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April 20, 2010

Susan Lapsley
Director, California Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

VIA Email: SLapsley@oal.ca.gov

Re: **OAL File # CTU2010-0329-02 – Supplemental Information and Modification**

Dear Susan,

On March 29, 2010 I filed the above-captioned petition on behalf of the American Council of Life Insurers (ACLI), the American Insurance Association (AIA), the Association of California Insurance Companies (ACIC), the Association of California Life and Health Insurance Companies (ACLHIC), and the Personal Insurance Federation of California (PIFC). Pursuant to Title 1, Cal Code Regs § 270(b), please allow me to provide you with additional information for your use in determining whether to consider the petition on its merits. Also, in light of this additional information I respectfully request your leave to modify the petition, as will be explained below.

On April 16, 2010, the Department of Insurance (Department) published a letter addressed to “All Admitted Insurance Companies (Life, Fraternal, P&C and Title).” The topic of the letter was “Supplemental Filing on Iran Related Investments.” A copy of that letter is attached as Exhibit A.

On or before April 19, 2010, the Department created a page on its internet web site with the title “Supplemental Financial Filing on Iran Related Investments.” This web site is located at <http://www.insurance.ca.gov/0250-insurers/0300-insurers/0100-applications/SupplIran.cfm>. The web site contains a variety of regulatory material, including the April 16 letter and a reporting form in Microsoft Excel format which insurers are mandated to employ in a filing that the Department is requiring of them on or before May 31, 2010¹.

The actions reflected in the April 16 letter and on the new web page provide clear evidence that the Department is pursuing an aggressive regulatory effort on this issue, intentionally disregarding of the requirements of the Administrative Procedure Act. Please consider this information as you make your decision whether or not to accept the petition.

While this regulatory action may be viewed as further implementation of the Non-admitted Asset Rule that the Department issued on February 10, it may also be evaluated as a separate underground regulation in violation of the Administrative Procedure Act. For purposes of the petition, it seems cleaner to treat these requirements as a separate underground regulation.

¹ Since May 31 is a state holiday, the filing would in fact be due on June 1, pursuant to Gov Code § 6707.

I therefore respectfully request your permission to modify the petition, if I may do so without delaying your decision. Specifically, I request that OAL evaluate a fourth underground regulation issued by the Department. Please modify the petition to include the following question:

Are the Department's supplemental filing requirements contained in its April 16, 2010 letter and on its "Supplemental Financial Filing on Iran Related Investments" web site underground regulations issued in violation of the Administrative Procedure Act?

For purposes of the petition, I will refer to this as the "Supplemental Filing Rule." The arguments supporting a finding that the Supplemental Filing Rule is an underground regulation are substantially the same as the arguments supporting the finding that the Non-admitted Asset Rule is an underground regulation. Those arguments are hereby incorporated by reference. If you need further arguments specific to this particular underground regulation, please let me know. Also, if the requested modification would delay your decision to accept or decline to accept the petition, please let me know and I will withdraw the request.

In both its April 16 letter and on its web site, the Department expressly threatens legal action against any insurer that does not comply with its illegal underground regulations. This is an additional fact demonstrating that this is an issue of considerable public importance requiring prompt resolution.

The Department continues to pursue this regulatory agenda aggressively, employing underground regulations in knowing violation of the Administrative Procedure Act. The public has been deprived of its right to participate in the development of this regulatory action. I respectfully urge OAL to accept the petition and to issue a determination that the Department's actions on this matter are illegal underground regulations.

Please don't hesitate to contact me if you want additional information or comment in connection with this issue.

Sincerely,

MICHELMAN & ROBINSON, LLP



William L. Gausewitz

cc: Rex Frazier, PIFC
Sam Sorich, ACIC
Brad Wenger, ACLHIC
Ken Gibson, AIA
Steve Suchil, AIA
Lynda Mounts, AIA
John Mangan, ACLI
Sanford Michelman, Esq.
John Sebastinelli, Esq.
David Hauge, Esq.
Kathleen Eddy, OAL
Peter Conlin, CA Department of Insurance
Adam Cole, CA Department of Insurance

EXHIBIT A



April 16, 2010

VIA ELECTRONIC MAIL

TO: All Admitted Insurance Companies (Life, Fraternal, P&C and Title)

SUBJECT: Supplemental Filing on Iran Related Investments

On February 10, 2010, Insurance Commissioner Steve Poizner sent a letter to all insurers holding a certificate of authority to transact insurance in California: (1) listing companies doing business with the Iranian energy, nuclear and defense sectors ("List"); (2) informing insurers of the treatment of investments in those companies on insurers' statutory financial statements; and (3) requesting a moratorium on future investments in companies on the List and their 50% or more owned affiliates.

A copy of the List is provided at the end of this letter. Also provided at the end of this letter is a supplemental list identifying an additional company doing business with the Iranian energy sector.

Effective March 31, 2010, the Department treats all insurer investments in companies on the Lists as non-admitted. At the request of insurers, the Department modifies its prior statement that investments in affiliates owned 50% or more by companies on the List will be disqualified. Statement disqualification will not apply to those affiliates. Statement disqualification will apply only to investments in the 51 companies on the Lists.

The Department of Insurance is informing your company of its quarterly and annual reporting requirement to provide a supplemental financial filing on Iran related investments. The Department of Insurance has developed an Iran Related Investments Supplemental Filing Workbook. Please complete and return the Workbook to the Department no later than: **MAY 31, 2010**. Instructions for retrieving the required forms are provided in the following section.

