surplus lines broker license in Washington (see Other Comments section #4).
5. **Surplus lines tax:** 2%, payable by surplus lines broker, plus 0.25% stamping fee.

## ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

**Annual Statement/Report:** (translated and converted to U.S. dollars) or other financial information is required to be maintained by surplus line broker, with courtesy copy to Washington Surplus Line Association.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Capital & Surplus:** follows NAIC requirements (see Appendix E).
2. **Trust Fund:** \$5,400,000.
3. **NAIC Listing:** not required but insurer is deemed to meet requirements if listed.

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. **Capital & Surplus:** \$15,000,000 or substantially equivalent funds, of which \$1,500,000 is capital.
2. **Certificate of Compliance.**
3. **Articles of Incorporation.**

4. **Quarterly Financial Statements.**
5. **IRIS Report.**

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Ocean marine and foreign trade insurances.
2. Insurance on subjects located, resident, or to be performed wholly outside of Washington or on vehicles or aircraft owned and principally garaged outside of Washington.
3. Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.
4. Insurance of aircraft owned or operated by manufacturers of aircraft, or aircraft operated in scheduled interstate flight, or cargo of the aircraft, or against liability, other than workers' compensation and employer's liability, arising out of the ownership, maintenance, or use of the aircraft.

## OTHER COMMENTS OR REQUIREMENTS:

1. If alien is not on NAIC List, broker must be satisfied that insurer is financially sound.
2. Policy filings and surplus lines broker affidavit filed with the Surplus Line Association within 30 days of procurement.
3. Contact information for the Surplus Line Association of Washington is as follows:  
Al Dorow, Manager  
Surplus Line Association of Washington  
1710 One Union Square  
600 University Street  
Seattle, Washington 98101-1129  
Tel.: (206) 682-3409  
Fax.: (206) 623-3326  
E-mail: [al@surpluslines.org](mailto:al@surpluslines.org)

4. Non-resident surplus line broker license may be issued: 1) if the laws of the state, province or domicile of the non-resident extend a similar privilege to residents of Washington; and b) the non-resident must meet the same qualifications, other than residency, as any other person seeking to be licensed as a surplus line broker under RCW 48.15.  
A non-resident surplus lines broker has all the same responsibilities as any other surplus lines broker and is subject to the commissioner's supervision and rules adopted under RCW 48.15.
5. Every insurance contract, including those evidenced by a binder, procured and delivered as a surplus lines

coverage must have a conspicuous statement stamped upon its face, which must be initialed by or bear the name of the surplus lines broker who procured it, as follows:

**“This contract is registered and delivered as a surplus line coverage under the insurance code of the state of Washington, enacted in 1947. It is not issued by a company regulated by the Washington state insurance commissioner and is not protected by any Washington state guaranty fund law.”**

## GENERAL INFORMATION:

1. West Virginia **does maintain** a list of eligible surplus lines insurers (see Other Comments Section #1).
  2. West Virginia **does** have a Surplus Lines Association.
  3. West Virginia **does** have an Export List (see Other Comments Section #1).
  4. West Virginia has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
  5. **Surplus lines tax:** 4% (+0.5% policy surcharge) payable by policyholder, collected and remitted to Commissioner by surplus lines licensee. The surplus lines tax is imposed on gross fees charged to the policyholder in addition to net premiums. Fees are not subject to the policyholder surcharge.
2. Maintain **Capital and Surplus** of no less than \$15,000,000.
  3. File a signed copy of the **Annual Statement Jurat** page.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

Transactions in West Virginia relative to a policy issued or to be issued outside West Virginia involving insurance on cargo vessels, their craft or hulls, their cargoes, marine builder's risks, marine protection and indemnity or other risks, including strikes and war risks, commonly insured under ocean or wet marine forms of policy.

## OTHER COMMENTS OR REQUIREMENTS:

### ELIGIBILITY AND FILING REQUIREMENTS (ALL INSURERS):

1. **Application.**
2. **Plan of Operation.**
3. **Requalification Fee:** \$100.

### ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **NAIC Listing.**
2. Current certificate from the Insurance Regulatory Authority in jurisdiction of domicile.
3. Attestation of Filing of IID Financial Format.

### ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

1. Copy of **Certificate of Authority** from the Insurance Regulatory Authority in state of domicile.

1. West Virginia eligibility and export lists are available at [www.wvinsurance.gov/company/company.htm](http://www.wvinsurance.gov/company/company.htm).
2. Excess line brokers may procure insurance from unlicensed insurers if the business is not procurable from a licensed company.
3. Insurer must be solvent.
4. The excess line broker may charge the prospective policyholder a fee for the cost of underwriting, issuing, processing, inspecting, servicing or auditing the policy for placement with the excess line insurer if:
  - The service is required by the excess line insurer.
  - The service is actually provided by the excess line broker or the cost of the service is actually incurred by the excess line broker.
  - The provision or cost of the service is reasonable, documented and verifiable.

An excess line broker may now collect fees which meet these requirements.

5. West Virginia essentially adopted the NAIC Nonadmitted Insurers Model Act effective 6/5/03. The legislation amended and reenacted the West Virginia Surplus Lines – Nonadmitted Insurance Act

by substituting §§ 33-12C-1 through 33-12C-29 for the former §§ 33-12C-1 through 33-12C-15. The new provisions are significantly different from the prior law.

6. Effective 1/1/05, the countersignature requirements of West Virginia Code § 33-12C-24 are no longer required.
7. Inquiries may be directed to:  
Financial Conditions Division  
P.O. Box 50540  
Charleston, WV 25305-0540  
Phone: 304-558-2100  
Fax: 304-558-1365  
Email: [financial.conditions@wvinsurance.gov](mailto:financial.conditions@wvinsurance.gov)
8. The surplus lines licensee shall give the following consumer notice to every person applying for insurance with a nonadmitted insurer. The notice shall be printed in sixteen-point type on a separate document affixed to the application. The applicant shall sign and date a copy of the notice to acknowledge receiving it. The surplus lines licensee shall maintain the signed notice in its file for a period of ten years from expiration of the policy. The surplus lines licensee shall tender a copy of the signed notice to the insured at the time of delivery of each policy the licensee transacts with a nonadmitted insurer. The copy shall be a separate document affixed to the policy.

**“Notice**

**1. An insurer that is not licensed in this state is issuing the insurance policy that you have applied to purchase. These companies are called “nonadmitted” or “surplus lines” insurers. 2. The insurer is not subject to the financial solvency regulation and enforcement that applies to licensed insurers in this state. 3. These insurers generally do not participate in insurance guaranty funds created by state law. These guaranty funds will not pay your claims or protect your assets if the insurer becomes**

**insolvent and is unable to make payments as promised. 4. Some states maintain lists of approved or eligible surplus lines insurers and surplus lines brokers may use only insurers on the lists. Some states issue orders that particular surplus lines insurers cannot be used. 5. For additional information about the above matters and about the insurer, you should ask questions of your insurance agent or surplus lines licensee. You may also contact your insurance commission consumer help line.”**

9. No contract of insurance placed by a surplus lines licensee in West Virginia shall be binding upon the insured and no premium or fee charged shall be due and payable until the surplus lines licensee shall have notified the insured in writing, in a form acceptable to the commissioner, a copy of which shall be maintained by the licensee with the records of the contract and available for possible examination, that:
  - (1) The insurer with which the licensee places the insurance is not licensed by this state and is not subject to its supervision; and
  - (2) In the event of the insolvency of the surplus lines insurer, losses will not be paid by the state insurance guaranty fund.
  - (3) Nothing herein contained shall nullify any agreement by any insurer to provide insurance.
10. Eligibility, filing requirements and attestation forms can be found on the WVDOI website at [www.wvinsurance.gov](http://www.wvinsurance.gov) by clicking on the “Forms” section on the first page of website.
11. Each surplus lines insurance policy or evidence of insurance shall have printed or stamped in contrasting color on the front page the following statement:  
**THIS COMPANY IS NOT LICENSED TO DO BUSINESS IN WEST VIRGINIA AND IS NOT SUBJECT TO THE WEST VIRGINIA INSURANCE GUARANTY ACT.**

## GENERAL INFORMATION:

1. Wisconsin no longer publishes a list of eligible surplus lines insurers (see Other Comments section #2).
2. Wisconsin **does not** have a Surplus Lines Association.
3. Wisconsin **does not** have an Export List.
4. Wisconsin has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. Surplus lines tax: 3% (0.5% ocean marine), payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. All alien insurers listed by the NAIC are acceptable.
2. Brokers may place business with a non-listed company provided they file appropriate forms and company has not been prohibited from doing business.

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY)

Wisconsin is a “broker responsible” state, which means that the burden is placed on the surplus lines broker to inquire into the insurer’s financial stability and capacity.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

Wisconsin lists types of insurance that cannot be written by unlicensed insurers. Such prohibited coverages include title, mortgage guaranty insurance, or workers’ compensation insurance.

