

Date: 7/11/19

2019 Summer National Meeting
New York City, New York

SURPLUS LINES (C) TASK FORCE
Saturday, August 3, 2019
2:00 – 3:00 p.m.
Hilton New York Midtown—Sutton North & Beekman

ROLL CALL

James J. Donelon, Chair	Louisiana	Marlene Caride	New Jersey
Al Redmer Jr., Vice Chair	Maryland	John G. Franchini	New Mexico
Lori K. Wing-Heier	Alaska	Mike Causey	North Carolina
Ricardo Lara	California	Glen Mulready	Oklahoma
Michael Conway	Colorado	Elizabeth Kelleher Dwyer	Rhode Island
Stephen C. Taylor	District of Columbia	Raymond G. Farmer	South Carolina
Dafne M. Shimizu	Guam	Larry Deiter	South Dakota
Colin M. Hayashida	Hawaii	Kent Sullivan	Texas
Robert H. Muriel	Illinois	Mike Kreidler	Washington
Vicki Schmidt	Kansas	James A. Dodrill	West Virginia
Nancy G. Atkins	Kentucky	Jeff Rude	Wyoming
Barbara D. Richardson	Nevada		

NAIC Support Staff: Andy Daleo/Bob Schump

AGENDA

1. Consider Adoption of its Spring National Meeting Minutes Attachment One
—*Commissioner James J. Donelon (LA)*
2. Consider Adoption of its 2020 Proposed Charges—*Commissioner James J. Donelon (LA)* Attachment Two
3. Consider Adoption of the Report of the Surplus Lines (C) Working Group, Including Attachment Three
Modifications to the International Insurers Department (IID) Plan of Operation
—*Stewart Guerin (LA)*
4. Consider Exposure of a Blanks Proposal Regarding Home State Direct Premiums Written Attachment Four
—*Stewart Guerin (LA)*
5. Receive an Update on its Referral to the Producer Licensing (D) Task Force Attachment Five
—*Director Larry Deiter (SD) and Timothy B. Mullen (NAIC)*
6. Hear a Financial Summary of the 2018 Surplus Lines Market—*Andy Daleo (NAIC)*
7. Discuss Any Other Matters Brought Before the Task Force
—*Commissioner James J. Donelon (LA)*
8. Adjournment

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Draft Pending Adoption

Draft: 4/15/19

Surplus Lines (C) Task Force
Orlando, Florida
April 6, 2019

The Surplus Lines (C) Task Force met in Orlando, FL, April 6, 2019. The following Task Force members participated: James J. Donelon, Chair, and Stewart Guerin (LA); Al Redmer Jr., Vice Chair (MD); Lori K. Wing-Heier represented by Michael Ricker (AK); Ricardo Lara represented by Susan Stapp (CA); Michael Conway represented by Rolf Kaumann (CO); Stephen C. Taylor represented by David Christhilf (DC); Colin M. Hayashida represented by Gerald Hew (HA); Vicki Schmidt represented by Heather Droge (KS); Nancy G. Atkins represented by Russ Hamblen (KY); Mike Causey represented by Fred Fuller (NC); Marlene Caride represented by Steve Kerner (NJ); John G. Franchini represented by Robert Doucette (NM); Elizabeth Kelleher Dwyer represented by Matt Gendron (RI); Raymond G. Farmer represented by G. Lee Hill (SC); Larry Deiter represented by Dan Nelson (SD); Kent Sullivan represented by Jamie Walker (TX); Mike Kreidler represented by Melanie Anderson (WA); James A. Dodrill represented by Tom Whitener (WV); and Tom Glause represented by Donna Stewart (WY).

1. Adopted its 2018 Fall National Meeting Minutes

Commissioner Redmer made a motion, seconded by Mr. Doucette, to adopt the Task Force's Nov. 7, 2018, minutes (see *NAIC Proceedings – Fall 2018, Surplus Lines (C) Task Force*). The motion passed unanimously.

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

Mr. Guerin said the Surplus Lines (C) Working Group met March 27, 2019; Dec. 18, 2018; and Dec. 12, 2018, 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 27, 2019, and Dec. 18, 2018, meetings, the Working Group discussed applicants seeking admittance to the *Quarterly Listing of Alien Insurers*. During its Dec. 12, 2018, meeting, the Working Group discussed information on a specific company.

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

3. Heard an Update on a Referral to the Producer Licensing (D) Task Force

Greg Welker (NAIC) summarized that the proposed amendments to the *Uniform Licensing Standards for Surplus Lines* and the *State Licensing Handbook*, which would expand the underlying licensure requirements to qualify for a surplus lines license to include the accident and health (A&H) line of authority. He said the Producer Licensing (D) Task Force would seek feedback on the expansion and draft proposal, noting that it plans to make a final decision at the Summer National Meeting.

