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**RE: 2010 California Legislative Enactments –
Minimum Capital and Surplus Requirements for Nonadmitted Insurers &
California-Domiciled Insurers with Nonadmitted Affiliates**

**Minimum Capital & Surplus
AB 1708 (Villines)**

Section 1765.1 of the Insurance Code has been amended to increase the minimum capital and surplus requirement from \$15 million to \$45 million for nonadmitted insurers seeking eligibility for placements through a surplus line broker.

Effective January 1, 2011, the capital and surplus required for a nonadmitted insurer to be eligible for placements has been raised to \$45 million in combined capital and surplus, \$25 million of which must be held in cash or securities falling within Sections 1170 through 1182 of the Insurance Code (General Investments), or readily marketable securities listed on regulated United States' national or principal regional securities exchange.

Phase-in Period

However, surplus line brokers may continue to make placements with nonadmitted insurers that are *currently* on the Insurance Department's List of Eligible Surplus Line Insurers ("LESLI") that do not meet the minimum capital and surplus requirement as of January 1, 2011, so long as these insurers increase their capital and surplus to \$30 million (of which \$25 million of assets must be in the form described above) by December 31, 2011 and to \$45 million by December 31, 2013.

Quality of Assets

As of December 31, 2011, a nonadmitted insurer operating in California must hold at least \$25 million in cash and assets substantially similar to those described in Sections 1170 through 1182 of the Insurance Code (General Investments), or readily marketable securities listed on regulated United States' national or principal regional securities exchanges.

Gap Coverage

The capital and surplus requirements apply to the narrow exceptions permitting use of nonadmitted insurers that are not on LESLI, such as those for "gap coverage" provided in Section 1765.1(k). A

surplus line broker may not make a placement with a nonadmitted insurer that is not on the LESLI if it fails to meet the \$45 million minimum capital and surplus requirement.

Exchanges

With respect to Insurance Exchanges, the portion of the capital and surplus that must be held in cash, securities that qualify under the General Investments Law (Sections 1170 through 1182 of the Insurance Code), and readily marketable securities listed on regulated United States' national or principal regional securities exchanges has been increased from \$15 million to \$25 million. The minimum capital and surplus for each individual syndicate seeking to accept surplus line placements of risks resident, located or to be performed in California has also been increased to \$45 million.

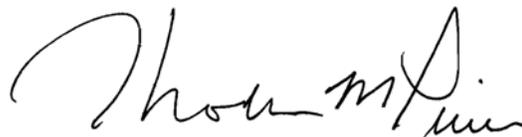
California-Domiciled Insurers with Nonadmitted Affiliates AB 1837 (Gaines)

Effective January 1, 2011, California-domiciled insurers are authorized to: (1) have common directors with a nonadmitted affiliate; and (2) perform specified administrative services for a nonadmitted affiliate that has qualified for the List of Eligible Surplus Line Insurers ("LESLI") maintained by the Insurance Department.

Section 1765.1(n) expressly authorizes a California domiciled insurer to have common directors with a nonadmitted affiliate provided that: (1) the common directors do not constitute a majority of the directors of the nonadmitted insurer; and (2) the common directors do not perform any management functions for the nonadmitted insurer in California.

Section 1765.1(o) lists specific administrative services authorized: (1) computer operations unrelated to the underwriting process; (2) clerical and administrative staffing support that does not involve contact or interaction with policyholders of the nonadmitted insurer; (3) human resources, provided that hiring, firing, disciplinary action, or compensation decisions for the nonadmitted insurer are made directly by the nonadmitted insurer; (4) claims adjusting, except that all claims decisions must be made directly by the nonadmitted insurer; and (5) managing investments.

While California-domiciled insurers may provide the enumerated administrative services for their LESLI listed nonadmitted affiliates, Section 1765.1(o) does not authorize nonadmitted insurers to conduct any action through its domestic affiliate that would constitute the transaction of insurance or would violate Section 700 or 703 of the Insurance Code.



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