## OTHER COMMENTS OR REQUIREMENTS:

1. Further information at <http://oci.wi.gov/unauthor.htm>.
2. Section 618.41 (6)(d), Wis. Stat., states that the Commissioner **may** issue lists of unauthorized nondomestic insurers (surplus lines carriers) he or she believes to be reliable and solid. The office has, for many years, issued such a list upon a limited review of financial statements filed by unauthorized nondomestic insurers wishing to be placed on the list. Due to resource demands on the Bureau of Financial Analysis and Examinations, the area of the office that produced the list, continued publication of the list is no longer possible.

The Wisconsin Insurance Commissioner has determined that he can no longer provide the lists contemplated in s. 618.41 (6)(d), Wis. Stat., and will no longer evaluate financial statements submitted to the Commissioner’s office for that purpose.

3. Every new or renewal insurance policy procured and delivered in Wisconsin shall bear the name and address of the insurance agent or broker who procured it and, except for ocean marine insurance, shall have stamped or affixed upon it the following: **“This insurance contract is with an insurer which has not obtained a certificate of authority to transact regular insurance business in the state of Wisconsin, and is issued and delivered as a surplus line coverage pursuant to s. 618.41 of the Wisconsin Statutes. Section 618.43(1), Wisconsin Statutes, requires payment by the policyholder of 3% tax on gross premium.”** Every ocean marine insurance policy shall have stamped or affixed upon it the above statement except that the tax shall be one-half of one percent on gross premium.

## GENERAL INFORMATION:

1. Wyoming **does not maintain** a list of eligible surplus lines insurers.
2. Wyoming **does not** have a Surplus Lines Association.
3. Wyoming **does** have an Export List (see Other Comments section #1).
4. Wyoming has been certified by the NAIC as having satisfied the licensing reciprocity requirements of Gramm-Leach-Bliley.
5. **Surplus lines tax:** 3%, payable by broker.

## ELIGIBILITY AND FILING REQUIREMENTS (ALIEN INSURERS ONLY):

1. **Trust Fund:** \$3,500,000, unless company is NAIC listed.
2. **Capital and Surplus:** \$3,500,000, and licensed in at least one state, unless company is NAIC listed.

## ELIGIBILITY AND FILING REQUIREMENTS (FOREIGN INSURERS ONLY):

Authorized to transact insurance of the kind involved in at least 1 state with unimpaired capital and surplus, or an effective trust fund, amounting to at least \$3,500,000.

## TYPES OF INSURANCE EXEMPTED FROM SURPLUS LINES REGULATION:

1. Wet marine and transportation insurance.
2. Insurance on subjects located, resident, or to be performed wholly outside of Wyoming or on vehicles or aircraft owned and principally garaged outside Wyoming.

3. Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.
4. Insurance of aircraft owned or operated by manufacturers of aircraft, or aircraft operated in scheduled interstate flight, or cargo of the aircraft, or against liability, other than workers' compensation and employer's liability, arising out of the ownership, maintenance, or use of the aircraft.

## OTHER COMMENTS OR REQUIREMENTS:

1. Insurance coverages available for export in Wyoming include: liquor dealers liability, lawyers professional liability, accountants professional liability, architects and engineers professional liability, and pension and welfare fund fiduciary responsibility insurance.
2. Broker must ascertain financial condition and compliance with trust requirements before placing insurance with that insurer.
3. NAIC listing makes alien company automatically eligible.
4. For more information, contact Wyoming Insurance Department's website at <http://insurance.state.wy.us/>.
5. Any insurance contract procured and delivered as a surplus lines coverage must have stamped upon it, initialed by or bearing the name of the surplus lines broker who procured it, the following:  
**"This insurance contract is issued pursuant to the Wyoming Insurance Laws by an insurer neither licensed by nor under the jurisdiction of the Wyoming Insurance Department."**

# APPENDIX A

## SURPLUS LINES TAX LAWS BY STATE

<i>State</i>	<i>Statutory Citation to Insurance Code</i>	<i>Tax Rate Applied</i>
<b>Alabama</b>	§27-10-31	6% (annually)
<b>Alaska</b>	§21.09.210 §21.34.180 §21.34.190	2.7% (+1% filing fee) 0.75% (wet marine) (annually)
<b>Arizona</b>	§20-415 §20-416(a)	3% (semi-annually) (+ 0.20% stamping fee on all business having an effective date of July 1, 2006 or later). Any transactions having an effective date of July 1, 2004 through December 31, 2005 will be charged at 0.25%. Those transactions having an effective date prior to July 1, 2004 will be charged at 0.35%.
<b>Arkansas</b>	§23-65-315	4% (within 60 days after surplus lines insurance written)
<b>California</b>	§1775.5 §1780.56(b)	3% (+ stamping fee of 0.125%) (annually)
<b>Colorado</b>	§10-5-111	3%
<b>Connecticut</b>	§38(a)-743	4% (annually)
<b>Delaware</b>	§1917 §702(c)(1) and §707(a)	1.75% 5.0% (wet marine and transportation insurance) 0.25% (special premium tax, except for wet marine) (annually)
<b>District of Columbia</b>	§31-2502.40	2% (bi-annually)
<b>Florida</b>	§626.932 §626.921(f)	5% (not wet marine and transportation) + 0.1% service fee (monthly) (Note: The service fee was decreased from 0.2% to 0.1% effective April 1, 2007. All endorsements, audits, installments, cancellations or return of premium transactions will be at the same rate as applied at the inception date of the policy/certificate)
<b>Georgia</b>	§33-5-31	4% (quarterly)
<b>Hawaii</b>	§431:8-315	4.68% (annually)
<b>Idaho</b>	§41-1229	1.50% (+ stamping fee of 0.25%)

<i>State</i>	<i>Statutory Citation to Insurance Code</i>	<i>Tax Rate Applied</i>
<b>Illinois</b>	5/445	3.5% (+ 0.1% stamping office fee) (1% fire marshal tax) (bi-annually) (The stamping fee rate was decreased from 0.3% to 0.1% effective 7/1/06. For policies with an effective date prior to 7/1/06, the 0.3% stamping fee rate will apply for the policy and for any subsequent endorsements to that policy, regardless of the effective date of the endorsement.)
<b>Indiana</b>	§27-1-15.8-4	2.5% (bi-annually)
<b>Iowa</b>	§507A.9 §432.1(4)(a)	1.00% (annually)
<b>Kansas</b>	§40-246c	6% (within 120 days of writing risk)
<b>Kentucky</b>	§304.10-180	3% (annually)
<b>Louisiana</b>	§22:1265(A)(2)	5% (quarterly)
<b>Maine</b>	Title 24-A §2016 Title 36 §2513	3% of difference between gross premiums and return premiums (within 45 days of end of each quarter)
<b>Maryland</b>	§3-324, 3-325	3% (bi-annually)
<b>Massachusetts</b>	Ch. 175 §168 Ch.175 §169	4% (annually)
<b>Michigan</b>	§500.1905(3)(d)	2% (+ regulatory fee of 0.5% on premiums written in the state) (bi-annually)
<b>Minnesota</b>	§297I.05(7)(a)	3%, less returns and dividends payable by individual licensee (bi-annually)
<b>Mississippi</b>	§83-21-25	4% (+0.25% stamping fee on all policies with effective dates of 7/1/03 and after). (Note: Stamping fee continues to be 1% on all policies with effective dates prior to 12/31/00 and 0.5% on policies with effective dates from 1/1/01 to 6/30/03)
<b>Missouri</b>	§384.059, §384.061	5% (annually)
<b>Montana</b>	§33-2-311, §33-2-705(2), §33-2-321, §50-3-109(1)	2.75% (+ 1% stamping fee and 2.5% additional tax on fire portions of surplus lines payments) (annually)
<b>Nebraska</b>	§44-5506 §81-523	3% (+ additional tax up to 0.75% on fire peril lines) (annually)
<b>Nevada</b>	§685A.180(1) §680B.027(1)	3.5% (+ .4% stamping fee applicable to all premiums)
<b>New Hampshire</b>	§405:29	2% (annually)
<b>New Jersey</b>	§17:22-6.59	3% (quarterly)
<b>New Mexico</b>	§59A-6-2	3.003% (quarterly)

