

NAIC

**INTERNATIONAL INSURERS DEPARTMENT
(IID)**

**PLAN OF OPERATION
FOR
LISTING OF
ALIEN NON-ADMITTED INSURERS**

(As Amended June 2006)

Note

The International Insurers Department operates under the auspices of the NAIC Property & Casualty Insurance (C) Committee to which all mention of "Committee" in the following refer.

The 'Chairs', as used herein, refers to the Chair of Property & Casualty Insurance (C) Committee and the Chair of the Surplus Lines (C) Task Force *unless* the same person is the Chair of both the Committee and the Task Force, in which case it shall mean that person together with the Vice Chair of Property & Casualty Insurance (C) Committee. In the event that the President has already voted, the casting vote by the President referred to herein shall be cast by the Vice President or, if the Vice President has already voted, the Secretary/Treasurer.

An 'insurer', as used herein, includes both a company and a syndicate of underwriting entities

The Application and the Standard IID Financial Reporting Format referenced therein shall be considered an integral part of this Plan.

I IID will Procure Information

The International Insurers Department (IID) will procure from every source feasible all relevant information regarding alien insurers providing coverage in the United States.

II IID will Publish Quarterly Listing

The IID will prepare and disseminate a quarterly listing (Non-Admitted Insurers Quarterly Listing) of Alien Non-Admitted Insurers. On this list will appear the names of those insurers which qualify for listing as outlined in paragraphs IV and V.

III Application Procedure

An insurer desiring the inclusion of its name on the quarterly listing shall file with the IID an application for listing together with a check made payable to the National Association of Insurance Commissioners in the amount indicated in the attached fee schedule to cover the cost of processing and evaluating the insurer's request for inclusion of its name on the quarterly listing. At the time the application is filed, the insurer shall submit complete information as may be called for in the application for listing or by the IID. The IID, with the concurrence of the Chairs may require the applicant to submit to an on-site review by a qualified person(s), with expenses to be borne by the applicant.

IV IID Evaluation and Recommendation

The IID shall review and evaluate the information filed by those insurers desiring the inclusion of their names on the quarterly listing. If the IID determines that the insurer meets or does not meet those standards set forth in paragraph V, the IID shall present the name of the insurer to the Surplus Lines Financial Analysis Working Group for further consideration. Upon further consideration, the name of the insurer, and relevant findings, shall be presented to the Chairs for consideration for approval or non-approval for listing. Upon receipt of written concurrence of the Chairs, the IID Manager shall either include the name of the insurer in the next regularly published quarterly listing or issue a notice of non-approval to the insurer, as appropriate. In the event that there is a disagreement between the Chairs, the President shall have a casting vote. The NAIC, however, makes no representations or warranties that an applicant which submits all of the documentation listed herein will be recommended for listing.

If an insurer has not answered all questions and submitted all data requested within six months of its initial application, then its application may be deemed withdrawn.

V Standards for Inclusion on List

In order to be considered for inclusion on the quarterly listing, an insurer must reasonably demonstrate that it meets the following standards on: (A) capital and/or surplus, or the substantial equivalent thereof; (B) U.S. trust accounts; and (C) character, trustworthiness and integrity.

A. Capital and/or Surplus Funds

A company must possess and continually maintain capital and/or surplus adequate to its obligations, but in no event may the total amount be less than \$15,000,000 for any company applicant. In determining whether a company's capital and/or surplus is adequate to meet the obligations, the following factors may be considered:

- (1) The size of the company as measured by its assets, capital and/or surplus, reserves, premium writings, insurance in force and/or other appropriate criteria.
- (2) The kinds of business the company writes, its net exposure and the extent to which the company's business is diversified among several lines of insurance and geographic locations.

(3) The past and projected trend in the size of the company's capital and/or surplus considering such factors as premium growth, operating history, loss and expense ratios and such other criteria as appropriate.

In the case of a group including incorporated and individual unincorporated underwriters, the incorporated underwriters shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members, and the group shall, in lieu of capital and surplus, provide a U.S. trust account of not less than \$200,000,000 available for the benefit of United States surplus lines policyholders of any member of the group.

B. U.S. Trust Account

As stipulated in the NAIC Standard Form Trust Agreement for Alien Excess or Surplus Lines Insurers and the Lloyd's United States Situs Excess or Surplus Lines Trust Deed, the insurer must establish a U.S. trust account, in a qualified United States financial institution, consisting of cash deposited with the trustee, securities or an acceptable letter of credit on behalf of U.S. policyholders at an appropriate level.

