



THE SURPLUS LINE ASSOCIATION
OF CALIFORNIA

November 05, 2001

388 MARKET STREET, 11TH FLOOR
SAN FRANCISCO, CA 94111

THEODORE M. PIERCE
EXECUTIVE DIRECTOR

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BULLETIN #938

RE: EXPORT LIST HEARING

The California Department of Insurance (CDI) is planning to hold their annual public hearing on the Export List on November 28, 2001 in San Francisco. Enclosed is the official CDI notice. The hearing will discuss the coverage and risk categories that can be exported to companies on the List of Eligible Surplus Line Insurers (LESLI) without having to conduct a diligent search of the admitted market.

As you know, Surplus Line Brokers who transact surplus line policies must ensure a diligent search of the admitted market and supervise or complete the SL-2 Form (Diligent Search Report) which describes the diligent search that was conducted. While the diligent search may be performed by the surplus line broker or retail producer, in either case, the surplus line broker is responsible to ensure that a search is made and a copy of the SL-2 form is filed with the SLA within 60 days of the placement of the coverage. By contrast, when executing policies for coverage or risk categories that appear on the Export List (Sec. 1763.1), surplus line brokers are exempt from having to supervise or conduct the diligent search and thus do not need to complete the SL-2 form for include this information in their SLA filing.

If you have an suggestion for an addition to the Export List and can substantiate your claim that the added item is not available in the admitted market, the SLA will submit testimony on your behalf to the CDI at the November 28 hearing. Your request addition must be accompanied by evidence substantiating that an adequate or reasonable market does not exist among admitted insurance carriers. Specifically, the evidence should provide first-hand written testimony substantiating that the coverage or risk in question is generally unavailable in the admitted market. Another form of evidence would be written declinations from the admitted carriers stating that they are unwilling to underwrite policies for a specific coverage or risk. The evidence must be of a compelling nature that gives the CDI assurances that the entire spectrum of California admitted carriers known for writing in the same general category of coverage or risk have been surveyed by the surplus line broker.

If you want the SLA to testify on your behalf, **please forward the information described above to Theodore M. Pierce, Executive Director.** Attached is a current copy of the Export List for your review.

A handwritten signature in cursive script that reads 'Theodore M. Pierce'.

Theodore M. Pierce
Executive Director

Attachment

Below is a recreated copy of the original letter from the California Department of Insurance ("CDI"). Page 4 and 5 contains an actual copy of this letter from Carol F. Frair.

NOTICE OF PUBLIC HEARING REGARDING EXPORT LIST

NOTICE IS HEREBY GIVEN that the Insurance Commissioner of the State of California will hold a public hearing, at the time and place set forth below, concerning the renewal of the export list in the surplus lines area.

November 28, 2001
10:00 a.m.
Department of Insurance
45 Fremont Street, 22nd Floor
San Francisco, California 94105

THE HEARING ROOM IS ACCESSIBLE TO PERSONS WITH MOBILITY IMPAIRMENTS. IF ACCOMMODATIONS NEED TO BE MADE FOR OTHER DISABILITIES, SUCH AS HEARING IMPAIRMENT, PLEASE PHONE THE CONTACT PERSON LISTED IN THIS NOTICE BY NOVEMBER 17 SO ARRANGEMENTS CAN BE MADE.

EXPORT LIST

Pursuant to Insurance Code Section 1763.1, the Commissioner may by order declare eligible for placement with a nonadmitted insurer and exempt from all the requirements of Section 1763, except the filing of a confidential written report, any type of insurance coverage or risk for which he or she finds after a public hearing that there is not a reasonable or adequate market among admitted insurers.

Pursuant to this mandate, the commissioner has previously collected information on whether or not there is a reasonable or adequate market among admitted insurers for certain risks or coverages. The Department reviewed the export lists in other states. We contacted California surplus line brokers and surveyed them as to the risks most placed by them. We received industry input from admitted carriers and through the Surplus Line Association. We also have held annual public hearings and solicited public comment from all interested parties including surplus line brokers, admitted insurers, trade associations representing admitted insurers, agents and brokers, and consumer groups to provide us with evidence of a lack of a reasonable or adequate market amongst admitted carriers for a particular risk coverage. After this process, the Department adopted the attached EXPORT LIST.

RENEWAL

Pursuant to Insurance Code Section 1763.1 a public hearing shall be held annually regarding the export list. The above notice hearing is being set to take testimony on the export list to see if any items should be added or removed.

In preparing your comments and/or testimony please be aware that items not appearing on this list will still be exportable but subject to the full documentation of the search being performed pursuant to Insurance Code Section 1763.

PROPOSED ITEMS TO BE ADDED

If you are an admitted carrier that writes these coverages or otherwise have reason to believe that such coverages are available in the admitted market, please present evidence of such in writing or appear at the hearing.

HEARING AND WRITTEN TESTIMONY

As stated before, this hearing is public and interested parties may testify as time permits. The hearing will be structured with time and place priority afforded to those who have signed-up in advance to speak. If you wish to sign-up in advance to speak, submit your written request to the contact person listed below.

PLEASE BE AWARE THAT IN ORDER FOR THE COMMISSIONER TO CONSIDER ADDING A RISK OR COVERAGE TO THE EXPORT LIST, THE COMMISSIONER MUST HAVE EVIDENCE THAT THERE IS NOT AN ADEQUATE OR REASONABLE MARKET FOR THE RISK OR COVERAGE IN THE ADMITTED

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Page 2

MARKET. SUBMISSION OF A STATEMENT SIMPLY REQUESTING A RISK OR COVERAGE TO BE ADDED TO THE LIST WITHOUT OTHER SUPPORTING EVIDENCE OF THE LACK OF AN ADEQUATE OR REASONABLE ADMITTED MARKET WILL NOT BE ENOUGH FOR THE COMMISSIONER TO ADD A RICK OR COVERAGE TO THE LIST.

All written testimony, comments, or documents must be sent to the Department of Insurance in triplicate (original and two copies) and received by the Department of insurance at the address given below no later that 5:00 p.m. on November 28, 2000. All written testimony received at the hearings will be considered part of the hearing record. The Department of Insurance will not accept any written testimony, comments, or documents which are transmitted to it by facsimile.

Please direct any questions regarding this Notice of Investigatory Hearing, opportunities to testify, and written submissions for the record, to: Carol Frair, Senior Staff Counsel, California Department of Insurance, 45 Fremont Street, 21st Floor, San Francisco, CA 94105, (415) 538-4408.

DATED: November 05, 2001

HARRY LOW
Insurance Commissioner

By Signature on page 5
Carol Fistler Frair
Senior Staff Counsel

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HARRY LOW
Insurance Commissioner

By 
Carol Fistler Frair
Senior Staff Counsel

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