<i>State</i>	<i>Statutory Citation to Insurance Code</i>	<i>Tax Rate Applied</i>
<b>New York</b>	§2118(d)(1)	3.6% (+ 0.2% stamping fee payable to ELANY on all excess lines placements which incepted on or after July 1, 2005. The stamping fee is 0.3% on policies filed with an inception date between July 1, 2004 and June 30, 2005; and 0.4% on excess lines policies with an inception date prior to July 1, 2004)
<b>North Carolina</b>	§58-21-85	5% (quarterly)
<b>North Dakota</b>	§26.1-03-17 §26.1-44-06	2% on life insurance 1.75% on accident & health insurance 1.75% on all other lines (annually)
<b>Ohio</b>	§3905.36	5% (annually)
<b>Oklahoma</b>	36§§629 1115	6% (on or before end of month following quarter) If premium tax of previous year greater than \$1000, remit quarterly estimates.
<b>Oregon</b>	§731.820(1) §735.470	2% payable by broker; and an additional 1% on “fire” related coverages payable by broker, plus \$5 flat stamping fee applicable for each new or renewal (not endorsement) transaction.
<b>Pennsylvania</b>	40 §991.1621	3% (+ \$15.00 stamping fee) (annually)
<b>Puerto Rico</b>	T.26 §1013	9% (within 60 days)
<b>Rhode Island</b>	§27-3-38(d)	3% (annually)
<b>South Carolina</b>	§38-45-20	4% (quarterly)
<b>South Dakota</b>	§58-32-44 refers to Title 10 (Taxation) §10-44-2(3) §10-44-9	2.5% (1.25% for life insurance policies, with face amount of \$7,000 or less) 3% for fire insurance (annually, except if more than \$5,000 of surplus lines premium tax, then quarterly)
<b>Tennessee</b>	§56-14-113 §56-4-206	2.5% on non-fire premiums 3.25% on fire premiums 4.4% on workers’ compensation (bi-annually)
<b>Texas</b>	Ins. § 225.004	4.85% (+ stamping fee of .06%) (Note: The 0.06% stamping fee rate applies to each new or renewal surplus lines policy with an effective date on or after July 1, 2007. The 0.06% rate will apply also to policy date extensions if effective on or after this date. Policies effective on or before June 20, 2007 will run to expiration, cancellation, or next annual anniversary date (for multi-year policies) at the old stamping fee rate of .1%. This includes any subsequent endorsements, audits, cancellations, reinstatements, installments, and monthly or quarterly reports.
<b>Utah</b>	R 590-157-5 §31A-3-301 §31A-15-103	4.25% (+ 0.25% stamping office fee) (not ocean marine insurance) (due 25th day of the following month closing the quarter)

<i>State</i>	<i>Statutory Citation to Insurance Code</i>	<i>Tax Rate Applied</i>
<b>Vermont</b>	T.8 §5035	3% (quarterly)
<b>U.S. Virgin Islands</b>	T.22 §662(a) T.22 §603(b)	5% (quarterly)
<b>Virginia</b>	§38.2-4809(A)(1) refers to Article 1, Title 58.1-2500 et seq. (Taxation) §58.1-2501(A)(1)	2.25% (except workers' compensation) (quarterly if premium tax liability is expected to exceed \$1,500)
<b>Washington</b>	§48.14.020 §48.15.120	2% (+0.25% stamping fee, effective 7/1/06. The .40% stamping fee applies to all policies effective prior to 7/1/06, including their endorsements, regardless of issue date)
<b>West Virginia</b>	§33-12C-7	4% (quarterly) (+0.5% policy surcharge)
<b>Wisconsin</b>	§618.43 Ins. Reg. 6.17	3% (for all lines except 0.5% for ocean marine) (annually)
<b>Wyoming</b>	§26-11-118	3% (annually)

# APPENDIX B

## DIRECT PROCUREMENT TAX LAWS

### BY STATE

<i>State</i>	<i>Statutory Citation to Insurance Code</i>	<i>Tax Rate Applied</i>
<b>Alabama</b>	§27-10-35(c)	4% (within 30 days)
<b>Alaska</b>	§21.33.061(c)	3% (annually) 0.75% (wet marine, transportation)
<b>Arizona</b>	§20-401.07(a)	3% (annually) (Industrial Insurance only)
<b>Arkansas</b>	§23-65-103(c)	2% (within 30 days after insurance procured, continued or renewed)
<b>California</b>	§1760(b) Cal. Rev. & Tax Code §13201 Cal. Rev. & Tax Code §13210	3% (Payable on or before the 1st day of the 3rd month following the close of any calendar quarter during which a nonadmitted insurance contract took effect or was renewed)
<b>Colorado</b>	§10-3-903(2)(d) §10-3-209 §10-3-909	2% (annually)
<b>Connecticut</b>	§38a-271 §38a-277(c)	4% (annually) (excluding wet marine and transportation)
<b>Delaware</b>	—	—
<b>District of Columbia</b>	—	—
<b>Florida</b>	§626.938(3)	5% plus .3% service fee payable to the FLSO (within 30 days). (Insured must also report the premium to the FLSO using forms designated by the FLSO or in a computer readable format)
<b>Georgia</b>	§33-5-33(b)	4% (within 30 days)
<b>Hawaii</b>	§431:8-205(c)	4.68% (within 60 days)
<b>Idaho</b>	§41-1233 §41 1229	2.75% - for policies issued in 2004, 2005 and 2006. 1.5% - for policies issued in 2007 and thereafter (within 30 days after insurance procured, continued or renewed)
<b>Illinois</b>	—	—
<b>Indiana</b>	—	—

<i>State</i>	<i>Statutory Citation to Insurance Code</i>	<i>Tax Rate Applied</i>
<b>Iowa</b>	§507A.9 §432.1 (4)(a) - (e)	2% - Prior to 2004 1.75% - 2004 1.50% - 2005 1.25% - 2006 1% - 2007 and subsequent calendar years.
<b>Kansas</b>	—	—
<b>Kentucky</b>	§304.11-030 §304.11-050(1)	2% (annually)
<b>Louisiana</b>	§22:1265(B)	5% (quarterly)
<b>Maine</b>	Title 24-A §2113(3)	3% (within 30 days)
<b>Maryland</b>	§4-210 §4-211(b)(1)	3% (annually)
<b>Massachusetts</b>	—	—
<b>Michigan</b>	§500.1951	2% 0.5% (regulatory fee) (within 30 days)
<b>Minnesota</b>	§60A.19(8) §297I.05	2% (annually) (except life insurance)
<b>Mississippi</b>	§83-5-61	3% (+\$1.00 on each policy procured)
<b>Missouri</b>	§384.051(4)	5% (annually)
<b>Montana</b>	§33-2-705	2.75% (annually)
<b>Nebraska</b>	—	—
<b>Nevada</b>	§680B.040 §680B.027(1)	3.5% (within 30 days)
<b>New Hampshire</b>	§406-B:17(III)	4% (annually) 2% (marine)
<b>New Jersey</b>	§17:22-6.64	3% (within 30 days)
<b>New Mexico</b>	§59A-6-2 §59A-14-1 §59A-15-2 §59A-15-4	3.003% (within 90 days)
<b>New York</b>	N.Y. Tax Law §1551 N.Y. Tax Law §1554	3.6% (within 60 days after end of quarter in which business was procured)
<b>North Carolina</b>	§58-28-5(b)	5% (within 30 days)
<b>North Dakota</b>	—	—
<b>Ohio</b>	§3905.36	5% (annually)

<i>State</i>	<i>Statutory Citation to Insurance Code</i>	<i>Tax Rate Applied</i>
<b>Oklahoma</b>	§1115(D)(1)	6% (annually)
<b>Oregon</b>	—	—
<b>Pennsylvania</b>	§40-15-121	3% (within 30 days)
<b>Puerto Rico</b>	T.26§702 T.26§1020	4% (+1% on annuity renumeration) 15% (for domestic brokers transacting insurance with unauthorized insurers, but not with eligible surplus lines brokers)
<b>Rhode Island</b>	§27-3-38.1	3% (Insured must also file written report with the tax administrator, in a form that he or she may prescribe, within 30 days after the date the insurance was procured, continued or received)
<b>South Carolina</b>	—	—
<b>South Dakota</b>	§58-32-47 §58-32-50	2.5% (within 30 days)
<b>Tennessee</b>	—	—
<b>Texas</b>	§226.053(a)	4.85% (annually)
<b>Utah</b>	§31A-15-104 §31A-3-301	4.25% (within 60 days) (excluding ocean marine)
<b>Vermont</b>	§5036(d)	3% (annually)
<b>U.S. Virgin Islands</b>	§603(b)	5% (quarterly)
<b>Virginia</b>	§38.2-1802(A)	—
<b>Washington</b>	—	—
<b>West Virginia</b>	—	—
<b>Wisconsin</b>	§618.42 §618.43(1)(a)	3% (within 60 days)
<b>Wyoming</b>	—	—

*Notes:*

1. Direct Procurement Taxes are calculated in most states as a percentage of gross premiums.
2. In most of the states, written reports of direct placements are required to be filed with the Insurance Department within 30, 60 or 90 days.

