

6.43(a), (b) and (c), any class or classes of insurance coverage or risk for which he or she finds there exists no reasonable or adequate market among authorized insurers; provided, however, that if adequate documentary evidence has been presented which satisfies the Commissioner that a reasonable or adequate market does exist among authorized insurers, he or she may, by rule, strike any class or classes of insurance coverage or risks from the exportable list.

(b) The Commissioner may, by rule amending this subchapter, specifically declare ineligible for export any class or classes of insurance coverage or risk which he or she determines to be generally procurable through diligent effort among authorized insurers pursuant to N.J.S.A. 17:22-6.43(a).

(c) When, during the term of a duly promulgated exportable list, the Commissioner determines that changed conditions require a modification of the exportable list, he or she may, after a hearing, by rule, amend the list.

1. Notice of the Commissioner's action shall be provided to all surplus lines agents, eligible surplus lines insurers, authorized insurers and others who have previously requested receipt of such information.

11:1-34.6 Exportable list

(a) The exportable list is as follows:

1. Amusement Devices, Parks and Carnivals;
2. Animal Mortality;
3. Armored Cars;
4. Auto Racing and Race Tracks;
5. Day Care Center Liability;
6. Difference In Condition;
7. Environmental Impairment Liability Insurance;
8. Excess and Buffer Liability;
9. Excess Loss and Excess Aggregate for Self-Insurers; Public Liability and Workers' Compensation;
10. Golf Driving Range;
11. Fine Arts Dealers;
12. First Loss and Excess of First Loss Insurance;
13. House Movers and Building Demolition;
14. Kidnapping, Ransom and Extortion Insurance;
15. Manufacturers and Contractors Liability for Floor Waxers, Building Maintenance People, Window Washers and Exterminators;
16. "Large Risks" which means any insured:
 - i. Which procures insurance for any property casualty risk by use of the services of either an employee who is a full-time insurance manager or buyer, or a regularly and continuously retained qualified insurance consultant; and

ii. Whose aggregate commercial premiums for insurance (excluding, Life, Health and Accident, Annuities and Workers' Compensation insurance) total at least \$500,000;

17. Motor vehicle coverage as follows:

- i. Physical Damage Coverage for Limousines; and
- ii. Physical Damage Coverage for Trucks, including trailers and trailer interchange (over 10,000 pounds) for Non-Fleet (one to five) risks, and commercial fleet (over five) risks irrespective of gross vehicle weight;

18. Mortgage Impairment;

19. Pony Rides/Riding Academies;

20. Physical Damage Coverage for Private Passenger and Commercial Vehicles with an original cost new of \$60,000 or above;

21. Product Liability Products or Products Recall Coverage;

22. Professional Liability insurance as follows:

- i. Errors and Omissions; and
- ii. Professional Liability except:
 - (1) Legal malpractice liability;
 - (2) Medical malpractice liability
 - (A) Hospitals Professional Liability
 - (B) Physicians and Surgeons Professional Liability
 - (C) Dentist Professional Liability
 - (D) Employees Professional Liability
 - (E) Nurses Professional Liability
 - (F) Optometrists Professional Liability
 - (G) Physiotherapists Professional Liability
 - (H) Chiropodists Professional Liability
 - (I) Surgery Centers Professional Liability;

23. Short Term Events;

24. Skating Rinks (Roller and Ice) and Skate Board Parks;

25. Swim Clubs/Swim Pools;

26. Vacant and Unoccupied Building;

27. Warehouseman's Legal Liability;

28. Automobile Personal Injury Protection (PIP) coverage in excess of \$250,000;

29. Commercial auto liability for taxicabs and limousines; (Eligible Surplus Lines insurer's certificate of eligibility must state that they are permitted to write this risk.)

30. Commercial auto liability for intermediate and long-haul trucking; (Eligible Surplus Lines insurer's certificate of eligibility must state that they are permitted to write this risk.)

