Information for Legislators and Regulators

This informational brochure will explain who and what we are, who we represent, and how important and necessary our industry is to California’s insurance consumers and the state’s economy.
If you are not already familiar with our organization or our industry, you are not alone. Because the everyday insurance needs of most consumers are covered by insurers who are admitted to sell insurance in the State of California, our segment of the industry is largely unknown and often overlooked. However, without surplus lines (or nonadmitted) insurance, many California businesses would not be able to obtain coverage, and neither those businesses, nor the consumers they serve, would be protected. Additionally, without the protection of insurance, many companies or industries that contribute significant amounts of jobs and taxes to this state would not choose to conduct business at all, if the risks outweighed the benefits. More than 100,000 California businesses, which pay $17 billion annually in state and federal taxes, employ 1.75 million workers and pay them more than $50 billion a year, rely on surplus line insurance.

One of the most enduring myths about surplus lines is that this type of business is unregulated, but the surplus lines market in California is well and diligently regulated. In fact, 21 sections of the California Insurance Code (1760 through 1780) deal specifically with surplus lines, and all brokers who place surplus lines policies in the State of California are required to be licensed and in compliance with all state laws and regulations governing the industry. The SLA, appointed in 1994 as the statutory surplus lines advisory organization to the California Department of Insurance (CDI), helps brokers remain in compliance; we examine every surplus lines filing placed in California (more than 700,000 per year) to ensure that our members comply with all the legal requirements necessary to place policies lawfully in the state.

Our mission is to ensure that a responsive and lawful surplus lines insurance market is maintained in California. Our measure of success in this respect is that the consumer is protected, the needs of the regulators are well-served, and unlawful activities are curtailed. Through a professional and committed organization, utilizing state of the art technology, we respond to the needs of the California consumer, our membership, and appropriate public agencies. We provide education, processing, evaluation, and dissemination of surplus lines data and information to help ensure the financial integrity and stability of the nonadmitted market.

We look forward to working together with you to help ensure a fair, healthy and competitive surplus lines marketplace for California insurance consumers.

Sincerely,

Benjamin J. McKay, J.D., M.P.A.
CEO & Executive Director
Surplus Line Association of California
Ben McKay joined the SLA in 2012 after a career in both the private and public sector. Previously, Ben spent eight years with the Property Casualty Insurers Association of America (PCI) as Senior Vice President for Federal Government Relations. In that role, Ben was named one of Washington, D.C.’s top lobbyists five times by The Hill, one of the city’s leading political newspapers.

Prior to his time at PCI, Ben served as Chief of Staff to a member of the United States Congress in Washington, D.C., and worked on financial services and international relations issues. Other career highlights include eight years as staff to members of the Florida legislature, where he worked on insurance, economic development, banking, criminal justice and other important issues. He then worked as a regulator at the Florida Department of State, where he served as Deputy Secretary for International and Legislative Affairs and later as the youngest Chief of Staff in the history of the 750-employee department. Ben received his Juris Doctor from Catholic University, his Master in Public Administration from Harvard University, and his Bachelor of Science from Florida State University.

Joy Erven, MBA
COO and Director

As Chief Operating Officer and Director, Joy is responsible for overseeing accounting, purchasing, banking and financial investments. Joy prepares and presents the annual budget and quarterly financial statements, and she interfaces with auditors for the annual financial audit. She also leads the SLA’s stamping office function, which oversees broker compliance with state laws and regulations.

Michael Caturegili
Senior Vice President, Data Analysis and Technology

As Senior Vice President, Data Analysis and Technology, Michael is responsible for all filing operations and technology functions. Michael and his team of compliance professionals ensure that all California surplus line filings are recorded accurately and licensed brokers adhere to CDI compliance standards. Michael and his department of technology professionals are responsible for all SLA office computing equipment, system operations, network security and telecommunications.

Pat McAuley, CPCU, AIM, AIS, ASLI, AINS
Senior Vice President, Education and Compliance

As Senior Vice President, Education and Compliance, Pat provides guidance, education and support to the association’s membership and affiliates in their understanding of California’s surplus line laws. Her department develops and provides Continuing Education (CE) courses throughout the state, and she works closely with the California Department of Insurance (CDI).

Susan Bryant, MBA
Senior Vice President, Financial Analysis

As Senior Vice President, Financial Analysis, Susan coordinates SLA participation in the security review program for the insurance commissioner’s List of Approved Surplus Line Insurers (LASLI). Susan represents the SLA at meetings with the California Department of Insurance (CDI) and provides input on SLA compliance with the CDI Plan of Operation.

Cliston Brown
Vice President, Communications and Government Relations

As Vice President, Communications and Government Relations, Cliston is responsible for ensuring SLA members receive timely, high-quality communications about the SLA and news affecting surplus lines brokers doing business in California. He serves as editor-in-chief of the SLA’s newsletter, SLA Connection, publishes news alerts to members and manages the SLA’s social media presence. He also spearheads the SLA’s communications efforts with legislators and regulators at the state and federal level.
California's produce many important items that cannot always be insured in the standard insurance market. Surplus line insurance enables Californians to cover the risk involved in producing many of these goods, which they would not be able to produce without adequate insurance coverage.