# APPENDIX C

## INDUSTRIAL INSURANCE – EXEMPTIONS

### BY STATE

<i>State</i>	<i>Industrial Insured: Statutory Requirements</i>	<i>Statutory Reference To Insurance Code</i>
<b>Alabama</b>	<ol style="list-style-type: none"> <li>1) Insurance procured through full-time insurance manager or buyer, or regularly and continuously retained qualified insurance consultant;</li> <li>2) Minimum \$25,000 aggregate annual premiums on all risks other than workers' compensation and group insurance; and</li> <li>3) Minimum 25 employees.</li> </ol>	§27-10-20(2)
<b>Alaska</b>	No	—
<b>Arizona</b>	<ol style="list-style-type: none"> <li>1) Insurance procured through full-time risk manager; and</li> <li>2) Meets at least two of the following criteria:               <ol style="list-style-type: none"> <li>a) Minimum \$100,000 aggregate annual gross premiums for insurance on all property and casualty risks;</li> <li>b) Minimum \$10 million net worth;</li> <li>c) Minimum \$25 million net revenues or sales; or</li> <li>d) Minimum 80 full-time employees per individual company or 100 full-time employees per holding company.</li> </ol> </li> </ol>	§20-401.07(B)
<b>Arkansas<sup>(1)</sup></b>	<ol style="list-style-type: none"> <li>1) Insurance procured through full-time risk manager or insurance manager or utilizes the services of a regularly and continuously qualified insurance consultant;</li> <li>2) Minimum \$25,000 aggregate annual premiums for insurance on all risks; and</li> <li>3) Minimum 25 full-time employees.</li> </ol>	§23-63-1601(12)
<b>California<sup>(2)</sup></b>	<ol style="list-style-type: none"> <li>1) Employs at least 25 employees on average during the prior 12 months;</li> <li>2) Minimum \$25,000 aggregate annual premiums for insurance on all risks other than workers' compensation and health coverage; and</li> <li>3) Insurance procured through full-time insurance manager or "continuously retained insurance consultant." "Continuously retained insurance consultant" does not include:               <ol style="list-style-type: none"> <li>a) any agent or broker through whom the insurance is being placed;</li> <li>b) any subagent or subproducer involved in the transaction; or</li> <li>c) any agent or broker which is a business organization employing or contracting with any person mentioned in clauses (a) and (b).</li> </ol> </li> </ol>	§1764.1(c)(1)
<b>Colorado</b>	<ol style="list-style-type: none"> <li>1) Insurance (excluding life and annuity contracts) procured through full-time insurance manager or buyer, or regularly and continuously retained qualified insurance consultant who does not receive commission or compensation for placing the risk;</li> <li>2) Minimum \$100,000 aggregate annual premiums on all risks; and</li> <li>3) Minimum 100 full-time employees.</li> </ol>	§10-3-910(2)

<i>State</i>	<i>Industrial Insured: Statutory Requirements</i>	<i>Statutory Reference To Insurance Code</i>
<b>Connecticut</b>	1) Insurance procured through full-time insurance manager or buyer, or regularly and continuously retained qualified insurance consultant; and 2) Minimum \$50,000 aggregate annual premiums (excluding life, accident and health insurance).	§38a-271(b)(6)
<b>Delaware<sup>(1)</sup></b>	1) Insurance procured through full-time insurance manager or buyer; and 2) Minimum \$25,000 aggregate annual premiums for insurance on all risks; and 3) Minimum 25 full-time employees.	§ 6902(14)
<b>Dist. of Columbia</b>	No	—
<b>Florida<sup>(1)</sup></b>	1) Minimum \$50 million gross assets; 2) Insurance procured through full-time insurance manager or buyer or licensed property and casualty insurance agent, broker or consultant; 3) Minimum 100 full-time employees; and 4) Minimum \$200,000 annual premiums for each line of insurance purchased from the industrial insured captive insurer, or minimum \$75,000 annual premiums for any line of coverage excess of at least \$25 million in the annual aggregate. The purchase of umbrella or general liability coverage excess of \$25 million in the annual aggregate shall be deemed to be the purchase of a single line of insurance.	§ 628.903(1)
<b>Georgia<sup>(1)</sup></b>	1) Insurance procured through full-time insurance manager, risk manager or insurance buyer, or through licensed property and casualty agent, broker or counselor; 2) Minimum \$25,000 aggregate annual premiums for insurance on all risks; and 3) Meets one of the following criteria: a) Minimum 25 full-time employees; b) Minimum \$3 million gross assets; or c) Minimum \$5 million annual gross revenues.	§33-41-2(5)
<b>Hawaii</b>	No	—
<b>Idaho</b>	No	—
<b>Illinois<sup>(3)</sup></b>	1) Insurance (excluding life and annuity contracts) procured through full-time insurance manager or buyer, or regularly and continuously retained qualified insurance consultant; 2) Minimum \$100,000 aggregate annual premiums on all risks except for life and accident and health insurance; and 3) Meets one of the following criteria: a) Minimum 25 full time employees; b) Minimum \$3,000,000 gross assets; or c) Minimum \$5,000,000 annual gross revenues.	5/121-2.08 5/123C-1(F)
<b>Indiana</b>	1) Insurance procured through full-time insurance manager or buyer, or regularly retained and continuously qualified insurance consultant; 2) Minimum \$25,000 aggregate annual premiums for insurance on all risks; and 3) Minimum 25 full-time employees.	§27-4-5-2(a)(8)

<i>State</i>	<i>Industrial Insured: Statutory Requirements</i>	<i>Statutory Reference To Insurance Code</i>
<b>Iowa</b>	No	—
<b>Kansas<sup>(1)</sup></b>	1) Insurance procured through full-time insurance manager or buyer; 2) Minimum \$50,000 aggregate annual premiums for the kinds of insurance procured; 3) Minimum 25 full-time employees; 4) Principal activity consists of the manufacture of a product or products; and 5) Minimum \$10,000 contributed to the capital or surplus of the industrial insured captive insurance company that insures its risks.	§40-4301(e)
<b>Kentucky<sup>(7)</sup></b>	1) Insurance (excluding life and annuity contracts) procured through full-time insurance manager or buyer, or regularly and continuously retained qualified insurance consultant; 2) Minimum \$25,000 aggregate annual premiums for insurance on all risks; 3) Minimum 25 full-time employees; and 4) Qualified as an industrial insured as of July 1, 1999.	§304.11-020(2)(a) §304.49-010(7)
<b>Louisiana<sup>(4)</sup></b>	Meets at least one of the following requirements: 1) Insurance procured through full-time insurance manager or buyer; 2) Minimum \$25,000 aggregate annual premium on all risks; or 3) Minimum 25 employees.	§23:1161
<b>Maine<sup>(1)</sup></b>	1) Insurance procured through full-time insurance manager or buyer; 2) Minimum \$25,000 aggregate annual premium for insurance on all risks; and 3) Minimum 25 full-time employees.	§6701(6)
<b>Maryland</b>	1) Insurance procured through full-time insurance manager or buyer, or regularly and continuously retained qualified insurance consultant; 2) Minimum \$100,000 aggregate annual premiums for insurance on all risks; or 3) Minimum 25 full-time employees.	§4-201(a)
<b>Massachusetts</b>	No	—
<b>Michigan</b>	No	—
<b>Minnesota</b>	No	—
<b>Mississippi</b>	No	—
<b>Missouri</b>	1) Insurance (excluding life, health and annuity contracts) procured through full-time insurance manager or buyer, or regularly and continuously retained qualified insurance consultant; 2) Minimum \$100,000 aggregate annual premiums for insurance, excluding workers' compensation premiums; and 3) Minimum 25 full-time employees.	§375.786(1)(8)

<i>State</i>	<i>Industrial Insured: Statutory Requirements</i>	<i>Statutory Reference To Insurance Code</i>
<b>Montana<sup>(1)</sup></b>	1) Insurance procured through full-time insurance manager or buyer; 2) Minimum \$25,000 aggregate annual premiums for insurance on all risks; and 3) Minimum 25 full-time employees.	§33-28-101(11)
<b>Nebraska</b>	1. Insurance procured (excluding sickness and accident insurance) through a full-time insurance manager or buyer; 2. Minimum aggregate annual premiums of \$100,000; and 3. 50 full-time employees.	§44-5502 —
<b>Nevada<sup>(5)</sup></b>	1) Minimum \$1,000,000 aggregate annual property and casualty premiums (not including workers' compensation or industrial insurance); and 2) Minimum 250 full-time employees.	§680A.070(9)
<b>New Hampshire</b>	1) Insurance (excluding life and annuity contracts) procured through full-time insurance manager or buyer, or regularly and continuously retained qualified insurance consultant; 2) Minimum \$15,000 aggregate annual premiums for insurance on all risks; and 3) Minimum 25 full-time employees.	§406-B:16 VI
<b>New Jersey</b>	No	—
<b>New Mexico</b>	1) Insurance procured through full-time risk or insurance manager, or regularly and continuously qualified insurance consultant; 2) Minimum \$25,000 aggregate annual premiums for insurance on all risks; and 3) Minimum 25 full-time employees.	§59A-15-2(B)(5)
<b>New York<sup>(1)</sup></b>	1) Minimum \$100 million net worth; 2) Member of a holding company system having minimum \$100 million net worth; 3) The metropolitan transportation authority and its statutory subsidiaries; or 4) A city with a population of one million or more.	§7002(e)
<b>North Carolina</b>	No	—
<b>North Dakota</b>	1) Insurance (excluding life and annuity contracts) procured through full-time insurance manager or buyer, or regularly and continuously retained qualified insurance consultant; 2) Minimum \$25,000 aggregate annual premiums for insurance on all risks; and 3) Minimum 25 full-time employees.	§26.1-02-05(9)
<b>Ohio</b>	No	—
<b>Oklahoma<sup>(6)</sup></b>	No	§6470.2 §4202
<b>Oregon</b>	No	—