(i) In the case of a company, in no event may the Trust Fund Minimum Amount be less than the lesser of:

(a) \$100,000,000; or

(b) for business written on or after January 1, 1998, 30% of any amount up to the first \$200,000,000 plus 25% of any amount up to the next \$300,000,000 plus 20% of any amount up to the next \$500,000,000 plus 15% of any amount in excess of \$1,000,000,000 of either the Company's United States gross surplus lines liabilities or the Company's direct non-admitted United States liabilities excluding liabilities arising from aviation, wet marine and transportation insurance and direct placements, except that in no event shall the Trust Fund Minimum Amount be less than \$5,400,000.

Such liabilities are to be determined no less than annually and reported to the Trustee, the Domiciliary Commissioner, all Non-Domiciliary Commissioners and the IID no later than 7 months after the Company's accounting year-end. For purposes of this section, a certification of losses by an actuary, who is a member of a recognized professional actuarial body, shall constitute a determination of liabilities.

(ii) In the case of a syndicate operating within a group including incorporated and individual unincorporated underwriters, for the total of all years of account the Trust Fund Minimum Amount shall be 30% of any amount up to the first \$200,000,000 plus 25% of any amount up to the next \$300,000,000 plus 20% of any amount up to the next \$500,000,000 plus 15% of any amount in excess of \$1,000,000,000 of the syndicate's U.S. excess or surplus lines liabilities.

Such trust account shall contain all provisions considered necessary by the IID and expressed in the Standard Trust Agreement in effect at the time of the application, and have an expiry date which at no time shall be less than five years hence. In considering what constitutes an appropriate level, the IID shall be governed by the recommendations of the Surplus Lines Financial Analysis Working Group and the Chairs. Other factors which may be considered include the following:

(1) The types and amounts of such coverage which the insurer writes or proposes to write in the United States.

(2) The assets which comprise the trust and their valuation. Any such asset or assets may be discounted for the purposes of determining the adequacy of an insurer's U.S. trust whenever the asset so warrants.

(3) The terms and conditions of the trust agreement.

An insurer dissatisfied with the determination of the appropriate level for its trust may request a reconsideration before the Committee. This request must be made in writing within thirty (30) days after issuance of notice to the insurer regarding the determination by the IID of the appropriate level and shall include an agreement by the insurer to submit to an examination or audit of its affairs if deemed necessary by the Chairs and pay the expense of such examination. If the insurer fails to request a reconsideration as set forth above, its right to a reconsideration shall be considered waived. All requests for reconsideration shall be submitted to the Chair of the Committee at the NAIC office in Kansas City. Upon receipt of a request for reconsideration, the Chair of the Committee shall appoint a group consisting of three Committee members other than the Chairs, and shall designate a Chair of the group, who shall reconsider the appropriate level for the trust and render a recommendation to the full Committee. The full Committee shall then issue a final decision.

The IID shall periodically review the market value of each insurer's U.S. trust account in order to ascertain that it continues to meet the established minimum criteria. In determining an insurer's compliance with the established minimum criteria, credit shall be allowed only for securities readily marketable on regulated U.S. national or principal regional security exchanges or those determined by the Securities Valuation Office of the NAIC to have substantially equivalent liquidity characteristics. This latter qualification may be affected by obtaining a determination from the NAIC's Securities Valuation Office that the security has liquidity characteristics substantially equivalent to those securities readily marketable on regulated U.S. national or principal regional security exchanges and filing a copy of the report of the Securities Valuation Office with the IID.

The term acceptable letter of credit shall mean a clean, unconditional, irrevocable letter of credit which must be issued or confirmed by a qualified United States financial institution.

As contained herein, a "qualified United States financial institution" means an institution that:

- (1) is organized and licensed (or in the case of a U.S. office of a foreign banking organization, licensed) under the laws of the United States or any state thereof; and,
- (2) is regulated, supervised and examined by U.S. federal or state authorities having regulatory authority over banks and trust companies; and,
- (3) has been determined by the Securities Valuation Office of the NAIC as an acceptable financial institution; and,
- (4) has been granted authority to operate with trust powers, if such qualified United States financial institution is to act as the fiduciary of the trust.

C. Character, Trustworthiness and Integrity

An insurer desiring the inclusion of its name on the quarterly listing shall have an established reputation of financial integrity and satisfactory underwriting and claims practices. The competence, experience and integrity of those persons who control or conduct the affairs of the insurer shall be such that it

would be in the best interest of the policyholders, creditors or the general public to include the name of the insurer on the quarterly listing.