4. Heard an Update on Federal Flood Insurance

Brooke Stringer (NAIC) said the federal Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters) requires lenders to accept private flood insurance policies that meet certain requirements, just as they would a National Flood Insurance Program (NFIP) policy to satisfy the mandatory purchase requirement. After six years of deliberation, federal banking regulators have finalized a rule, which will take effect July 1, 2019. The final rule will require insurers to certify that their private flood insurance policies meet certain requirements set forth in the Biggert-Waters statute in order for banks to be required to accept such policies. The rule would also provide banks the option to accept private flood insurance policies that did not meet the mandatory acceptance requirements set forth in Biggert-Waters subject to certain conditions. Ms. Stringer said a final action on this rule may help facilitate progress on NFIP reauthorization legislation by removing one obstacle that has prevented the U.S. Congress from reaching consensus on a broader long-term reauthorization.

Ms. Stringer provided additional details on the final rule described in the following:

- Banks' "Mandatory" Acceptance (insurer self-certification): Allows lenders to rely on an insurer's self-certification that the policy meets the federal regulatory definition.

Draft Pending Adoption

- Banks’ “Discretionary” Acceptance: Maintains lenders’ ability to accept private flood insurance that does not meet the federal definition on a discretionary basis, so long as the policy provides sufficient protection to the loan in accordance to the lenders’ general safety and soundness requirements. The lender would also have to document its conclusion in writing for its federal regulator regarding sufficiency of the protection.
- Residential Surplus Lines Policies: The NAIC requested that the rule state that personal lines residential policies offered by surplus lines insurers can be accepted by lenders. Although it was not included in the rule, it was addressed in the rule’s preamble.
- State Law Conflict: The federal private flood definition has specific requirements to meet the mandatory purchase requirement, such as amount of time to file a lawsuit/cancellation provisions, etc., that may not be consistent with state law requirements. The banking regulators did not take the industry coalition’s proposal about accepting certain state law requirements if they are for longer periods than the federal requirements. On this issue, the banking agencies stuck with what was in the Biggert-Waters definition.
- Continuous Coverage: The rule does not address continuous coverage, as the banking regulators believed that was an issue that the Federal Emergency Management Agency (FEMA) should address. FEMA told the NAIC to ask Congress to remedy this issue, which the NAIC is pursuing.
- Mutual Aid Societies (Amish): The NAIC had asked the banking regulators to add an additional requirement to the rule that would require an insurer to demonstrate that it meets a specified exemption to a state’s insurance code or licensing rules. The banking agencies said they did not believe the rule would interfere with state insurance regulators’ ability to prohibit such coverage in their state. The agencies also said that many states may not have explicit rules addressing mutual aid societies, and that could result in the societies being inadvertently prohibited.

5. Heard a Summary of the U.S. Private Flood Market

Andy Daleo (NAIC) summarized the 2018 flood insurance premium information written by U.S. domestic insurers. He indicated that the flood market is a \$3.5 billion premium market, comprised 81% of federal flood and 19% of private flood coverage. There were 120 admitted U.S. domiciled insurers that wrote federal flood and 124 that wrote private flood in 2018, of which, 14 insurers wrote both federal and private flood.

Mr. Daleo said the majority of admitted federal flood premium was concentrated within seven insurers, while most of the private flood premium was written by a single insurer. Regarding the U.S. nonadmitted market, he said there were seven insurers that wrote federal flood and 27 that wrote private flood premiums. There were five insurers that captured the majority of the nonadmitted flood market. He said, with respect to federal flood, 97% was written in the admitted market, while 3% was written in the nonadmitted market. Regarding private flood, 87% was written by admitted insurers and 13% was written by nonadmitted insurers.

Mr. Daleo said the NFIP premium volume at Dec. 31, 2017, provided 5 million policyholders in more than 22,000 communities with coverage totaling more than \$1.3 trillion. He indicated that NAIC staff would begin drafting a flood supplement that would be presented to the Surplus Lines (C) Working Group for consideration. He further stated that the hope is to begin collecting flood data from alien insurers starting at year-end 2019. Lastly, he indicated that he would report the new flood data during a future Task Force meeting.

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

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Draft: 6/20/19

*Adopted by the Property and Casualty Insurance (C) Committee–
Adopted by the Surplus Lines (C) Task Force–*

2020 PROPOSED CHARGES

SURPLUS LINES (C) TASK FORCE

Mission

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 alien surplus lines insurers by providing a forum for discussion of issues and to develop or amend relevant NAIC model laws, regulations and/or guidelines.

