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BULLETIN #758

RE: On-Going Filing Requirements for Eligible Surplus Lines Insurers in California

Attached is a guide of the filing requirements under California Insurance Code (CIC) Section 1765.1. This guide is for surplus line brokers who want to maintain the eligibility in California of the insurer(s) they have sponsored (or who wish to sponsor a new non-admitted insurer to become eligible). As explained in the guide, once a non-admitted insurer is placed on the List of Eligible Surplus Line Insurers ("LESLI"), it needs to continually provide the California Department of Insurance (CDI) with more recent or revised documents as soon as such documents become available. These required documents are detailed in the guide and may be submitted as part of the insurer's annual renewal filing (on or before its LESLI approval date), and as update filings.

For foreign insurers, we have also provided a recommended filing schedule for 1996 along with this bulletin. Some of the items required in the annual submission overlap with those required as updates. The submitting broker and insurer are free to file the required documents as updates, or as part of the annual filing, as long as they comply with the provisions of CIC 1765.1. Thus, we recommend the attached 1996 filing schedule for foreign insurers. This schedule is the most cost effective (saving a minimum of \$250.00 on overall filing fees) and delays the annual filing until June when statutory reporting and accounting staff generally have more time.

For alien insurers, we may provide a similar recommended filing schedule at a later date. However, please be aware that to date, the CDI has indicated that many alien insurers have not submitted an amendment to their NAIC Standard Form Trust Agreement to reflect the minimum balance of \$5.4 million (instead of the \$2.5 million required by IID). Please be reminded that alien insurers must file their amended Trust Agreement to the CDI before April 30, 1996 as previously agreed.

Should you have any questions regarding this bulletin, please call me or John Voltz at (415) 434-4900. Thank you.

A handwritten signature in cursive script, reading 'Linda Cheng'.

Linda Cheng
Manager, Financial Department

LC/pk
Attachments

DEPARTMENT OF INSURANCE45 FREMONT STREET, 23rd FLOOR
SAN FRANCISCO, CA 94105**ONGOING FILING REQUIREMENTS FOR ELIGIBLE
SURPLUS LINE INSURERS IN CALIFORNIA****Overview**

This document is a guide that summarizes those required filings for surplus lines insurers in California under CIC Section 1765.1. It is intended only as an aid to those who prepare these filings and does not supersede the actual language of the CIC Section 1765.1.

Once a non-admitted insurer has made an initial filing and has been placed on the List of Eligible Surplus Line Insurers ("LESLI"), the sponsoring surplus line broker is required to keep the California Department of Insurance ("CDI") updated as to the insurer's status by submitting certain documents as they become available. These filings include: 1) an annual submission of all the required documents within a twelve-month period from the LESLI approval date, and 2) updated documents reflecting any changes to the information previously filed with the annual submission as these documents become available. {See CIC 1765.1(i), CIC 1765.1(m) and CCR 2174.4 (b). Also, for fee schedule, see CCR 2174(a) and (b) as well as CIC 1765.1(m).}

The required items for the annual filing and update filings are slightly different for foreign (domiciled in the U.S.) and alien (not domiciled in the U.S.) insurers, consequently, they are addressed in separate sections. This guide is organized in the following sections:

- I. General
- II. Foreign Insurers Annual Filing Requirements
- III. Foreign Insurers Update Filing Requirements
- IV. Alien Insurers Annual Filing Requirements
- V. Alien Insurers Update Filing Requirements
- VI. Definitions of "Certified" and "Verified"
- VII. Filing Requirements for Initial Submissions
- VIII. Sample Wordings
Regulatory Disclosure

I General

1. All filings on behalf of eligible surplus lines insurers in California (or those insurers seeking to become eligible) must be made through a **licensed California surplus line broker** ("sponsoring" broker).
2. All filing fee checks must be made payable to the **California Department of Insurance**.
3. All required documents and fees must be filed directly to:

**Surplus Line Enforcement Unit
California Department of Insurance
Fremont Street, 24th Floor
San Francisco, CA 94105**

4. All financial documents submitted must be **certified**. Financial documents of an alien insurer should also be certified, but if certification is not available, they may be **verified**. See Section VI below for the definitions of "certified" and "verified".
5. All submissions must be made in **quadruplicate**.
6. Ensure all documents filed are **complete and legible**. To be complete, a document must include all referenced attachments. Also, all documents filed by alien insurers should be translated into English, and all financial data expressed in United States dollars. If the date is expressed in another currency, please provide the exchange rate for the other currency as of the date of the document.
7. Insurers must maintain a minimum capital and surplus requirement of **\$15 million** at all times.
8. Insurers must have actively transacted insurance for the **three years** immediately preceding any filing.
9. Alien insurers must maintain in a qualified U. S. financial institution an irrevocable trust account of **not less than \$5.4 million**.
10. If you have any questions at any time, you may call either:

