

Draft date: 10/7/24

*Virtual Meeting  
(in lieu of meeting at the 2024 Fall National Meeting)*

**SURPLUS LINES (C) TASK FORCE**

Thursday, November 7, 2024

12:00 – 1:00 p.m. ET / 11:00 a.m. – 12:00 p.m. CT / 10:00 – 11:00 a.m. MT / 9:00 – 10:00 a.m. PT

**ROLL CALL**

Larry D. Deiter, Chair	South Dakota	Timothy J. Temple	Louisiana
Cassie Brown, Vice Chair	Texas	Marie Grant	Maryland
Mark Fowler	Alabama	Michael T. Caljouw	Massachusetts
Lori K. Wing-Heier	Alaska	Grace Arnold	Minnesota
Ricardo Lara	California	Mike Chaney	Mississippi
Michael Conway	Colorado	Remedio C. Mafnas	N. Mariana Islands
Karima M. Woods	District of Columbia	Scott Kipper	Nevada
Michael Yaworsky	Florida	Justin Zimmerman	New Jersey
John F. King	Georgia	Mike Causey	North Carolina
Michelle B. Santos	Guam	Glen Mulready	Oklahoma
Gordon I. Ito	Hawaii	Michael Humphreys	Pennsylvania
Dean L. Cameron	Idaho	Michael Wise	South Carolina
Ann Gillespie	Illinois	Carter Lawrence	Tennessee
Holly Williams Lambert	Indiana	Tregenza A. Roach	U.S. Virgin Islands
Vicki Schmidt	Kansas	Mike Kreidler	Washington

NAIC Support Staff: Andy Daleo

**AGENDA**

1. Consider Adoption of its Summer National Meeting Minutes Attachment One  
—*Director Larry D. Deiter (SD)*
2. Consider Adoption of the Report of the Surplus Lines (C) Working Group  
—*Eli Snowbarger (OK)*
3. Discuss Comments Received Regarding the Exposure of the Draft Surplus Lines Service of Process Form—*Director Larry D. Deiter (SD)* Attachment Two
4. Hear a Summary of Surplus Lines Industry Results—*Andy Daleo (NAIC)*
5. Discuss Any Other Matters Brought Before the Task Force  
—*Director Larry D. Deiter (SD)*
6. Adjournment

## Draft Pending Adoption

Draft: 8/20/24

Surplus Lines (C) Task Force  
Chicago, Illinois  
August 13, 2024

The Surplus Lines (C) Task Force met in Chicago, IL, Aug. 13, 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 Sian Ng-Ashcraft (AK); Ricardo Lara represented by Libio Latimer (CA); Michael Conway represented by Rolf Kaumann (CO); Karima M. Woods represented by Angela King (DC); Michael Yaworsky represented by Sheryl Parker (FL); Gordon I. Ito represented by Randy Jacobson (HI); Dean L. Cameron represented by Randy Pipal (ID); Ann Gillespie represented by Julie Rachford (IL); Joy Y. Hatchette represented by Erin Nickles (MD); Kevin P. Beagan represented by James A. McCarthy (MA); Grace Arnold represented by Kathleen Orth (MN); Scott Kipper represented by Dede Benissan (NV); Mike Causey represented by Angela Hatchell (NC); Glen Mulready represented by Eli Snowbarger (OK); Michael Humphreys represented by Michael McKenney (PA); Carter Lawrence represented by Trey Hancock (TN); Tregenza A. Roach represented by Cheryl Charleswell (VI); and Mike Kreidler represented by Todd Dixon (WA).

### 1. Adopted its Spring National Meeting Minutes

Walker made a motion, seconded by Orth, to adopt the Task Force’s Spring National Meeting minutes (*see NAIC Proceedings – Spring 2024, Surplus Lines (C) Task Force*). The motion passed unanimously.

### 2. Adopted the Report of the Surplus Lines (C) Working Group Including Amendments to the International Insurers Department Plan of Operation

Snowbarger said the Surplus Lines (C) Working Group met April 30. During this meeting, it discussed draft enhancements and edits to the *NAIC International Insurers Department Plan of Operation* (Plan) (Attachment \_\_\_). Snowbarger said this Plan guides alien insurers on filing and compliance requirements to become and remain listed on the *Quarterly Listing of Alien Insurers* (Quarterly Listing). The following substantive amendments were made to the Plan:

- Section II, Requirements and Guidelines: Language was added to address the need for an NAIC alien ID in order to apply to write business in the United States. Additional context explains that the alien ID does not provide any form of authority and is only used for reporting purposes as an identifier. Amendments were also made to move the analysis considerations out from the “Equity Requirement” section to a new section entitled “Overall Risk Assessment.” Snowbarger said this was done because the analysis considerations are evaluated for every application and renewal, so having these requirements embedded only within the Equity Requirements section did not reflect the actual review process that takes place. Further, he indicated that a new analysis consideration was added to address market conduct. He indicated that market conduct would be assessed through complaints, claims practices, litigation, and any other regulatory concerns.
- Section II.E, Ethics and Integrity: This section was broken into two subsections. First, a section for “Governance and Market Conduct” was added. He stated that this subsection was largely part of the plan language except for a newly added lead-in sentence. Secondly, he indicated that a new “Market Conduct” section requires insurers to maintain sound market conduct practices and submit details on examination findings if an insurer is subject to a market conduct examination.

