

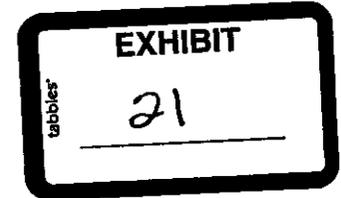
LLOYD'S

JOSEPH P. GUNSET
General Counsel

December 12, 2011

Via Email

The Honorable Therese M. Goldsmith
Commissioner
Maryland Insurance Administration
200 St. Paul Place, Suite 2700
Baltimore, Maryland 21201



Re: Notice of Quasi-Legislative Hearing Regarding Insurance in Coastal Areas

Dear Commissioner Goldsmith:

This letter is in response to the "Notice of Quasi-Legislative Hearing" (Case No. MIA-2011-10-022), published on November 29, 2011, requesting testimony and comments regarding the availability and affordability of personal and commercial property and casualty insurance in coastal areas. The main purpose of this comment letter is to urge the Maryland Insurance Administration ("MIA") to recognize the differences between the admitted market and the surplus lines market and to adjust its regulation of the surplus lines market accordingly. Lloyd's is concerned that certain provisions of the Maryland Insurance Laws intended for admitted insurers are being applied to the surplus lines market.

As you know, surplus lines carriers provide coverage for risks that licensed insurers are either unable or unwilling to write. The surplus lines market serves two critical functions. First, surplus lines insurers cover unique and unusual risks that have atypical underwriting characteristics (such as satellites or large marine vessels) or risks that are undesirable to licensed insurers (such as coastal property insurance and terrorism risk). Second the surplus lines industry provides additional capacity where an insured needs higher coverage limits than those that are available in the admitted market. Thus, the insurance buying public benefits greatly from the existence of the surplus lines market because the market accepts risks that licensed insurers decline for a variety of underwriting and business reasons. Furthermore, the ability to purchase coverage from surplus lines carriers often relieves commercial insureds from having to forego coverage entirely.

In Maryland, the surplus lines market provides, among other things, much needed insurance coverage for large marine vessels, transportation, coastal property and terrorism risk, to name but a few examples.

The reason surplus lines insurers are able to offer coverage when licensed insurers will not is due, in large part, to the fact that surplus lines insurers are not subject to the form and rate restrictions and other reporting requirements that are imposed on licensed insurers. This freedom enables surplus lines carriers to provide the unique, complex and high capacity

products their clients are seeking. The strength of the surplus lines market is its ability to adapt to new risks and provide flexibility on contracts terms. In many cases bespoke insurance contracts are created in order to meet the specific needs of the insured with respect to a particular type of risk. As the foregoing discussion demonstrates, it is vital for surplus lines insurers to have freedom from restrictive regulatory requirements.

We are particularly concerned by Bulletin 11-27, issued by MIA on September 8, 2011, which applies Maryland Insurance Law Section 19-209 dealing with hurricane deductibles to surplus lines insurers. While we understand MIA's intention of protecting policyholders in the aftermath of Hurricane Irene, we do not believe that it is appropriate to apply the requirements of Section 19-209 to surplus lines insurers.

Section 19-209 places restrictions on the ability of insurers to use hurricane deductibles in homeowner's insurance policies (essentially requiring that a hurricane warning be issued by the National Weather Service in order for an insurer to apply a hurricane deductible). However, in addition to this core restriction, Section 19-209 also provides that an insurer may not use an underwriting standard for Maryland homeowner's policies that includes a hurricane deductible unless that underwriting standard has been filed with and approved in writing by MIA. This provision is troubling since as noted above it is important for the surplus lines market to be exempt from form and rate filings. We believe that MIA has unintentionally conflated surplus lines carriers with all admitted insurers, thereby ignoring the unique features and undermining the capabilities of the surplus lines market. This decision is problematic because it has the potential to unduly restrict surplus lines carriers by imposing regulation that has historically been applied to licensed insurers.

Lloyd's is further concerned that Bulletin 11-27 establishes a precedent that all Maryland rate and form requirements for the admitted market that are not expressly limited to licensed or authorized insurers are applicable to surplus lines. In the short term this would significantly weaken the surplus lines market in Maryland, while in the longer term the result would be detrimental to the Maryland insurance industry. The business model of surplus lines insurers relies on freedom of rate and form. If surplus line insurers are required to file their rates and forms or if certain contract terms are restricted or specific provisions required to be filed surplus lines insurers may cease writing certain products in Maryland. This will result in lack of access and availability to products and capacity levels that are only available in the surplus lines market.

Lloyd's appreciates this opportunity to communicate our concerns to the MIA.

Respectfully,



Megan Hayes - Notice of Quasi-Legislative Hearing

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Date: 12/12/2011 4:56 PM
Subject: Notice of Quasi-Legislative Hearing
CC: "Gunset, Joseph" <Joseph.Gunset@lloyds.com>
Attachments: Lloyd's Comment Letter.pdf

Please accept the attached comment letter on behalf of Lloyd's.

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