August 21, 2025

<u>Via Email</u>

Commissioner Michael Conway
Colorado Division of Insurance
Chair, NAIC Property and Casualty Insurance (C) Committee

Re: Comments on Affordability and Availability Playbook

Dear Commissioner Conway,

The undersigned organizations representing the surplus lines industry would like to offer remarks on the draft Affordability and Availability Playbook opened for comment. Specifically, we recommend relocating and revising the description of the surplus lines market to better reflect the important role it fills as a safety valve for the insurance marketplace. We appreciate the opportunity to provide these comments.

The surplus lines market plays a vital role in ensuring access to property insurance coverage for risks that the admitted market is unable or unwilling to underwrite, particularly non-standard or high-risk exposures. With the ability to accommodate a wide variety of risks, the surplus lines market acts as an effective supplement to the admitted market.

The placement of the surplus lines market discussion (Section B.ii.b.v.) suggests that the growing surplus lines market creates a gap in homeowners' insurance protection. However, because the surplus lines market provides insurance coverage when the admitted market is unable or unwilling to, the surplus lines market actually fills a gap in coverage in the marketplace. That is, the growth of the surplus lines market is not a growing protection *gap*, it is a growing protection *stopgap*.

The Playbook also states that the surplus lines market provides less consumer protection. However, surplus lines insurers are subject to rigorous oversight by their domiciliary jurisdictions, or for alien insurers, by the NAIC Surplus Lines Working Group. Additionally, while surplus lines insureds do not participate in state guaranty fund protections, that does not mean there is less financial protection for surplus lines consumers. AM Best reports the solvency record of surplus lines insurers is historically equivalent to or better than the admitted marketplace. In fact, over the last twenty years there have been 302 admitted insurers deemed impaired by regulators compared to one surplus lines company.[1] Further, domestic professional surplus lines insurers continue to maintain a higher proportion of secure ratings than the overall property/casualty industry. Through

[1] AM Best's Market Segment Report, "Improved Underwriting and Operating Results Sustain US Surplus Lines Market Momentum", September 18, 2024

midyear 2024, 100% of surplus lines companies maintained secure AM Best ratings compared to 96% for the total property/casualty industry, with surplus lines carriers having much higher proportions in the Exceptional, Superior and Excellent rating categories.

In addition, although the surplus lines market is not subject to rate and form filing, this flexibility allows it to respond quickly to emerging risks and develop new coverages, which is essential to maintaining insurance availability in an increasingly complex and volatile environment. Without surplus lines carriers' ability to accommodate a wide variety of risks, many more individuals and businesses would face significant challenges in securing coverage at all.

As the NAIC continues to evaluate and refine this Playbook, we suggest Playbook Section B.ii.b. - Growth of the Surplus Lines Market -- be relocated to a new Section B.ii.c. and we encourage deletion of the following passage "…with less consumer protections: no guaranty fund, unregulated policies, and rates."

We appreciate the opportunity to offer these comments and thank the Property and Casualty Insurance (C) Committee for their work on this initiative.

American Property Casualty Insurance Association

Lloyd's America Incorporated

The Council of Insurance Agents and Brokers

Wholesale & Specialty Insurance Association (WSIA)