2015 State and Federal Legislative Update

The U.S. Congress and all state legislatures are back in session and considering new legislative proposals in 2015. NAPSLO closely monitors the work of state and federal legislatures and regulators for bills and actions impacting the surplus lines industry. NAPSLO meets regularly with state insurance commissioners, regulators and legislators, and with senior staff of the NAIC, to share NAPSLO’s perspectives on issues important to our membership.

The purpose of this report is to provide you with key updates since our July 2014 Legislative Update and forecasts for the 2015 sessions. Although the sessions have only recently begun, there are a number of bills you should be aware of and that are progressing quickly. Click here to download the entire update.

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NRRA news and updates
The great success brought about from the implementation of the Nonadmitted and Reinsurance Reform Act (NRRA) continues as we see increased modernization and simplification of the regulation and taxation of the surplus lines transaction. NAPSLO continues its work to promote and preserve the intent and clear mandates of the NRRA and the resulting uniformity and efficiencies in surplus lines regulation the NRRA was intended to achieve. Since its passage, the NRRA’s national framework and establishment of home state regulation and taxation of surplus lines has produced tremendous benefits for our industry by ensuring one state, the home state of the insured, governs multistate risks. NAPSLO’s number one state legislative priority is our continued work needed to bring about the full spectrum of uniformity and efficiency envisioned by Congress.

The NRRA was passed as a provision of the Dodd Frank Wall Street Reform Act of 2010 (DFA). Several members and leaders of the recently convened 114th U.S. Congress have indicated that revisions and repeals within the DFA are a high priority. The NRRA has not been a target of these discussions and NAPSLO believes the NRRA will remain
intact; however, since the passage of the NRRA, NAPSLO has actively worked to ensure members of Congress understand and appreciate the importance of the continuation of the NRRA and our top priority this Congress is to protect this law.

49 states adopt NRRA specific legislation
As we last reported, all states except Michigan and the District of Columbia have adopted specific NRRA implementation language; however, both jurisdictions continue to comply with the NRRA’s home state tax approach.

Tax sharing, NIMA and SLIMPACT
NAPSLO’s top state legislative priority is to achieve uniformity among all states on the regulation and taxation of surplus lines premium. NAPSLO continues to strongly advocate that home state taxation, where surplus lines taxes are calculated at the home state’s tax rate on 100% of the premium and retained 100% by the home state, is the only viable and uniform national solution. Forty-six states, representing 80% of nationwide surplus lines premium, currently retain 100% of the taxes they collect, with 39 of those states taxing 100% of any multistate risk in accordance with the home state’s tax rates and rules.

There are currently seven non-NIMA states that continue to tax multistate risks at multiple states’ rates, although they retain 100% of the tax. These states include Hawaii, Kansas, Massachusetts, Nebraska, New Hampshire, North Dakota and Vermont. We are extremely pleased to report that upon our request, legislation is pending in both Kansas and North Dakota that, if passed, will eliminate the requirement to tax multistate risks at other states’ rates.

Six jurisdictions (Florida, Louisiana, Puerto Rico, South Dakota, Utah and Wyoming) continue to share taxes as part of the Non-Admitted Insurance Multi-State Agreement (NIMA). In 2014, Tennessee and Wisconsin, announced intentions to participate as Associate Members of NIMA for a one-year trial period this July and October respectively. As a result, these states do require the broker to provide multistate allocation information to NIMA’s Surplus Lines Clearinghouse (SLC). NAPSLO strongly believes that tax sharing adds unnecessary administrative burden and increased compliance costs to the industry and insureds, which far exceed the amount of taxes to be reallocated among the participating states. To review NAPSLO’s analysis of tax sharing and our letters to state insurance commissioners, visit the “NAPSLO Analysis of Tax Sharing” section of our Legislative Advocacy and PAC webpage.

