

## **SURPLUS LINES (E) TASK FORCE**

Surplus Lines (C) Task Force November 7, 2024, Minutes

Draft Surplus Lines Service of Process Form (Attachment One)

California Department of Insurance Comment Letters (Attachment Two)

Year-End 2023 Surplus Lines Industry Results (Attachment Three)

## Draft Pending Adoption

Draft: 11/11/24

Surplus Lines (C) Task Force  
Virtual Meeting (*in lieu of meeting at the Fall National Meeting*)  
November 7, 2024

The Surplus Lines (C) Task Force met Nov. 7, 2024. The following Task Force members participated: Larry D. Deiter, Chair, and Frank Marnell (SD); Cassie Brown, Vice Chair, represented by Jamie Walker (TX); Lori K. Wing-Heier represented by David Phifer (AK); Mark Fowler represented by Jimmy Gunn (AL); Ricardo Lara represented by Audrie Lee (CA); Michael Conway represented by Rolf Kaumann (CO); Karima M. Woods represented by Omar Barakat (DC); John F. King represented by Scott Sanders (GA); Dean L. Cameron represented by Randy Pipal (ID); Ann Gillespie represented by Marcy Savage (IL); Timothy J. Temple represented by Tom Travis (LA); Vicki Schmidt represented by Chris Hollenbeck (KS); Michael T. Calijouw represented by James A. McCarthy (MA); Marie Grant represented by William Fawcett (MD); Mike Causey represented by Robert Croom (NC); Scott Kipper represented by Gennady Stolyarov (NV); Glen Mulready represented by Eli Snowbarger (OK); Michael Humphreys represented by Michael McKenney (PA); and Carter Lawrence represented by Trey Hancock (TN).

### 1. Adopted its Summer National Meeting Minutes

Walker made a motion, seconded by Phifer, to adopt the Task Force's Aug. 13 minutes (*see NAIC Proceedings – Summer 2024, Surplus Lines (C) Task Force*). The motion passed unanimously.

### 2. Adopted the Report of the Surplus Lines (C) Working Group

Snowbarger stated that the Working Group met Sept. 24 in regulator-to-regulator session pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings. During this meeting, the Working Group approved one application for admittance to the Oct. 1 Quarterly Listing of Alien Insurers.

Kaumann made a motion, seconded by Hollenbeck, to adopt the report of the Surplus Lines (C) Working Group. The motion passed unanimously.

### 3. Discussed Comments Received on the Draft Surplus Lines Service of Process

Marnell summarized that the Task Force's drafting group met Oct. 10 to discuss the draft surplus lines service of process form (Attachment One). Marnell said the drafting group also discussed two comment letters received from the California Department of Insurance (CDI) and an industry group made up of Lloyd's of London, the Wholesale & Specialty Insurance Association (WSIA), and the American Property Casualty Insurance Association (APCIA) (Attachment Two). Marnell stated that seven edits were proposed, of which the drafting group integrated five. He stated that the two comments the drafting group did not integrate were: 1) the addition of a CDI-specific asterisk and footnote on page 10 of the form; and 2) the addition of the street address within Exhibit B on page 11 of the form, given the mailing address is already on the form. Marnell commented that the drafting group received two additional comments after the exposure period. After speaking with the industry group, an additional edit was made to the form to strike, "issued to a policyholder whose 'Home State' is such State pursuant to Section 3.J and 9 of the NAIC's *Nonadmitted Insurance Model Act (#870)*" from page one of the form.

Lee indicated that the drafting group did not address the fourth item in the CDI's letter, which was to integrate the full name of the resident agent on the first page and within Exhibit B of the form. Lee also indicated that the

## Draft Pending Adoption

CDI statute requires a street address and does not allow a post office (PO) box on the form. Dan Schelp (NAIC) commented that the form is not required and can be modified by the states to accommodate variations.

Thomas Dawson (McDermott Will & Emery) commented that there are many service of process statutes and consent to jurisdiction statutes, some of which deal with unauthorized insurers and the appointment of the commissioner as the agent for service of process. Dawson indicated that many of the forms are not uniform. Dawson stated that all of those forms anchor policies issued in this state to an insured or a beneficiary in this state. Dawson commented that he would like to go back to the draft prior to the Oct. 28 revision, which would reinstate the home state concept into the form. Director Deiter indicated that based on the issues discussed, the drafting group will need to revisit the form and propose a revised draft at the 2025 Spring National Meeting.

#### 4. Heard a Summary of Surplus Lines Industry Results

Andy Daleo (NAIC) summarized the year-end 2023 surplus lines industry results (Attachment Three). His summary included details on overall writings and trends in the industry. He also summarized market exposure for cybersecurity and private flood. Following his summary, he indicated that the industry results would be posted on the Surplus Lines (C) Working Group web page.

