TRINIDAD NAVARRO
COMMISSIONER

STATE OF DELAWARE
DEPARTMENT OF INSURANCE

SURPLUS LINES BULLETIN NO. 16

TO: **ALL DELAWARE DOMESTIC SURPLUS LINES INSURERS AND FOREIGN NONADMITTED (SURPLUS LINES) COMPANIES REDOMESTICATING TO DELAWARE**

RE: **DEPOSITS, FEES AND GUARANTY ASSOCIATION ASSESSMENTS**

DATED: **September 23, 2014**

REISSUED: **April 24, 2024**

This bulletin reminds foreign surplus lines insurers of the Delaware Department of Insurance's position regarding deposits, fees, and guaranty fund assessments applicable to foreign surplus lines insurance companies that redomesticate to Delaware and become Delaware Domestic Surplus Lines Insurers ("DSLI"). Additionally, it offers details about the DSLI application fee.

Background

The Delaware Nonadmitted Insurance Act, 18 **Del. C.** Ch. 19, enacted in 2011, created a new category of insurance company referred to as a "Delaware Domestic Surplus Lines Insurer." A DSLI differs from other Delaware domestic insurance companies in that it allows the DSLI to write surplus lines insurance in this State. A DSLI will be a domiciled and admitted company in Delaware but will not be permitted to write insurance coverages that surplus lines companies are prohibited from writing or insurance coverages that state law mandates may not be written by surplus lines insurers.

Prior to the passage of the Delaware Nonadmitted Insurance Act, if a surplus lines insurer was a domestic company in Delaware, the company was not permitted to write coverage on the Delaware portion of a multi-state surplus lines policy, making it necessary to obtain that portion of the coverage from another insurer through a separate policy. Under the Delaware Nonadmitted Insurance Act, a DSLI will be a Delaware-domiciled admitted insurer that only writes surplus lines insurance business.

A surplus lines insurer that redomesticates to Delaware from another state to be licensed as a DSLI would become an admitted Delaware-domiciled company and would be able to write surplus lines business in all jurisdictions including the State of Delaware. Although the company is an admitted company, a DSLI can only write surplus lines business. A DSLI may only insure a Delaware risk when such coverage is procured according to the rules and procedures in 18 **Del. C.** Ch. 19 governing surplus lines insurance. In addition, the premium charged by the DSLI shall be subject to a surplus lines premium tax pursuant to 18 **Del. C.** § 1925.

A DSLI must agree to abide by all the requirements of 18 **Del. C.** Ch. 19 and with all other requirements of the Delaware Code applicable to Delaware domestic insurers, unless otherwise exempted. The provisions of 18 **Del. C.** Ch. 42 and Ch. 44 regarding the Delaware Insurance Guaranty Associations do not apply to a DSLI.

Pursuant to 18 **Del. C.** § 1932(c), a DSLI may not issue a policy of insurance designed to satisfy:

- i) The motor vehicle financial responsibility requirements of this State;
- ii) The Workers' Compensation Act, 19 **Del. C.** § 2372(a); or
- iii) Any other law of this State mandating insurance coverage by a licensed insurance company.

Payment of fees or assessments

The DSLI application fee is available at 18 **Del. C.** § 701(1)a.

A DSLI is not required to post any deposits or pay any fees required of a Delaware domestic insurance company to write specific lines of coverage if the DSLI is prohibited by statute from writing that coverage. A DSLI may retain the authority in its license to write the prohibited line of business even though it is not permitted to write the coverage in the State of Delaware. Further, since a DSLI is exempted from participation in the Delaware Insurance Guaranty Associations, a DSLI shall not be required to pay any deposit or assessment for the Delaware Insurance Guaranty Associations.

If any company has been licensed as a DSLI and, prior to becoming a DSLI, paid any deposit to the Department described in this Bulletin, such deposit shall be repaid to the DSLI upon written request and after any notification period required by law. In addition, if after becoming a DSLI such DSLI paid any assessment for the Delaware Insurance Guaranty Associations, such portion of the assessment related to the period of time following the conversion to a DSLI shall be repaid to the DSLI upon written request; provided, however, that such written request is received no later than 12 months following the payment of such deposit or assessment.

This Bulletin shall be effective immediately and shall remain in effect unless withdrawn or superseded by subsequent law, regulation or bulletin.

Questions concerning this Bulletin should be emailed to berg@delaware.gov.

Trinidad Navarro
Delaware Insurance Commissioner

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