

SURPLUS LINES (C) TASK FORCE

Surplus Lines (C) Task Force, April 6, 2019, Minutes

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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. Received 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 Biggert-Waters

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.

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- 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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