<i>State</i>	<i>Industrial Insured: Statutory Requirements</i>	<i>Statutory Reference To Insurance Code</i>
<b>Pennsylvania</b>	Insured must meet at least three (3) of the following requirements: 1) Insurance procured through full-time risk manager or qualified risk management service; 2) Minimum \$100 million gross sales; 3) Minimum 250 full-time employees; 4) Minimum \$100 million assets; 5) Minimum \$250,000 property and casualty insurance premiums (excluding employee benefits); and 6) Minimum 50% of total risk placed is outside of Pennsylvania.	§40-15-110(a)
<b>Puerto Rico</b>	No	—
<b>Rhode Island<sup>(7)</sup></b>	1) Insurance procured through full-time insurance manager or buyer, or regularly and continuously retained qualified insurance consultant; 2) Minimum \$25,000 aggregate annual premiums (excluding workers' compensation and group); and 3) Minimum 25 full-time employees.	§27-16-1.2(a) (8)
	1) Insurance procured through full-time insurance manager or buyer; 2) Minimum \$25,000 aggregate annual premiums; and 3) Minimum 25 full-time employees.	§27-43-1(6) (Relates to Captives)
<b>South Carolina<sup>(7)</sup></b>	1) Insurance procured through full-time risk or insurance manager, or regularly and continuously qualified insurance consultant; 2) Minimum \$25,000 aggregate annual premiums for insurance on all risks; and 3) Minimum 25 full-time employees.	§38-25-150(8) §38-90-10(16)
<b>South Dakota</b>	No	—
<b>Tennessee<sup>(7)</sup></b>	1) Insurance procured through full-time insurance manager or buyer; 2) Minimum \$25,000 aggregate annual premiums for insurance on all risks; and 3) Minimum 25 full-time employees.	§56-2-105(7) §56-13-102(8)
<b>Texas</b>	No	—
<b>Utah<sup>(1)</sup></b>	1) Insurance procured through full-time risk manager or insurance manager, or regularly and continuously qualified insurance consultant; 2) Minimum \$25,000 aggregate annual premiums for insurance on all risks; and 3) Minimum 25 full-time employees.	§31A-37-102(16)
<b>Vermont<sup>(7)</sup></b>	1) Insurance procured through full-time insurance manager or buyer; 2) Minimum \$25,000 aggregate annual premiums for insurance on all risks; and 3) Minimum 25 full-time employees.	§3368(a) (6) §6001(8)
<b>U.S. Virgin Islands</b>	1) Insurance procured through full-time insurance manager or buyer; and 2) Minimum \$25,000 aggregate annual premiums for insurance on all risks; and 3) Minimum 25 full-time employees.	T.22 §1401(h)

<i>State</i>	<i>Industrial Insured: Statutory Requirements</i>	<i>Statutory Reference To Insurance Code</i>
<b>Virginia</b>	1) Insurance procured through full-time insurance manager or buyer; 2) Minimum \$25,000 aggregate annual premiums for insurance on all risks; and 3) Minimum 25 full-time employees.	§38.2-1039(D)(5)
<b>Washington</b>	No	—
<b>West Virginia<sup>(1)</sup></b>	1) Insurance procured through full-time insurance manager or buyer; 2) Minimum \$25,000 aggregate annual premiums for insurance on all risks; and 3) Minimum 25 full-time employees.	§33-31-1(11)
<b>Wisconsin</b>	No	—
<b>Wyoming</b>	1) Insurance (excluding life and annuity contracts) procured through full-time insurance manager or buyer, or regularly and continuously retained qualified insurance consultant; 2) Minimum \$25,000 aggregate annual premiums for insurance on all risks; and 3) Minimum 25 full-time employees.	§26-12-101

<sup>(1)</sup> “Industrial Insured” exemption recognized with respect to captive insurers only.

<sup>(2)</sup> “Industrial Insured” exemption recognized with respect to nonadmitted insurers only.

<sup>(3)</sup> “Industrial Insured” exemption also recognized in limited instances with respect to captive insurers (i.e., directors’ and officers’ liability insurance and bankers’ blanket bonds).

<sup>(4)</sup> “Industrial Insured” exemption recognized with respect to workers’ compensation insurance only.

<sup>(5)</sup> “Industrial Insured” exemption is restricted to excess liability insurance in excess of \$25,000,000.

<sup>(6)</sup> “Industrial Insured” exemption recognized with respect to life insurance only.

<sup>(7)</sup> “Industrial Insured” exemption also recognized with respect to captive insurers.

# APPENDIX D

## SURPLUS LINES LEGISLATIVE UPDATE 2007

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### CALIFORNIA

**Assembly bill 522** amends and repeals Section 1764.1 of the California Insurance Code, relating to non-admitted insurers. The old law gave applicants and policyholders the right to notice of the power to cancel a surplus lines policy within five days under specified circumstances, and required that the broker fee be returned and the premium be pro-rated when a policy is cancelled. It imposes a similar requirement with respect to personal lines insurance and associated umbrella policies. The new law, by repealing the January 1, 2008 termination date, extends these provisions indefinitely. The bill was amended to add a provision allowing brokers to extend existing surplus lines policies by 90-days without having to make a filing with the California Surplus Lines Association. This provision does not allow any changes in coverage, terms, conditions or limits. Any additional premium charged for the extension is determined pro rata, based on the same rate of premium as the existing surplus line policy. **This bill was signed by the Governor and signed into law on July 27, 2007.**

The California Surplus Lines Association (“CSLA”) issued two bulletins in 2007 which clarify the requirements under the California Insurance Code (“CIC”) concerning “Independent Procurement” of insurance from an unauthorized non-admitted insurer, as well as the propriety of so-called “courtesy filings”. While these bulletins do not necessarily reflect the view of the California Department of Insurance, they nevertheless provide useful guidance as to what is considered “best practices” in the state in connection with these types of transactions.

The first bulletin clarifies that a California licensed surplus lines broker may not lawfully export a risk to an alien

non-admitted insurer that is not on the California List of Eligible Surplus Lines Insurers. The bulletin states that surplus lines brokers involved in placements for compensation with unauthorized non-admitted insurers, unless the placement is expressly exempt under the CIC, expose themselves and the insurer with which the placement is made to possible disciplinary action. These sanctions could result in license revocation as well as enforcement action for transacting insurance in California, including substantial fines and penalties.

Independent procurement, which takes place when an insured elects to go out of the state and purchase the desired insurance from an unauthorized carrier either directly with the company or through a broker or agent not licensed in California, is permitted under the CIC as long as a local broker is not involved in the transaction. Such transactions in California are also subject to a 3% tax, payable by the insured. The CSLA also cautions surplus lines brokers about the pitfalls of participating as a “consultant” in connection with an independent procurement involving insurance of a California risk by an unauthorized non-admitted insurer. In order to lawfully “transact” business in California with the non-admitted market, a “consultant” must be licensed as a surplus lines broker and the placement must comply with the state’s surplus lines laws.

The second bulletin clarifies that the California law does not recognize “courtesy filings” and does not exempt such filings, or licensees making them, from the requirements of the surplus lines laws. The term “courtesy filings” in California is generally understood to mean where a surplus lines broker is asked to make the surplus lines filings and associated surplus lines tax filings on behalf of a broker or agent that does not hold a California resident or non-resident surplus lines broker license. The CSLA cautions any surplus lines broker asked

to make a courtesy filing to be mindful of the risks and obligations that the licensee assumes in doing so. The bulletin states that the requesting resident or non-resident producer would be well advised in such situations to obtain a California resident or non-resident surplus lines license.

**House bill 1639** requires every applicant for a business entity license to provide names of all persons who may exercise the power and perform the duties under the license. This bill also provides that whenever a surplus line broker licensed as an organization desires to change the persons who are authorized to transact business under the license, it shall immediately file an application with the Commissioner of Insurance reflecting the change. The bill requires all natural persons named to take and pass the qualifying examination, and become individually licensed as a surplus line broker. Also under this bill, surplus lines brokers who are only transacting on behalf of a licensed surplus lines broker organization are not required to file a \$50,000 surplus lines bond. However, all other surplus lines brokers who are also placing surplus lines business through their individual license, must still comply with the \$50,000 bond requirement. **This bill was signed into law and takes effect on January 1, 2008.**

## FLORIDA

**Senate bill 2498** is an omnibus property bill which changes the Florida surplus lines law as follows:

- Allows the “diligent effort” requirement to be satisfied with one declination rather than three for residential structures having dwelling replacement costs of \$1 million or more;

- Requires the retail agent on residential risks to notify the insured that coverage may be available from Citizens Property Insurance Corporation and may be less expensive than the surplus lines market; the notice must also specify that assessment might be higher on Citizens policies and coverage might be less;
- Defines non-payment of premium and clarifies that a dishonored payment that is the initial payment on a policy may result in the policy being declared void ab initio. **This bill was signed by the Governor and became law on June 11, 2007.**

## INDIANA

**House bill 1452** passed legislation and removes the requirement that resident surplus lines brokers file a bond with the Insurance Commissioner. Effective July 1, 2007, resident surplus lines producers are no longer required to hold a tax guarantee bond in the amount of \$20,000. The surplus lines license extends from a one year license to a two year license. The surplus lines fees increased from \$20.00 to \$80.00 for a resident surplus lines producer/agency and \$120.00 for a non-resident surplus lines producer/agency. **This bill was signed by the Governor and became law on May 4, 2007.**

## MARYLAND

**House bill 1241** alters the date by which an affidavit for surplus lines insurance (showing declinations of coverage from admitted insurers) must be filed with the Maryland Insurance Commissioner. Under the legislation, the affidavit must be filed with the Maryland Insurance Commissioner on or before the 45th day after the last day of the calendar quarter in which the surplus lines

insurance was placed. Under the old law, an affidavit had to be filed with the Commissioner on or before the 45th day after the last day of the month in which the surplus lines insurance was placed. **This bill was enacted and signed by the Governor on April 10, 2007.**

## **MISSISSIPPI**

**House bill 1500** amends the current law pertaining to the Mississippi Windstorm Underwriting Association (“MWUA”). Included in this bill are sections that apply to nonadmitted insurance carriers and their licensed representatives in Mississippi. Nonadmitted insurers are not assessable for losses as are admitted carriers; however, a nonadmitted policy fee is to be collected by the agent for any and all risks on real property and contents in Mississippi. This fee became effective on all nonadmitted real property and contents premiums after January 1, 2008, for policies effective January 1, 2008 and after. The fee will be a minimum of five percent (5%) and is not subject to commissions and premium taxes. The Insurance Commissioner may change the fee from time to time.

