

Draft date: 7/3/24

2024 Summer National Meeting  
Chicago, Illinois

**SURPLUS LINES (C) TASK FORCE**

Tuesday, August 13, 2024

11:45 a.m. – 12:45 p.m.

McCormick Place Convention Center S103–Level 1

**ROLL CALL**

Larry D. Deiter, Chair	South Dakota	Timothy J. Temple	Louisiana
Cassie Brown, Vice Chair	Texas	Joy Y. Hatchette	Maryland
Mark Fowler	Alabama	Kevin P. Beagan	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
Amy L. Beard	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 Spring National Meeting Minutes Attachment One  
—*Director Larry D. Deiter (SD)*
2. Consider Adoption of the Report of the Surplus Lines (C) Working Group, Attachment Two  
Including Amendments to the International Insurers Department (IID) Plan of  
Operation—*Eli Snowbarger (OK)*
3. Consider Exposure of the Draft Surplus Lines Service of Process Form Attachment Three  
—*Director Larry D. Deiter (SD)*
4. Hear Adjustments to Exempt Commercial Purchaser Minimum Qualifications Attachment Four  
—*Andy Daleo (NAIC)*



5. Consider Adoption of its 2025 Proposed Charges—*Director Larry D. Deiter (SD)* Attachment Five
6. Hear a Presentation on Public Adjusters in the Surplus Lines Market  
—*Ann Frohman (National Association of Public Insurance Adjusters—NAPIA)* Attachment Six
7. Discuss Any Other Matters Brought Before the Task Force  
—*Director Larry D. Deiter (SD)*
8. Adjournment

## Draft Pending Adoption

Draft: 3/21/24

Surplus Lines (C) Task Force  
Phoenix, Arizona  
March 16, 2024

The Surplus Lines (C) Task Force met in Phoenix, AZ, March 16, 2024. The following Task Force members participated: Larry D. Deiter, Chair and Frank Marnell (SD); Cassie Brown, Vice Chair represented by Jamie Walker (TX); Mark Fowler represented by Jimmy Gunn (AL); 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 Alex May (FL); Gordon I. Ito (HI); Dean L. Cameron represented by Randy Pipal (ID); Dana Popish Severinghaus represented by Marcy Savage (IL); Vicki Schmidt represented by Philip Michael (KS); Timothy J. Temple represented by Stewart Guerin (LA); Kathleen A. Birrane represented by Erin Nickles (MD); Gary D. Anderson represented by James A. McCarthy (MA); Grace Arnold represented by Kathleen Orth (MN); Remedio C. Mafnas (NMI); Scott Kipper (NV); Mike Causey represented by Angela Hatchell (NC); Glen Mulready represented by Eli Snowbarger (OK); Michael Humphreys represented by Michael McKenney (PA); Michael Wise represented by Will Davis (SC); Carter Lawrence represented by Trey Hancock (TN); and Mike Kreidler represented by Todd Dixon (WA).

### 1. Adopted its 2023 Fall National Meeting Minutes

Walker made a motion, seconded by Pipal, to adopt the Task Force's Dec. 1, 2023, minutes (*see NAIC Proceedings – Fall 2023, Surplus Lines (C) Task Force*). The motion passed unanimously.

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

Guerin reported that the Surplus Lines (C) Working Group met Dec. 13, 2023, in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, to discuss two applications seeking approval for listing on the NAIC *Quarterly Listing of Alien Insurers*. Both applications were approved.

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

### 3. Discussed Service of Process

Marnell commented that Tom Dawson (McDermott Will & Emery) discussed an issue identified by the International Underwriting Association (IUA) with respect to the Uniform Consent to Service of Process (Form 12). He indicated that the IUA's concern stems from the recent Supreme Court case of *Mallory v. Norfolk Southern Railway Co. (Mallory)*. Specifically, the Supreme Court found that a corporate defendant that registered for general business purposes with the state of Pennsylvania consented to be sued in that state, even though the plaintiff had no other jurisdictional connection with that state. The IUA advised that many states require nonadmitted surplus lines carriers to file the Form 12 before placing surplus lines insurers on local approved/eligible lists. Marnell indicated that this practice may be problematic after the *Mallory* decision because Form 12 has a broad service of process appointment that would potentially permit a surplus lines insurer to be sued in any state designated on Form 12. Marnell commented that this is inconsistent with the *Nonadmitted Insurance Model Act (#870)*, Section 9—Service of Process, which provides that a nonadmitted insurer may only be sued upon any cause of action arising on risks or exposures located in the state. Under Model #870, the surplus lines carrier could only be sued in the state where the cause of action arose and not potentially in every state in

## Draft Pending Adoption

which it filed Form 12. Marnell stated that in order to remedy this, the IUA proposed creating a new surplus lines specific Form 12 in order to avoid the potential problem caused by the *Mallory* Supreme Court decision.

Marnell indicated that the drafting group formed in January includes Indiana, Louisiana, Oklahoma, South Dakota, and Washington. He stated that the drafting group met on Feb. 13 and March 4. He commented that during the Feb. 13 call, the drafting group reviewed the materials provided by Dawson and discussed the overall issue regarding Form 12. Marnell indicated that the drafting group issued a four-question survey to the state insurance departments to get a better understanding of the state practices with respect to the use of Form 12. Marnell summarized that the survey was sent out to all states and territories and resulted in 32 state responses. He indicated that the drafting group wanted to understand the requirements for filing Form 12 and learned that 16 states require the filing of service of process forms for both U.S. and non-U.S. insurers doing business in their state, 12 states do not require any filings, and four states only require the form for U.S. domiciled insurers. Further, he summarized that Form 12 is utilized by 15 states, and six states implement a state-specific Form 12. Lastly, he commented that seven states support the creation of a surplus lines-specific service of process form. He indicated that the low number likely is the result of states not being aware of the over-arching issue regarding Form 12.

Marnell commented that Form 12 is currently available within the Uniform Certificate of Authority Application (UCAA) for companies requesting licensure. He indicated that it is currently accessible outside of the new licensing portal, but next year, Form 12 will only be available for companies using the UCAA portal for licensure.