Charles P. Wiscavage
Surplus Line Enforcement Unit
(415) 904-5715

or

Linda Cheng or John Voltz
Surplus Line Association of California
(415) 434-4900

II Foreign Insurers - Annual Filing Requirements

To remain as an eligible surplus line carrier in California, the sponsoring broker is required at least annually to submit records and statements of the insurer it sponsored to ensure that the requirements of Section 1765.1 are maintained. The annual submission for foreign insurers consists of the following:

1. A filing fee of **\$1,500.00** {see CCR 2174.4(a)(3) applicable via CIC 1765.1(m)}.

Four (4) copies of the following documents:

2. **Annual Statement** of the insurer prepared in the NAIC prescribed format; however, Annual Diskette filing is **not** required {see CIC 1765.1(c)(1)(A)}. The Statement must include the items listed below and all copies of the Annual Statement must be **certified**.
 - (a) Actuarial Opinion
 - (b) Page 14 for California Business
 - (c) Management Discussion and Analysis
 - (d) Risk Based Capital (RBC) Report

Note: The Annual Statement is due when available in March or April.

3. **Audited Financial Report** of the insurer, prepared by an independent certified public accountant or accounting firm, showing the insurer's condition as of a date not more than 12 months prior to submission {see CIC 1765.1(c)(1)(B)}. All copies of the CPA Report must be **certified**.

Note: The CPA Report is due when available in May or June.

4. Insurer's current **License or Certificate of Authority** issued by the insurer's state of domicile {see CIC 1765.1(c)(2)}. All copies must be **certified** by the Department of Insurance of the insurer's state of domicile.
5. A **Certificate of Good Standing or a Certificate of Compliance or other equivalent certificate** issued by the insurer's state of domicile {see CIC 1765.1(c)(2)}. If the insurer's state of domicile does not issue such certificates, the insurer must provide a **verified** statement attesting to this fact.
6. **Agent for Service of Process** in California appointed by the insurer, including the agent's full name, address and telephone number where the agent can be reached during normal business hours {see CIC 1765.1(c)(3)}.
7. **Principal Place of Business** of the insurer, including complete street address, mailing address, and telephone number {see CIC 1765.1(c)(4)}.
8. **An explanation as to the insurer's record regarding market conduct and consumer complaints.** Such statement should be from the insurance regulatory office or official of the insurer's domiciliary jurisdiction and **certified** {see CIC 1765.1(c)(5)}. If such statement is not available from the insurer's state of domicile, then the insurer must provide a **verified** statement regarding its market conduct, payment of claims, and treatment of policyholders.

9. **Regulatory Disclosure Statement** concerning any currently known regulatory actions pending against the insurer or any of its affiliates {see CIC 1765.1(c)(6)}. Such statement must be **certified** (see Section VIII for an attached sample that complies with the California Insurance Code).
10. **Plan of Operation** of the insurer for transacting business in California. The Plan should include a detailed description of the insurer's:
 - a) product lines and as both an admitted and non-admitted carrier, nationwide; and
 - b) existing and/or proposed products, targeted markets and marketing programs in California; and
 - c) planned method(s) of securing new, or maintaining existing, business in California (e.g. will the insurer use retail or wholesale brokers);
 - d) location where underwriting and claim administration is performed.
 - e) affiliate(s) who are admitted in CA. This should include a list of the admitted affiliate(s) and each of the products they offered in CA. It should also include an explanation of how the non-admitted carrier's products offered in CA differ from those offered by its admitted affiliate(s) in CA.
11. **Biographical Affidavits on the officers and directors** of the insurer, if the insurer has filed such with the NAIC.
12. **Latest Report of Examination** of the insurer. All copies must be **certified**.
13. **Quarterly Financial Statements** of the insurer, if available at the time of annual submission. Quarterly diskette filing is also **not required**.

NOTE: If any items required as part of the annual submission have already been filed as part of an update filing, they need not be filed again in the annual submission. However, in the insurer's annual submission, please make a specific reference to this previous filing (e.g. four certified copies of the 1995 Annual Statement filed as an update on April 15, 1996).