In addition, should there be an assessable storm loss, property and casualty policyholders, including nonadmitted policyholders, may be subject to a surcharge declared by the Insurance Commissioner. This surcharge will also be collected by the agent and remitted.

Fees and surcharges should be remitted to the MWUA or its designee within twenty (20) days of the end of the quarter. **This bill was signed into law and became effective on March 22, 2007.**

## **MISSOURI**

**Executive Order 07-06** transfers the function of collecting surplus lines taxes from the Missouri Department of Insurance, Financial Institutions and Professional Registration to the Missouri Department of Revenue, by type 1 transfer, as defined under the Reorganization Act of 1974. **This Executive Order became effective on August 28, 2007.**

## **FEDERAL LEGISLATION**

The Non-admitted and Reinsurance Reform Act of 2007 (**H.R. 1065**) unanimously passed the U.S. House of Representatives by voice vote in June 2007. The legislation, co-sponsored by Reps. Dennis Moore, D-Kan., and Ginny Brown-Waite, R-Fla., is designed to clarify conflicting state regulations governing the reinsurance and surplus lines market. Companion legislation was introduced in 2007 as **S 929** by Sens. Bill Nelson, D-Fla., and Mel Martinez, R-Fla., but neither version of the bill made it into law due to lack of action in the Senate.

If enacted, the Non-admitted and Reinsurance Reform Act would establish national standards for state regulation of the surplus lines and reinsurance markets including a uniform system of surplus lines premium taxation, elimination of duplicative compliance requirements for multi-state surplus lines transactions and direct access to the surplus lines market for large commercial insurance buyers. A related portion of the bill dealing with reinsurance would make a reinsurer's state of domicile the sole regulator of that reinsurance company's solvency, provided that the state is accredited by the National Association of Insurance Commissioners (“NAIC”).

Going forward, it is anticipated that the NAIC's Government Relation's Leadership Council will be suggesting revisions to the Senate sponsors of the bill with an emphasis on preserving states' authority regarding insolvency regulation. If the proposed revisions do not interfere with the main purpose of the legislation, it is likely that the Senate will give these revisions serious consideration and reintroduce the bill in some form in 2008.

# APPENDIX E

## NAIC INTERNATIONAL INSURERS DEPARTMENT (IID)

### PLAN OF OPERATION FOR LISTING OF ALIEN

### NON-ADMITTED INSURERS (As Amended June 2006)

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The following information is reprinted with permission of the National Association of Insurance Commissioners (“NAIC”). Alien companies must follow the guidelines set forth in the IID Plan of Operation to maintain their eligibility with the NAIC. The section that follows is the latest version of the IID Plan of Operation available from the NAIC.

The Editor

#### NOTE

The International Insurers Department operates under the auspices of the NAIC Property & Casualty Insurance (C) Committee to which all mention of “Committee” in the following refer.

The ‘Chairs’, as used herein, refers to the Chair of Property & Casualty (C) Committee and the Chair of the Surplus Lines (C) Task Force *unless* the same person is the Chair of both the Committee and the Task Force, in which case it shall mean that person together with the Vice Chair of Property & Casualty (C) Committee. In the event that the President has already voted, the casting vote by the President referred to herein shall be cast by the Vice President or, if the Vice President has already voted, the Secretary/Treasurer.

An ‘insurer’, as used herein, includes both a company and a syndicate of underwriting entities

The Application and the Standard IID Financial Reporting Format referenced therein shall be considered an integral part of this Plan.

#### I IID WILL PROCURE INFORMATION

The International Insurers Department (IID) will procure from every source feasible all relevant information regarding alien insurers providing coverage in the United States.

#### II IID WILL PUBLISH QUARTERLY LISTING

The IID will prepare and disseminate a quarterly listing (Non-Admitted Insurers Quarterly Listing) of Alien Non-Admitted Insurers. On this list will appear the names of those insurers which qualify for listing as outlined in paragraphs IV and V.

#### III APPLICATION PROCEDURE

An insurer desiring the inclusion of its name on the quarterly listing shall file with the IID an application for listing together with a check made payable to the National Association of Insurance Commissioners in the amount indicated in the attached fee schedule to cover the cost of processing and evaluating the insurer’s request for inclusion of its name on the quarterly listing. At the time the application is filed, the insurer shall submit complete information as may be called for in the application for listing or by the IID. The IID, with the concurrence of the Chairs may require the applicant to submit to an on-site review by a qualified person(s), with expenses to be borne by the applicant.

#### IV IID EVALUATION AND RECOMMENDATION

The IID shall review and evaluate the information filed by those insurers desiring the inclusion of their names on

the quarterly listing. If the IID determines that the insurer meets or does not meet those standards set forth in paragraph V, the IID shall present the name of the insurer to the Surplus Lines Financial Analysis Working Group for further consideration. Upon further consideration, the name of the insurer, and relevant findings, shall be presented to the Chairs for consideration for approval or non-approval for listing. Upon receipt of written concurrence of the Chairs, the IID Manager shall either include the name of the insurer in the next regularly published quarterly listing or issue a notice of non-approval to the insurer, as appropriate. In the event that there is a disagreement between the Chairs, the President shall have a casting vote. The NAIC, however, makes no representations or warranties that an applicant which submits all of the documentation listed herein will be recommended for listing.

If an insurer has not answered all questions and submitted all data requested within six months of its initial application, then its application may be deemed withdrawn.

## **V STANDARDS FOR INCLUSION ON LIST**

In order to be considered for inclusion on the quarterly listing, an insurer must reasonably demonstrate that it meets the following standards on: (A) capital and/or surplus, or the substantial equivalent thereof; (B) U.S. trust accounts; and (C) character, trustworthiness and integrity.

### **A. Capital and/or Surplus Funds**

A company must possess and continually maintain capital and/or surplus adequate to its obligations, but in no event may the total amount be less than \$15,000,000

for any company applicant. In determining whether a company's capital and/or surplus is adequate to meet the obligations, the following factors may be considered:

- (1) The size of the company as measured by its assets, capital and/or surplus, reserves, premium writings, insurance in force and/or other appropriate criteria.
- (2) The kinds of business the company writes, its net exposure and the extent to which the company's business is diversified among several lines of insurance and geographic locations.
- (3) The past and projected trend in the size of the company's capital and/or surplus considering such factors as premium growth, operating history, loss and expense ratios and such other criteria as appropriate.

In the case of a group including incorporated and individual unincorporated underwriters, the incorporated underwriters shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members, and the group shall, in lieu of capital and surplus, provide a U.S. trust account of not less than \$200,000,000 available for the benefit of United States surplus lines policyholders of any member of the group.

### **B. U.S. Trust Account**

As stipulated in the NAIC Standard Form Trust Agreement for Alien Excess or Surplus Lines Insurers and the Lloyd's United States Situs Excess or Surplus Lines Trust Deed, the insurer must establish a U.S. trust account, in a qualified United States financial institution, consisting of cash deposited with the trustee, securities or an acceptable

letter of credit on behalf of U.S. policyholders at an appropriate level.

(i) In the case of a company, in no event may the Trust Fund Minimum Amount be less than the lesser of:

(a) \$100,000,000; or

(b) for business written on or after January 1, 1998, 30% of any amount up to the first \$200,000,000 plus 25% of any amount up to the next \$300,000,000 plus 20% of any amount up to the next \$500,000,000 plus 15% of any amount in excess of \$1,000,000,000 of either the Company's United States gross surplus lines liabilities or the Company's direct non-admitted United States liabilities excluding liabilities arising from aviation, wet marine and transportation insurance and direct placements, except that in no event shall the Trust Fund Minimum Amount be less than \$5,400,000.

Such liabilities are to be determined no less than annually and reported to the Trustee, the Domiciliary Commissioner, all Non-Domiciliary Commissioners and the IID no later than 7 months after the Company's accounting year-end. For purposes of this section, a certification of losses by an actuary, who is a member of a recognized professional actuarial body, shall constitute a determination of liabilities.

(ii) In the case of a syndicate operating within a group including incorporated and individual unincorporated underwriters, for the total of all years of account the Trust Fund Minimum Amount shall be 30% of any amount up to the first \$200,000,000 plus 25% of any amount up to the next \$300,000,000 plus 20% of any amount up to the next \$500,000,000 plus 15% of any amount in excess of

\$1,000,000,000 of the syndicate's U.S. excess or surplus lines liabilities.