Ongoing Support of NAIC Programs, Products or Services

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

1. 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.
2. Review and analyze quantitative and qualitative data on U.S. domestic and alien surplus lines industry results and trends.
3. Monitor federal legislation related to the surplus lines market and ensure all interested parties remain apprised.
- 3-4. Develop or amend relevant NAIC model laws, regulations and/or guidelines.
- 4-5. 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 operate 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 ~~and requirements~~ regarding standards for admittance and continued inclusion on the NAIC Quarterly Listing of Alien Insurers ~~concerning capital and/or surplus funds, U.S. trust accounts and fitness of management among other criteria.~~
- C. Review and consider appropriate ~~action(s)~~ 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 with~~ the IID Plan of Operation guidelines for continued listing.
- E. Provide a forum for surplus lines-related discussion among jurisdictions.

NAIC Support Staff: Andy Daleo/Robert Schump

2019

NAIC

International Insurers Department Plan of Operation

[Revision Marked Copy with WG approved amendments](#)

Approved by [NAIC](#)
Executive/Plenary on

NAIC Contacts
Andy Daleo, Senior Property/Casualty Financial Analysis Manager
Robert Schump, Surplus Lines & Information Services Program Manager





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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 in all U.S. states and U.S. territories. The NAIC International Insurers Department (IID) Plan of Operation (Plan) details the standards and processes which Insurers must meet ~~in order~~ to gain and maintain inclusion on the *Quarterly Listing of Alien Insurers* (Quarterly Listing). The Plan that follows provides a description of the roles NAIC staff and selected state regulators perform in the oversight of ~~alien~~ alien Insurers writing surplus lines insurers business.

Introduction

The Plan describes how the ~~NAIC's~~ IID will operate and how Insurers obtain inclusion on the Quarterly Listing. The IID is composed of experienced financial analysts who 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. A list of members and any updates thereto is provided to the Working Group. 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 ~~has no direct involvement in making or approving recommendations regarding alien surplus lines insurers and~~ 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.

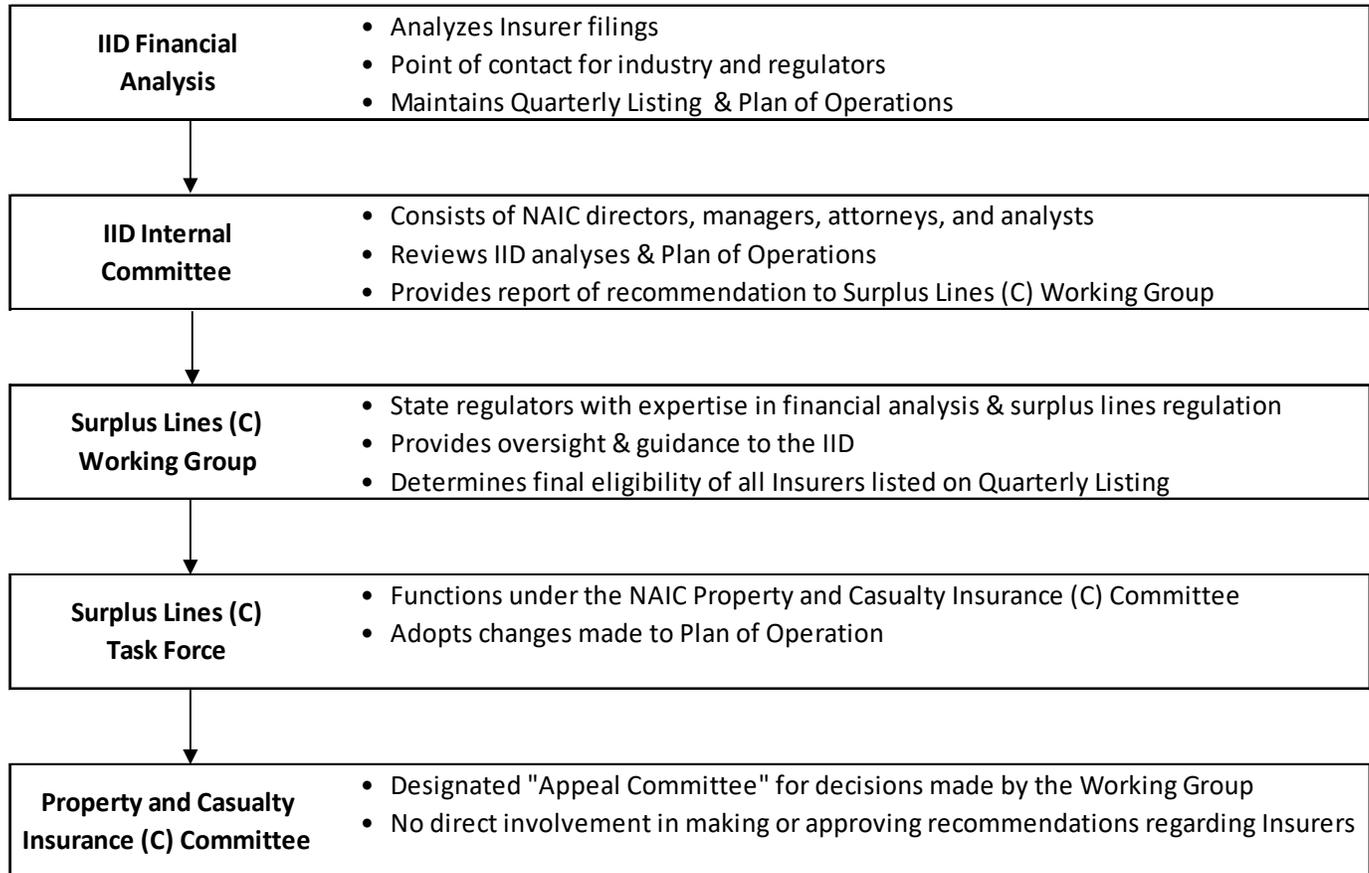
The IID functions on behalf of state departments of insurance by maintaining qualifying standards for Insurers domiciled outside of the U.S. seeking eligibility to write direct surplus lines. Section 524(2)¹ of the 2010 Dodd-Frank Wall Street and Consumer Protection Act recognizes the Quarterly Listing 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 Products page of the NAIC website. This list includes 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 composed 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.