SLIMPACT, with only eight jurisdictions, never reached the pivotal tenth member to become operational as a compact. In line with our legislation to eliminate taxation of multistate risks at multiple states’ rates, legislation was filed in Kansas and North Dakota to repeal SLIMPACT as well.

We continue to strongly encourage all states taxing multistate risks at multiple states’ rates, including NIMA members, to abandon such practices and fully implement the home state tax approach.

Insurer eligibility
As noted in the 2014 GAO Report, there is still work to be done regarding uniform implementation of the NRRA insurer eligibility provisions nationwide. The NRRA provided clear criteria for determining an insurer’s eligibility to provide surplus lines insurance in each state. While some states have eliminated many pre-NRRA eligibility requirements as “white lists,” a number of states continue to impose eligibility requirements beyond those outlined in the NRRA.
Although the NRRA preempts state actions that go beyond the scope of the federal law, it is important to understand the requirements of each state. We encourage review of surplus lines related laws regularly to ensure compliance. Edward Wildman Law Firm’s *Excess and Surplus Lines Laws in the United States*, is a good source that NAPSLO references. Below are a few recent state actions:

- **Alaska:** On January 14, 2015, the Alaska Division of Insurance updated its listing of eligible surplus lines insurers.
- **Kansas:** If adopted, **SB 145** will revise the definition of eligible insurer to conform to the definition and intention of the NRRA. Additionally, it will remove the requirement for appearing on an eligibility list but will allow the Commissioner to maintain a voluntary list, if he desires. NAPSLO sought sponsorship for these changes and worked with AAMGA, the Council of Insurance Agents and Brokers, PCI and other industry trade associations to further our joint efforts toward uniformity.
- **Pennsylvania:** On January 31, 2015 Pennsylvania updated its list of eligible insurers. The list and other helpful information is available on the Pennsylvania Surplus Lines Association website.

### Exempt commercial purchaser (ECP) criteria

On January 1, 2015 the criteria used to qualify as an ECP was required by the NRRA to be adjusted based on the Consumer Price Index (CPI). NAPSLO provided comments to the NAIC regarding recommendations for calculating the CPI adjustment, and the NAIC subsequently recommended the ECP criteria be adjusted as follows:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Pre-2015</th>
<th>Post-2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Worth</td>
<td>$20,000,000</td>
<td>$22,040,000</td>
</tr>
<tr>
<td>Annual Revenues</td>
<td>$50,000,000</td>
<td>$55,100,000</td>
</tr>
<tr>
<td>Annual Budgeted Expenditures</td>
<td>$30,000,000</td>
<td>$33,060,000</td>
</tr>
</tbody>
</table>

States have begun issuing notices regarding the criteria revisions. NAPSLO posts this information on our website to the individual state pages under the state’s bulletin section. States taking action so far include Alaska, Arizona, Illinois, New York and Pennsylvania.

### Non-NRRA state updates

Legislation and regulations are proposed by states every day, some of which impact NAPSLO members. NAPSLO closely monitors these state actions and you can too by (1) signing up for NAPSLO’s legislative updates through our Statenet tracking system and (2) watching your email or visiting our NAPSLO News webpage for important breaking Legislative Updates throughout the year.

### 2015 state legislative tracking report

The 2014 November elections brought about many changes in Governors and party control of state legislatures. Many states opened their legislative sessions with a focus on major budget issues. Although those budgets remain the top priority and focus for states, we have a number of insurance-related bills developing that we are monitoring or directly working. NAPSLO carefully watches all legislation to be sure there are no unintended consequences or effects on the surplus lines industry. A few of the bills we are monitoring as of publication of this report include:

- **Arizona:** **HB 2342** clarifies that for group insurance contracts, the home state is
the state of incorporation or organization of the group.