Director Deiter inquired about any comments and, hearing no objections, directed the drafting group to proceed with developing a surplus lines service of process form and requested a report during the 2024 Summer National Meeting.

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

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Draft: 06/6/24

Surplus Lines (C) Working Group  
Virtual Meeting  
April 30, 2024

The Surplus Lines (C) Working Group of the Surplus Lines (C) Task Force met April 30, 2024. The following Working Group members participated: Stewart Guerin, Chair (LA); Eli Snowbarger, Vice Chair (OK); David Phifer (AK); Michelle Lo (CA); Rolf Kaumann (CO); Sheryl Parker (FL); Scott Sanders (GA); Marcy Savage (IL); John Turchi (MA); William Leach (NJ); Jose Joseph (NY); Amy Garcia (TX); and Steve Drutz (WA).

1. Discussed Draft Amendments to the NAIC IID Plan of Operation

Andy Daleo (NAIC) summarized the proposed changes to the NAIC *International Insurers Department (IID) Plan of Operation* (Plan of Operation) (Attachment \_\_\_\_). The following proposed changes to the Plan of Operation were highlighted: 1) adding language to emphasize that an alien ID is for reporting purposes only; 2) moving analysis considerations from the equity requirement section to a new standalone requirement section titled “Overall Risk Assessment”; 3) adding market conduct requirements to the overall risk assessment and ethics/integrity requirements sections; 4) adding clarifying language to the U.S. Trust Fund and Annual and Ongoing Analysis sections; and 6) removing “Examination of Insurer” from the ongoing analysis section. Daleo indicated that if adopted, the Plan of Operation would be effective January 1, 2025.

Drutz indicated that Section II.B - Equity Requirement, would benefit from a revision to move the language addressing the possibility of a greater equity requirement and/or additional reporting into the same paragraph with the language addressing an Insurer’s risk profile. Daleo requested the comment be submitted to be addressed during the exposure period.

Guerin requested the exposure of the draft IID Plan of Operation.

Snowbarger made a motion, seconded by Drutz, to expose the draft Plan of Operation for a 30-day public comment period ending May 31. The motion passed unanimously.

Having no further business, the Surplus Lines (C) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/ C CMTE/2024\_Summer/SLTF/SLWG/ SLWG minutes April 30

Draft: 7/1/24

Surplus Lines (C) Working Group  
E-Vote  
June 28, 2024

The Surplus Lines (C) Working Group of the Surplus Lines (C) Task Force conducted an e-vote that concluded June 28, 2024. The following Working Group members participated: Eli Snowbarger, Vice Chair (OK); Michelle Lo (CA); Renee Sanchez (CO); Scott Sanders (GA); James A. McCarthy (MA); Jose Joseph (NY); Amy Garcia (TX); and Steve Drutz (WA).

1. Adopted the NAIC IID Plan of Operation

The Working Group conducted an e-vote to consider adoption of the modifications to the NAIC International Insurers Department (IID) Plan of Operation. The motion passed with a majority of the members in favor of adoption.

Having no further business, the Surplus Lines (C) Working Group adjourned.

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### Background

The NAIC has a long history of supporting state insurance departments' regulatory efforts regarding insurers domiciled outside of the United States (alien) participating in the U.S. nonadmitted market. Initially acting only as a repository for alien insurer financial records, the NAIC has transitioned over the years to its present role as the recognized authority for alien insurers (hereafter, Insurer(s) refers to alien domiciled companies and Lloyd's syndicates) seeking approval to write direct surplus lines ~~business-premiums~~ in all U.S. states and territories. The NAIC International Insurers Department (IID) ~~and the Surplus Lines (C) Working Group (Working Group) are responsible for maintaining this~~ Plan of Operation (Plan) ~~that~~ provides details on the ~~requirements, standards, and processes that Insurers must meet to gain and maintain inclusion on the Quarterly Listing of Alien Insurers (Quarterly Listing).~~ ~~The Plan provides a description of the roles NAIC staff and selected state regulators perform in the oversight of alien Insurers writing surplus lines business in the U.S.~~

### Introduction

~~The Plan describes how the IID operates and how Insurers obtain inclusion on the Quarterly Listing.~~ The IID is comprised of experienced financial analysts that review applications and renewal filing documents, prepare written analyses, and provide support to NAIC surplus lines committees and working groups. The IID also includes an Internal Review Committee (Internal Committee) that consists of NAIC directors, managers, attorneys, and analysts. The Internal Committee reviews IID analyses and provides a report of recommendation to the ~~Surplus Lines (C) Working Group (Working Group).~~ The ~~Property and Casualty Insurance (C) Committee~~ is designated the "Appeal Committee" for decisions made by the Working Group and has no direct involvement in making or approving recommendations regarding alien surplus lines insurers.

The IID functions on behalf of state departments of insurance by maintaining qualifying standards for Insurers domiciled outside of the U.S. seeking eligibility to write direct U.S. surplus lines. Section 524(2)<sup>1</sup> of the 2010 Dodd-Frank Wall Street and Consumer Protection Act recognizes the Quarterly Listing as identifying Insurers for which states may not prohibit brokers from placing or procuring nonadmitted insurance in the U.S. The Quarterly Listing is a public document that is posted on the [Publications](#) page of the NAIC website. This Quarterly Listing represents Insurers that qualify for listing as outlined in ~~Section II --Core Requirements and Guidelines for Inclusion on the Quarterly Listing.~~ Modifications to listed companies are summarized within each Quarterly Listing. The Working Group will make the final determination of all Insurer eligibility.

The Working Group provides oversight to the IID and reports to the [Surplus Lines \(C\) Task Force](#) (Task Force), which functions under the NAIC [Property and Casualty Insurance \(C\) Committee](#). The Working Group is comprised of state regulators with experience in financial analysis and surplus lines regulation. The Working Group provides the IID with guidance and expertise relative to applications and renewals as well as regulatory policy and practices with respect to Insurers listed on or seeking inclusion on the Quarterly Listing.