¹ 15 U.S.C. § 8204(2).



The following chart provides a high-level summary of the key NAIC workflow process as it relates to Alien Insurers appearing on the Quarterly Listing that write direct surplus lines premiums in the U.S.



I. Application Process

An Insurer planning to write U.S. surplus lines and requesting inclusion on the Quarterly Listing will first register at [OPTins®](#). OPTins® is an electronic filing and payment system designed for surplus lines. Following registration, an Insurer will complete and upload an application and all other documents indicated as required for listing. Additionally, a comprehensive list of required filings can be found within the “Related Documents” tab available on the [Working Group](#) webpage. Also, through OPTins®, the applicant will remit a non-refundable electronic payment in the amount indicated in the Schedule of Fees, a separate document found on the Working Group’s webpage and within OPTins®. The fee is used to cover the cost of processing and evaluating the Insurer’s [request-application](#) for inclusion on the Quarterly Listing. At the time the application is submitted, the Insurer agrees to provide additional information as may be requested by the IID. The IID will contact the applicant’s domiciliary regulator to inquire about the Insurer’s current standing.

The IID will review and evaluate the information submitted by Insurers requesting inclusion on the Quarterly Listing. The IID evaluates whether the Insurer meets or does not meet the standards set

forth in *Section II - Core Requirements and Guidelines for Inclusion on the Quarterly Listing* and will present the application to the Internal Committee to determine a recommendation. The Internal Committee's recommendation will be presented to the Working Group for consideration. Following determination by the Working Group, a letter detailing approval or denial will be sent to the Insurer. Subsequently, if approved, the IID will include the Insurer in the next Quarterly Listing.

The Quarterly Listing is published on January 1st, April 1st, July 1st, and October 1st. A complete application must be received no fewer than 90 days in advance of the publication date in which the Insurer applies to be listed. If the application is received fewer than 90 days prior to the intended publication date, it will not be considered until the following quarterly publication release. The IID will provide notice to an applicant of the application determination a minimum of ten calendar days in advance of the intended listing date.

The IID reserves the right to ask questions, make comments, or seek clarification of any concerns during its review of Insurer applications. If all questions and/or concerns (e.g., receipt of required documents and IID requested explanations and supporting documentation) are not resolved within a six-month period of the initial application submission date, the application will 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*. All application fees are non-refundable.

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

A. Shareholders' Equity Funds (See *Lloyd's Notation* below)

A minimum shareholders' equity amount of \$45.0 million must be maintained on a continuous basis. During the course of an IID analysis, it will be evaluated whether shareholders' equity is adequate given the risk profile. In the evaluation of the adequacy of shareholders' equity, the following key factors may be considered by the IID:

- Operating history and trends;
- Quality and diversification of assets;
- Mix of business and geographic diversification;
- Gross insurance leverage;
- Reinsurance program and quality of reinsurers;
- Gross reserve leverage;
- Cash flow and liquidity;
- Dividend and/or upstream funding history; and,
- Other relevant factors deemed relevant to the review.