Having no further business, the Surplus Lines (C) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/C CMTE/SLTF/2024 Fall NM/SLTF Minutes Nov 7 2024.docx

Applicant Company Name: \_\_\_\_\_ NAIC No./Cocode / Alien ID \_\_\_\_\_  
FEIN: \_\_\_\_\_

**Uniform Certificate of Authority Application (UCAA)  
Uniform Surplus Lines Consent to Service of Process**

\_\_\_\_\_ Original Designation \_\_\_\_\_ Amended Designation  
(must be submitted directly to states)

Applicant Company Entity Name: \_\_\_\_\_

Previous Name (if applicable): \_\_\_\_\_

NAIC Cocode/Alien ID: \_\_\_\_\_

Statutory Home Office Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

NAIC Cocode/Alien ID: \_\_\_\_\_

The Applicant Company Entity named above, organized under the laws of \_\_\_\_\_, and regulated under the laws of \_\_\_\_\_ for purposes of complying with the surplus lines laws of the State(s) designated hereunder relating to the holding of a certificate of authority or the conduct of an insurance business within said State(s), pursuant to a resolution adopted by its board of directors or other governing body, hereby irrevocably appoints the officers of the State(s) and their successors identified in Exhibit A, or where applicable appoints the required agent so designated in Exhibit A hereunder and listed in Exhibit B and attached to this consent to service of process as its attorney in such State(s) upon whom may be served any notice, process or pleading as required by law as reflected on Exhibit A in any action or proceeding by the State(s) designated or under a surplus lines policy issued to a policyholder whose "Home State" is such State pursuant to Section 3.J and 9 of the NAIC's Nonadmitted Insurance Model Act (#870) against it in the State(s) so designated; and does hereby consent that any such lawful action or proceeding against it may be commenced in any court of competent jurisdiction and proper venue within the such State(s) so designated; and agrees that any such lawful process against it which is served under this appointment shall be of the same legal force and validity as if served on the Entity directly. This appointment shall be binding upon any successor to the above named Entity that acquires the Entity's assets or assumes its liabilities by merger, consolidation or otherwise; and shall be binding as long as there is a contract in force or liability of the Entity outstanding in the State. The Entity hereby waives all claims of error by reason of such service. The Entity named above agrees to submit an amended designation form upon a change in any of the information provided on this power of attorney.

**Commented [ATD1]:** CDI Comment #1: Make the following revision in the form: "...Exhibit A, or where applicable appoints the required agent so designated in Exhibit A hereunder and listed in Exhibit B, as its..." Exhibit A serves to list "officers of State(s)" and Exhibit B seems to serve to list "required agents." Reason: to articulate what information is in Exhibit B, and to clarify that the information in Exhibit B is required.

Drafting Group Response: The Drafting Group integrated the suggested language and added the following: "and attached to this consent to service of process"

**Commented [ATD2]:** CDI Comment #3: Make the following revision in the form: "...and proper venue within such State(s)...". Reason: prior to this language, the form makes the following distinction "State(s) designated or under a surplus lines policy issued to a policyholder whose "Home State" is such State." The word "designated" that is proposed to be deleted seems not only unnecessary but it might lead to confusion.

Drafting Group Response: The Drafting Group added the word, "such" however agreed to leave the words, "so designated" within the form.

**Applicant Company Entity Officers' Certification and Attestation**

One of the two Officers (listed below) of the Applicant An officer of the Entity Company must read the following very carefully and sign:

1. I acknowledge that I am authorized to execute and am executing this document on behalf of the Applicant Company Entity.
2. I hereby certify under penalty of perjury under the laws of the applicable jurisdictions that all of the forgoing is true and correct, executed at \_\_\_\_\_.

\_\_\_\_\_ Date

\_\_\_\_\_ Signature of President/Officer

Revised 12/05/2023 05610/1061/2024

Uniform Surplus Lines Consent to Service of Process

Entity Name:  
Cocode/Alien ID:

Full Legal Name of ~~President~~Officer

\_\_\_\_\_  
Title of Officer

\_\_\_\_\_  
Date Signature of Secretary

\_\_\_\_\_  
Full Legal Name of Secretary

~~Uniform Surplus Lines Consent to Service of Process~~  
Exhibit A

Place an "X" before the names of all the States for which the person executing this form is appointing the designated agent in that State for receipt of service of process with respect to such suits as are specified in this Uniform Surplus Lines Consent to Service of Process:

