January 21, 2003

Senator Lloyd LaFountain, Chair
Representative Christopher O'Neil, Chair
Members of the Joint Standing Committee on Insurance and Financial Services
State House – Room 427
Augusta, Maine 04333

RE: Annual Report of the Superintendent on the Availability of Property & Casualty Insurance

Dear Senator LaFountain, Representative O'Neil and Members of the Committee:

Pursuant to Title 24-A MRSA section 2325-A(5), I am required to report to the Committee whether there is, or may be within the year, a lack of availability in any line of insurance.

During 2002, there continued to be a more restrictive insurance market for all lines of Property & Casualty insurance. Insurers increased premiums and were more selective in renewing policies and accepting new applicants. As mentioned in last year's report, the factors contributing to this market condition are reduced capacity, unfavorable loss development in some lines, insolvencies or companies with financial difficulties and lower investment returns.

The events of September 11, 2001, continue to contribute to the increasing cost and diminished availability of many lines of insurance. A principal cost factor can still be attributed to increased cost of reinsurance[1]. Since September 11th, reinsurers have sought to reduce their risk exposure by either withdrawing from markets altogether or tightening their underwriting criteria. This forces primary insurers to assume a greater portion of the risk, and they in turn increase premium levels commensurate with their increased risk profile. For certain exposures such as terrorism, some primary insurers have been unable to purchase reinsurance at all. On November 26, 2002, the Terrorism Risk Insurance Act of 2002 was signed into law by President Bush. The Act establishes a new temporary federal program under which the federal government will share in certain losses resulting from acts of terrorism. The Act further requires insurers that issue property and casualty coverages to make terrorism coverage available. The ultimate effect of this new federal program remains unclear at this time, but it does address reinsurance availability.

Although insurance is generally available, there are some property and liability lines for which some applicants have experienced difficulty in finding coverage. This report focuses on those lines that are having the more serious availability problems in Maine.

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[1] Reinsurance is used by insurance companies to insure a portion of the risk that they have assumed from policyholders. This allows them to improve their risk profile and contributes to the primary insurer's financial soundness by diversifying and dispersing risk concentration.

Homeowners

The homeowner's insurance market has changed in 2002, both in Maine and nationally, and is expected to continue to be a problem for some homeowners in 2003. Insurers have increased rates in response to increased claim costs and have attempted to "clean-up" their books of business by nonrenewing policies and becoming more restrictive in accepting new business. With respect to policies not renewed, the law requires that insurers give notice of the right to a hearing if a personal lines policy cancelled or nonrenewed. The bureau experienced a 120 % increase in hearing requests in 2002 over 2001. Most of the increase was in the homeowner line. The increase in nonrenewals has not been uniform among all insurers, and the Bureau will be making appropriate investigations into those insurers with the greatest number of nonrenewals relative to their market share.

With respect to availability of coverage to new applicants, coverage is difficult to obtain for the following types of risks:

- Coastal and island property;
- Homes in areas with no or low rated fire protection services;
- Insureds with prior claims;
- Older homes or property not well maintained; and
- Insureds with trampolines, unfenced swimming pools, home daycare facilities, or dogs with prior bite incidences.

Unlike auto insurance, which is required by law and for which there is an assigned risk plan for applicants who cannot obtain coverage in the voluntary market, homeowners may have to accept restricted coverage (such as higher deductibles or higher specific peril deductibles for wind related losses) or unregulated surplus lines policies.

Medical Liability (Medical Malpractice)

Medical malpractice insurance is becoming more difficult to obtain, especially professional liability and general liability coverages for nursing homes. These facilities are increasingly obtaining coverage in the surplus lines market.

Professional liability insurance for nursing homes, retirement centers and assisted living centers has become more difficult to obtain, and premiums have increased. The market has decreased due to the withdrawal of a major insurer in 2001, the placement of another medical liability insurer in rehabilitation, and reduced writings of other admitted insurers. In addition to the factors mentioned above, the market problem for nursing home coverage has been caused by increased claim activity nationally and increased reinsurance costs. Many of these facilities were only able to obtain coverage in the surplus lines market, at a higher premium and under less favorable terms.

Insurance business in the State of Maine may be written on an admitted or non-admitted basis. When written on an admitted basis, the insurance is written by an insurer authorized by the Bureau of Insurance. Each authorized insurer is approved to write specific lines of business, such as life, health, homeowners, or workers' compensation. When business is written on a non-admitted basis, the insurance is written by an insurer that has been approved by the Bureau of Insurance for surplus lines eligibility. A surplus lines eligible insurer is not granted eligibility by line of business, although the law specifically excludes certain lines from being written by a non-admitted insurer. There are several primary differences between business that is written on anon-admitted basis and that which is written on an admitted basis. First, business written on a non-admitted basis is that business which authorized insurers are unwilling to write. Second, policy forms and rates in the non-admitted market are not subject to filing or approval requirements by the Bureau of Insurance and policy forms must clearly state that the policy is a surplus lines policy. Third, policyholders do not have the benefit of guaranty fund protection, if a surplus lines eligible insurer becomes insolvent.

Although the term non-admitted may suggest to the general public that an insurer is not permitted to do business in the State, it is important to understand that in insurance terms, non-admitted refers to business not written by insurers approved for a certificate of authority in the State. It does not suggest that the insurer is unregulated. From a solvency prospective, non-admitted insurers are regulated by the Bureau of Insurance much in the same way that admitted insurers are.

Other Lines

For other lines of insurance, there have not been general areas that lack availability. However, the more restrictive underwriting practices of insurers may cause individual risks to seek alternative insurers for reasons of price or coverage. A line that does not have an availability problem, but which has generated legislative interest for years is workers’ compensation.

The Maine workers' compensation insurance market remains competitive, with a number of carriers being licensed and having rates on file. Though rates remain well below those in place during the last major reform in 1993, the most recent NCCI Loss Cost Filing approved by the Bureau calls for a 2.9% increase and there are clear signs of market hardening. In the mid to late 1990s, insurers were willing to offer credits and risk underwriting losses that would be offset by investment gains. Times have changed, however, and insurers are less likely to offer credits in order to attract or retain market share. As a result, many employers have experienced increased premiums over the past three years. Additionally, insurers and self-insured employers are awaiting the final permanent impairment threshold from P.L. 2001, chapter 712, enacted during the 2002 legislative session, and the impact it may have on costs. More detailed information on this line of insurance can be found in the Bureau of Insurance report.

In summary, the greatest problem areas at the present time appear to be homeowners and the specialized liability insurance line of nursing homes and similar facilities. Where coverage is not readily available in the admitted market, insureds have been able to obtain coverage in the surplus lines market, although at higher cost and with generally less favorable terms. In other lines, while premiums have increased and coverage may require more shopping, the coverage is available in general.

Sincerely,

Alessandro A. Iuppa
Superintendent