31. Liquor Liability;

32. Employment Practices Liability;

33. Livestock Gross Margin Policies for Dairy Cattle; and

34. Gap Coverage for Private Passenger and Commercial Automobile.

(b) With the exception of Special Risk Disability and Personal Accident Coverage as set forth in (b)3 and 4 below, the following kinds of insurance, if sold by eligible surplus lines insurers, are specifically not eligible for export, since the Department has determined that they are procurable from authorized or admitted insurers after a diligent effort:

1. Health insurance, including specific excess or aggregate excess purchased by self-funded health benefit plans, as defined by N.J.S.A. 17B:17-4.

2. Annuities including Funding Agreements or Guaranteed Investment Contracts (GIC's) as defined by N.J.S.A. 17B:17-5.

3. "Special Risk Disability and Personal Accident Coverage" means insurance providing coverage on a professional athlete, a professional musician or entertainer, or an executive essential to the insured's business operations obtained by a policyholder who procures insurance:

i. For risk of financial loss caused by the cessation of earned income due to disability from sickness, ailment or bodily injury;

ii. For risk of financial loss caused by a contractual requirement to pay an executive or other person essential to the insured's business operations who can no longer perform his or her duties due to disability from sickness, ailment or bodily injury;

iii. For risk of accidental death in an amount equal to or exceeding \$1,000,000 in face amount only where no reasonable or adequate market exists among admitted insurers; or

iv. For risk of financial loss caused by a contractual requirement to pay an executive or other person essential to the insured's business operations who can no longer perform his or her duties due to death. Such coverage, where no reasonable or adequate market exists among admitted insurers, must be purchased in an amount equal to or exceeding \$1,000,000 in face amount only and with a policy period not to exceed 24 months.

4. Insurance providing coverage on a person that is not a professional athlete, professional musician or entertainer, or executive or other person essential to a business operation, for any of the risks listed in (b)3i through iv above may be placed with an eligible surplus lines insurer

after a diligent effort has been made by a licensed New Jersey insurance producer to procure the insurance from authorized or admitted insurers. The New Jersey surplus lines producer that placed such insurance shall submit a separate report to the Life and Health Office of the Department of Banking and Insurance of placements made during each calendar quarter, within 15 days after the end of such calendar quarter. Such report shall include a copy of the certification of diligent effort (Form No. SLPS-6CERT) and a description of the nature of the risk and the basis of export. This reporting requirement shall apply to placements made through December 31, 2012.

(c) Life insurance is specifically not eligible for export pursuant to N.J.S.A. 17:22-6.40 et seq.

(d) The Department shall publish and update on its website a list of Unauthorized Insurers that qualify as Eligible Surplus Lines Insurers in New Jersey.

Amended by R.1997 d.488, effective November 17, 1997.

See: 29 N.J.R. 1009(b), 29 N.J.R. 5023(a).

Added (a)31 and (a)32.

Amended by R.2001 d.75, effective March 5, 2001.

See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

Rewrote (a) and added (d).

Public Notice: Unauthorized insurers qualified as eligible surplus lines insurers.

See: 33 N.J.R. 2349(c).

Public Notice: Unauthorized insurers qualified as eligible surplus lines insurers.

See: 34 N.J.R. 1055(a).

Public Notice: List of Unauthorized Insurers Which Qualify as Eligible New Jersey Surplus Lines Insurers.

See: 36 N.J.R. 2562(a).

Amended by R.2005 d.135, effective May 2, 2005.

See: 36 N.J.R. 4622(a), 37 N.J.R. 1522(b).

In (a), inserted "and limousines" following "auto liability for taxicabs" in 29.

Amended by R.2005 d.442, effective December 19, 2005.

See: 37 N.J.R. 3214(a), 37 N.J.R. 5014(a).

In (a)20, increased the original cost new of \$40,000 to \$60,000; rewrote the introductory paragraph of (b) and (b)1.