- |   |   |
|---|---|
| <p><input type="checkbox"/> AL Commissioner of Insurance # and Resident Agent*</p> <p><input type="checkbox"/> AK Director of Insurance #</p> <p><input type="checkbox"/> AZ Director of Insurance #<sup>△</sup></p> <p><input type="checkbox"/> AR Resident Agent*</p> <p><input type="checkbox"/> AS Commissioner of Insurance #</p> <p><input checked="" type="checkbox"/> CA Resident Agent</p> <p><input type="checkbox"/> CO Resident Agent*</p> <p><input type="checkbox"/> CT Commissioner of Insurance #</p> <p><input type="checkbox"/> DE Commissioner of Insurance #</p> <p><input type="checkbox"/> DC Commissioner of Insurance, and Securities and Banking, or the Regulation # or Local Appointed Agent* (circle one)</p> <p><input type="checkbox"/> FL Chief Financial Officer #<sup>△</sup></p> <p><input type="checkbox"/> GA Commissioner of Insurance and Safety Fire # and Resident Agent*</p> <p><input type="checkbox"/> GU Commissioner of Insurance #</p> <p><input type="checkbox"/> HI Insurance Commissioner # and Resident Agent*</p> <p><input type="checkbox"/> ID Director of Insurance #<sup>△</sup></p> <p><input type="checkbox"/> IL Director of Insurance #</p> <p><input type="checkbox"/> IN Commissioner of Insurance Resident Agent*<sup>△</sup></p> <p><input type="checkbox"/> IA Commissioner of Insurance #</p> <p><input type="checkbox"/> KS Commissioner of Insurance<sup>△</sup></p> <p><input type="checkbox"/> KY Secretary of State #</p> <p><input type="checkbox"/> LA Secretary of State #</p> | <p><input type="checkbox"/> MO Director of Insurance # —</p> <p><input checked="" type="checkbox"/> MP Commissioner of Insurance</p> <p><input type="checkbox"/> MT Resident Agent*</p> <p><input type="checkbox"/> NE Officer of Company* or Resident Agent* (circle one)</p> <p><input type="checkbox"/> NH Commissioner of Insurance #</p> <p><input type="checkbox"/> NV Commissioner of Insurance Commission #<sup>△</sup></p> <p><input type="checkbox"/> NJ Commissioner of Banking and Insurance #<sup>△</sup></p> <p><input type="checkbox"/> NM Superintendent of Insurance #</p> <p><input type="checkbox"/> NY Superintendent of Financial Services #</p> <p><input type="checkbox"/> NC Commissioner of Insurance</p> <p><input type="checkbox"/> ND Commissioner of Insurance #<sup>△</sup></p> <p><input type="checkbox"/> OH Resident Agent*</p> <p><input type="checkbox"/> OR Resident Agent*</p> <p><input type="checkbox"/> OK Commissioner of Insurance #</p> <p><input checked="" type="checkbox"/> PA Commissioner of Insurance</p> <p><input type="checkbox"/> PR Commissioner of Insurance #</p> <p><input type="checkbox"/> RI Superintendent of Insurance<sup>△</sup></p> <p><input type="checkbox"/> SC Director of Insurance #</p> <p><input type="checkbox"/> SD Director of Insurance #<sup>△</sup></p> <p><input type="checkbox"/> TN Commissioner of Insurance #</p> <p><input type="checkbox"/> TX Resident Agent*</p> <p><input type="checkbox"/> UT Commissioner of Insurance Resident Agent*<sup>△</sup></p> |
|---|---|

**Commented [ATD3]:** Industry Comment: Regarding formatting, Exhibit A doesn't appear to show an agent title for Pennsylvania (PA) or Virginia (VA) and appears to be missing lines to mark for California (CA), the Northern Marianas (MP), Pennsylvania (PA), Virginia (VA), and Wisconsin (WI).

Drafting Group Response: The Drafting Group discussed and integrated the proposed edit.

Uniform Surplus Lines Consent to Service of Process

Entity Name:

Cocode/Alien ID:

- |                 |  |                 |   |
|-----------------|--|-----------------|---|
| <del>—</del> MA | <u>Commissioner of Insurance</u>                                 | <del>—</del> VA | <u>Clerk of the State Corporation Commission</u>    |
| <del>—</del> MD | <del>Commissioner of Insurance-Commissioner #</del>              | <del>—</del> VT | Resident Agent*                                     |
| <del>—</del> ME | Resident Agent* <sup>△</sup>                                     | <del>—</del> VI | Lieutenant Governor/Commissioner#                   |
| <del>—</del> MI | Resident Agent*  | <del>—</del> WA | <del>Commissioner of Insurance-Commissioner #</del> |
| <del>—</del> MN | Resident Agent <del>—</del>                                      | <del>—</del> WI | <u>Commissioner of Insurance</u>                    |
| <del>—</del> MS | Commissioner of Insurance and Resident Agent* BOTH are required. | <del>—</del> WV | Secretary of State-#                                |
|                 |  | <del>—</del> WY | Commissioner of Insurance-#                         |

# ~~For the forwarding of Service of Process received by a State Officer complete Exhibit B listing by state the entities (one per state) with full name and address where service of process is to be forwarded. Use additional pages as necessary. Exhibit not required for New Jersey, and North Carolina. Florida accepts only an individual as the entity and requires an email address. New Jersey allows but does not require a foreign insurer to designate a specific forwarding address on Exhibit B. SC will not forward to an individual by name; however, it will forward to a position, e.g., Attention: President (or Compliance Officer, etc.). Washington requires an email address on Exhibit B.~~

\* ~~Attach a completed Exhibit B listing the Resident Agent for the Applicant Company (one per state). Include state name, Resident Agent's full name and street address. Use additional pages as necessary. (DC\* requires an agent within a ten-mile radius of the District), (MT requires an agent to reside or maintain a business in MT);~~