Such trust account shall contain all provisions considered necessary by the IID and expressed in the Standard Trust Agreement in effect at the time of the application, and have an expiry date which at no time shall be less than five years hence. In considering what constitutes an appropriate level, the IID shall be governed by the recommendations of the Surplus Lines Financial Analysis Working Group and the Chairs. Other factors which may be considered include the following:

(1) The types and amounts of such coverage which the insurer writes or proposes to write in the United States.

(2) The assets which comprise the trust and their valuation. Any such asset or assets may be discounted for the purposes of determining the adequacy of an insurer's U.S. trust whenever the asset so warrants.

(3) The terms and conditions of the trust agreement.

An insurer dissatisfied with the determination of the appropriate level for its trust may request a reconsideration before the Committee. This request must be made in writing within thirty (30) days after issuance of notice to the insurer regarding the determination by the IID of the appropriate level and shall include an agreement by the insurer to submit to an examination or audit of its affairs if deemed necessary by the Chairs and pay the expense of such examination. If the insurer fails to request a reconsideration as set forth above, its right to a reconsideration shall be considered waived. All requests for reconsideration shall be submitted to the Chair of the Committee at the NAIC office in Kansas City. Upon receipt of a request for reconsideration, the Chair of the Committee shall appoint a group consisting of three

Committee members other than the Chairs, and shall designate a Chair of the group, who shall reconsider the appropriate level for the trust and render a recommendation to the full Committee. The full Committee shall then issue a final decision.

The IID shall periodically review the market value of each insurer's U.S. trust account in order to ascertain that it continues to meet the established minimum criteria. In determining an insurer's compliance with the established minimum criteria, credit shall be allowed only for securities readily marketable on regulated U.S. national or principal regional security exchanges or those determined by the Securities Valuation Office of the NAIC to have substantially equivalent liquidity characteristics. This latter qualification may be affected by obtaining a determination from the NAIC's Securities Valuation Office that the security has liquidity characteristics substantially equivalent to those securities readily marketable on regulated U.S. national or principal regional security exchanges and filing a copy of the report of the Securities Valuation Office with the IID.

The term acceptable letter of credit shall mean a clean, unconditional, irrevocable letter of credit which must be issued or confirmed by a qualified United States financial institution.

As contained herein, a "qualified United States financial institution" means an institution that:

(1) is organized and licensed (or in the case of a U.S. office of a foreign banking organization, licensed) under the laws of the United States or any state thereof; and,

(2) is regulated, supervised and examined by U.S. federal or state authorities having regulatory authority over banks and trust companies; and,

(3) has been determined by the Securities Valuation Office of the NAIC as an acceptable financial institution; and,

(4) has been granted authority to operate with trust powers, if such qualified United States financial institution is to act as the fiduciary of the trust.

#### C. Character, Trustworthiness and Integrity

An insurer desiring the inclusion of its name on the quarterly listing shall have an established reputation of financial integrity and satisfactory underwriting and claims practices. The competence, experience and integrity of those persons who control or conduct the affairs of the insurer shall be such that it would be in the best interest of the policyholders, creditors or the general public to include the name of the insurer on the quarterly listing.

### **VI RECONSIDERATION PROCEDURE (APPLICATION)**

Any alien insurer dissatisfied by non-approval or the failure of the IID Manager to submit its name to the Chairs for approval within six (6) months of receipt of all requested information, may request a reconsideration before the Committee. In the event of non-approval, a written request for reconsideration must be made within thirty (30) days after issuance of notice of non-approval. In the event an application has not been submitted for approval within six (6) months of receipt of all requested information the written request for reconsideration must be made within thirty (30) days following such six (6) month period. Any request shall include an agreement by the insurer to submit to an examination or audit of its affairs if deemed necessary by the Chairs and pay the expense of such examination. If the insurer fails to request a reconsideration as set forth above, its right to a reconsideration shall be considered waived. All requests

for reconsideration shall be submitted to the Chair of the Committee at the NAIC office in Kansas City. All expenses incurred in connection with any reconsideration shall be paid by the person requesting the reconsideration. Upon receipt of a request for reconsideration, the Chair of the Committee shall appoint a group consisting of three Committee members other than the Chairs, and shall designate a Chair of the group, who shall reconsider the application and render a recommendation to the full Committee. The full Committee shall then issue a final decision. No insurer whose application has been non-approved or has not been recommended for approval shall file another application until two years from the receipt of such notice provided, however, that the two year waiting period shall not apply in those cases when, subsequent to the rejection of the insurer's application, the insurer undergoes a change of its ultimate controlling person.

## **VII CONTINUING COMPLIANCE**

The IID shall periodically review the continued compliance of each insurer with the current criteria for listing. The insurer shall provide the IID with a copy of its most recent audited financial statement and a report of its independent auditor, if any, and the final standard IID financial reporting format (the "financial information") within 45 days of the audited financial statements becoming available or seven (7) months of the end of the insurer's fiscal year, whichever is the earlier. The insurer shall also provide the IID with an initial filing of the standard IID financial reporting format within three (3) months of the end of the insurer's fiscal year. The insurer shall provide an explanation of any material differences between the initial filing and the final filing. The IID may exempt an insurer from the requirement to provide an initial filing where the insurer can commit to provide its final financial information within six (6) weeks of the

deadline for the initial filing. The IID may request such additional information as it deems fit. If the insurer fails to file the financial information within the time limit or supply any requested additional information, the IID shall so inform the Surplus Lines Financial Analysis Working Group and Chairs and may recommend that the insurer's name be removed from the quarterly listing.

If in the opinion of the IID any insurer does not meet the standards set forth in paragraph V, the IID shall recommend to the Surplus Lines Financial Analysis Working Group and Chairs that the insurer's name be removed from the Quarterly Listing. If the Chairs concur with any such recommendation of the Surplus Lines Financial Analysis Working Group and decide that the name of the insurer should be removed from the quarterly listing, the Chairs will direct the IID to do so and to give notice of such removal to the insurer. In the event of a disagreement between the Chairs, the President shall have a casting vote.

The IID may recommend that an insurer submit to a special examination or audit of its affairs to verify continuing compliance. If the Surplus Lines Financial Analysis Working Group and Chairs concur with the recommendation, the insurer shall agree to submit to such examination and pay the expenses thereof, or shall be removed from the listing. In the event of a disagreement between the Chairs, the President shall have a casting vote.

The IID may, for good cause, grant an insurer a reasonable extension of time for filing the financial information. Any request for an extension of time must be received at least 5 days prior to the filing deadline, and be accompanied by the fee specified on the attached schedule.

If at any time a company has reason to believe, either by way of interim management accounts or otherwise, that

it has lost 10% or more of the capital and/or surplus in aggregate shown on the immediately preceding financial filing with the IID, or that its capital and/or surplus has dropped below the absolute minimum standard of \$15,000,000, it shall immediately inform the IID.

#### **VIII CHANGE OF CONTROL AND/OR MERGER OF INSURER**

In the event that the information set forth in Question 16 of the application changes, the insurer agrees to provide written notice within thirty (30) days. Failure to do so may be cause for removal from the listing. In the event of change of control and/or merger of the insurer the insurer shall, within forty-five (45) days of completion of such change of control and/or merger, file a complete application, including all documents that are necessary for the IID to determine compliance for listing, or may be removed from the listing. Notwithstanding the provision of paragraph IX, any insurer so removed must reapply in accordance with paragraph III.

#### **IX RECONSIDERATION PROCEDURE (IN RESPECT OF REMOVAL)**

An insurer dissatisfied with the removal of its name from the quarterly listing may request a reconsideration before the Committee. This request must be made in writing within thirty (30) days after issuance of notice to the insurer that its name has been removed from the quarterly listing and shall include an agreement by the insurer to submit to an examination or audit of its affairs if deemed necessary by the Chairs and pay the expense of such examination. If the insurer fails to request a reconsideration as set forth above, its right to a reconsideration shall be considered waived. All requests

for reconsideration shall be submitted to the Chair of the Committee at the NAIC office in Kansas City. Upon receipt of a request for reconsideration, the Chair of the Committee shall appoint a group consisting of three Committee members other than the Chairs, and shall designate a Chair of the group, who shall reconsider the removal and render a recommendation to the full Committee. The full Committee shall then issue a final decision. An insurer whose name has been removed from the quarterly listing in accordance with the provisions of paragraph VII shall not be eligible to reapply for listing for two years as a new applicant.

#### **X ENGLISH LANGUAGE/ACCOUNTING PRACTICES**

In order to comply with the filing requirements of this Plan of Operation, all communications and information, including financial statements, auditors' reports, trust fund documents, etc. must be submitted in the English language. All questions of compliance with established financial criteria shall be determined on the basis of accounting practices and procedures substantially equivalent to those promulgated by the National Association of Insurance Commissioners covering insurers writing similar types of coverage.