**Kansas:** NAPSLO asked for legislation to (1) repeal SLIMPACT; (2) eliminate taxing multistate risks at other states’ rates; (3) incorporate the NRRA standards for insurance eligibility and convert the white list to a voluntary list; and (4) discontinue filing required diligent search affidavits with Commissioner in favor of the broker retaining a signed statement from the retail agent in the insured’s file. **SB 144** (affidavits), **SB 145** (eligibility), and **SB 155** (SLIMPACT/taxes) were introduced on January 29th and NAPSLO testified in support of the bills on February 10th. The legislation is pending a vote on the Senate floor at the time of this report and, if approved, will move to the House for final vote in early March. If passed, the changes will become effective on July 1, 2015.

**Maryland:** If passed, **SB 461** would allow disability insurance policies to be provided by surplus lines insurers when it is issued as excess or if it is unavailable from an admitted insurer.

**Mississippi:** **SB 2245** will exempt property risk written by and through the Mississippi Department of Finance and Administration from the payment of surplus lines premium tax.

**Montana:** If passed, **HB 94** will allow natural disaster multi-peril insurance to be sold as surplus lines insurance; **HB 240** will remove prohibition of surplus lines policy fees, but limits the fee to $50 for personal lines and $100 for commercial. NAPSLO submitted general support for the change.

**New Jersey:** No action has been taken by the New Jersey Department regarding comments we submitted on proposed changes to N.J.A.C. 11:19-3.1 through 3.5 last August. The regulation alters requirements of the new electronic filing system for surplus lines transactions. NAPSLO’s comments focused on the regulation’s reporting requirements for surplus lines insurers. NAPSLO encouraged the Department to rely on the broker’s filings for an accurate accounting of surplus lines premium tax in New Jersey. We said that the Department should rely on broker filings, with brokers remitting 100% of the tax to New Jersey as the home state on the premium of the insured and that given the fact that the regulated entity in the surplus lines transaction in New Jersey is the licensed broker, additional auditing and comparisons of broker and carrier information is onerous and unnecessary post-NRRA. Our comments supported those of the NJSLA. We expect the Department to issue a final regulation in the near term, but in general the draft changes to the Regulations are simply codifying the Department’s current requirements. We are hopeful they will make changes based on the NJSLA and NAPSLO comments, but the Department has remained silent so it is unknown.

**New York:** If passed, **SB 1759** will implement the proposed Domestic Surplus Lines Insurer statute; **SB 2347** will allow diligent effort affidavits to remain valid for two policy renewal cycles, allow a quote from the standard market that is 25% in excess of the nonadmitted market to be considered a declination and allow the Superintendent to consider market conditions in certain instances; **SB 2348** will presume brokers have met their standard of due care if they use a voluntary list of eligible insurers established by ELANY. At this time, these bills do not have sponsorship in the House and industry is working to determine the level of support to provide. **SB 26** as introduced would prohibit insurers, including surplus lines insurers, from denying claims for failure of an insured to give timely notice unless the insurer can demonstrate that it has suffered substantial prejudice as a result of the delayed notice. **SB 3392** would enact the Construction Insurance Transparency Act which would require insurers providing coverage for liability under the scaffold law to report, on an annual basis, to the superintendent of financial services relating to its finances and claims paid.

**North Dakota:** NAPSLO is pleased to report that we worked directly with Rep.
George Keiser, original sponsor and author of SLIMPACT, on legislation to repeal SLIMPACT and eliminate taxing at other states rates. NAPSLO testified in support of HB 1146, which has unanimously passed the House and is awaiting Senate approval. Additionally, SB 2187 was introduced to move the premium tax payment and reporting dates to March 1 (previously April 1 and May 1). NAPSLO testified in support of this bill as well. These dates support our suggestions in NAPSLO’s Guiding Principles on Uniformity. NAPSLO did seek to have the required allocation of multistate risk report eliminated in light of the elimination of taxing at other states’ rates, but the Department did not support eliminating the requirement at this time. This bill was also unanimously passed and is awaiting approval from the House. NAPSLO will once again testify in support of both bills when on March 4, 2015. When adopted, all measures become effective June 1, 2015.