What types of products do surplus lines policies insure?

- **25% Financial Services**
  - Banks and Non-Depository Credit Institutions
  - Securities Brokers and Investment Offices
  - Real Estate
  - Insurers
  - Insurance Agents and Brokers

- **7% Manufacturing**
  - Mining
  - AGRICULTURE
  - Crops and Livestock
  - Processed Food
  - Forestry
  - Fishing, Hunting and Trapping
  - Textile Products
  - Apparel and Other Finished Products
  - Wood Products, Furniture and Fixtures
  - Paper, Printing and Publishing Chemicals
  - Petroleum Refining
  - Rubber and Plastics
  - Leather, Stone, Clay, Glass and Concrete
  - Industrial Machinery and Computer Equipment
  - Electronic Equipment and Components
  - Transportation Equipment
  - Medical and Optical Goods
  - Watches and Clocks
  - Extraction of Metals, Coal, Oil, Gas and Non-Metallic Minerals

- **36% Goods and Services**
  - Hotels, Rooming Houses, Camps, Lodges
  - Auto Repair
  - Motion Pictures
  - Amusement and Recreational Services
  - Museums and Art Galleries
  - Zoos
  - Furniture and Merchandise Stores
  - Restaurants
  - Automotive Dealers and Gas Stations
  - Durable and Non-Durable Wholesale Goods

- **29% Infrastructure**
  - Railroads
  - Motor Freight
  - Postal Services
  - Water, Pipelines
  - Transportation Services
  - Electric, Gas and Sanitary Services
  - Construction, General Contractors and Operative Builders

- **3% All Other Policies**
  - Public Administration
  - Non-Classifiable Establishments
  - Other Miscellaneous Policies

*Findings based on all policies filed with the SLA of California*
This map shows how all regions of the state benefit from the availability of surplus line insurance and gives an indication as to the impact that these insured products have in various parts of the state.*

Findings based on all policies filed with the SLA of California
Surplus Lines Market Basics

The Surplus Line Market is a Well-Regulated and Well-Functioning Market

The surplus lines market is often misunderstood. The surplus lines market (nonadmitted market) is not unregulated, as some believe. Surplus lines insurance carriers are regulated in their domiciliary jurisdictions and must be eligible under federal and California law before business can be placed with them (exported to them). Additionally, the surplus line broker in California is licensed and regulated directly by the California Department of Insurance (CDI). Surplus line brokers are also subject to periodic audits by the California Department of Insurance. In summation, the surplus lines market is a well-functioning, well-regulated market that serves as an appropriate place for consumers to obtain coverage when the admitted market is unable to meet their insurance needs.

State and Federal Regulations

There are 21 sections of the California Insurance Code devoted to regulating surplus lines. Sections 1760 through 1780 provide the surplus line broker licensing requirements, policy placement conditions with a nonadmitted insurer, and the prerequisites of a surplus lines insurer writing business in California.

Surplus Line Broker Licensing Requirements

To transact business as a surplus line broker, a resident broker must hold a property and casualty (P&C) license, which requires passing the fire and casualty examination for broker-agents, before applying for a surplus line license. In addition to holding a P&C license in their resident state, a non-resident broker must also hold a surplus line license in his/her resident state before applying for a surplus line license. The broker must complete an application, complete a Surplus Line and/or Special Line Certification form stating the applicant has read the sections of the California Insurance Code pertaining to surplus lines, and file a surety bond of $50,000 to the people of the State of California.

To maintain the surplus line license, the resident broker must complete a renewal application and pay a fee to renew his/her license every two years. To maintain the P&C license, the resident broker is required to complete continuing education each license term. The non-resident broker must complete the continuing education required by his/her state of residence.

For an applicant applying for a business entity surplus line license, brokers transacting under the organizational license must be named under the license and a surety bond of $50,000 must be filed to the people of the State of California.

Conditions of Placement with a Surplus Lines Insurer

Before a risk is placed in the surplus line market, the surplus line broker must ensure that insurance is not generally available from admitted insurers. Surplus lines insurance is generally available from nonadmitted insurers in situations where the risk is being placed with a nonadmitted insurer and that guaranty fund protection is unavailable to the buyer. If the SL2 form shows that three admitted insurers that actually write the particular type of insurance decline the risk or fewer than three admitted insurers write the type of insurance, it is prima facie evidence that a diligent search was made.

The broker must not place insurance with a surplus lines insurer solely for obtaining a premium less than the lowest premium offered by an admitted carrier. A premium tax is levied on all surplus line transactions to the insured with payment remitted to the CDI by the broker. The broker must submit the policy and required documents to the stamping office for review to verify that the placement was handled correctly by the broker.

Brokers are audited by the Premium Tax Audit Bureau of the CDI to ensure compliance with tax filings.