## Draft Pending Adoption

- Section IV, Ongoing Quarterly Listing Eligibility: This section was amended to include a new sentence that indicates that Quarterly Listed insurers are analyzed annually based on the requirements outlined in Section II.

Snowbarger stated that the Working Group exposed the plan for a 30-day public comment period that ended May 31. The Plan was adopted by the Working Group during an e-vote (Attachment \_\_) on June 28.

Snowbarger said that the Working Group also met June 25 and March 28 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings. During its March 28 meeting, the Working Group approved three applications for admittance to the April 1 Quarterly Listing, and during its June 25 meeting, the Working Group approved four applications seeking admittance to the July 1 Quarterly Listing.

Kaumann made a motion, seconded by Walker, to adopt the report of the Surplus Lines (C) Working Group, including its April 30 minutes (Attachment) and amendments to the Plan. The motion passed unanimously.

### 3. Exposed the Draft Surplus Lines Service of Process

Marnell said the drafting group met May 29 and May 6. He commented that Thomas Dawson (McDermott Will & Emery) and Andrea Best (McDermott Will & Emery) coordinated an industry draft version of the surplus lines service of process form with input from other interested parties. He stated that the drafting group reviewed the industry draft edits, made some adjustments, and compiled a red-lined version of the form (Attachment \_\_). He stated that the most significant edit is the addition of “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).” He said that this language was added to the first paragraph on Page 1 of the form. He also indicated that edits were made to the “Resolution Authorizing Appointment of Attorney” section on Page 6 where language was added regarding the policyholders’ home state where the surplus lines policy was issued. Marnell indicated that the balance of the edits was made to modernize the form.

Director Deiter asked for a motion to expose the draft surplus lines service of process form for a 30-day public comment period ending Sept. 13. Walker made a motion, seconded by Kaumann, to expose the report. The motion passed unanimously.

### 4. Heard Adjustments to the Exempt Commercial Purchaser Minimum Qualifications

Daleo said that the minimum qualifications were adjusted to reflect the June 2024 consumer price index (CPI) – all urban consumers from the previously established minimum qualifications that were effective Jan. 1, 2020. He indicated that the new minimum qualifications (Attachment \_\_) would be effective Jan. 1, 2025. Director Deiter commented that the new minimum qualifications would be posted to the Task Force’s webpage within the “Documents” tab.

### 5. Adopted its 2025 Proposed Charges

Director Deiter stated that the 2025 proposed charges for the Task Force and the Surplus Lines (C) Working Group do not reflect any edits from the previous charges.

Walker made a motion, seconded by Orth, to adopt the Task Force’s 2025 proposed charges (Attachment \_\_). The motion passed unanimously.

### 6. Heard a Presentation on Public Adjusters in the Surplus Lines Marketplace

## Draft Pending Adoption

Jeffrey Gould (Sill Public Adjusters) said that the National Association of Public Insurance Adjusters (NAPIA) is licensed in 46 states and the District of Columbia, and it primarily represents small businesses with some members representing residential insureds. He indicated that NAPIA's purpose is to assist property owners when they have a claim and to act as a fiduciary to the insureds. Gould stated that the primary goal of NAPIA is to ensure equitable payment to the insured, quick settlement of the claim, and to handle all of the paperwork for the insured. Gould indicated the NAPIA members are not independent adjusters who are hired by the insurer. He stated that public adjusters are hired by the insured for the interest of the insured. He indicated that many businesses do not understand how to manage the claims process and that public adjusters walk the insured through the process.

Brian Goodman (Goodman Law Group) commented that he represents NAPIA as its general counsel. Goodman indicated that they are seeing a trend in the surplus lines industry of hiring a third party when the insured and insurer cannot agree on the indemnity of a claim. He indicated that this appraisal process is being used in the surplus lines industry more frequently than it should be. Further, Gould indicated that there is typically an arbitration clause that requires the insured to travel to a state, as indicated in the policy, to appraise the loss. Gould stated that many surplus lines policies also include anti-public adjuster endorsements. He stated that these endorsements prohibit any insured from using a public adjuster. He indicated that this type of language in the policy is likely unconstitutional and probably illegal and that there are antitrust ramifications.