- **Tennessee:** The Department announced it will begin using OPTins for electronic payments for surplus lines premium tax effective February 16, 2015.

- **Oklahoma:** SB 487 would update several aspects of Oklahoma statute to comply with the NRRA, including adopting terms and definitions from the NRRA. This law would also allow surplus lines to procure or place flood insurance with a nonadmitted insurer without a diligent search.

- **Oregon:** The Insurance Division indicated it will exempt state chartered credit unions from Oregon Surplus Lines tax when the exemption is requested by the credit union or their broker at the time that surplus lines business is placed. As of this report, the Division has not issued a memorandum outlining the state exemption. However, a similar exemption was made for federal chartered credit unions in 2013.

- **South Dakota:** If passed, HB 1088 will amend the law to allow surplus lines insurers to provide excess disability insurance.

- **Texas:** If passed, HB 409 requires liquor licensees to carry liquor liability insurance. This type of insurance was not previously required, and the TSLA reports only 11 other states require licensees to carry this insurance. The bill allows the coverage to be provided from an admitted or eligible surplus lines insurer. Another pending bill, HB 686, relates to insurance agents’ ownership and use of information related to the expiration of property and casualty insurance policies. As drafted, the proposed bill intended to allow an agent the exclusive ownership and use of an “expiration” directly related to an insurance application submitted by or an insurance policy written through that agent for the purpose of soliciting, selling or negotiating the renewal or sale of the coverage. NAPSLO is working with the TSLA as this legislation develops. SLSOT issued a bulletin on February 17, 2015 regarding the March 1, 2015 deadline for reporting to the Texas Department of Insurance the number of policies in force in Texas as of December 31, 2014. In years past, SLSOT has responded to the TDI on behalf of surplus lines insurers. This year the SLSOT will prepare a report for TDI, but insurers should also self-report the information to TDI as well. For this year only, the TDI has confirmed to SLSOT that the filing deadline has been extended to March 31, 2015 for surplus lines insurers only.

- **Utah:** NAPSLO is working with AAMGA, AIA, PCI and the Utah Surplus Lines Association towards repeal of HB 129, which passed in March 2014, requiring surplus lines insurers to initiate an audit within six months of expiration of the policy and prohibits surplus lines insurers from counting as earned premium an amount in excess of 50% of the initial premium. We are pleased to report that SB 212 was filed on February 17, 2015 to repeal the changes made in HB 129 and return the law to the same as it was before HB 129 was adopted.

- **Washington:** If passed, HB 1308 will clarify that the portion of a risk that is located outside of the U.S. is exempt from surplus lines premium tax.
In case you missed it: final actions since NAPSLO’s July 2014 legislative update

A number of final actions occurred after the July 2014 Legislative Update was issued that we want to make sure you are aware of as well, including:

- **Alaska**: The Division of Insurance adopted changes to the administrative code relating to surplus lines insurance generally to reflect recent changes to Alaska statutes. The changes became effective September 4. The regulation changes were outlined by NAPSLO to members. In general, the changes impacted Title 3 of the Alaska Administrative Code, dealing with surplus lines premium tax payments, surplus lines filing fee payments, surplus lines unauthorized insurers, and alien surplus lines insurers fees under AS 21.34; and fees for portable electronics limited producer licenses under AS 21.27. More information is available here.

- **Arizona**: HB 2121 took effect July 24 and requires all Arizona filings (single and multi-state) starting from December 31, 2014 and thereafter, be made semiannually on February 15 and August 15. The SLA of Arizona issued Bulletin 2014-19 indicating the change.

