THE STATE of ALASKA
GOVERNOR BILL WALKER

Department of Commerce, Community, and Economic Development

DIVISION OF INSURANCE

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REGULATORY ORDER NO. R 18-01

ORDER AUTHORIZING PLACEMENT OF WORKERS' COMPENSATION COVERAGE WITH A NONADMITTED INSURER

Background:

1. Alaska Statute (AS) 21.34.030 states that workers' compensation coverage may be placed in and written by a nonadmitted insurer if
    a. the director considers it in the best interest of the public and issues an order to that effect;
    b. the insurance is written in accordance with AS 21.34;
    c. the conditions for writing workers' compensation in the nonadmitted market receive compliance;
    d. the rates and rating plans have been filed by the surplus lines broker as may be required by AS 21.39;
    e. the surplus lines broker's activities related to placement of the insurance with a nonadmitted insurer comply with AS 21.34; and
    f. the nonadmitted insurer has minimum capital and surplus that is two times that required by AS 21.34.040(c)(1).

2. Hart Crowser sought workers' compensation maritime employer's liability coverage in Alaska.

3. The surplus lines brokerage firm ("broker"), AmWINS Insurance Brokerage of California, LLC, licensed under AS 21.27, provided documentation showing that a diligent search had been conducted and that the required coverage, maritime employer's liability with limits of $1,000,000, was not available in the admitted market.

4. Lloyd's syndicate StarStone (Syndicate #1301) is willing to provide maritime employer's liability coverage with $1,000,000 limits.

5. The surplus lines broker provided evidence that the Lloyd's syndicate was unwilling to provide the information necessary for the surplus lines broker to make the necessary filing of rates under AS 21.39.

6. Alaska Statute (AS) 21.39.040(f) allows the director by order to suspend or modify the requirements of AS 21.39 on a kind of insurance, subdivision or combination of them, or

on classes of risks, for which rates cannot practicably be filed before they are used or the filing and approval of which, in the director's opinion, are not desirable or necessary for the protection of the public.

7. Lloyd's syndicate Starstone has at least $30,000,000 in capital and surplus.

The Director of the Division of Insurance finds:

A. Workers' compensation insurance, including maritime employer's liability, is best purchased in the admitted market for the protection of the insured employer and their employees, including the availability of protection from the Alaska Insurance Guaranty Association.

B. The $100,000 limit available through the assigned risk plan may not provide the employer with adequate coverage for the employer's exposure to potential claims under the maritime employer's coverage.

C. Rate filing as required under AS 21.39 for Hart Crowser, Inc. to obtain maritime employer's liability coverage is not necessary for the protection of the public. Suspending the rate filing requirement also allows the insured to obtain necessary insurance coverage for itself and its employees.

D. The Division compared pricing with other stand-alone coverage and the rates for the Lloyd's policy with a $1,000,000 maritime employer's liability limit do not appear to be excessive, inadequate, or unfairly discriminatory.

E. AS 21.34.030(d) requires a nonadmitted insurer to have minimum capital and surplus that is two times that required in AS 21.34.040(c)(1). AS 21.34.040(c)(1) requires the insurer to have the minimum unimpaired basic capital and additional surplus equal to that required in its domiciliary jurisdiction or maintain $15,000,000, whichever is greater. The minimum requirement of the domiciliary jurisdiction (Solvency II) applies to the Society of Lloyd's overall, and not at the syndicate level, so the amount "required in its domiciliary jurisdiction" under AS 21.34.040(c)(1) is incapable of being determined, however, the Lloyd's syndicate, Starstone, does have minimum unimpaired basic capital and additional surplus greater than $15,000,000, and in fact, is more than $30,000,000.

F. AS 21.34.040(f) provides that if an insurer has less than the minimum capital and surplus required in (c) of this section, insurer may satisfy the requirements of this section upon an affirmative finding of acceptability by the director. While Starstone does meet the requirements under AS 21.34.040(c)(7), the requirements Starstone is required to meet under AS 21.34.030(d) are the requirements under AS 21.34.040(c(1) which are impractical and very difficult to determine. Therefore, after consideration of Lloyd's syndicate Starstone's quality and management; Starstone's having minimum unimpaired basic capital and additional surplus which is at least $30,000,000; the capital and surplus available to Starstone's policyholders as a result of Lloyd's capital structure; and the other factors identified under AS 21.34.040(f), as director, I make an affirmative finding of acceptability of Starstone's minimum capital and surplus under AS 21.34.040(c)(1).

The Director of the Division of Insurance Hereby Orders:

1. Under the authority of AS 21.34.030, the director authorizes AmWINS Insurance Brokerage of California, LLC to place Maritime Employer's Liability coverage for Hart Crowser, Inc. with Lloyd's syndicate StarStone for the period from March 13, 2018 to March 13, 2019 only.

2. Under the authority of AS 21.39.040(f), the director suspends the rate filing requirements for $1,000,000 and higher limits of stand-alone maritime employer's liability written by a surplus lines insurer.

3. The surplus lines broker will comply with all reporting requirements, notification requirements, evidence of insurance requirements, tax and fee collection and payment requirements and other applicable provisions of AS 21.34 relating to the placement of this coverage with a nonadmitted insurer.

4. The surplus lines broker must keep records to be used to show that the premium complies with AS 21.39, including the expense provision (commission, other acquisition costs, general expenses, taxes, profit), loss and loss adjustment experience, exposure, and any other items necessary to calculate the rate and to demonstrate that the rates and rating plan result in rates that are neither excessive, inadequate nor unfairly discriminatory as required by AS 21.39.030(a)(1).

This order is effective March 28, 2018.

Lori Wing-Heier
Director