<sup>1</sup> 15 U.S.C. § 8204(2).



The following table provides a summary of the key NAIC IID workflow:

IID	<ul style="list-style-type: none"> <li>Analyzes and monitors Quarterly Listing insurer financial filings;</li> <li>Maintains Quarterly Listing, IIDfile System, and resources available to the insurers; and</li> <li>Recommends revisions and enhancements to the <i>Nonadmitted Insurance Model Act</i> (#870), IID Plan of Operation, and other surplus lines documentation.</li> </ul>
IID Internal Committee	<ul style="list-style-type: none"> <li>Consists of NAIC directors, senior managers, attorneys, and analysts;</li> <li>Reviews application and renewal analyses and provides recommendations to the <a href="#">Surplus Lines (C) Working Group</a>; and</li> <li>Reviews recommended changes to IID documentation, such as the Plan of Operation.</li> </ul>
<a href="#">Surplus Lines (C) Working Group</a>	<ul style="list-style-type: none"> <li>Consists of experienced surplus lines regulators;</li> <li>Maintains and drafts new guidance within the IID Plan of Operation;</li> <li>Reviews and considers appropriate decisions regarding applications for admittance to the Quarterly Listing;</li> <li>Provides a forum for surplus lines-related discussion; and</li> <li>Determines <del>final</del> eligibility of insurers on the Quarterly Listing.</li> </ul>
<a href="#">Surplus Lines (C) Task Force</a>	<ul style="list-style-type: none"> <li>Provides oversight for the work <del>produced-completed</del> within the <a href="#">Surplus Lines (C) Working Group</a>;</li> <li>Provides a forum for discussion of current and emerging surplus lines-related issues and topics of public policy and determines appropriate regulatory response and action;</li> <li>Reviews and analyzes quantitative and qualitative data on U.S. domestic and alien surplus lines industry results and trends;</li> <li>Monitors federal legislation related to the surplus lines market and ensures all interested parties remain apprised; and</li> <li>Develops or amends relevant NAIC model laws, regulations and/or guidelines.</li> </ul>
<a href="#">Property and Casualty Insurance (C) Committee</a>	<ul style="list-style-type: none"> <li>Monitors the activities of the <a href="#">Surplus Lines (C) Task Force</a>; and</li> <li>Handles any appeals regarding decisions made within the <a href="#">Surplus Lines (C) Working Group</a>.</li> </ul>



## I. Application Process

An Insurer planning to write U.S. surplus lines via admittance to the Quarterly Listing will first register with [OPTins](#). [OPTins](#) is an electronic filing and payment system utilized for filing alien surplus lines applications. Through [OPTins](#), the applicant will remit all required filings along with a non-refundable electronic payment in the amount indicated in the [Application Filing Memo & Instructions](#). The application fee covers the cost of ~~processing-reviewing~~ and evaluating the Insurer's application. The Insurer will find a comprehensive list of required filings within the [Application Filing Memo & Instructions](#) document. This document as well as other resources can also be found within the "Documents" tab on the [Surplus Lines \(C\) Working Group](#) webpage.

The Quarterly Listing is published on January 1, April 1, July 1, and October 1. A complete application must be submitted no fewer than 90 days in advance of the publication date in which the Insurer applies to be ~~listed~~[admitted](#). If the application is submitted ~~fewer-less~~ than 90 days prior to the intended publication date, it ~~will-may~~ not be considered until the ~~following-subsequent~~ Quarterly [Listing](#) publication ~~releasedate~~.

The IID will review and evaluate the information submitted by the Insurer seeking admittance to the Quarterly Listing. The IID will evaluate whether the Insurer meets the standards set forth in *Section II - Core Requirements and Guidelines for Inclusion on the Quarterly Listing*. The IID may contact the Insurer for additional information or to seek clarification of any concerns during its review of the application. If all questions and/or concerns (e.g., receipt of required documents and IID requested explanations and supporting documentation) are not resolved within six-months of the application submission date, the application may be rejected and a letter informing the Insurer of the decision will be issued. Refer to *Section III - Process for Reconsideration of an Application Rejection*. Following completion of the review, the IID will meet with the Internal Committee to discuss the evaluation and determine a recommendation. The Internal Committee will present its recommendation to the Working Group for consideration. Following determination by the Working Group, a letter detailing approval or denial will be sent to the Insurer by the IID.

If the Insurer is approved, an approval letter will be sent a minimum of ten calendar days in advance of the listing date and the Insurer will be included in the next Quarterly Listing. The Insurer must establish the required trust fund (See *Section II.B - U.S. Trust Fund*) prior to being admitted to the Quarterly Listing. Further, the IID must receive the trust balance report detailing the trust fund holdings.

## II. ~~Core~~ Requirements and Guidelines for Inclusion on the Quarterly Listing



### A. Alien ID

~~An Alien ID is required to apply for admittance to the Quarterly Listing. The alien ID is a unique identifier for non-U.S. insurers. The alien ID does not provide any type of authority or authorization to write business in the U.S. The alien ID is used only for identification of a non-U.S. insurer that is reported within a U.S. financial statement, the NAIC Listing of Companies, or the Quarterly Listing.~~

### B. Equity Requirement

~~A minimum shareholders' equity amount of \$50.0 million must be maintained on a continuous basis. A higher minimum amount of shareholders' equity may be required if after evaluation it is determined \$50 million is inadequate. Shareholders' equity will be evaluated to determine if it is adequate given the Insurer's risk profile.~~



If there is a determination that the minimum shareholders' equity is inadequate, the Insurer will be subject to the higher requirement an equity requirement above the minimum amount of \$50 million may be required or, the Insurer may be subject to additional ongoing reporting (e.g., monthly and/or quarterly reporting).

In lieu of syndicate shareholders' equity, Lloyd's is required to report a U.S. trust fund of not less than \$100 million available for the benefit of all Lloyd's U.S. surplus lines policyholders. In addition, a review of the Funds at Lloyd's (member assets) is considered.