<sup>△</sup> ~~Initial pleadings only.~~

~~MA will send the required form to the Applicant Company when the approval process reaches that point.~~

~~Minnesota does not forward Service of Process. Service of Process must be accomplished using the procedures set forth in MN Stat. § 45.028. Applicant Company should complete Exhibit B to provide a resident agent address that Commerce will keep on file. Resident agent must have a Minnesota address.~~

**Commented [ATD4]:** CDI Comment #4: In Exhibit A, add an "\*" after "Resident Agent" for California (and applicable other states), and then re-insert a variation of the stricken language in its previous location: \* Attach a completed Exhibit B listing the Resident Agent for the Entity (one per state). Include State name, Resident Agent's full name and street address.

Drafting Group Response: The Drafting Group discussed and the comment requires further explanation.

Uniform Surplus Lines Consent to Service of Process

Entity Name:

Cocode/Alien ID:

**Uniform Certificate of Authority (UCAA)**  
**Uniform Surplus Lines Consent to Service of Process**  
**Exhibit B**

Complete for each state indicated in Exhibit A:

State: \_\_\_\_\_ Name of Entity: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Street Address: \_\_\_\_\_

State: \_\_\_\_\_ Name of Entity: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Street Address: \_\_\_\_\_

State: \_\_\_\_\_ Name of Entity: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Street Address: \_\_\_\_\_

State: \_\_\_\_\_ Name of Entity: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Street Address: \_\_\_\_\_

State: \_\_\_\_\_ Name of Entity: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

**Commented [ATD5]:** CDI Comment #5: In Exhibit B, make the revision below. Reason: Exhibit B seems to serve to list "required agents," which can be entities or individuals. Also, "Street Address" should be reinserted to accommodate states that do not accept P.O. boxes.

Complete for each state indicated in Exhibit A:  
State:  
Name of Entity Full Name of Resident Agent:  
Street Address:

Drafting Group Response: The Drafting Group discussed and the comment requires further explanation

Uniform Surplus Lines Consent to Service of Process

Entity Name:

Cocode/Alien ID:

Mailing Address: \_\_\_\_\_

Street Address: \_\_\_\_\_

**Exhibit B**



Uniform Surplus Lines Consent to Service of Process

Entity Name:

Cocode/Alien ID:

Resolution Authorizing Appointment of Attorney

BE IT RESOLVED by the Board of Directors or other governing body of

\_\_\_\_\_  
(Applicant Company Entity Name)

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, that ~~an Officer the President or Secretary~~ of said Entity be and are hereby authorized by the Board of Directors and directed to sign and execute the Uniform Surplus Lines Consent to Service of Process to give irrevocable consent that actions by a State or by a policyholder whose "home state" is such State under a surplus lines policy issued by or on behalf of the CompanyEntity in such State (in accordance with the terms of this Uniform Surplus Lines Consent to Service of Process) may be commenced against said Entity in the proper court of any jurisdiction in the Sstate(s) of as indicated within Exhibit A.

\_\_\_\_\_  
\_\_\_\_\_

in which the action shall arise, or in which plaintiff may reside, by service of process in the stateState(s) indicated above and irrevocably appoints the officer(s) of the stateState(s) and their respective successors in such offices or, where applicable, appoints the required agent(s) so designated as its attorney in such States(s), upon whom may be served any notice, process or pleading as required by law in any action or proceeding against said Entity in the States(s) in the Uniform Surplus Lines Consent to Service of Process and stipulate and agree that such service of process shall be taken and held in all courts to be as valid and binding as if due service had been made upon said Entity according to the laws of said stateState.

CERTIFICATION:

I, \_\_\_\_\_, Secretary Officer of

\_\_\_\_\_  
(Applicant Company Entity Name)

state that this is a true and accurate copy of the resolution adopted effective the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ by the Board of Directors or governing board at a meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ or by written consent dated \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Date \_\_\_\_\_  
\_\_\_\_\_ Secretary Officer

\_\_\_\_\_  
\_\_\_\_\_ Title of Officer

\_\_\_\_\_

Revised ~~12/05/2023~~05610/1061/2024

**Commented [ATD6]:** Industry Comment: While most of the document addresses an Officer instead of a President and Secretary, the Resolution's first paragraph still includes (immediately after the date fields) "... the President or Secretary of said Entity". We recommend this section be amended to "... the undersigned Officer of said Entity ..." Also, as it is apparent the document understandably moves away from the specific titles of President and Secretary (as not all entities may be true corporations that require those positions) in favor of an Officer, we request that the Officer's title be provided at each signature or certification.

Another change was removing the date at the top of page six. Since this is a resolution of the Board of Directors, the relevant adoption dates and official certification by the company's officer are referenced at the bottom of the resolution. Therefore, the additional date at the top of the form seems unnecessary.

Drafting Group Response: The Drafting Group discussed and integrated the proposed edits.