Jim Beneke (The Beneke Company/Adjusters International) commented that property insurance policies place the burden of proof on the insured to prove the claim, and only an attorney or a public adjuster can assist the insured in meeting its obligations under an insurance policy. Beneke commented that some insureds may turn to a contractor to assist in adjusting the claim and that these contractors are unaware that they are entering the unauthorized practice of public adjusting and law. He indicated that the contractor will not have the specialized knowledge and expertise of a public adjuster. Beneke stated that this is a consumer rights issue because the insured should have the option to hire a public adjuster. Beneke said that Texas took action to end this practice.

Director Deiter asked if there are particular states that contain the anti-public adjuster endorsement within the policy language. Beneke indicated that these endorsements are present in Florida, Louisiana, Massachusetts, New York, and Ohio. Parker commented that in order to address the issue, she would like to see the trends in anti-public adjuster endorsements and the appraisal abuse that includes a list of insurers and the number of insureds impacted. Beneke indicated that he would gather the necessary information and provide it to Parker. Marnell indicated that this appears to be an antitrust issue. Beneke indicated that the easiest way to solve this problem is through the state legislature process.

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

SharePoint/NAIC Support Staff Hub/Member Meetings/C CMTE/SLTF/2024 Summer NM/SLTF Minutes Aug 13 2024.docx

### Uniform Surplus Lines Consent to Service of Process

\_\_\_\_\_ Original Designation \_\_\_\_\_ Amended Designation

Entity Name: \_\_\_\_\_

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

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

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

The 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, 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; 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 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.

### Entity Officers’ Certification and Attestation

An officer of the Entity must read the following and sign:

1. I acknowledge that I am authorized to execute and am executing this document on behalf of the 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 Officer

\_\_\_\_\_  
Full Legal Name of Officer

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

Uniform Surplus Lines Consent to Service of Process  
 Entity Name:  
 Cocode/Alien ID:

### 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:

<input type="checkbox"/>	AL	Commissioner of Insurance and Resident Agent	<input type="checkbox"/>	MP	Commissioner of Insurance
<input type="checkbox"/>	AK	Director of Insurance	<input type="checkbox"/>	MT	Resident Agent
<input type="checkbox"/>	AZ	Director of Insurance	<input type="checkbox"/>	NE	Officer of Company or Resident Agent
<input type="checkbox"/>	AR	Resident Agent	<input type="checkbox"/>	NH	Commissioner of Insurance
<input type="checkbox"/>	AS	Commissioner of Insurance	<input type="checkbox"/>	NV	Commissioner of Insurance
<input type="checkbox"/>	CA	Resident Agent	<input type="checkbox"/>	NJ	Commissioner of Banking and Insurance
<input type="checkbox"/>	CO	Resident Agent	<input type="checkbox"/>	NM	Superintendent of Insurance
<input type="checkbox"/>	CT	Commissioner of Insurance	<input type="checkbox"/>	NY	Superintendent of Financial Services
<input type="checkbox"/>	DE	Commissioner of Insurance	<input type="checkbox"/>	NC	Commissioner of Insurance
<input type="checkbox"/>	DC	Commissioner of Insurance, Securities and Banking or the Local Appointed Agent	<input type="checkbox"/>	ND	Commissioner of Insurance
<input type="checkbox"/>	FL	Chief Financial Officer	<input type="checkbox"/>	OH	Resident Agent
<input type="checkbox"/>	GA	Commissioner of Insurance and Safety Fire and Resident Agent	<input type="checkbox"/>	OR	Resident Agent
<input type="checkbox"/>	GU	Commissioner of Insurance	<input type="checkbox"/>	OK	Commissioner of Insurance
<input type="checkbox"/>	HI	Insurance Commissioner and Resident Agent	<input type="checkbox"/>	PA	Commissioner of Insurance
<input type="checkbox"/>	ID	Director of Insurance	<input type="checkbox"/>	PR	Commissioner of Insurance
<input type="checkbox"/>	IL	Director of Insurance	<input type="checkbox"/>	RI	Superintendent of Insurance
<input type="checkbox"/>	IN	Commissioner of Insurance	<input type="checkbox"/>	SC	Director of Insurance
<input type="checkbox"/>	IA	Commissioner of Insurance	<input type="checkbox"/>	SD	Director of Insurance
<input type="checkbox"/>	KS	Commissioner of Insurance	<input type="checkbox"/>	TN	Commissioner of Insurance
<input type="checkbox"/>	KY	Secretary of State	<input type="checkbox"/>	TX	Resident Agent
<input type="checkbox"/>	LA	Secretary of State	<input type="checkbox"/>	UT	Commissioner of Insurance
<input type="checkbox"/>	MA	Commissioner of Insurance	<input type="checkbox"/>	VA	Clerk of the State Corporation Commission
<input type="checkbox"/>	MD	Commissioner of Insurance	<input type="checkbox"/>	VT	Resident Agent
<input type="checkbox"/>	ME	Resident Agent	<input type="checkbox"/>	VI	Lieutenant Governor/Commissioner
<input type="checkbox"/>	MI	Resident Agent	<input type="checkbox"/>	WA	Commissioner of Insurance
<input type="checkbox"/>	MN	Resident Agent	<input type="checkbox"/>	WI	Commissioner of Insurance
<input type="checkbox"/>	MS	Commissioner of Insurance and Resident Agent BOTH are required.	<input type="checkbox"/>	WV	Secretary of State
<input type="checkbox"/>	MO	Director of Insurance	<input type="checkbox"/>	WY	Commissioner of Insurance

