

State of Delaware



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Department of Insurance

SURPLUS LINES BULLETIN NO.2

REQUIREMENTS FOR ELIGIBLE SURPLUS LINES INSURERS

Original No. 69-3
Amended April 15, 1992

No surplus lines broker shall place any insurance with any unlicensed insurer which is not then an eligible surplus lines insurer. No unlicensed insurer shall be or become an eligible surplus lines insurer unless declared eligible by the Commissioner in accordance with the following conditions:

1. A licensed surplus lines broker must request the Commissioner, in writing, to declare the particular unlicensed insurer eligible.

2. The insurer must be of good reputation as to the providing of service to its policyholders and the payment of losses and claims.

3. No insurer shall be eligible, the management of which is considered by the Commissioner to be incompetent or untrustworthy, or lacking in sufficient insurer managerial experience, or which the Commissioner has good reason to believe is affiliated directly or indirectly through ownership, control, reinsurance transactions, or other insurance or business relationships with any entity whose business operations may be or have been detrimental to the interests of policyholders, stockholders, investors, creditors, or the public.

(A) The Commissioner shall from time to time publish a list of all currently eligible surplus lines insurers, and shall mail a copy thereof to each licensed surplus lines broker at his office last of record with the Commissioner.

(B) An eligible surplus lines insurer shall furnish at least annually to the Commissioner an annual financial statement in a form acceptable to the Commissioner. If at any time the Commissioner has reason to believe that any unlicensed insurer then on the list, of eligible surplus lines insurers is impaired financially, or no longer meets the requirements for eligibility as set forth above, he shall declare such insurer no longer an eligible surplus lines insurer. If the Commissioner determines, after a hearing thereon of which reasonable notice was given to all licensed surplus lines brokers that an insurer currently eligible as a surplus lines insurer has willfully violated the laws of Delaware, or has failed to make reasonably prompt settlement of just claims for losses and/or return premiums he may declare such insurer no longer an eligible surplus lines insurer. The Commissioner shall promptly mail notice of all such declarations to each surplus lines broker at his address last of record with the Commissioner.

(C) Pursuant to 18 Del. C. Section 1907(b), nothing in this section shall be deemed to impose on the Commissioner any duty or responsibility to determine the actual financial condition or claims practices of any unlicensed insurer; and the status of being an eligible surplus lines insurer, if granted by the Commissioner, shall be construed to mean only that the insurer appears to be sound financially and to have satisfactory claims practices, and that the Commissioner has no credible evidence to the contrary.