If there is a determination that shareholders' equity is inadequate based on the analysis of the risk profile, equity above the minimum amount of \$45.0 million may be required.

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 \$100.0 million available for the benefit of all Lloyd's U.S. surplus lines policyholders. In addition, an assessment review of the Funds at Lloyd's (member assets) is



considered.

B. U.S. Trust Fund

The purpose for establishing a trust fund is to provide additional assurance that U.S. policyholders are ~~-protected~~secure. The trust fund must consist of cash deposited with the trustee, securities, or an acceptable letter of credit on behalf of U.S. policyholders at an appropriate level. ~~With regard to~~Regarding the composition of the trust fund, credit will be allowed only for securities readily marketable on a regulated U.S. securities exchange or those securities designated by the NAIC's Securities Valuation Office. An acceptable letter of credit is defined as clean, unconditional, irrevocable, and issued or confirmed by a qualified U.S. financial institution.

In establishing its trust fund, an insurance company 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 IID model document, [Trust Agreement for Alien Excess or Surplus Lines Insurers](#). In no case may a trust agreement have an expiration date of less than five years from the date the Insurer notifies the trustee of its intention to terminate the trust fund. For purposes of complying with the trust fund requirement as well as the Lloyd's United States 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

In the case of an insurance company, for business written on or after January 1, 1998, the trust fund minimum amount will be based on the U.S. gross surplus lines liabilities or the direct nonadmitted U.S. liabilities excluding liabilities arising from aviation, ocean marine and transportation insurance, and direct placements as follows:

Trust Fund Calculation

- 30% of any amount up to the first \$200.0 million, plus
- 25% of any amount up to the next \$300.0 million, plus
- 20% of any amount up to the next \$500.0 million, plus
- 15% of any amount in excess of \$1.0 billion

In no event will the required trust fund minimum amount, despite the calculation above, be less than \$5.4 million or in excess of \$250 million.

As described above, the liabilities will be determined no less than annually and reported to the trustee and the IID no later than June 30th of each year. The actuary who opines on the liabilities must be a member of a recognized professional actuarial body.



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 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 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 amounts of coverage which the Insurer writes or proposes to write in the U.S.;
- The valuation of the assets that compose 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. In order 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 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 all such 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 present. Following review and a determination by the Appeal Committee, the IID will be instructed to send to the Insured a letter detailing approval or denial of the request.

C. Ethics and Integrity

Insurer management will 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 original required biographical affidavit submission, 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, or where applicable within 30 days of approval of a new director or officer by the Insurer's domestic regulator, whichever is later. ~~will be considered as one source for assessing the presence of these attributes.~~

D. U.S. Branch Office



An Insurer formed with an existing U.S. branch office 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 office 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 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. Lloyd's Sovereign Government Syndicate Ownership

A Lloyd's syndicate that has a 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 approved by the Working Group. The sovereign ownership must 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 ~~objects to~~[wishes to contest](#) the determination. ~~In order to~~[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 within the request letter and all such 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 rejected applicant will be allowed to present. Following review and a determination by the Appeal Committee, the IID will be instructed to send to the Insurer 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 appropriate 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 Insurer Compliance

Annual Renewal Filing

All listed Insurers are required to file an annual renewal package and must upload all required renewal filing documents to OPTins® by June 30th. A comprehensive list of required filings can be found within the “Related Documents” tab available on the [Working Group](#) webpage. Filings submitted subsequent to June 30th will be subject to late fees as defined within the Schedule of Fees on the NAIC website. If an Insurer fails to submit its annual renewal filing by July 31st, it will be subject to de-listing.

Change of Control and/or Merger of Insurer

In the event of a change of control and/or merger, the Insurer must provide notice 15 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 ~~in order to~~ maintain its listing. Failure to provide timely notice and/or re-application may result in de-listing and/or late fees [applied per the same guidelines](#) as defined within the Schedule of Fees [for annual renewals](#).

Decline in Equity (Does not apply to Lloyd’s Syndicates)

If an Insurer’s equity has declined or is expected to decline by 10% or greater compared to the most recent annual filing, it must notify the IID immediately. If shareholders’ equity has dropped below the minimum standard described in *Section II.A - Shareholders’ Equity Funds*, the Insurer must immediately inform the IID. Failure to provide timely notice will result in late fees, as defined within the Schedule of Fees. If an Insurer is unable to increase equity to the required level within 15 business days, it will be subject to de-listing.