HOW TO RETRIEVE THE IRI-2010 SUPPLEMENTAL FILING

Hardcopies, facsimile copies and/or Adobe (pdf) versions of the IRI-2010 Supplemental Filing workbook will not be accepted. Only electronic copies of the data workbook, in Microsoft Excel format, will be accepted.

To retrieve the IRI-2010 supplemental filing workbook, please follow the instructions below:

- Go to the Department of Insurance website at <http://www.insurance.ca.gov>
- Select the **INSURERS** tab at the top of the web page.
- From the **INSURERS: OVERVIEW** page, select the link entitled "**More >>**" located at the bottom of the page.
- Select the link entitled "**Applications, Forms & Filings**"
- Select **IRAN RELATED INVESTMENTS SUPPLEMENTAL FILING** link. To view instructions and download form.

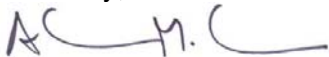
“How To Fulfill Your Company’s Reporting Obligation:

- Step 1:** Review the IRI-2010 reporting instructions from the California Department of Insurance’s “SUPPLEMENTAL FINANCIAL FILING ON IRAN RELATED INVESTMENTS (IRI-2010) “ website.
- Step 2:** Download the IRI – 2010 Supplemental Filing Workbook.
- Step 3:** Enter the information in the IRI – 2010 Supplemental Filing Workbook.
- Step 4:** E-mail the completed IRI-2010 Supplemental Filing Workbook to the California Department of Insurance. E-mail instructions are contained in the workbook. **Submissions are due by MAY 31, 2010.**

<p>For any legal questions concerning the reporting of investment information, please contact:</p> <p>Peter Conlin Counsel to the Commissioner California Department of Insurance Policy & Regulations Branch 300 Capitol Mall, 17th Floor Sacramento, CA 95814</p> <p>Email: ConlinP@insurance.ca.gov</p>	<p>Should you have an extension requests, and/or questions related to the reporting instructions or data workbook, please address your inquiries or concerns to the contact persons indicated below.</p> <p>Leo Lara Project Manager California Department of Insurance Statistical Analysis Division 300 South Spring Street, 14th Floor Los Angeles, CA 90013</p> <p>Email: laral@insurance.ca.gov</p>
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NON-COMPLIANT COMPANIES: Companies that fail to submit a completed IRI-2010 Supplemental Filing by the due date requested will be considered in non-compliance and will be referred to the Department of Insurance’s Legal Division for further action.

Sincerely,



Adam M. Cole
General Counsel

**CALIFORNIA DEPARTMENT OF INSURANCE
LIST OF COMPANIES DOING BUSINESS WITH THE IRANIAN
PETROLEUM/NATURAL GAS, NUCLEAR, AND DEFENSE SECTORS
(AS OF FEBRUARY 9, 2010)**

1. ABB Ltd. [Switzerland]	26. Linde AG [Germany]
2. ACS, Actividades de Construccion Y Servicios, S.A. [Spain]	27. Lukoil OAO [Russia]
3. Alstom [France]	28. Oil & Natural Gas Corp. (ONGC) [India]
4. Ashok Leyland, Ltd. [India]	29. OMV [Austria]
5. Aker Solutions [Norway]	30. PetroChina Company Limited [China]
6. China National Petroleum Corp. [China]	31. Petrofac Limited [United Kingdom]
7. China Petroleum & Chemical Corp. [China]	32. Petroliam Nasional Bhd (Petronas) [Malaysia]
8. CNOOC Ltd. [China]	33. Petronas Gas Bhd [Malaysia]
9. CNPC (Hong Kong) Limited [Hong Kong]	34. PT Citra Tubindo Tbk [Indonesia]
10. Daelim Industrial Co., Ltd. [South Korea]	35. PTT Exploration & Production PCL (PTTEP)[Thailand]
11. Dragon Oil PLC [Ireland]	36. PTT Public Company Limited [Thailand]
12. Edison Spa [Italy]	37. Ranhill Bhd [Malaysia]
13. Eni S.p.A. [Italy]	38. Repsol YPF [Spain]
14. Everest Kanto Cylinder Ltd. [India]	39. Royal Dutch Shell Plc [United Kingdom]
15. Finmeccanica SPA [Italy]	40. Sasol Limited [South Africa]
16. GAIL (India) Limited [India]	41. Siemens AG [Germany]
17. Gas Natural SDG [Spain]	42. StatoilHydro ASA [Norway]
18. Gazprom Neft [Russia]	43. Tatneft [Russia]
19. Gazprom OAO [Russia]	44. Technip S.A. [France]
20. GS E&C (Engineering & Construction) [South Korea]	45. Trevi-Finanziaria Industriale S.p.A.(Trevi Group) [Italy]
21. GS Holdings Corp. [South Korea]	46. Total S.A. [France]
22. Hyundai E&C (Engineering and Construction) Co., Ltd. [South Korea]	47. Welspun-Gujarat Stahl Rohren Limited [India]
23. Hyundai Heavy Industries [South Korea]	48. Worley Parsons Ltd. [Australia]
24. Ina-Industrija Nafta DD [Croatia]	49. Ulan-Ude Aviation Plant JSC [Russia]
25. Indian Oil Corporation, Ltd. [India]	50. ZiO-Podol'sk OAO [Russia]

**CALIFORNIA DEPARTMENT OF INSURANCE
SUPPLEMENTAL LIST OF COMPANY DOING BUSINESS WITH THE IRANIAN
ENERGY SECTOR
(AS OF APRIL 16, 2010)**

The Department's February 9, 2010 list is supplemented with the following company:

51. Shell International Finance B.V.