#### A.C. Overall Risk Assessment Shareholders' Equity Funds (See Lloyd's Notation below)

A minimum shareholders' equity amount of \$50.0 million must be maintained on a continuous basis. Shareholders' equity will be evaluated to determine if it is adequate given the Insurer's risk profile. The IID will analyze the following key factors may be considered by the IID overall operations, performance, risk of the insurer, and projected U.S. risk exposure. The following factors will be considered:

##### Operating History and Trends;

The entities historical performance and trends will be evaluated in conjunction with its plans and projections.

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##### Quality and Diversification of Assets;

Invested and non-invested assets will be assessed for quality and diversification in relation to outstanding risk of the entity.

##### • Mix of Business and Geographic Diversification;

The entities mix of business and geographic diversification will be reviewed alongside performance by class of business.

##### • Gross and Net Insurance Leverage and Reserve Leverage;

The exposure on both a gross and net leverage basis will be assessed and compared to the equity of the entity.

##### • Reinsurance Program and Quality of Reinsurers;

The portfolio of reinsurance will be reviewed along with the collectability of reinsurance recoverables.

##### • Gross reserve leverage;

##### • Cash Flow and Liquidity;

Historical performance of cash flow along with its impact on liquidity and the overall liquidity needs of the entity.

##### • Access to Capital;

The entity's access to additional capital will be assessed should additional funds become necessary.

##### • Dividend and/or upstream funding history; and



The holding company's financial support from the entity's will be assessed.

#### Market Conduct

Market conduct will be assessed through complaints, claims practices, litigation, and any other regulator concerns.

#### • Other factors deemed relevant to the review.

Given each entity is unique certain additional information may be requested.

~~If there is a determination that shareholders' equity is inadequate based on the analysis of the Insurer's risk profile, an equity requirement above the minimum amount of \$50 million may be required. Or, the Insurer may be subject to additional ongoing reporting (e.g., monthly and/or quarterly reporting).~~

#### Lloyd's Notation

~~In lieu of individual shareholders' equity, Lloyd's syndicates are required to report a U.S. trust fund of not less than \$100 million available for the benefit of all Lloyd's U.S. surplus lines policyholders. In addition, a review of the Funds at Lloyd's (member assets) is considered.~~

~~If there is a determination that shareholders' equity is inadequate based on the analysis of the Insurer's risk profile, an equity requirement above the minimum amount of \$50 million may be required. Or, the Insurer may be subject to additional ongoing reporting (e.g., monthly and/or quarterly reporting).~~

#### Lloyd's Notation

~~In lieu of individual shareholders' equity, Lloyd's syndicates are required to report a U.S. trust fund of not less than \$100 million available for the benefit of all Lloyd's U.S. surplus lines policyholders. In addition, a review of the Funds at Lloyd's (member assets) is considered.~~

#### B-D. U.S. Trust Fund

The purpose for establishing a trust fund is to provide additional assurance that U.S. policyholders are protected. The trust fund must consist of cash, securities, or an acceptable evergreen letter of credit, or combination at an appropriate level, deposited with a trustee for the benefit of U.S. policyholders. Regarding the composition of the trust fund, credit will be allowed only for (i) securities readily marketable on a regulated U.S. securities exchange, (ii) securities assigned a rating designation on the NAIC Securities Valuation Office List of Investment Securities as defined in the Purposes and Procedures Manual of the NAIC Investment Analysis Office, or (iii) investments of substantially the same character and quality as those which are eligible investments for the capital and statutory reserves of admitted insurers to write like kinds of insurance in the state where the Trust is principally administered. An acceptable letter of credit is defined as unconditional, irrevocable, evergreen, and issued by a qualified U.S. financial institution.

In establishing its trust fund, the Insurer must maintain such fund at, and enter into an agreement with, a qualified U.S. financial institution. The agreement must contain provisions consistent with the ~~HD model document, Trust Agreement for Alien Excess or Surplus Lines Insurers, NAIC Standard Form Trust Agreement for Alien Excess or Surplus Lines Insurers, or the Lloyd's United States Situs Excess or Surplus Lines Trust Deed.~~ For purposes of complying with the trust fund requirement ~~as well as the Lloyd's U.S. Situs Excess or Surplus Lines Trust Deed,~~ a qualified U.S. financial institution:

- Is organized or (in the case of a U.S. branch office of a foreign banking organization) licensed under the laws of the U.S. or any state thereof;
- A national bank, state bank, or trust company which is adequately capitalized and qualified to accept securities as determined by the standards adopted by the U.S. banking regulators and regulated by



state banking laws or a member of the Federal Reserve system; and

- Has been granted authority to operate with trust powers, if such qualified U.S. financial institution is to act as the fiduciary of the trust fund.

#### Determining the Trust Fund Level

The trust fund minimum amount will be based on the U.S. gross surplus lines reserve liabilities (i.e., gross reserve for unpaid losses reserves for case and Incurred But Not Reported + gross loss reserve for unpaid loss adjustment expenses) excluding liabilities-loss reserves recorded for arising from aviation, ocean marine, and transportation insurance (NAIC *Nonadmitted Insurance Model Act* (#870), Section 3 – Definitions, Wet Marine and Transportation Insurance, provides an illustrative example), and direct procurement. The calculation of the required trust fund minimum balance is as follows:

- 30% of U.S. gross reserve liabilities up to \$200 million, plus
- 25% of U.S. gross reserve liabilities greater than \$200 million and up to \$500 million, plus
- 20% of U.S. gross reserve liabilities greater than \$500 million and up to \$1 billion, plus
- 15% of U.S. gross reserve liabilities in excess of \$1 billion

In no event will the required trust fund minimum amount, despite the calculation above, be less than \$6.5 million or in excess of exceed \$250 million.