- **California**: AB 2293, effective July 1, 2015, establishes minimum insurance requirements for transportation network companies but does not specifically address surplus lines. AB 2056, which passed the legislature and was signed by Governor Jerry Brown on September 30, would regulate pet insurance policies that are marketed, issued, amended, renewed or delivered to California residents beginning July 1, 2015. It also would require insurers to disclose coverage exclusions for preexisting, hereditary, congenital or chronic conditions and require a 30-day “free-look” cancellation period. AB 1804 prohibits property, liability, or health insurance policies issued on or after January 1, 2016, from being issued until the applicant has had the opportunity to receive notice of lapse, termination, expiration, nonrenewal or cancellation as a result of nonpayment.

- **Connecticut**: The Connecticut Insurance Department issued Bulletin Number FS-4SL-14 which reminds surplus lines insurers to report their financial condition to the Commissioner electronically before March 1 but also notifies insurers of an updated notice to consumers that must appear on each surplus lines policy on all policies issued as of January 1, 2015.

- **Delaware**: NAPSLO reported that the Delaware Department of Insurance has issued Surplus Lines Bulletin No. 16 to note the exemption of Delaware domestic surplus lines insurers from the payment of deposits, fees, and guaranty fund assessments. It also outlines the procedure for DSLIs to receive refunds for erroneous deposits and assessments. The bulletin took effect on September 23, 2014 and will remain in effect unless withdrawn or superseded by law, regulation, or bulletin. The Delaware Department of Insurance issued Surplus Lines Bulletin No. 15 as a clarification regarding implementation of the surplus lines premium tax rate increase as announced in Surplus Lines Bulletin No. 14. The tax increase from 2% to 3% was retroactive for all polices issued on or after July 31, 2014, however brokers had until February 13, 2015 to collect the additional premium tax for policies that were paid at the 2% rather than 3% rate. If a broker was unable to collect the additional premium tax prior to that date, the Department advised the policy should be cancelled but the broker must be able to demonstrate the efforts made to collect the additional premium from the insured. When discussing Surplus Lines Bulletins 14 and 15, NAPSLO received clarification from the Department regarding the brokers’ responsibility to make a “concerted effort” to collect the additional tax. The Department advised that the broker can demonstrate this with documentation of at least
two separate attempts to collect the additional tax. More information on the implementation of the tax increase is available [here](#).

- **Florida**: The Florida Office of Insurance Regulation issued an [Informational Memorandum](#) notifying surplus lines insurers and agents that certain emergency assessments for the Florida Hurricane Catastrophe Fund (FHCF) have been terminated for all policies issued or renewed on or after January 1, 2015. On September 24, 2014, the Board of Directors of the Citizens Property Insurance Corporation voted unanimously to recommend to the Florida Office of Insurance Regulation that Citizens stop collecting the 1 percent emergency assessment effective July 1, 2015. Thus, the emergency assessment would end two years prior to the original end date of July 2017.

- **Illinois**: The Surplus Lines Association of Illinois [announced](#) an increase in the stamping fee effective January 1, 2015. The stamping fee increased from .1% to .2% for all policies and their endorsements effective on or after that date. Endorsements to policies issued prior to January 1, 2015 should be calculated at the .1% fee. [SB 3324](#) was enacted in August 2014 and you may view the SLA of Illinois’ summary of changes to surplus lines laws [here](#). NAPSLO generally supported this bill but opposed, in part, the prohibition of brokers from participating in the independent procurement process. NAPSLO commented to the Illinois Senate with concerns that brokers should not be prohibited from assisting sophisticated buyers in the independent procurement of policies.

- **Indiana**: The Indiana Insurance Department issued [Bulletin 211](#) regarding their postponement of a requirement for electronic filing of premium taxes, annual renewal fees and payments which includes surplus lines tax.

- **Kentucky**: Revised [Bulletin 2014-01](#) was issued by the Insurance Department which lays out procedures for SL brokers to follow regarding local government premium tax.