**Commented [ATD7]:** Industry Comment: The trades suggest that the boldfaced words "in such state" are unnecessary and can be removed. Without these words the proposed resolution still accomplishes the twin objectives of allowing suits by States and home state policyholders. Additionally, the genesis of this workstream was a recognition that the existing UCAA Form 12 was ill-fitted for surplus lines carriers who are not licensed to issue policies "in state" and many of whom are alien carriers, such as Lloyd's. For example, Lloyd's policies are traditionally understood to be "issued" in the United Kingdom but "delivered" locally by licensed brokers. This is why "issued or delivered" is such a common description of policy documents in state insurance laws across the country.

Drafting Group Response: The Drafting Group discussed and integrated the proposed edit.



**RICARDO LARA**  
CALIFORNIA INSURANCE COMMISSIONER

September 18, 2024

**VIA ELECTRONIC MAIL to ADaleo@naic.org**

Andy Daleo  
Sr. Mgr. - P/C Domestic and International Analysis  
Financial Regulatory Services

SUBJECT: Comments on Draft Uniform Surplus Lines Consent to Service of Process form

Dear Mr. Daleo,

In response to the Surplus Lines (C) Task Force's exposure for public comment of the item captioned above, the California Department of Insurance offers the following comments:

1. Make the following revision in the form: "...Exhibit A, or where applicable appoints the required agent so designated in Exhibit A hereunder and listed in Exhibit B, as its...." Exhibit A serves to list "officers of State(s)" and Exhibit B seems to serve to list "required agents." Reason: to articulate what information is in Exhibit B, and to clarify that the information in Exhibit B is required.
2. Add the language below to the form, perhaps directly preceding the officer's certification and attestation. A reference asterisk can be added in the first paragraph, directly following "(#870);\*". Reason: to prevent conflicts for states, such as California, which have not adopted Model Law #870.  

\* Nothing herein shall be construed to impede or otherwise limit applicable state laws or regulations. Any conflict arising between applicable state laws or regulations and any language contained herein shall be resolved in favor of the applicable state law or regulation.
3. Make the following revision in the form: "...and proper venue within suchthe State(s) ~~so designated~~...". Reason: prior to this language, the form makes the following distinction "State(s) designated or under a surplus lines policy issued to a policyholder whose "Home State" is such State." The word "designated" that is proposed to be deleted seems not only unnecessary but it might lead to confusion.
4. In Exhibit A, add an "\*" after "Resident Agent" for California (and applicable other states), and then re-insert a variation of the stricken language in its previous location:

\* Attach a completed Exhibit B listing the Resident Agent for the Entity (one per state). Include State name, Resident Agent's **full name and street address**.

CALIFORNIA DEPARTMENT OF INSURANCE  
PROTECT • PREVENT • PRESERVE  
Legal Branch – Corporate Affairs Bureau  
Audrie Lee | Assistant Chief Counsel  
1901 Harrison Street, 4th Floor  
Oakland, CA 94612  
Tel: (415) 538-4434  
Email: alee@insurance.ca.gov

- In Exhibit B, make the revision below. Reason: Exhibit B seems to serve to list “required agents,” which can be entities or individuals. Also, “Street Address” should be reinserted to accommodate states that do not accept P.O. boxes.

Complete for each state indicated in Exhibit A:

State: \_\_\_\_\_ ~~Name of Entity~~ Full Name of Resident Agent: \_\_\_\_\_

Street Address: \_\_\_\_\_

- As an alternative to points 4. and 5., if the initial asterisks and remarks were stricken to indicate that the Exhibit B would need to be submitted for each state, the Name of Entity line can be revised to “Name of Entity/Resident Agent” and the language in the service of process form can be revised to state “process or pleading as required by law as reflected on Exhibits A and B” to clarify that the Exhibit B is a required component of the Service of Process form.

Should you have any question about this letter, please feel free to contact me.

Sincerely,



Audrie Lee  
Assistant Chief Counsel

cc: Kathryn Taras, CDI  
Michelle Lo, CDI  
Kim Hudson, CDI



September 27, 2024

Andy Daleo  
Sr. Mgr. - P/C Domestic and International Analysis  
Financial Regulatory Services  
National Association of Insurance Commissioners  
[ADaleo@naic.org](mailto:ADaleo@naic.org)

Re: Comments on Draft Surplus Lines Service of Process Form

Dear Mr. Daleo:

Several organizations representing the surplus lines industry (“trades”) would like to offer the following comments on the Draft Surplus Lines Service of Process document opened for comment. We appreciate the opportunity to provide these comments.

The purpose of the form is to bring consistency among the many states that require nonadmitted surplus lines carriers to file Uniform Consent to Service of Process (Form 12), which may be contradictory to a recent U.S. Supreme Court case, *Mallory v. Norfolk Southern Railway Co.* These comments are offered to assist the NAIC with developing a document that best aligns with the regulatory framework of the surplus lines industry.