The trust fund minimum will be verified annually through the review of the U.S. gross reserve liabilities reported within the loss reserve certification no later than June 30 of each year. The opining actuary must be a member of a recognized professional actuarial body. Additionally, per the Trust Agreement for Alien Excess or Surplus Lines Insurers NAIC *Standard Form Trust Agreement for Alien Excess or Surplus Lines Insurers*, Section 2.13b, the trustee is required to provide a trust balance report no later than 30 days post quarter end, to the IID. The trust balance report should include sufficient details on the assets held in trust and meet the required minimum balance. Based on the review of the trust balance report, any shortage in the balance must be remedied within 15 days of notification to the Insurer.

In the case of Lloyd’s syndicates, for the total of all years of account, the trust fund minimum amount for each syndicate will be based on the syndicate’s gross U.S. surplus lines reserve liabilities using the trust fund calculation above.

In extenuating situations (e.g., potential legal action on exposures not yet included within gross loss reserves) there may be a need to require a trust fund balance that is greater than the normal determined by the trust fund calculation based on the Insurer’s risk profile. The IID will consider the following factors in determining an appropriate trust fund level:

- The types and amount of premiums that the Insurer writes or proposes to write in the U.S.;
- The type and valuation of the assets that comprise the trust fund may be adjusted for any questionable balances; and
- The terms and conditions as outlined within the trust agreement.

#### Process for Reconsideration of a Trust Fund Level

In the event of a determination that a trust fund balance greater than the calculated minimum level is appropriate, a written request for reconsideration may be submitted if the Insurer objects to the determination. To request reconsideration, the following criteria must be met:

- The request must be received by the IID within 30 days of the date on the trust fund adjustment letter;



- The request must be in letter format and signed by an officer of the Insurer; and
- The request must include a comprehensive rationale for disagreement with regard to the determined trust fund level.

The IID will evaluate the appeal with consideration given to the information provided within the request letter and the information will be presented to the Working Group to determine a recommendation. The Working Group's recommendation will ~~then~~ be presented at a regulator-only Appeal Committee meeting ~~for consideration~~. A representative of the Working Group and the Insurer will be allowed to participate. Following review and a determination by the Appeal Committee, the IID will send a letter to the Insurer detailing approval or denial of the request.

#### ~~C.E.~~ Ethics and Integrity

##### Governance

The Insurer should maintain sound practices and a well-documented corporate governance framework that includes policies of the board of directors, business practices and processes, and suitability standards.

Insurer management ~~will should~~ have a proven and demonstrable track record of relevant experience, competence, and integrity. Biographical affidavits will be considered as one source for assessing the presence of these attributes. Following the ~~filing of the original~~ required biographical affidavits ~~with the initial application submission, any new or~~ materially modified affidavits (e.g., changes in the suitability of an officer) should be uploaded to OPTins within 30 days of any known amendments. ~~Further, biographical affidavits for any new key officers and directors should be uploaded to OPTins as they are onboarded or where applicable within 30 days of approval of any new key director or officer by the Insurer's domestic regulator.~~

##### Market Conduct

The Insurer should maintain sound market conduct practices that comply with contract provisions, laws and regulations. If the Insurer is subject to a market conduct investigation or examination by its country of domicile, a summary of findings along with a letter of explanation should be submitted to the IID within 30 days of the conclusion of the investigation or examination.

#### ~~D.F.~~ U.S. Branch

An Insurer formed with an existing U.S. branch is prohibited from applying for inclusion on the Quarterly Listing and Insurers currently included on the Quarterly Listing will be de-listed if a U.S. branch is established.

#### E. Lloyd's Incidental Syndicates

A Lloyd's incidental syndicate is formed as a portion of the host syndicate. The incidental syndicate is subject to the same ~~capital setting and~~ business plan and capital requirements as the host syndicate. Lloyd's incidental syndicates are permitted to apply for inclusion on the Quarterly Listing under the condition that they establish a separate Lloyd's U.S. Situs Excess or Surplus Lines Trust Deed and commit to annual reporting under its incidental syndicate number.

#### F. Insurers or Lloyd's Sovereign Government Syndicate Ownership



An insurer or Lloyd's syndicate (member or managing agent) that is partially or wholly owned (directly or indirectly) or controlled (financially or otherwise) by a sovereign government that applies for inclusion on the Quarterly Listing, must sign and attest to various conditions as outlined within a set of required supplemental filings. The sovereign ownership may not encompass a U.S. sanctioned country per the U.S. Department of Treasury's Office of Foreign Assets Control.

### III. Process for Reconsideration of an Application Rejection

In the event of an application rejection, a written request for reconsideration may be submitted if the Insurer wishes to contest the determination. To request reconsideration, all the following criteria must be met:

- The request must be received by the IID within 30 days of the date on the rejection letter;
- The request must be in letter format and signed by an officer of the Insurer; and
- Each of the rejection letter issues must be addressed with detailed explanations and supporting documentation.

The IID will re-evaluate the application with consideration given to the information provided by the Insurer and all information will be presented to the Working Group to determine a recommendation. The Working Group's recommendation will be presented at a regulator-only Appeal Committee meeting ~~for consideration~~. A representative of the Working Group and the applicant will be allowed to participate. Following review and a determination by the Appeal Committee, the IID will send a letter detailing approval or denial of the request.

If an Insurer does not submit a reconsideration letter within 30 days of the date on the rejection letter, any request for reconsideration is considered waived and the Insurer will be required to submit a new application along with the application fee and all required supporting documentation.

### IV. Ongoing Quarterly Listing Eligibility

Insurers included on the Quarterly Listing are subject to ongoing review, which includes annual and interim compliance and qualitative and quantitative analysis.

#### A. ~~Core Areas of Reporting Requirements-Insurer Compliance~~

##### Annual Renewal Filing

All insurers/syndicates listed within the Quarterly Listing on June 30 of the renewal year are required to remit an annual fee and file an annual renewal package and must upload all required renewal filing documents to [OPTins](#) by June 30. A comprehensive list of required filings can be found within the [Renewal Filing Memo & Instructions](#). Filings submitted subsequent to June 30 will be subject to late fees as defined within the [Renewal Filing Memo & Instructions](#). If an Insurer fails to submit its annual renewal filing by July 31, it may be subject to de-listing.