Eligibility Requirements for a Surplus Lines Insurer

Surplus Lines insurers on the List of Approved Surplus Line Insurers (LASLI) must demonstrate their financial stability, reputation and integrity; maintain a minimum of $45 million in capital and surplus at all times; have three years’ seasoning (or qualify for an exception); have a valid license to transact insurance in their domicile; file financial information with the CDI; and adhere to specific capitalization, investment and solvency standards established under the California Insurance Code.

On July 21, 2011, the federal Nonadmitted and Reinsurance Reform Act (NRRA) went into effect, establishing federal guidelines for nonadmitted insurer eligibility in all states. The SLA worked with California regulators to adapt California law to the new federal standards, which led to the creation of Assembly Bill 315. AB315 established the requirements for surplus lines insurers not on the LASLI to write policies in California:

- **Foreign companies** (U.S. companies domiciled outside California) must maintain a minimum capital and surplus of $45 million and be authorized to transact in their state of domicile.
- **Alien companies** (domiciled outside the United States) must be included on the NAIC’s Quarterly List of Alien Insurers.

The SLA website, [www.slacal.com](http://www.slacal.com), provides more information on the surplus line laws of California and the NRRA.
Q. What is “surplus line” insurance?

A. The surplus line market (also known as the excess lines or nonadmitted market) is comprised of insurers who provide coverage that is unavailable to businesses in the admitted market, generally for distressed, unique or high-capacity risks that admitted insurers will not cover. In general, surplus line insurance covers risks that insurance from admitted carriers, such as what you might purchase for your vehicle, will not cover.

Q. What is the difference between admitted and surplus lines (nonadmitted) insurers?

A. Admitted insurance companies are licensed to sell insurance in a state and are subject to that state’s rate and form regulations, while surplus line insurance companies are not; they are licensed in another state or country. Instead, surplus line brokers, who place business with these nonadmitted carriers on behalf of consumers, are licensed by the state and subject to its laws and regulations.

Q. Why are surplus line insurers needed?

A. For insurance consumers who cannot secure insurance from admitted companies, the surplus line market provides additional capacity and innovative underwriting practices that admitted carriers cannot offer. Without the surplus line market, businesses might be forced to self-insure their exposures, or go without coverage. Surplus line policies protect both these businesses and the customers they serve.

Q. What types of risks do surplus line policies cover?

A. There are many types of risks that the surplus line insurance market covers. It would be impossible to provide a comprehensive list here, but some examples include large commercial construction projects, film and entertainment productions, oil field contractors, special agricultural and logging risks, some flood and earthquake risks, tattoo parlors, amusement parks and carnivals, just to name a few.

Q. Why have I never heard of surplus line insurance before?

A. The average insurance consumer’s personal insurance policies, such as auto or homeowners’ insurance, are generally written by admitted carriers. The overwhelming majority of surplus line coverage is written to insure commercial risks.

Q. What does the surplus line marketplace mean to California’s economy?

A. Surplus line insurers provide insurance that would otherwise be unavailable for distressed, unique or high-capacity risks. Without the surplus line marketplace, those businesses would not be able to operate in the capacity they do, or perhaps even at all, due to the liability concerns involved, which would mean fewer jobs and fewer services for Californians. Additionally, surplus line policies generate more than $7 billion in annual premiums in California, and that premium volume alone provides a considerable amount of tax revenue to the state.

Q. What is the purpose of the Surplus Line Association of California (SLA)?

A. The SLA monitors surplus line brokers who do business in California and helps them comply with all state surplus line laws and regulations when they write business. All surplus line policies written in the state must be filed with the SLA so that it may review all filings for compliance and ensure that premium taxes are collected. The California insurance commissioner in 1994 designated the SLA as the surplus line advisory organization for the California Department of Insurance (CDI). While the SLA has no specific regulatory power, it assists the CDI in ensuring broker compliance with all applicable laws and regulations.

Q. Is the SLA a private, public, or nonprofit organization?

A. The SLA is a 501(c)(6) not-for-profit organization governed by a plan of operation approved by CDI and the SLA Board of Directors.

Q. How is the SLA funded?

A. The SLA levies a small fee, called a “stamping fee,” on every surplus line policy filed. While the fee may vary from year to year, depending on the anticipated needs of the organization, it is generally a fraction of 1 percent of the total premium charged on each policy. (At the time of the publication of this booklet, the fee was 0.2 percent, or $1 in stamping fees for every $500 charged in premiums.) These stamping fees are paid by the consumers who take out surplus line policies. The SLA receives no public funding for its operations from the state of California or its taxpayers.
Our mission is to ensure that a responsive and lawful surplus lines insurance market is maintained in California. Our measures of success in this respect are that the consumer is protected, the needs of the regulators are well-served, and unlawful activities are curtailed. Through a professional and committed organization, utilizing state-of-the-art technology and a challenging work environment, we respond to the needs of the California consumer, our membership, and appropriate public agencies. We provide education, processing, evaluation, and dissemination of surplus line data and information to help ensure the financial integrity and stability of the surplus line market.