While most of the document addresses an Officer instead of a President and Secretary, the Resolution’s first paragraph still includes (immediately after the date fields) “... the President or Secretary of said Entity”. We recommend this section be amended to “... the undersigned Officer of said Entity ...” Also, as it is apparent the document understandably moves away from the specific titles of President and Secretary (as not all entities may be true corporations that require those positions) in favor of an Officer, we request that the Officer’s title be provided at each signature or certification.

Regarding formatting, Exhibit A doesn’t appear to show an agent title for Pennsylvania (PA) or Virginia (VA) and appears to be missing lines to mark for California (CA), the Northern Marianas (MP), Pennsylvania (PA), Virginia (VA), and Wisconsin (WI).

Another change was removing the date at the top of page six. Since this is a resolution of the Board of Directors, the relevant adoption dates and official certification by the

company's officer are referenced at the bottom of the resolution. Therefore, the additional date at the top of the form seems unnecessary.

The board resolution authorizing appointment of an attorney for service of process on page 6 currently reads:

... the President or Secretary of said Entity...give irrevocable consent that actions by a State or by a policyholder whose "home state" is such State under a surplus lines policy issued by or on behalf of the Entity **in such State** (in accordance with the terms of this Uniform Surplus Lines Consent to Service of Process) may be commenced against said Entity...

The trades suggest that the boldfaced words "in such state" are unnecessary and can be removed. Without these words the proposed resolution still accomplishes the twin objectives of allowing suits by States and home state policyholders. Additionally, the genesis of this workstream was a recognition that the existing UCAA Form 12 was ill-fitted for surplus lines carriers who are not licensed to issue policies "in state" and many of whom are alien carriers, such as Lloyd's. For example, Lloyd's policies are traditionally understood to be "issued" in the United Kingdom but "delivered" locally by licensed brokers. This is why "issued or delivered" is such a common description of policy documents in state insurance laws across the country.

In concert with these recommendations are others on page 6 that provide a more efficient wording of the overall intent of the document. A well-regarded tenet of statutory drafting is to omit unnecessary language because unnecessary words are more likely to mislead than make the intended meaning clear. To this end, the above recommendations are provided.

The trades appreciate the opportunity to offer these comments and thank the Surplus Lines (C) Task Force for their work on this initiative.

American Property Casualty Insurance Association

Lloyd's America Incorporated

Wholesale and Specialty Insurance Association

U.S. Surplus Lines Overview							
Number of Surplus Lines Entities Writing Business							
			12/31/2023	12/31/2022	12/31/2021	12/31/2020	12/31/2019
U.S. Domestic Insurers			253	250	239	226	214
Lloyd's Syndicates			91	86	90	87	84
Non-U.S. Insurers			81	79	78	75	74
<b>Total</b>			<b>425</b>	<b>415</b>	<b>407</b>	<b>388</b>	<b>372</b>
Direct Surplus Lines Premium							
	Change	% of Total	2023	2022	2021	2020	2019
U.S. Domestic Insurers	15.6%	74.2%	\$86,495,453,455	\$74,850,985,997	\$62,422,765,315	\$47,500,046,674	\$40,296,618,859
Lloyd's Syndicates	27.7%	17.1%	\$19,947,360,326	\$15,617,968,016	\$13,871,953,030	\$12,710,842,755	\$12,473,566,112
Non-U.S. Insurers	18.0%	8.6%	\$10,075,578,449	\$8,542,228,645	\$7,429,261,014	\$5,848,274,247	\$4,336,953,162
<b>Total</b>	<b>17.7%</b>	<b>100.0%</b>	<b>\$116,518,392,230</b>	<b>\$99,011,182,658</b>	<b>\$83,723,979,359</b>	<b>\$66,059,163,676</b>	<b>\$57,107,138,133</b>
% of Surplus Lines Market to Total U.S. DPW			12.1%	11.3%	10.5%	9.1%	8.0%