##### Notification of Change in Control and Re-Application

Control is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10% or more of the voting securities of any other person. In the event of a change of control and/or merger, the Insurer must provide notice 30 days prior to the effective date of the transaction. The Insurer must reapply within 45 days following the effective date of the change of control and/or merger of the Insurer to maintain its listing. Failure to provide timely notice and/or re-application may result in de-listing.

##### Notification of Decline in Equity (Does not apply to Lloyd's Syndicates)

If the Quarterly Listed Insurer's equity has declined or is expected to decline by 10% or more compared to the most recent year-end or dropped below the minimum standard described in [Section II.B.4](#) -



~~Shareholders' Equity Funds Requirement~~, it must notify the IID immediately with a detailed explanation of the decline and a plan describing the resolution. Failure to provide timely notification may result in delisting as described in *Section V – De-Listing*. If an Insurer is unable to increase equity to the required minimum level within 15 business days of notification, it may be subject to de-listing.

#### Trust Fund Monitoring

The Quarterly Listed Insurer is required to monitor the trust fund balance and any impact of market fluctuations on the balance to ensure that it meets the minimum balance required. The IID performs a quarterly review of the market value of each Insurer's U.S. trust fund, based on the filing of the trust fund balance report from the trustee, to ensure that it continues to meet the required minimum balance.

#### B. IID Annual and Ongoing Analysis of Quarterly Listed Insurers

~~Quarterly Listed Insurers are evaluated on an annual basis and the requirements detailed in Section II - Requirements and Guidelines for Inclusion on the Quarterly Listing will be considered as part of that review. Further, the IID will analyze annual renewal and interim Insurer documentation and may request additional information as a result of that analysis. If an Insurer fails to file all additional requested information within the specified timeframe, it may be subject to de-listing. Upon completion of the overall analysis process, the Insurer will be referred to the Working Group for renewal or de-listing. Following review and a determination by the Working Group, a letter will be sent to the Insurer.~~

#### ~~C. Examination of Insurer~~

~~The IID may recommend that an Insurer submit to a special examination of its affairs to verify continuing compliance. If the Working Group approves the recommendation, the Insurer will be required to submit to a special examination and pay all expenses or it will be de-listed.~~

#### V. De-Listing

~~When if the IID determines an Insurer is not in compliance with the Plan minimum and/or the trust fund requirements or there are poses-solvency concerns, the IID may will present an analysis of the Insurer to the Internal Committee and the Working Group in support of de-listing to determine a recommendation for consideration by the Working Group. Upon determination of non-compliance and/or solvency concerns by the Working Group, the Insurer will be de-listed and notified via letter.~~

#### VI. Process for Reconsideration of De-Listing

In the event of de-listing, a written request for reconsideration may be submitted if the Insurer elects to challenge the determination. To request reconsideration, all the following criteria must be met:

- The request must be received by the IID within 30 days of the date on the de-listing letter;
- The request must be in letter format and signed by an officer of the Insurer; and
- Each of the de-listing letter issues must be addressed with detailed explanations and supporting documentation.

The IID will review the letter response and will present its evaluation to the Working Group for its recommendation. The Working Group's recommendation will be presented at a regulator-only Appeal Committee meeting for consideration. A representative of the Working Group and the de-listed Insurer will be allowed to present. Following review and a determination by the Appeal Committee, the IID will send a letter detailing approval or denial of the request.

If an Insurer does not submit a reconsideration letter within 30 days of the date on the de-listing letter, any





request for reconsideration is considered waived and the Insurer will be required to submit a new application along with the application fee and all required supporting documentation.

#### **VII. Communication**

All communication and information, including financial statements, audit reports, trust fund documents, and other supporting documentation must be submitted in English and uploaded to [OPTins](#).

#### **VIII. Voluntary Termination from the Quarterly Listing**

An Insurer that wishes to voluntarily terminate from the Quarterly Listing may do so by ~~sending a letter notifying the IID of that requests termination along with~~ the effective date of the termination. Following termination from the Quarterly Listing, the Insurer must continue to comply with the requirements outlined within the [Trust Agreement for Alien Excess or Surplus Lines Insurers](#).

#### **IX. Confidentiality**

The IID will treat as confidential any non-public information submitted by an Insurer and for which confidential treatment is clearly requested. The IID is not aware of any state or federal statutes that provide additional protection for information submitted to it. By submitting information to the IID, the Insurer acknowledges that the IID will share such information with state insurance department regulators as well as NAIC staff who participate in the review of applications and renewals. Additionally, in the event the IID or NAIC is served with a subpoena, motion, order, or other legal process requiring the production of such information or testimony related thereto, the NAIC will make best efforts to inform the Insurer of such third-party request in order to afford the Insurer an opportunity to take whatever action it deems appropriate to protect the confidentiality of its information. The Insurer acknowledges the NAIC may comply with the request and any order compelling compliance with such request.

#### **X. Amendment to the Plan**

The Working Group will consider proposals submitted to the IID for modifications to the Plan. All proposals will be considered during open conference calls or meetings of the Working Group throughout the year. A proposal must be complete and concise and include relevant supporting documentation. Proposals exposed and adopted by the Working Group would become effective following adoption by the [Surplus Lines \(C\) Task Force](#) and the [Property and Casualty Insurance \(C\) Committee](#).

~~Applicant Company Entity~~ 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): \_\_\_\_\_

~~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 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 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.