III Foreign Insurers - Update Filing Requirements

Whenever there are more recent versions of, and/or changes to, any of the documents required in the annual filing (Section II above), the insurer or the surplus line broker must make a filing of the updated document(s) as soon as it is available. There are three types of update filings:

1. Financial Documents. New or amended versions of Items 2, 3, or 13 in the annual filing.

All financial document updates require a **\$250 filing fee** per document type {see CCR 2174.4(b)(3) applicable via CIC 1765.1(m)}.

2. Non-financial Documents. New or revised versions of Items 4, 5, 6, 7, 8, 9, in the annual filing, or any material change which may affect the operations of the insurer (e.g. mergers, ownership change) in the annual filing.

All non-financial document updates require a **\$35 filing fee** per document type {see CCR 2174.4(b)(3) applicable via CIC 1765.1(m)}.

3. Supplemental Information. New or revised versions of Items 10, 11, or 12 in the annual filing.

All supplemental information updates require **no filing fee**.

IV Alien Insurers - Annual Filing Requirements

To remain as an eligible surplus line carrier in California, the sponsoring broker is required at least annually to submit records and statements of the insurer it sponsored, to ensure that the requirements of Section 1765.1 are maintained. The annual submission for alien insurers consists of the following:

1. Filing fee of **\$1,500.00** {see CCR 2174.4(a)(3) applicable via CIC 1765.1(m)}.

Four (4) copies of the following documents:

2. **Audited Financial Report** of the insurer, prepared by an independent certified public accountant or accounting firm, showing the insurer's condition as of a date not more than 12 months prior to submission {see CIC 1765.1(c)(1)(B) & (E)}.

Note: The CPA Report is due when available in August or September but no later than October 1. All copies of the CPA Report must either be **certified**, or **verified** if certification of a financial document is not available.

3. Latest **Financial Statement** of the insurer not more than 12 months old. If listed by the IID (International Insurers Department, formerly NAIIO), **complete copies of the Standard IID Financial Reporting Format** {see CIC 1765.1(c)(1)(A) & (E)} which includes:

- a) IID Interrogatories
- b) Schedule of Reinsurance Ceded
- c) Certification of Loss Reserves (signed by an actuary, who is a member of a recognized professional actuarial body)
- d) An updated Plan of Operation

Note: The IID Financial Report is due when available in July or August. All copies of the financial statement must either be **certified** or **verified**.

4. **Trust Agreement** of the insurer {see CIC 1765.1(c)(1)(C)(i)}. All copies of the agreement must be **certified** (which may be certified by the Trustee/Bank).

Note: Any Trust Agreement submitted must reflect a minimum balance of \$5.4 million (not the \$2.5 million minimum required by the IID).

5. Most recent quarterly **Statement of Account or List of Assets in the Trust Account** {see CIC 1765.1(c)(1)(C)(ii)}. The Statement must be **verified**.

6. Current **License or Certificate of Authority** of the insurer. All copies must be **certified** by the Department of Insurance of the insurer's country of domicile. Alien insurers must make every attempt to get certified copies of their license issued by their country of domicile {see CIC 1765.1(c)(2)}.

7. A **Certificate of Good Standing** or a **Certificate of Compliance** issued by the insurer's country of domicile {see CIC 1765.1(c)(2)}. If the insurer's country of domicile does not issue such certificates, the insurer must provide a **verified** statement attesting to this fact.

8. **Agent for Service of Process in California** appointed by the insurer, including the agent's full name, address and telephone number where the agent can be reached during normal business hours {see CIC 1765.1(c)(3)}.
9. **Principal Place of Business** of the insurer, including complete street address, mailing address, and telephone number {see CIC 1765.1(c)(4)}.
10. **An Explanation or Statement as to the insurer's record regarding market conduct and consumer complaints.** Such statement should be from the insurance regulatory office or official of the insurer's domiciliary jurisdiction {see CIC 1765.1(c)(5)}. If such statement is not available from the insurer's country of domicile, then the insurer must provide a **verified** statement regarding its market conduct, payment of claims, and treatment of policyholders.
11. **Regulatory Disclosure Statement** concerning any currently known regulatory actions pending against the insurer or any of its affiliates {see CIC 1765.1(c)(6)}. Such disclosure statement must be **verified** (see Section VIII for an attached sample that complies with the California Insurance Code).
12. **Plan of Operation** of the insurer for transacting business in California. The Plan should include a detailed description of the insurer's:
 - a) product lines and as both an admitted and non-admitted carrier, nationwide; and
 - b) existing and/or proposed products, targeted markets and marketing programs in California; and
 - c) planned method(s) of securing new, or maintaining existing, business in California (e.g. will the insurer use retail or wholesale brokers);
 - d) location where underwriting and claim administration is performed.
 - e) affiliate(s) who are admitted in CA. This should include a list of the admitted affiliate(s) and each of the products they offered in CA. It should also include an explanation of how the non-admitted carrier's products offered in CA differ from those offered by its admitted affiliate(s) in CA.
13. **Biographical Affidavits on the officers and directors of the insurer**, if available (i.e. if filed in any jurisdictions where the insurer is licensed).