Cybersecurity							
	U.S. Domestic 2023		Non-U.S. 2023		Total Surplus Lines 2023	Total Admitted & Surplus Lines 2023	Total Admitted & Surplus Lines 2022
	Admitted	Surplus Lines	Lloyd's Syndicates	Alien Companies			
Total Direct Premiums Written	\$2,873,289,761	\$4,374,941,629	\$2,225,206,700	\$370,003,043	\$6,970,151,372	\$9,843,441,133	\$9,658,706,735
Stand-Alone	\$1,507,339,410	\$3,483,951,809	\$1,600,189,472	\$339,416,840	\$5,423,558,121	\$6,930,897,531	\$7,156,413,757
Package Policy	\$1,365,950,351	\$890,989,820	\$625,017,228	\$30,586,203	\$1,546,593,251	\$2,912,543,602	\$2,502,292,978
Total Direct Losses Paid	\$674,347,760	\$715,360,878	\$495,549,578	\$27,765,643	\$1,238,676,099	\$1,913,023,859	\$1,873,606,302
Stand-Alone	\$422,631,812	\$605,657,273	\$284,279,825	\$27,224,143	\$917,161,241	\$1,339,793,053	\$1,306,159,263
Package Policy	\$251,715,948	\$109,703,605	\$211,269,753	\$541,500	\$321,514,858	\$573,230,806	\$567,447,039
Number of Policies in Force	3,962,320	407,421	108,613	85,985	602,019	4,564,339	\$4,130,173
Stand-Alone	213,033	198,946	48,467	79,748	327,161	540,194	502,430
Package Policy	3,749,287	208,475	60,146	6,237	274,858	4,024,145	3,627,743
Number of Claims Reported	15,150	18,411	15,861	4,305	38,577	53,727	\$40,843
Stand-Alone	6,834	15,178	12,322	4,236	31,736	38,570	27,280
Package Policy	8,316	3,233	3,539	69	6,841	15,157	13,563
Number of Entities w/ Exposure <sup>1</sup>	554	192	67	28	287	841	710
Stand-Alone	95	74	57	22	153	248	222
Package Policy	480	97	39	9	145	625	607
Private Flood							
	U.S. Domestic 2023		Non-U.S. 2023		Total Surplus Lines 2023	Total Admitted & Surplus Lines 2023	Total Admitted & Surplus Lines 2022
	Admitted	Surplus Lines	Lloyd's Syndicates	Alien Companies			
Total Direct Premiums Written	\$714,935,328	\$678,400,502	\$1,113,081,732	\$728,271,298	\$2,519,753,532	\$3,234,688,860	\$2,634,146,162
Residential	\$160,097,121	\$270,187,526	\$334,182,361	\$29,085,398	\$633,455,285	\$793,552,406	\$720,022,653
Commercial	\$554,838,207	\$408,212,976	\$778,899,371	\$699,185,900	\$1,886,298,247	\$2,441,136,454	\$1,914,123,509
Total Direct Losses Paid	\$162,880,134	\$149,107,604	\$302,660,565	\$47,521,987	\$499,290,156	\$662,170,290	\$651,332,710
Residential	\$77,840,037	\$109,503,039	\$89,970,450	\$18,312,457	\$217,785,946	\$295,625,983	\$298,082,140
Commercial	\$85,040,097	\$39,604,565	\$212,690,115	\$29,209,530	\$281,504,210	\$366,544,307	\$353,250,570
Number of Policies in Force	400,709	248,697	189,647	56,705	495,049	895,758	913,400
Residential	244,104	182,523	166,368	31,818	380,709	624,813	636,684
Commercial	156,605	66,174	23,279	24,887	114,340	270,945	276,716
Number of Claims Reported	865	474	3,730	2,069	6,273	7,138	9,632
Residential	549	361	1,438	648	2,447	2,996	5,530
Commercial	316	113	2,292	1,421	3,826	4,142	4,102
Number of Entities w/ Exposure <sup>1</sup>	169	50	43	18	111	280	278
Residential	75	24	32	7	63	138	148
Commercial	104	38	41	17	96	200	201

<sup>1</sup>The total number of entities will not equal the sum of the sub-categories given there are entities that have exposure to both sub-categories