- **Massachusetts**: The Department issued a [bulletin](#) with Frequently Asked Questions on [Chapter 177 of the Acts of 2014](#), which prohibits creditors and creditors’ representatives from requiring flood insurance that is greater than the balance of a residential mortgage loan, includes coverage for contents, or that includes a deductible of less than $5,000.

- **New York**: ELANY announced a reduction in the stamping fee to .18% on policies incepted on or after July 1, 2015. See ELANY’s announcement and additional details [here](#). [AB 9590](#) was signed by the Governor on January 29, 2015 and prevents third parties from demanding the issuance of a certificate that seeks more than proof that insurance coverage was placed. ELANY wrote a [letter](#) urging the Governor to sign the legislation.

- **South Carolina**: [Insurance bulletin 2014-08](#) clarifies that SL insurers are required to comply with the SC Competitive Insurance Act which requires certain disclosures to consumers; however after clarification from the South Carolina Insurance Department, NAPSLO has determined the bulletin does not require insurers to file their disclosures with the insurance department.

- **Texas**: The TDI adopted [regulations](#) that include surcharges of certain policies along the Texas coastline, including certain surplus lines policies, to service public securities issued to assist in claims payments following a major storm. Sec. 5.4186(f) delegates authority to the Texas Wind Insurance Association (TWIA) to impose certain reporting requirements on surplus lines agents.

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**Export lists updates**

At the beginning of the year there are many states that update their export lists or request comments on whether there should be changes to exportable coverages in the state. In January, [California](#) published their export list with no changes. [Pennsylvania](#)
issued notice to all interested parties with comments on any suggested changes to their export list to provide input by February 17, 2014. For additional information on state export lists, we again recommend consulting the Edwards Wildman compilation.

**New York Regulation 41**
NAPSL0 submitted comments in August 2013 and August 2014 to the New York Department of Financial Services (DFS) regarding proposed amendments to Regulation 41. This regulation details the state’s standards governing surplus lines placement in New York. The amendments incorporate changes in the standards related to the NRRA. NAPSL0 voiced concerns regarding potential conflicts with the NRRA eligibility provisions and additional and unnecessary requirements of brokers. On October 8, 2014, the DFS issued the final version of amended Regulation 41. You may review ELANY’s Bulletin regarding the changes here.

**Ridesharing/transportation network companies (TNC)**
We continue to monitor state actions regarding TNC legislation. Much of the coverage for TNCs is written in the surplus lines market and therefore NAPSL0 is closely watching these bills and working with PCI to ensure surplus lines is not excluded from providing coverage. TNC legislation was signed into law on January 12, 2015 in Illinois and passed in the District of Columbia to become effective on March 10, 2015. Both laws allow surplus lines coverage. Colorado also passed legislation in 2014. A number of states are currently considering TNC legislation during this session. At the time of this report, the states include: Florida, Georgia, Hawaii, Indiana, Kansas, Kentucky, Mississippi, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Carolina, Virginia and West Virginia.

The NAIC is also monitoring and discussing insurance issues related to ridesharing. They have convened the Sharing Economy Working Group that is currently drafting a white paper. The first draft of the white paper was just recently issued and NAPSL0 will provide comments in advance of the March 5th Sharing Economy Working Group conference call.

**2014 Stamping Office Report indicates continued growth**
The Surplus Lines Stamping Office of Texas issued a report showing that the 14 states with stamping offices saw continued growth in surplus lines premium during 2014, up 7.6% from 2013. Report highlights are:

- Total surplus lines premium reported to the Stamping Offices was nearly $24.2 billion in 2014, representing a 7.6% increase over the $22.5 billion in 2013.
- Approximately 3.4 million filings were made with the Stamping Offices in 2014, up 6.9% from 2013.

Stamping Offices have consistently reported growth in premium and filings over the last few years, which continues to be fairly representative of the total U.S. surplus lines market. You can view the 2014 report here.

To see reports from prior years, visit the NAPSL0 Stamping Offices & SLAs webpage here.