V Alien Insurers - Update Filing Requirements

Whenever there are more recent versions of, and/or changes to, any of the documents required in the annual filing (Section IV above), the insurer or the surplus line broker must make a filing of the updated document(s) as soon as it is available. There are three types of update filings:

1. Financial Documents. New or amended versions of Items 2 or 3 in the annual filing.

All financial document updates require a **\$250 filing fee** per document type {see CCR 2174.4(b)(3) applicable via CIC 1765.1(m)}.

2. Non-financial Documents. New or revised versions of Items 4, 6, 7, 8, 9, 10, 11 in the annual filing, or any material change which may affect the operations of the insurer (e.g. mergers, ownership change) in the annual filing.

All non-financial document updates require a **\$35 filing fee** per document type {see CCR 2174.4(b)(3) applicable via CIC 1765.1(m)}.

3. Supplemental Information. New or revised versions of Items 5, 12, or 13 in the annual filing.

All supplemental information updates require **no filing fee**.

VI Definitions of “Certified” and “Verified”

As written:

"Certified" means an originally signed or sealed statement, dated not more than 60 days before submission, made by a public official or other person, attached to a copy of a document, that attests that the copy is a true copy of the original, and that the original is in the custody of the person making the statement {see CIC 1765.1(f)(1)}.

What this means is that we require that the public official or other person be someone at the Department of Insurance of the domiciliary jurisdiction to certify the financial documents.

As written:

"Verified" means a document or copy accompanied by an originally signed statement, dated not more than 60 days before submission, from a responsible executive or official who has authority to provide the statement and knowledge whereof he or she speaks, attesting either under oath before a notary public, or under penalty of perjury under California law, that the assertion made in the document is true {see CIC 1765.1 (f)(9)}.

What this means is that a corporate officer of the insurer can verify the documents.

VII Filing Requirements for Initial Submissions

Any company not on the List of Eligible Surplus Line Insurers ("LESLI") and wishes to be placed on the LESLI list must make a complete submission of the required documents as outlined in Items #1 through #14 of Section II for foreign insurers, or Items #1 through #14 of Section IV for alien insurers, as appropriate. All filings on behalf of surplus line carrier must be made through a licensed California surplus line broker.

In addition, the insurer must comply with the minimum capital and surplus requirement of **\$15 million** and the seasoning requirement of actively transacting insurance for the past **three years**. Alien insurers must maintain a trust fund agreement with a minimum amount of \$5.4 million in a U. S. Federal Reserve System member bank.

VIII Sample Wording

see attached

REGULATORY DISCLOSURE STATEMENT

_____ (a non-admitted insurer) and its affiliated entities are currently not known to be the subject of any order or proceeding regarding conservation, liquidation, or other receivership; or regarding revocation or suspension of a license to transact insurance in any jurisdiction; or otherwise seeking to stop the insurer from transacting insurance in any jurisdiction. I make this statement as an executive or official who has authority to provide the statement and knowledge whereof he or she speaks and under penalty of perjury under California law that the assertions are true.

Name

Office

Insurer

SLA RECOMMENDED FILING SCHEDULE FOR FOREIGN INSURERS

Required Document (see attached guide for details)	Recommended Type of Filing	Filing Fee
Year-end 1995 Annual Statement	Submit as an <u>update filing</u> , in March or April	\$250.00
March 31, 1996 Quarterly Statement	Submit as part of the <u>annual filing</u> in June	\$*
CPA/Audited Financial Statement for year-end 1995	Submit as part of the <u>annual filing</u> in June	\$*
Annual Renewal for 1996	Submit in June	\$1500.00
June 30, 1996 Quarterly Statement	Submit as an <u>update filing</u> in August	\$250.00
September 30, 1996 Quarterly Statement	Submit as an <u>update filing</u> in November	\$250.00
<p>* If an insurer elects to include these documents with the required annual submission, it need not pay an additional filing fee. However, if these documents are filed as updates there is a filing fee of \$250.00 per document.</p> <p>Remember: In addition to the above filings, insurers must make update filings whenever there are more recent or revised versions of the documents previously filed.</p>		