Uniform Surplus Lines Consent to Service of Process  
Entity Name:  
Cocode/Alien ID:

**Exhibit B**

Complete for each state indicated in Exhibit A:

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

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

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

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

---

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

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

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

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

---

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

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

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

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

---

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

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

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

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

---

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

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

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

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

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

\_\_\_\_\_  
(Entity Name)

that an Officer 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 Entity (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 State(s) as indicated within Exhibit A,

in which the action shall arise, or in which plaintiff may reside, by service of process in the State(s) indicated above and irrevocably appoints the officer(s) of the State(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) 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 State.

CERTIFICATION:

I, \_\_\_\_\_, Officer of  
\_\_\_\_\_  
(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 \_\_\_\_\_

\_\_\_\_\_  
Officer

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



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 05/10/1061/2024

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:

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

**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 | <u>Commissioner of Insurance-Commissioner #</u>                  | <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 | <u>Commissioner of Insurance-Commissioner #</u>  |
| <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 Commeree 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 (UCA)~~  
**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

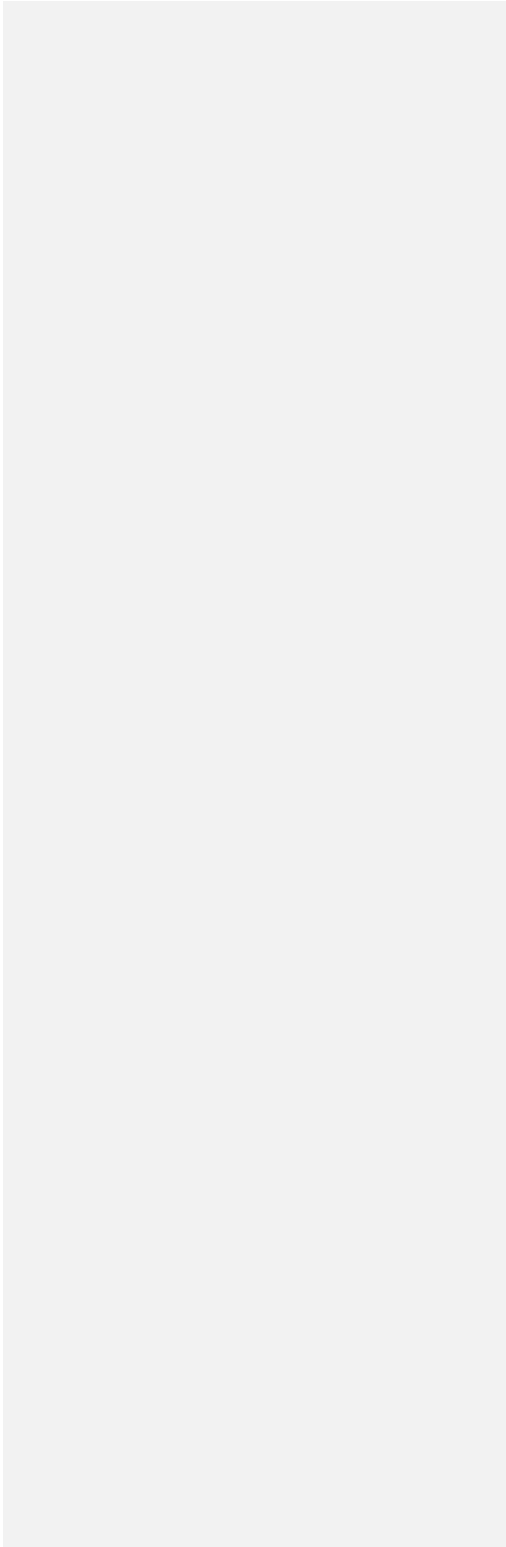
Entity Name:

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 \_\_\_\_\_  
\_\_\_\_\_ SecretaryOfficer

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

\_\_\_\_\_

Revised 12/05/2023 05/610/1061/2024

**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

Andy Daleo  
Page 2  
September 18, 2024

- 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: \_\_\_\_\_

- 6. 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