



THE COUNCIL
of INSURANCE
AGENTS & BROKERS

An Open Letter to Insurance Regulators and Legislators

On July 21, 2011, most provisions of the Nonadmitted and Reinsurance Reform Act title of the Dodd-Frank Act (NRRRA) go into effect. Many of these provisions preempt state law or regulation that is inconsistent with the NRRRA. In a short eight months, many of the existing state laws and regulations addressing placements of non-admitted insurance will be preempted by federal law.

We, the National Association of Professional Surplus Lines Offices (NAPSLO), the American Association of Managing General Agents (AAMGA), and The Council of Insurance Agents & Brokers (The Council), jointly urge the regulators and legislatures of the various states and territories to work as swiftly as possible to bring code and regulation into compliance with the NRRRA. Failure to act will result in confusion for regulators and licensees alike, arising from the existence of inapplicable, inaccurate and unenforceable code and regulation.

Compliance with the provisions of the NRRRA will require most states to address each of the following six items:

Surplus Lines Premium Tax: Surplus lines premium tax, including tax on independent procured coverage, is applicable to the gross premium on surplus lines policies only in the “home state” of the insured. The state should be empowered to collect tax on 100 percent of the premium.

Regulatory Authority: Producer licensing and surplus lines placement laws are applicable to surplus lines transactions / placements only when the state is the “home state” of the insured.

Eligibility (Foreign): Eligibility criteria for U.S. based (foreign) surplus lines insurers must be amended to comply with the two provisions of NAIC Nonadmitted Model Act that are cited in the NRRRA: A.) licensed in the domiciliary state and B.) meet the greater of \$15 million or the state's capitalization requirement.

Eligibility (Alien): Eligibility requirements for surplus lines insurers outside the U.S. (alien) must be amended so that any insurer listed on the NAIC/IID Quarterly Listing is eligible. (The NRRRA provides that a state cannot prohibit a licensed surplus lines broker from placing business with an IID listed alien insurer.)

Exempt Commercial Purchaser: The NRRRA definition of an “exempt commercial purchaser” must be incorporated into state law, along with procedures, consistent with NRRRA, to allow surplus lines brokers to place insurance for “exempt commercial buyers” without requiring a diligent search.

National Insurance Producer Database: The state must participate in the national insurance producer database of the NAIC or an equivalent uniform national database for licensure (and renewal) of surplus lines brokers by July 21, 2012. Failure to participate will preclude the state's ability to collect licensing fees for surplus lines brokers.

Each of the states will need to conduct a comprehensive review of its code and regulations to identify inconsistencies with the NRRRA.

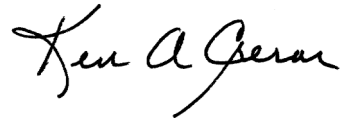
Together, with our members, NAPSLO, the AAMGA and The Council stand ready to assist the regulators and legislators of the various states and territories as they endeavor to draft and ultimately pass appropriate, consistent and efficient legislation and regulatory revisions, to realize the uniform and more efficient standards, mandated by the NRRRA.



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