**~~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

\_\_\_\_\_ Full Legal Name of President 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 type="checkbox"/> <u>MP</u>	<u>Commissioner of Insurance</u>
<input type="checkbox"/> AZ	Director of Insurance#△	<input type="checkbox"/> MT	Resident Agent*
<input type="checkbox"/> AR	Resident Agent*	<input type="checkbox"/> NE	Officer of Company* or Resident Agent* (circle one)
<input type="checkbox"/> AS	Commissioner of Insurance#	<input type="checkbox"/> NH	Commissioner of Insurance#
<input type="checkbox"/> <u>CA</u>	<u>Resident Agent</u>	<input type="checkbox"/> NV	Commissioner of Insurance-Commission#△
<input type="checkbox"/> CO	Resident Agent*	<input type="checkbox"/> NJ	Commissioner of Banking and Insurance#△
<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, and Securities and <u>Banking, or the Regulation # or Local Appointed Agent* (circle one)</u>	<input type="checkbox"/> NC	Commissioner of Insurance
<input type="checkbox"/> FL	Chief Financial Officer#△	<input type="checkbox"/> ND	Commissioner of Insurance#△
<input type="checkbox"/> GA	Commissioner of Insurance and Safety Fire# 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#△	<input type="checkbox"/> <u>PA</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*△	<input type="checkbox"/> RI	Superintendent of Insurance△
<input type="checkbox"/> IA	Commissioner of Insurance#	<input type="checkbox"/> SC	Director of Insurance#
<input type="checkbox"/> KS	Commissioner of Insurance△	<input type="checkbox"/> SD	Director of Insurance#△
<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"/> <u>MA</u>	<u>Commissioner of Insurance</u>	<input type="checkbox"/> UT	<u>Commissioner of Insurance</u> Resident Agent* △
<input type="checkbox"/> MD	<u>Commissioner of Insurance</u> -Commissioner#	<input type="checkbox"/> <u>VA</u>	
<input type="checkbox"/> ME	Resident Agent*△	<input type="checkbox"/> VT	Resident Agent*
<input type="checkbox"/> MI	Resident Agent*	<input type="checkbox"/> VI	Lieutenant Governor/Commissioner#
<input type="checkbox"/> MN	Resident Agent-	<input type="checkbox"/> WA	Insurance Commissioner#
<input type="checkbox"/> MS	Commissioner of Insurance and Resident Agent* BOTH are required.	<input type="checkbox"/> <u>WI</u>	<u>Commissioner of Insurance</u>
		<input type="checkbox"/> WV	Secretary of State#
		<input type="checkbox"/> 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).~~

△ ~~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.~~

~~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: \_\_\_\_\_

\_\_\_\_\_ St  
~~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: \_\_\_\_\_

**Exhibit B**

**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 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 Company 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 in the proper court of any jurisdiction in the State(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 ~~state~~State(s) indicated above and irrevocably appoints the officer(s) of the ~~state~~State(s) and their successors in such offices or appoints the agent(s) so designated 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 ~~state~~State.

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

Date: 7/25/2024

**To: Surplus Lines (C) Task Force**

**From: NAIC International Insurers Department**

**RE: Adjustment to Minimum Qualifying Amounts for Exempt Commercial Purchasers**

According to the directive within the Dodd-Frank Wall Street Reform and Consumer Protection Act, Sec. 527(1)(C)(ii) - Definitions, the minimum qualifying amounts for three categories of Exempt Commercial Purchaser will be amended effective January 1, 2025.

The percentage change calculation and adjusted minimum amounts for the affected categories are shown below:

Consumer Price Index All Urban Consumers (CPI-U)

June 2019, 256.143

June 2024, 314.175

Adjustment Calculation:  $(314.175 - 256.143) / 256.143 = 22.7\%$

Subclause Category	Effective January 1, 2020	Adjusted Minimum Effective January 1, 2025
(I) Net Worth	\$23,781,160	\$29,179,483
(II) Annual Revenues	\$59,452,900	\$72,948,708
(IV) Annual Budgeted Expenditures	\$35,671,740	\$43,769,225

Source: <https://data.bls.gov/timeseries/CUUR0000SA0>



Draft: 7/22/24

*Adopted by the Executive (EX) Committee and Plenary—  
Adopted by the Property and Casualty Insurance (C) Committee—  
Adopted by the Surplus Lines (C) Task Force—*

**2024-2025 Proposed Charges**

**SURPLUS LINES (C) TASK FORCE**

The mission of the Surplus Lines (C) Task Force is to monitor the surplus lines market and regulation, including the activity and financial condition of U.S. and non-U.S. surplus lines insurers participating in the U.S. market, by providing a forum for discussion of issues and to develop or amend relevant NAIC model laws, regulations, and/or guidelines.

The **Surplus Lines (C) Task Force** will:

- A. Provide a forum for discussion of current and emerging surplus lines-related issues and topics of public policy and determine appropriate regulatory response and action.
- B. Review and analyze industry data on U.S. domestic and non-U.S. surplus lines insurers participating in the U.S. market.
- C. Monitor federal legislation related to the surplus lines market and ensure all interested parties remain apprised.
- D. Develop or amend relevant NAIC model laws, regulations, and/or guidelines.
- E. Oversee the activities of the Surplus Lines (C) Working Group.

The **Surplus Lines (C) Working Group** will:

- A. Operate in regulator-to-regulator session pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings and in open session when discussing surplus lines topics and policy issues, such as amendments to the International Insurers Department (IID) Plan of Operation.
- B. Maintain and draft new guidance within the IID Plan of Operation regarding standards for admittance and continued inclusion on the NAIC *Quarterly Listing of Alien Insurers*.
- C. Review and consider appropriate decisions regarding applications for admittance to the NAIC *Quarterly Listing of Alien Insurers*.
- D. Analyze renewal applications of alien surplus lines insurers on the NAIC *Quarterly Listing of Alien Insurers* and ensure solvency and compliance per the IID Plan of Operation guidelines for continued listing.
- E. Provide a forum for surplus lines-related discussion among jurisdictions.

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# NAIC Summer Meeting

August 2024  
Chicago, IL

## Presentation to the Surplus Lines Task Force

By the National Association of Public Insurance Adjusters



Brian Goodman, Esq. *General Counsel* [brian@goodmanlawgroupllc.com](mailto:brian@goodmanlawgroupllc.com)

Jeff Gould, *Past President, NAPIA* [jgould@sill.com](mailto:jgould@sill.com)

Jim Beneke, *Past President, NAPIA, Texas Assn of Public Insurance Adjusters* [jim@benekeai.com](mailto:jim@benekeai.com)

Ann Frohman, Esq. *Frohman Law Office LLC* [ann@frohmanlaw.com](mailto:ann@frohmanlaw.com)



NAPIA is a 75 year old association of professional public adjusters. NAPIA's mission is education, offering assigned designations of the Certified Professional Public Adjuster and the Senior Professional Public Adjuster.