#### **XI FINANCIAL STATEMENTS**

Financial statements to be filed annually with the IID shall consist of:

1. the latest audited financial statements and auditors' report published by the insurer
2. a complete certified copy of the latest official financial statement and return required by the Insurer's domiciliary regulator, if different from (1.) above, unless

the Insurer has received a waiver of this requirement for the relevant year from the IID, and

3. the IID financial reporting format, which should be printed. The printed format shall be supplemented by a magnetic version thereof on diskette or submitted to the NAIC by e-mail.

The text of all such financial statements shall be in English. Items (1) and (2) above should preferably be reported in original currency.

#### **XII EXEMPTION PROVISION**

An insurer desiring the inclusion of its name on the quarterly listing or an insurer that is listed may apply for an exemption from any of the reporting requirements contained in the NAIC Plan of Operation for listing of Alien Non-Admitted Insurers. All requests for exemption from any such requirements shall be made to the Chair of the Committee. The IID Plan of Operation Review Group will then meet to consider such request and will make a recommendation to the Chair of the Committee.

All requests for exemption shall be considered and a recommendation shall be made to the Chair of the Committee within six (6) months of receipt of such request. The Chairs shall then issue a final decision. In the event of a disagreement between the Chairs, the President shall have a casting vote.

#### **XIII PERSONS WHO MAY SUBSCRIBE**

Any person, including insurers, brokers and others, may subscribe to the quarterly listing and shall, upon payment of an annual subscription fee in an amount to be determined from time to time by the Committee, be

entitled to receive a copy of each regularly published quarterly listing.

#### **XIV SUPPLEMENTARY INFORMATION**

The IID may prepare and disseminate to interested persons, supplementary information, including such items as copies of financial statements, details of U.S. trust accounts and certified auditors' reports, concerning companies on the quarterly listing. The IID shall collect such charges and fees for this information as the Committee determines appropriate.

#### **XV DETERMINATION OF FEES**

All fees shall be determined by the Committee from time to time and set forth in the attached fee schedule.

#### **SCHEDULE OF FEES AND OTHER CHARGES**

An insurer who fails to pay or have paid on its behalf by its United States representative the annual listing fee by March 31 of each year shall pay the annual fee plus the late fees set forth below by June 30 of each year, or shall be removed from the listing. Any insurer so removed must reapply in accordance with paragraph III. All fees must be received by the dates given, March 31 and June 30 respectively.

Insurer's Application for Listing	\$8,000
Insurer's Annual Listing Fee	\$4,000
Late Fee	\$1,000

Daily late fee for every day late	\$100
Application for extension of time to file financial data	\$500
Annual Subscription Fee for Quarterly Listing of Alien Insurers	\$250
Copies of an Individual Company's Financial Statements	\$50 Each
Copies of an Individual Company's Schedule of Reinsurance Ceded	\$15 Each

Insurers desiring the inclusion of their name on the NAIC Alien Non-Admitted Insurers Quarterly Listing should enclose the \$8,000 application fee together with a completed Application for Listing.

Parties wishing to receive the Quarterly Listing should enclose a check for the appropriate amount with their request to be added to our list of subscribers.

All remittances should be made payable to the National Association of Insurance Commissioners in U.S. Dollars either by way of a check drawn on a U.S. Bank or an International Money Order drawn on a New York clearing bank.

# INSURANCE AND REINSURANCE DEPARTMENT PROFILE

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Edwards Angell Palmer and Dodge LLP provides a full range of legal services to a broad client base. Our clients span all segments of the insurance industry, including property and casualty insurers, life and health insurers, reinsurers, health maintenance organizations, agents, brokers and reinsurance intermediaries, lenders, investment banks, state insurance regulators, debtors and creditors of insolvent insurers, and trade associations.

Attorneys in our Insurance and Reinsurance Department represent clients in a wide range of matters, including:

- Reinsurance arbitration and litigation
- Reinsurance transactions
- Formation and licensing of insurers and reinsurers
- Excess and surplus lines
- State regulatory matters
- Mergers and acquisitions
- Receiverships and representation of creditors in insurance company insolvencies
- Public and private financing
- International/insurance-related transactions
- Product development, including policy and insurance contract wording
- State legislative representation
- Commercial litigation and administrative proceedings
- Complex, high-stakes coverage and claims matters
- Real estate and securitization matters
- Federal and state tax matters
- ERISA, executive compensation and employee benefits
- Intellectual property matters

As part of a full service firm, the Department represents international and domestic clients before the National Association of Insurance Commissioners (NAIC), the National Conference of Insurance Legislators (NCOIL) and the Insurance Departments of the various states. The Department participates in the periodic meetings of the NAIC and NCOIL, and serves on a multitude of advisory and other committees established to address critical issues confronting the insurance industry and its individual clients. Through its working relationship with these regulators, the Department is well equipped to recognize, address and resolve various regulatory issues as they arise. Accordingly, the Department participates in the crafting of insurance legislation and monitors, on a daily basis, the ever-changing laws, rules and regulations which govern our industry.

For further information on Edwards Angell Palmer and Dodge LLP's Insurance and Reinsurance Department, and Excess and Surplus Lines Matters in particular, please contact:

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Alan J. Levin, Chair, Insurance and Reinsurance Department, practices in the areas of insurance and reinsurance and general corporate law. He represents clients in matters affecting the insurance and reinsurance industry and counsels insurers, reinsurers, regulators, agents and brokers, reinsurance intermediaries, lenders, investment banks and trade associations. Mr. Levin has been involved with raising corporate capital to be deployed at Lloyd's of London; has represented insurance companies as investors and lenders and investment bankers and insurance companies in public offerings and private placements; and has represented clients at administrative hearings before state insurance departments. He has also represented clients affected by state legislative and regulatory developments, as well as lobbying regulators and legislators. Mr. Levin has also structured and implemented plans designed to create new services and products in the health care industry. He received his undergraduate degree from Clark University and his J.D. from Brooklyn Law School. Mr. Levin is admitted to practice in Connecticut.



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David has been with the firm since 1988. He is co-chair of the firm's Insurance & Reinsurance Department and is based in London. He specialises in all aspects of insurance and reinsurance, including the London and Bermuda insurance markets, insurance coverage disputes, reinsurance disputes, insurance/reinsurance run-off and insolvency, arbitration and Commercial Court litigation. He has extensive experience of Bermuda form arbitrations in London. He speaks extensively on current issues in insurance and reinsurance law in the UK and overseas. He is named as one of the world's best insurance and reinsurance lawyers in the Legal Media Group's Guide to the Best of the Best 2007.



**John P. Dearie, Jr.**

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John P. Dearie, Jr. is a nationally and internationally respected lawyer with over 25 years of experience in the insurance and reinsurance industry. He has served numerous overseas insurers in England, France, Germany, Japan and Finland as their U.S. regulatory counsel, and served as chief U.S. lobbyist and legislative liaison for the Institute of London Underwriters. In this capacity, he was able to achieve significant breakthroughs in the areas of reinsurance accreditation and surplus lines approval. Mr. Dearie has been a member of various industry advisory committees to the National Association of Insurance Commissioners ("NAIC") and state insurance departments, and has served as legal advisor to the financial services industry in the areas of reinsurance trusts and letters of credit. He has appeared as a guest lecturer and panelist in numerous insurance conferences and workshops and testified before the NAIC and various state insurance departments. Mr. Dearie received his B.S. from Georgetown University, and received his J.D. from Fordham Law School. He is admitted to practice in New York.



## **Nick Pearson**

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Nick Pearson has represented United States and foreign clients in the formation, acquisition, sale and licensing of insurance and reinsurance companies and brokers. He has served as outside general counsel to both admitted and nonadmitted insurers. Mr. Pearson has practiced extensively before state insurance departments and has regularly served on advisory committees to the National Association of Insurance Commissioners and various state insurance departments. He has advised clients in the formation of captive insurance companies and risk retention groups and in excess and surplus lines regulation. Mr. Pearson is experienced in reinsurance arbitration and has negotiated commutations and assisted clients in the analysis and preparation of reinsurance agreements. He has conducted international insurance and reinsurance fraud investigations leading to successful criminal prosecutions and contract rescission. Mr. Pearson is also experienced in insurance insolvency matters in both the United States and the U.K. He is a widely-known speaker at industry functions, his commentary is sought by both industry and business publications and he has published articles and papers concerning various aspects of the insurance industry. Mr. Pearson received his B.A. from Duke University and his J.D. from Duke University School of Law. He is admitted to practice in both New York and New Jersey.



## **Ambereen Salamat**

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Ambereen Salamat is a corporate and regulatory lawyer qualified in the UK. She represents a broad spectrum of entities involved in insurance and reinsurance business in the UK and abroad on regulatory issues, acquisitions and disposals, products and policy wordings, commercial agreements and alternative risk transfer transactions. She has extensive experience of advising on what constitutes the carrying on of insurance and reinsurance business in the UK and the different methods of entry into the European insurance and reinsurance markets including the authorisation requirements to be complied with. She has advised on most aspects of ongoing regulation of insurance and reinsurance companies in the UK and has acted on a number of restructurings of insurance business so that they no longer constitute the carrying on of insurance business in the UK. She has advised on at least a dozen transfers of life and non-life business under Part VII of the Financial Services and Markets Act 2000 (as well as under the preceding legislation) and acted on a number of notable alternative risk transfer transactions. She writes and speaks extensively on insurance and reinsurance issues.