**Federal updates**
The 114th Congress convened this January. After the November elections, both the House and Senate have Republican majorities. While big issues such as immigration and tax reform were rumored to be on the docket for the 114th Congress, no such
proposals have surfaced yet in 2015. NAPSLO’s focus is to closely monitor and advocate on behalf of our membership before the Committees with jurisdiction over insurance issues, the House Financial Services Committee, still chaired by Congressman Jeb Hensarling (R-TX), and the Senate Banking Committee, now chaired by Senator Richard Shelby (R-AL).

Members of the NAPSLO Legislative and Executive Committees will head to Washington, D.C. on May 21, 2015 for our annual Legislative Fly-In, where we will meet with Representative, Senators and senior staff to advocate and educate on behalf of the NAPSLO membership. Below are a few updates on important federal issues impacting NAPSLO members.

Revisions to the definition of private flood insurance

H.R. 4558/S. 2381, the Flood Insurance Market Parity and Modernization Act of 2014, was filed last May in the House and Senate and died without action before Congress adjourned in December. NAPSLO strongly supported this bill and we anticipate the same bill will be filed again during this session. The intent of the legislation is to amend the definition of private flood insurance, using language developed by NAPSLO, to ensure that surplus lines insurers are eligible to offer private market solution and alternatives to consumers in need of unique and complex flood risks. Based on discussions during the last Congress, we believe an additional consumer protection provision will be added that will clarify if an insured leaves the NFIP for private coverage they will be allowed to go back to the NFIP with the same premium provisions extended to them previously under the program.

In December 2013, NAPSLO submitted comments to federal banking agencies on proposed revisions to federal regulations concerning the NFIP and private flood insurance options. No actions have been taken by the agencies to address the issues NAPSLO highlighted concerning the definition; however, the agencies issued revisions to other flood regulations at the end of 2014 and specifically stated they were not addressing the issues of private flood insurance at that time but plan to do so in the future. There is no indication from the agencies when that will be and some observers believe they are waiting to see if Congress acts first.

Reauthorization of the Terrorism Risk Insurance Act

NAPSLO reported in early January that the Terrorism Risk Insurance Program Reauthorization Act of 2015 extended the federal terrorism program until December 31, 2020. Key revisions to existing provisions include:

- Federal share reduces from 85% to 80% (by 1% per year)
- Program trigger increases from $100M to $200M (by $20M per year)
- Industry’s aggregate retention increases from current $27.5B to $37.5B (by $2B per year) and Treasury’s recoupment rate increases from 133% to 140%

NAPSLO prepared a side-by-side comparison of the expired program and new program, which is available for members on our webpage. We continue to monitor the work of the U.S. Department of Treasury, the NAIC and individual states for guidance and resources to assist NAPSLO members in implementing the changes.

The U.S. Department of Treasury recently issued guidance concerning the reauthorization of TRIA. The NAIC adopted a draft bulletin concerning filings and several states have issued guidance based on the Model. Below are links for information that may be of interest, although as these bulletins mostly focus on filing
procedures, they may not directly impact surplus lines policies:

**NAIC Model Bulletin** on Filing Procedures for Compliance with TRIA Program
**U.S. Department of Treasury** issued interim guidance concerning the TRIA Program
**Alabama** Department of Insurance bulletin
**Connecticut** Insurance Department bulletin
**Kentucky** Department of Insurance bulletin
**Louisiana** Department of Insurance
**Maine** Bureau of Insurance
**North Carolina** Department of Insurance bulletin
**Rhode Island** Division of Insurance bulletin
**Wyoming** Insurance Department bulletin

**National Association of Registered Agents and Brokers (NARAB II) becomes law**
NAPSLO was extremely pleased to report that NARAB finally became law on January 12, 2015. The insurance industry lobbied many years for NARAB in an effort to streamline the licensing process for agents and brokers nationwide and eliminate burdensome multistate requirements while preserving important state regulatory authority and consumer protections.