Trust Fund Monitoring

An Insurer is required to monitor the trust fund balance to ensure that it meets the minimum amount and takes market fluctuations into consideration. The IID will periodically review the market value of each Insurer’s U.S. trust fund ~~in order to~~ ensure that it continues to meet the required minimum balance.

B. IID Annual and Ongoing Analysis of Quarterly Listed Insurers

The IID analyzes submitted filing documents on an annual and ongoing basis. The IID may request additional information as a result of the analysis. If an Insurer fails to file all additional requested information within the specified timeframe, it may be subject to de-listing. Following the overall analysis process, the Insurer will be recommended 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 agree to submit to a special examination and pay all expenses or will be de-listed.

V. De-listing

The IID will review and evaluate information obtained from, but not limited to, industry sources, rating agencies, insurer websites and notices regarding equity depletion, annual renewal filing documents, and trust fund levels. When the IID determines an Insurer is not in compliance with the Plan or the trust fund and/or poses solvency concerns, the IID may present the Insurer to the Internal Committee to determine a de-listing recommendation. The Internal Committee's recommendation will be presented to 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. ~~In order to~~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~~ insurer will be allowed to present. Following review and a determination by the Appeal Committee, the IID will be instructed to send to the Insurer 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 appropriate fee and all required supporting documentation, to be readmitted to the Quarterly Listing.

VII. Communication

All communication and information, including financial statements, audit reports, trust fund documents, and other supporting documentation must be submitted in English.

VIII. 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 ~~may will~~ share any such information with any state insurance ~~department-regulator upon request~~, as well as other NAIC staff members who participate in the review of applications. 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.

IX. Amendment to the Plan

The Working Group will consider ~~relevant~~ proposals submitted to IID for modifications to the Plan. All proposals will be considered during open conference calls or meetings of the Working Group throughout the year. The proposal must be complete and concise and include any relevant supporting documents. Proposals exposed and adopted by the Working Group would become effective following adoption by the Surplus Lines (C) Task Force during its next scheduled meeting. For complete details regarding the amendment process, refer to the Working Group's webpage.

NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

<p style="text-align: right;">DATE: <u>7/12/2019</u></p> <p>CONTACT PERSON: <u>Andy Daleo/Bob Schump – NAIC staff</u></p> <p>TELEPHONE: <u>(816)783-8141/(816) 783-8437</u></p> <p>EMAIL ADDRESS: <u>adaleo@naic.org/rschump@naic.org</u></p> <p>ON BEHALF OF: <u>Surplus Lines (C) Working Group</u></p> <p>NAME: <u>Stewart Guerin</u></p> <p>TITLE: <u>Chair of Surplus Lines (C) Working Group</u></p> <p>AFFILIATION: <u>Louisiana Department of Insurance</u></p> <p>ADDRESS: _____</p>	<p style="text-align: center;">FOR NAIC USE ONLY</p> <p>Agenda Item # _____</p> <p>Year <u>2020</u></p> <p>Changes to Existing Reporting [<input type="checkbox"/>]</p> <p>New Reporting Requirement [<input checked="" type="checkbox"/>]</p> <hr/> <p style="text-align: center;">REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT</p> <p>No Impact [<input checked="" type="checkbox"/>]</p> <p>Modifies Required Disclosure [<input type="checkbox"/>]</p> <hr/> <p style="text-align: center;">DISPOSITION</p> <p>[<input type="checkbox"/>] Rejected For Public Comment</p> <p>[<input type="checkbox"/>] Referred To Another NAIC Group</p> <p>[<input type="checkbox"/>] Received For Public Comment</p> <p>[<input type="checkbox"/>] Adopted Date _____</p> <p>[<input type="checkbox"/>] Rejected Date _____</p> <p>[<input type="checkbox"/>] Deferred Date _____</p> <p>[<input type="checkbox"/>] Other (Specify) _____</p>
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BLANK(S) TO WHICH PROPOSAL APPLIES

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> ANNUAL STATEMENT | <input checked="" type="checkbox"/> INSTRUCTIONS | <input checked="" type="checkbox"/> CROSSCHECKS |
| <input type="checkbox"/> QUARTERLY STATEMENT | <input checked="" type="checkbox"/> BLANK | |
| <input type="checkbox"/> Life, Accident & Health/Fraternal | <input type="checkbox"/> Separate Accounts | <input type="checkbox"/> Title |
| <input checked="" type="checkbox"/> Property/Casualty | <input type="checkbox"/> Protected Cell | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Health | <input type="checkbox"/> Health (Life Supplement) | |

Anticipated Effective Date: 2020 Annual

IDENTIFICATION OF ITEM(S) TO CHANGE

Add a new Schedule T – Part 3 to the Property/Casualty blank for the purpose of collecting direct premiums written data allocated by “home State.”