VI Reconsideration Procedure (Application)

Any alien insurer dissatisfied by non-approval or the failure of the IID Manager to submit its name to the Chairs for approval within six (6) months of receipt of all requested information, may request reconsideration before the Committee. In the event of non-approval, a written request for reconsideration must be made within thirty (30) days after issuance of notice of non-approval. In the event an application has not been submitted for approval within six (6) months of receipt of all requested information the written request for reconsideration must be made within thirty (30) days following such six (6) month period. Any request shall include an agreement by the insurer to submit to an examination or audit of its affairs if deemed necessary by the Chairs and pay the expense of such examination. If the insurer fails to request a reconsideration as set forth above, its right to a reconsideration shall be considered waived. All requests for reconsideration shall be submitted to the Chair of the Committee at the NAIC office in Kansas City. All expenses incurred in connection with any reconsideration shall be paid by the person requesting the reconsideration. Upon receipt of a request for reconsideration, the Chair of the Committee shall appoint a group consisting of three Committee members other than the Chairs, and shall designate a Chair of the group, who shall reconsider the application and render a recommendation to the full Committee. The full Committee shall then issue a final decision. No insurer whose application has been non-approved or has not been recommended for approval shall file another application until two years from the receipt of such notice provided, however, that the two year waiting period shall not apply in those cases when, subsequent to the rejection of the insurer's application, the insurer undergoes a change of its ultimate controlling person.

VII Continuing Compliance

The IID shall periodically review the continued compliance of each insurer with the current criteria for listing. The insurer shall provide the IID with a copy of its most recent audited financial statement and a report of its independent auditor, if any, and the final standard IID financial reporting format (the "financial information") within 45 days of the audited financial statements becoming available or seven (7) months of the end of the insurer's fiscal year, whichever is the earlier. The insurer shall also provide the IID with an initial filing of the standard IID financial reporting format within three (3) months of the end of the insurer's fiscal year. The insurer shall provide an explanation of any material differences between the initial filing and the final filing. The IID may exempt an insurer from the requirement to provide an initial filing where the insurer can commit to provide its final financial information within six (6) weeks of the deadline for the initial filing. The IID may request such additional information as it deems fit. If the insurer fails to file the financial information within the time limit or supply any requested additional information, the IID shall so inform the Surplus Lines Financial Analysis Working Group and Chairs and may recommend that the insurer's name be removed from the quarterly listing.

If in the opinion of the IID any insurer does not meet the standards set forth in paragraph V, the IID shall recommend to the Surplus Lines Financial Analysis Working Group and Chairs that the insurer's name be removed from the Quarterly Listing. If the Chairs concur with any such recommendation of the Surplus Lines Financial Analysis Working Group and decide that the name of the insurer should be removed from the quarterly listing, the Chairs will direct the IID to do so and to give notice of such removal to the insurer. In the event of a disagreement between the Chairs, the President shall have a casting vote.

The IID may recommend that an insurer submit to a special examination or audit of its affairs to verify continuing compliance. If the Surplus Lines Financial Analysis Working Group and Chairs concur with the recommendation, the insurer shall agree to submit to such examination and pay the expenses thereof, or shall be removed from the listing. In the event of a disagreement between the Chairs, the President shall have a casting vote.

The IID may, for good cause, grant an insurer a reasonable extension of time for filing the financial information. Any request for an extension of time must be received at least 5 days prior to the filing deadline, and be accompanied by the fee specified on the attached schedule.

If at any time a company has reason to believe, either by way of interim management accounts or otherwise, that it has lost 10% or more of the capital and/or surplus in aggregate shown on the immediately preceding financial filing with the IID, or that its capital and/or surplus has dropped below the absolute minimum standard of \$15,000,000, it shall immediately inform the IID.

VIII Change of Control and/or Merger of Insurer

In the event that the information set forth in Question 16 of the application changes, the insurer agrees to provide written notice within thirty (30) days. Failure to do so may be cause for removal from the listing. In the event of change of control and/or merger of the insurer the insurer shall, within forty-five (45) days of completion of such change of control and/or merger, file a complete application, including all documents that are necessary for the IID to determine compliance for listing, or may be removed from the listing. Notwithstanding the provision of paragraph IX, any insurer so removed must reapply in accordance with paragraph III.