NAPIA code of ethics require its members to work as public adjusters and not work in conflicting businesses. We are not roofers.



A majority of NAPIA members focus on assisting businesses, although NAPIA also assists residential customers. The presentation today is on claim trends gathered while assisting small businesses.



# Background on Public Adjusting

- Public Adjusters are not Independent Adjusters.
- Public Adjusters are fiduciaries retained by the public. Customer interests must be put first.
- Customers retain public adjusters to review the policy, inspect property loss, determine scope, review operations and business interruption, determines current replacement costs, prepare incident reporting and claim support data, make and responds to carrier requests including settlement, including utilization of advanced tech systems.
- Public adjusters have backgrounds in law, finance, construction, fire, accounting, and insurance.
- Value of Public Adjusters
  - Customers receive equitable payment of what is properly owed and not overlooked
  - Customers receive prompt settlement to get back in business as quickly as possible



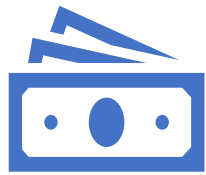


# Small Businesses Rely on Public Adjusters



- 33.3 million small businesses exist across the US, employing 61.6 million people according to SBA.<sup>1</sup>
- Small businesses are confronted with inflation, revenue challenges, labor shortages, the cost of employee benefits, and the changing climate with AI and cyberattacks. According to the Bureau of Labor Statistics, 20% fail in the first year and 27% are only one crisis away from closing their doors.<sup>2</sup>
- According to FEMA, 40% of companies do not reopen after a disaster, and another 25% fail within one year.<sup>3</sup>
- Public adjusters offer expertise and prompt results which can make a difference in whether a small business can reopen at all.

# Trends Impacting Our Small Business Customers



## Appraisal Abuse

Increasing trend to misuse appraisals increasing costs to settle claims on both sides of the claim



## Arbitration Venue

Increasing trend in arbitration to move venue to NY regardless of where loss occurs or claimant resides.



## Anti PA Endorsements

Increasing use of endorsements that prohibit any businesses from using lawfully licensed public adjusters



# Anti-Public Adjuster Endorsements

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ANTI-PUBLIC ADJUSTER ENDORSEMENT**

In consideration for the premium paid, it is understood and agreed that a condition of this policy contract is that the Insured shall not retain or use the services of a licensed public adjuster to inspect, evaluate or adjust any loss covered by the policy.

### **Anti-Public Adjuster Endorsement (VRU NH APA 01)**

\*\*\*

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ANTI-PUBLIC ADJUSTER ENDORSEMENT**

In consideration for the premium paid, it is understood and agreed that a condition of this policy is that the insured shall not retain or use the services of a licensed public adjuster to inspect, evaluate or adjust any loss covered by the policy.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ANTI-PUBLIC ADJUSTER ENDORSEMENT**

THIS POLICY RESTRICTS IN WHOLE YOUR RIGHT TO HIRE, ENGAGE, RETAIN, CONTRACT WITH, OR OTHERWISE UTILIZE THE SERVICES OF A PUBLIC ADJUSTER.

The following provisions of the policy and its endorsements are changed as follows:

### **AGREEMENT**

The following is added:

It is understood and agreed that a condition of this policy is that an "insured" shall not hire, engage, retain, contract with, or otherwise utilize the services of a public adjuster, whether or not licensed in the state where the property is located or any other jurisdiction to inspect, evaluate, or adjust any loss covered by the policy.

All other terms and conditions, coverage, and exclusions of this policy remain unchanged, including applicable limits, sublimits, and deductibles, and apply in full force and effect to the coverage provided by this policy.

# Balancing Act



Surplus Lines Carriers should be permitted to engage in the US market.



US businesses should be permitted to retain licensed public adjusters to assist with claims.



# Possible Solutions...

## Litigation

- Costly to small business, damages are unknown.
- Jurisdictional limitations
- Difficult absent AG involvement

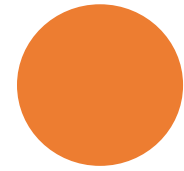
## Legislation

Texas - Sec. 4102.007. RIGHT TO CONTRACT WITH LICENSE HOLDER.

An insurance policy, including any endorsement, to which this section applies may not include a provision that prohibits an insured from contracting with a public insurance adjuster for services provided under this chapter.

Louisiana

Massachusetts



# Questions?

## References

1. 2023 Small Business Profile, [advocacy.sba.gov/wp-content/uploads/2023/11/2023-Small-Business-Economic-Profile-US.pdf](https://advocacy.sba.gov/wp-content/uploads/2023/11/2023-Small-Business-Economic-Profile-US.pdf). Accessed July 12, 2024.
2. Table 7, Survival of private sector establishments by opening year. [/www.bls.gov/bdm/us\\_age\\_naics\\_00\\_table7.txt](https://www.bls.gov/bdm/us_age_naics_00_table7.txt) Accessed July 12, 2024.  
<https://www.uschamber.com/sbindex/summary>  
<https://www.uschamber.com/small-business/new-survey-finds-small-businesses-think-cyberattacks-are-biggest-threat>
3. <https://www.iii.org/article/when-disaster-strikes-preparation-response-and-recovery/#:~:text=Business%20Insurance,-IN%20THIS%20ARTICLE&text=According%20to%20the%20Federal%20Emergency,a%20disaster%20on%20your%20business.>

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<https://www.napia.com/>

 <https://www.facebook.com/NationalAssociationOfPublicInsuranceAdjusters/>

 <https://www.linkedin.com/company/national-association-of-public-insurance-adjusters/>

 <https://twitter.com/NAPIAforPAs>