REASON, JUSTIFICATION FOR AND/OR BENEFIT OF CHANGE**

The intent is to provide a basis for state regulators to reconcile broker reported surplus lines premium with company provided information to better ensure that states are receiving the proper amount of surplus lines premium taxes. Premium taxes on surplus lines premiums are based on the total policy premium and paid by surplus lines brokers solely to the “home State” of the insured as defined in Section 527 of the Nonadmitted and Reinsurance Reform Act of 2010 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Currently, the only resource available to the state for tax reconciliation is Schedule T – Exhibit of Premiums Written, which allocates premium by geographic concentration of risk. Collecting premium information within the annual blank for “Home State Direct Premiums Written” provides the state a starting point for surplus lines premium tax reconciliation. Throughout the year NAIC staff receives frequent inquiries regarding assistance with surplus lines premium tax reconciliation and cannot provide a resource to the state. This blanks proposal will provide significant value to the states/territories regarding surplus lines tax reconciliation.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: _____

Other Comments:

** This section must be completed on all forms.

Revised 7/18/2018

ANNUAL STATEMENT INSTRUCTIONS – PROPERTY

SCHEDULE T – PART 3
EXHIBIT OF PREMIUMS WRITTEN

ALLOCATED BY HOME STATES AND TERRITORIES

This schedule is intended to report surplus lines premiums written to a state or territory of the insured that conforms to the definition of “home State” as provided in the Dodd-Frank Wall Street Reform and Consumer Protection Act. Allocation of surplus lines premiums reported on this schedule should be based on the “home State” of the insured, regardless of jurisdiction where the risks are located

All U.S. surplus lines business must be allocated to the “home State” of the insured, regardless of license status or concentration of risk.

Column 1 – Active Status

Use the following codes to identify the reporting entity’s status for each state or territory in which surplus lines premium is to be reported in the schedule as of the end of the reporting period. Enter the code that applies to the reporting entity’s status in the state or territory.

- | | |
|---------------------------|---|
| L – Licensed or Chartered | (Licensed Insurance Carrier and Domiciled Risk Retention Groups referred to in some states as admitted.) |
| R – Registered | (Non-domiciled Risk Retention Groups) |
| E – Eligible | (Reporting Entities eligible or approved to write Surplus Lines in the state (other than their state of domicile – see DSLI). In some states referred to as nonadmitted.) |
| Q – Qualified | (Qualified or Accredited Reinsurer) |
| D – DSLI | (Domestic Surplus Lines Insurer (DSLI) – Reporting Entities authorized to write Surplus Lines in the state of domicile) |
| N – None of the above | (Not allowed to write business in the state or none of the above codes apply) |

Column 2 – Home State Direct Premiums Written

The following is provided to illustrate appropriate allocation bases for surplus lines of business:

- All surplus lines policy premiums are to be allocated to the appropriate state that conforms to the “home State” definition as provided in Section 527 of the Nonadmitted and Reinsurance Reform Act within the Dodd-Frank Wall Street Reform and Consumer Protection Act:

Definition:

(6)HOME STATE.

(A) IN GENERAL.—Except as provided in subparagraph (B), the term “home State” means, with respect to an insured—

- (i) the State in which an insured maintains its principal place of business or, in the case of an individual, the individual’s principal residence; or
- (ii) if 100 percent of the insured risk is located out the State referred to in clause (i), the State to which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated.

(B) **AFFILIATED GROUPS.**—If more than 1 insured from an affiliated group are named insureds on a single nonadmitted insurance contract, the term “home State” means the home State, as determined pursuant to subparagraph (A), of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.

Column 3 – Percentage of Total Home State Direct Premiums Written

Amount represents the percentage of the individual line items in Column 2 to the Total Home State Direct Premiums Written amount presented in Column 2, Line 59.

Line 59 should equal 100%.

The allocation method established by the reporting entity in compliance with these instructions and the instructions of the domiciliary state should be consistently applied to all policies and reporting periods.

The data reported in Schedule T – Part 3 of the annual statement may or may not be used for the calculation of the amount of premium tax due to a state/jurisdiction. Individual states/jurisdictions may require a separate schedule to support premium tax calculations.

NOTE: Existing state laws and regulations need to be considered when applying these instructions.

Footnote (a):

Provide the total of each active status code in Column 1. The sum of all the counts of all active status codes should equal 57.