Public Notice: Department of Banking and Insurance; Surplus Lines Examining Office: list of unauthorized insurers which qualify as eligible New Jersey Surplus Lines insurers.

See: 38 N.J.R. 1603(a).

Public Notice: List of Unauthorized Insurers Which Qualify as Eligible New Jersey Surplus Lines Insurers.

See: 39 N.J.R. 1320(a).

Amended by R.2010 d.159, effective July 19, 2010.

See: 41 N.J.R. 3778(a), 42 N.J.R. 1608(a).

In (a)32, deleted "and" from the end; added new (a)33; recodified former (a)33 as (a)34; in the introductory paragraph of (b), substituted "Special Risk Disability and Personal Accident Coverage as set forth in (b)3" for "disability insurance as set forth in (b)1"; in (b)1, deleted the last two sentences; deleted (b)1i through (b)1v; and added (b)3.

Amended by R.2012 d.002, effective January 3, 2012.

See: 43 N.J.R. 2268(a), 44 N.J.R. 86(a).

Added (a)22ii(2)(1); in the introductory paragraph of (b), inserted "and 4"; in (b)3iii, deleted "and with a policy period not to exceed 24 months," following "only"; in (b)3iv, inserted "and with a policy period not to exceed 24 months"; added (b)4; and rewrote (d).

APPENDIX A

(RESERVED)

Repealed by R.2001 d.75, effective March 5, 2001.

See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

SUBCHAPTER 35. INSURANCE HOLDING COMPANY SYSTEMS

11:1-35.1 Purpose and scope

(a) The purpose of this subchapter is to set forth filing and procedural requirements governing the filing of required information with respect to the acquisition of control of, or merger with, a domestic insurer, and registration and notification requirements for insurers which are members of an insurance holding company system, pursuant to N.J.S.A. 17:27A-1 et seq.

(b) This subchapter shall apply to any person, insurer, subsidiary or insurance holding company system subject to the requirements set forth in N.J.S.A. 17:27A-1 et seq.

11:1-35.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Acquisition” means any agreement, arrangement or activity, the consummation of which results in a person acquiring directly or indirectly the control of another person, and includes, but is not limited to, the acquisition of voting securities, and assets, and bulk reinsurance and mergers.

“Affiliate” means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

“Alien insurer” means an insurer formed under the laws of any country other than the United States, its states, districts, territories, commonwealth and possessions.

“Authorized insurer” means a foreign or alien insurer, duly authorized by a certificate of authority issued by the Commissioner to transact insurance in this State pursuant to N.J.S.A. 17:32-1 et seq. or 17B:23-1 et seq.

“Commissioner” means the Commissioner of the New Jersey Department of Banking and Insurance.

“Control” is as defined at N.J.S.A. 17:27A-1c.

“Department” means the New Jersey Department of Banking and Insurance.

“Domestic insurer” means an insurer formed under the laws of this State.

“Executive officer” means chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.

“Foreign insurer” means an insurer formed under the laws of a jurisdiction of the United States other than this State, and shall include an alien insurer except where clearly noted otherwise.

“Insurance holding company system” means two or more affiliated persons, one or more of which is an insurer.

“Insurer” means any person or persons, corporation, partnership, or company authorized by the laws of this State to transact the business of insurance in this State, except that it shall not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or a political subdivision of a state.

“Person” means an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert.

“Principal insurer” means the insurer with the largest amount of direct written premium within the holding company system as shown by the last filed annual statement.

“Subsidiary” of a specified person is an affiliate controlled by such person directly, or indirectly through one or more intermediaries.

“Ultimate controlling person” means that person which is not controlled by any other person.

“Unauthorized insurer” means an insurer that is not an authorized insurer.

“Voting security” includes any security convertible into or evidencing a right to acquire a voting security.

Amended by R.1997 d.12, effective January 6, 1997.
See: 28 N.J.R. 4700(a), 29 N.J.R. 129(b).
Amended “Commissioner” and “Department”.