While NARAB is not expected to become operational for at least two years, the President is expected to appoint members of the Board within approximately 90 days from the day he signed the law. The Board will consist of eight regulators and five industry members, with three of the industry members representing the P&C industry. NAPSLO is working to ensure that the voice and perspective of surplus lines licensees is represented during the implementation of NARAB.

Stay tuned for a detailed “NARAB Implementation Resources” webpage that will provide members with guidance throughout the NARAB development process. If you have any questions regarding NARAB, please contact the NAPSLO staff and be sure to be on the look-out for our updates and developments.

**The Foreign Account Tax Compliance Act (FATCA)**
NAPSLO continues to monitor the IRS for updates or new statements regarding FATCA. FATCA provides IRS reporting requirements directed at foreign financial institutions and financial intermediaries in an effort to prevent tax evasion by U.S. citizens, U.S. residents and corporations through the use of offshore accounts. FATCA may apply to U.S. source insurance premiums to the extent such premiums are classified as “withholdable payments.” Last year we issued the FATCA Executive Summary and Legal Memorandum for our members. Those documents, and links to other important websites and information, can be accessed here.

Last summer, the IRS issued **Notice 2014-33** that somewhat relaxed the compliance schedule over the initial compliance period of FATCA for those that make a good faith effort to comply. The IRS said calendar years 2014 and 2015 are considered a “transition period” for enforcement and administration of the due diligence, reporting, and withholding requirements of FATCA with respect to contracts entered into before year-end 2014. Therefore, if a required entity demonstrates they have made a good faith effort to comply, the Notice indicates they will not be penalized with respect to such contracts. It is very important to understand that the IRS merely relaxed the implementation of FATCA for calendar years 2014 and 2015 with respect to 2014 contracts. FATCA has been in effect since July 1, 2014 and the IRS Notice did affect
compliance obligations. As noted above, only those making good faith efforts to comply with FATCA may be granted relief from its enforcement.

**NAPSLO members encouraged to participate in The Council’s FATCA portal**

We regularly receive inquiries from NAPSLO members with questions and concerns as they navigate through the new FATCA requirements. We recommend that members participate in the Council of Insurance Agents and Brokers (The Council) [FATCA Portal](http://fatcaportal.com). For a nominal fee, $400 for brokers and $500 for insurers, you have access to FATCA filings for all brokers and insurers that elect to participate in the Portal. The Portal creates one, easy to use and uniform location to help you determine the FATCA compliance of the entity you are working with and it also serves to demonstrate you are meeting your IRS compliance requirements. Watch for additional information from NAPSLO and The Council in the near term regarding the Portal. If you have any questions in the meantime, please contact [Keri Kish](mailto:kki@napslo.org) at NAPSLO or [The Council](http://www.the-council.com) directly.

**Support the NAPSLO PAC today!**

Our work to advocate and educate members of Congress about the surplus lines market continues to be a high priority, and we have a great opportunity to educate new leaders and members of U.S. House and Senate committees with jurisdiction over insurance matters. Your support of the NAPSLO PAC can broaden our impact. Every dollar makes a difference and no amount is too small.

Under federal law, individuals may contribute up to $5,000 to each PAC during a calendar year. In turn, the NAPSLO PAC can contribute up to $5,000 to any one candidate annually. PAC contributions are not tax-deductible and must come from individual contributors, not corporate entities. To learn more and contribute, visit the [NAPSLO PAC webpage](http://napslo.org/pac).

**Contact us for assistance**

We hope you find this report helpful and informative. If we can further assist you in any way, please let us know.

[Keri Kish](mailto:kki@napslo.org)
Director of Government Relations

[John Meetz](mailto:jmeetz@napslo.org)
State Relations Manager

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**Contact NAPSLO:** Email us at [info@napslo.org](mailto:info@napslo.org) or call 816.741.3910

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