States & Territories						
2023 U.S. Surplus Lines Premiums						
Rank	State	U.S. Domestic Insurers	Lloyd's Syndicates	Non-U.S. Insurers	Totals	SL Market Share *
1	California	\$15,403,629,121	\$3,074,690,132	\$1,385,600,761	\$19,863,920,014	17%
2	Texas	\$10,394,391,009	\$3,016,096,459	\$1,679,917,452	\$15,090,404,920	15%
3	Florida	\$11,478,833,391	\$2,551,891,933	\$820,878,897	\$14,851,604,221	16%
4	New York	\$6,523,182,187	\$1,587,786,478	\$745,469,663	\$8,856,438,328	13%
5	Illinois	\$2,824,695,779	\$805,509,447	\$448,242,401	\$4,078,447,627	11%
6	New Jersey	\$2,496,641,717	\$501,137,262	\$260,809,160	\$3,258,588,139	11%
7	Georgia	\$2,346,094,922	\$577,628,111	\$294,751,794	\$3,218,474,827	10%
8	Louisiana	\$2,279,543,691	\$604,008,667	\$185,267,217	\$3,068,819,575	18%
9	Pennsylvania	\$2,187,544,394	\$424,872,021	\$318,599,357	\$2,931,015,772	9%
10	Massachusetts	\$1,849,961,476	\$548,766,117	\$209,821,787	\$2,608,549,380	12%
11	Washington	\$1,814,436,195	\$368,349,272	\$230,054,223	\$2,412,839,690	13%
12	Colorado	\$1,669,322,455	\$342,914,147	\$143,165,642	\$2,155,402,244	10%
13	Ohio	\$1,476,678,394	\$341,304,697	\$222,535,878	\$2,040,518,969	9%
14	North Carolina	\$1,458,962,751	\$346,421,315	\$168,694,098	\$1,974,078,164	8%
15	Virginia	\$1,303,169,566	\$300,381,346	\$335,590,577	\$1,939,141,489	9%
16	South Carolina	\$1,355,874,233	\$323,075,820	\$112,344,054	\$1,791,294,107	12%
17	Tennessee	\$1,231,402,170	\$279,078,854	\$130,030,996	\$1,640,512,020	9%
18	Alabama	\$1,203,846,328	\$298,664,681	\$131,013,015	\$1,633,524,024	12%
19	Missouri	\$1,182,935,584	\$234,429,952	\$186,679,168	\$1,604,044,704	9%
20	Arizona	\$1,247,162,055	\$199,086,030	\$129,139,545	\$1,575,387,630	9%
21	Michigan	\$1,090,090,347	\$200,128,558	\$159,446,847	\$1,449,665,752	6%
22	Indiana	\$1,099,333,712	\$173,989,894	\$155,739,123	\$1,429,062,729	9%
23	Minnesota	\$879,960,508	\$191,798,652	\$158,623,060	\$1,230,382,220	7%
24	Maryland	\$870,060,838	\$240,521,304	\$106,091,797	\$1,216,673,939	7%
25	Connecticut	\$854,497,756	\$231,117,096	\$103,241,839	\$1,188,856,691	10%
26	Oklahoma	\$774,399,551	\$141,645,711	\$119,287,665	\$1,035,332,927	9%
27	Oregon	\$731,712,943	\$170,725,416	\$103,794,409	\$1,006,232,768	9%
28	Wisconsin	\$712,479,807	\$148,973,801	\$114,414,272	\$975,867,880	7%
29	Mississippi	\$721,571,113	\$152,678,949	\$43,171,017	\$917,421,079	12%
30	Nevada	\$668,726,152	\$116,719,209	\$90,615,396	\$876,060,757	10%
31	Utah	\$622,643,739	\$172,732,002	\$60,858,538	\$856,234,279	10%
32	Iowa	\$568,144,598	\$120,151,705	\$51,424,879	\$739,721,182	7%
33	Arkansas	\$515,488,073	\$117,119,205	\$45,058,786	\$677,666,064	8%
34	Kentucky	\$462,329,861	\$133,346,599	\$57,529,762	\$653,206,222	6%
35	Kansas	\$434,902,685	\$89,410,032	\$73,761,443	\$598,074,160	6%
36	Hawaii	\$421,656,525	\$92,436,533	\$59,491,225	\$573,584,283	16%
37	Dist. Columbia	\$405,759,450	\$65,612,781	\$47,809,112	\$519,181,343	18%
38	Nebraska	\$378,062,669	\$71,647,855	\$36,369,653	\$486,080,177	6%
39	Delaware	\$291,287,477	\$61,842,526	\$42,507,049	\$395,637,052	10%
40	Rhode Island	\$263,750,378	\$82,101,988	\$18,170,591	\$364,022,957	10%
41	Idaho	\$259,544,526	\$42,356,818	\$40,700,257	\$342,601,601	7%
42	New Mexico	\$267,562,096	\$28,435,011	\$21,502,909	\$317,500,016	6%
43	Montana	\$230,658,124	\$45,744,300	\$26,564,022	\$302,966,446	8%
44	Alaska	\$196,332,978	\$63,717,577	\$30,021,686	\$290,072,241	14%
45	West Virginia	\$176,917,331	\$27,365,018	\$19,265,111	\$223,547,460	6%
46	New Hampshire	\$174,188,660	\$22,826,016	\$25,249,782	\$222,264,458	7%
47	North Dakota	\$151,266,480	\$22,012,463	\$45,981,012	\$219,259,955	6%
48	Maine	\$163,751,250	\$31,560,877	\$20,368,307	\$215,680,434	6%
49	Vermont	\$118,470,882	\$25,594,643	\$8,650,609	\$152,716,134	9%
50	South Dakota	\$101,775,710	\$24,472,987	\$25,476,308	\$151,725,005	4%
51	Wyoming	\$116,279,435	\$24,910,877	\$9,017,915	\$150,208,227	8%
52	U.S. Virgin Islands	\$12,964,053	\$56,532,887	\$5,150,128	\$74,647,068	33%
53	Puerto Rico	\$28,255,360	\$27,581,528	\$6,997,157	\$62,834,045	2%
54	Guam	\$2,066,945	\$3,155,965	\$3,611,723	\$8,834,633	2%
55	American Samoa	\$659	\$298,711	\$902,787	\$1,202,157	97%
56	Northern Mariana Islands	\$253,366	\$2,091	\$106,588	\$362,045	2%
<b>Grand Total</b>		<b>\$86,495,453,455</b>	<b>\$19,947,360,326</b>	<b>\$10,075,578,449</b>	<b>\$116,518,392,230</b>	
<b>% of Total</b>		<b>74.2%</b>	<b>17.1%</b>	<b>8.6%</b>	<b>100.0%</b>	

\* Denominator = P/C U.S. domiciled admitted & non-admitted insurers and non-U.S. insurers and syndicates operating in the U.S. market.