ANNUAL STATEMENT BLANK – PROPERTY

SCHEDULE T – PART 3

EXHIBIT OF SURPLUS LINES PREMIUMS WRITTEN
Allocated by Home States and Territories

States, Etc.	1 Active Status (a)	2 Home State Direct Premiums Written	3 Percentage of Total Home State Direct Premiums Written
1. Alabama.....AL			
2. Alaska.....AK			
3. Arizona.....AZ			
4. Arkansas.....AR			
5. California.....CA			
6. Colorado.....CO			
7. Connecticut.....CT			
8. Delaware.....DE			
9. Dist. Columbia.....DC			
10. Florida.....FL			
11. Georgia.....GA			
12. Hawaii.....HI			
13. Idaho.....ID			
14. Illinois.....IL			
15. Indiana.....IN			
16. Iowa.....IA			
17. Kansas.....KS			
18. Kentucky.....KY			
19. Louisiana.....LA			
20. Maine.....ME			
21. Maryland.....MD			
22. Massachusetts.....MA			
23. Michigan.....MI			
24. Minnesota.....MN			
25. Mississippi.....MS			
26. Missouri.....MO			
27. Montana.....MT			
28. Nebraska.....NE			
29. Nevada.....NV			
30. New Hampshire.....NH			
31. New Jersey.....NJ			
32. New Mexico.....NM			
33. New York.....NY			
34. No. Carolina.....NC			
35. No. Dakota.....ND			
36. Ohio.....OH			
37. Oklahoma.....OK			
38. Oregon.....OR			
39. Pennsylvania.....PA			
40. Rhode Island.....RI			
41. So. Carolina.....SC			
42. So. Dakota.....SD			
43. Tennessee.....TN			
44. Texas.....TX			
45. Utah.....UT			
46. Vermont.....VT			
47. Virginia.....VA			
48. Washington.....WA			
49. West Virginia.....WV			
50. Wisconsin.....WI			
51. Wyoming.....WY			
52. American Samoa.....AS			
53. Guam.....GU			
54. Puerto Rico.....PR			
55. U.S. Virgin Islands.....VI			
56. Northern Mariana Islands.....MP			
57. Canada.....CAN			
58. Aggregate other alien.....OT			
59. Totals	XXX	XXX	XXX

(a) Active Status Counts:

- L – Licensed or Chartered - Licensed insurance carrier or domiciled RRG.....
- R – Registered - Non-domiciled RRGs.....
- E – Eligible - Reporting entities eligible or approved to write surplus lines in the state (other than their state of domicile – See DSLI)
- Q – Qualified - Qualified or accredited reinsurer.....
- D – Domestic Surplus Lines Insurer (DSLII) – Reporting entities authorized to write surplus lines in the state of domicile.....
- N – None of the above – Not allowed to write business in the state.....



MEMORANDUM

TO: Barbara D. Richardson, Chair, Producer Licensing (D) Task Force

FROM: James J. Donelon, Chair, Surplus Lines (C) Task force

DATE: August 4, 2018

RE: Referral on Surplus Lines Licensure

The Surplus Lines Task Force (SLTF) formed the Accident & Health Drafting Group (Drafting Group) following a nonadmitted and disability insurance presentation to the Task Force and subsequent survey of the states. The survey results indicated that nonadmitted accident and health (A&H) coverages were being written in a number of states. However, there were limitations in available coverages and several states appeared willing to address this market concern. As a result, the Drafting Group's charge was to produce draft guidelines that will assist the states in addressing A&H coverages in the non-admitted market.

Per the State Licensing Handbook, Page 220, Standard 39 - Surplus Lines Standards indicates, "States shall require an underlying property and casualty license prior to the issuance of a resident surplus lines license." The draft Nonadmitted A&H Guidelines, Section 2 – Background, outlines certain types of A&H coverages where a producer may be required to hold a Life or Accident & Health license. The Drafting Group would like to raise the point that a producer holding one of these licenses may not possess a property and casualty license, and therefore, not qualify for a surplus lines license.

The SLTF recommends the Producer Licensing (D) Task Force consider whether the requirement of an underlying property and casualty license needed to qualify for a surplus lines license should also allow a Life or Accident & Health license to fulfill the requirement. If it is determined that the underlying licensure requirement to qualify for a surplus lines license should be expanded to include Life or Accident & Health, it is recommended that State Licensing Handbook, Standard 39 - Surplus Lines Standards be changed to reflect the inclusion.

If there are any questions regarding the proposed recommendation, please contact me or NAIC staff (Andy Daleo at adaleo@naic.org or Bob Schump at rschump@naic.org) for clarification.

Thank you for your consideration.