IX Reconsideration Procedure (in Respect of Removal)

An insurer dissatisfied with the removal of its name from the quarterly listing may request a reconsideration before the Committee. This request must be made in writing within thirty (30) days after issuance of notice to the insurer that its name has been removed from the quarterly listing and shall include an agreement by the insurer to submit to an examination or audit of its affairs if deemed necessary by the Chairs and pay the expense of such examination. If the insurer fails to request a reconsideration as set forth above, its right to a reconsideration shall be considered waived. All requests for reconsideration shall be submitted to the Chair of the Committee at the NAIC office in Kansas City. Upon receipt of a request for reconsideration, the Chair of the Committee shall appoint a group consisting of three Committee members other than the Chairs, and shall designate a Chair of the group, who shall reconsider the removal and render a recommendation to the full Committee. The full Committee shall then issue a final decision. An insurer whose name has been removed from the quarterly listing in accordance with the provisions of paragraph VII shall not be eligible to reapply for listing for two years as a new applicant.

X English Language/Accounting Practices

In order to comply with the filing requirements of this Plan of Operation, all communications and information, including financial statements, auditors' reports, trust fund documents, etc. must be submitted in the English language. All questions of compliance with established financial criteria shall be determined on the basis of accounting practices and procedures substantially equivalent to those promulgated by the National Association of Insurance Commissioners covering insurers writing similar types of coverage.

XI Financial Statements

Financial statements to be filed annually with the IID shall consist of:

1. the latest audited financial statements and auditors' report published by the insurer
2. a complete certified copy of the latest official financial statement and return required by the Insurer's domiciliary regulator, if different from (1.) above, unless the Insurer has received a waiver of this requirement for the relevant year from the IID, and
3. the IID financial reporting format, which should be printed. The printed format shall be supplemented by a magnetic version thereof on diskette or submitted to the NAIC by e-mail.

The text of all such financial statements shall be in English. Items (1) and (2) above should preferably be reported in original currency.

XII Exemption Provision

An insurer desiring the inclusion of its name on the quarterly listing or an insurer that is listed may apply for an exemption from any of the reporting requirements contained in the NAIC Plan of Operation for listing of Alien Non-Admitted Insurers. All requests for exemption from any such requirements shall be made to the Chair of the Committee. The IID Plan of Operation Review Group will then meet to consider such request and will make a recommendation to the Chair of the Committee.

All requests for exemption shall be considered and a recommendation shall be made to the Chair of the Committee within six (6) months of receipt of such request. The Chairs shall then issue a final decision. In the event of a disagreement between the Chairs, the President shall have a casting vote.

XIII Persons who may Subscribe

Any person, including insurers, brokers and others, may subscribe to the quarterly listing and shall, upon payment of an annual subscription fee in an amount to be determined from time to time by the Committee, be entitled to receive a copy of each regularly published quarterly listing.

XIV Supplementary Information

The IID may prepare and disseminate to interested persons, supplementary information, including such items as copies of financial statements, details of U.S. trust accounts and certified auditors' reports, concerning companies on the quarterly listing. The IID shall collect such charges and fees for this information as the Committee determines appropriate.

XV Determination of Fees

All fees shall be determined by the Committee in consultation with the Internal Administration Subcommittee of the Executive Committee from time to time and set forth in the attached fee schedule.

SCHEDULE OF FEES AND OTHER CHARGES

An insurer who fails to pay or have paid on its behalf by its United States representative the annual listing fee by March 31 of each year shall pay the annual fee plus the late fees set forth below by June 30 of each year, or shall be removed from the listing. Any insurer so removed must reapply in accordance with paragraph III. All fees must be received by the dates given, March 31 and June 30 respectively.

Insurer's Application for Listing	\$8,000
Insurer's Annual Listing Fee	\$4,000
Late Fee	\$1,000
Daily late fee for every day late	\$100
Application for extension of time to file financial data	\$500
Annual Subscription Fee for Quarterly Listing of Alien Insurers	\$250
Copies of an Individual Company's Financial Statements	\$50 Each
Copies of an Individual Company's Schedule of Reinsurance Ceded	\$15 Each

Insurers desiring the inclusion of their name on the NAIC Alien Non-Admitted Insurers Quarterly Listing should enclose the \$8,000 application fee together with a completed Application for Listing.

Parties wishing to receive the Quarterly Listing should enclose a check for the appropriate amount with their request to be added to our list of subscribers.

All remittances should be made payable to the National Association of Insurance Commissioners in U.S. Dollars either by way of a check drawn on a **U.S. Bank** or an International Money Order drawn on a New York clearing bank.

W:\Jun06\TF\SURL\