Working With The Excess & Surplus Lines Market

National Association
of Professional
Surplus Lines Offices, Ltd.

NAPSLO
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National Association
of Professional
Insurance Agents

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Surplus lines is a specialized segment of the insurance business that is also referred to as non-admitted, specialty and/or excess lines. The surplus lines industry, while comprising only four to seven percent of the insurance market, plays an important role in providing insurance to consumers when other companies can not or will not provide it. Through freedom of rate and form regulation, surplus lines companies can tailor a policy to the needs of consumers while taking into account the higher risks involved in the policy.

Submitting Bids

In making submissions to the surplus lines market, retailers should understand that a "shotgun" approach does not serve the best interests of their clients. Submitting the same risk, or the same risk with different information, to different wholesalers may not generate a lower quote and may give the retailer a bad reputation among wholesalers. Wholesalers look at the "hit ratio" of a producer. Retailers who tie up the market by sending a duplicate submission to every wholesaler to block markets so others can not compete are viewed poorly. If there are questions about variations in quotes, they should be put to the wholesaler rather than trying to get a better quote by getting a number of quotes.

One of the biggest advantages to using a wholesaler is access to a number of markets that can handle a number of risks. However, there may be an instance where the wholesaler does not have access to a market for a particular risk. In that case, the retailer may be referred to another wholesaler who does have access to the market. The second wholesaler then handles the transaction.

In a few instances the wholesaler has a second wholesaler place the business because the second wholesaler has access to the market. However, "double brokering" a risk, as a general rule, should be avoided and is not an accepted practice in the industry. The retailer should be assured that the business is placed directly by the wholesaler and that the wholesaler has direct access to the company they represent. The company should be assured it is dealing with the wholesaler placing the business.

Financial Strength of the Industry

The overwhelming majority of surplus lines companies are well capitalized and well run. Many of the insolvencies have come from off-shore alien (non-U.S. based) companies with questionable management and financial backing. Sorting out the few bad companies from the numerous good companies is important in dealing with any insurance company, and more so with surplus lines companies because there is no guaranty fund (except in New Jersey) to pay claims of insolvent companies.

When reviewing a company's financial information, retailers must make sure they are reading about the correct company. A number of insurance companies have similar names, and some unreputable companies may have selected a name similar to a quality company, or one that sounds trustworthy, in hopes of confusing the public about their true identity and financial status.

There are several sources of financial information about surplus lines companies, including: A.M. Best's reports; NAPSLO's Security & Review Report; Standard & Poor's; and the National Association of Insurance Commissioners' Early Warning Tests.

Eligibility to Write Policies

Determining if a surplus lines company is eligible to write policies in your state is important. Some of the terms - unauthorized, non-admitted, unlicensed - used to describe surplus lines companies may make it appear the companies may not write insurance in the state.

The terms - unauthorized, non-admitted, or unlicensed - indicate the insurer is not licensed or approved in the state, however the company is licensed or approved in its state of domicile. Such insurers can offer insurance in a state where they are not licensed or approved through excess and surplus lines brokers.

Some states limit surplus lines brokers to using only those surplus lines companies on their "white list" or eligible list. To be included on the list, companies must satisfy financial and other requirements outlined by the state. Approximately 35 states have "white lists."

The NAIC reviews alien companies for financial solvency, and many states use the NAIC's approved list as a basis for inclusion in their eligibility list.

Financial Solvency

If a surplus lines company experiences financial problems and is declared insolvent, the state Department of Insurance where the carrier is domiciled issues a notification of insolvency. The Department gives lead time to allow for finding replacement coverage and publishes a date after which no coverage exists and replacement coverage must be found. In most cases, the insured's agent will explain the situation and can arrange for alternative coverage.

In the state of domicile, the insolvent company is an admitted company and is covered by the Guaranty Fund protecting the insureds in that state and any other state where the company is an admitted company.

In all states except New Jersey, where the insolvent company is a non-admitted company and operates as an eligible surplus lines insurer, there is no Guaranty Fund coverage. New Jersey is the only state with a Guaranty Fund covering non-admitted surplus lines companies.

The NAIC is also notified and informs all other member state insurance departments who then publicize the company's insolvency through a variety of means, such as local newspapers, television stations, trade papers and trade journals.

The state insurance departments then remove the insolvent company from the "white list" of eligible surplus lines carriers. If a state does not publish a "white list," it will use other means to notify surplus lines agents and insureds about the insolvency.

One area of concern for retailers is that insureds do not receive any of the premium back and then must pay a full premium for replacement coverage. No agent has been found liable for placing coverage with an insolvent carrier, and it is ultimately the insureds' job to find replacement insurance. However, should the agent place the coverage after a company has been declared insolvent, then the agent could be held responsible.

Claims

Excess and surplus lines markets handle claims in a manner relatively similar fashion to the admitted market. The wholesaler expects timely and complete submission of claims information.

Depending on the wholesaler, and the market the coverage is written through, the wholesaler has different claims authority. Some wholesalers own their own claim services and premium finance subsidiaries. The producer should know what relationship exists between the wholesaler and their markets.

Certain Managing General Agents have limited claims authority. They could have authority to issue claims drafts up to certain amounts and/or hire adjusters.

Also, certain London contracts have the MGA, within contract authority, take care of the claims by hiring an adjuster, issuing payment of the settlement, then offsetting their monthly premium payment by the claims paid out. If the claim is outside the MGA's contract authority then the London underwriters will become involved in claims settlement.

The majority of the time the wholesaler facilitates the transfer of claims information by sending the notice directly to the company after documenting their file. The insurer assigns an adjuster that contacts the insured directly. All documentation, however, is provided to the wholesaler regarding claim and payment settlements. In turn the wholesaler passes on this information to the producer.

Value of the Surplus Lines Broker

The surplus lines broker adds value to the transaction. By providing a broader view of the marketplace, they can provide coverage enhancements, excess capacity or a reality check on whether all the needs of the insured are met.

Having a clear understanding of the business practices of each wholesaler chosen will minimize potential errors from occurring. From what it takes to bind, to whether to report claims directly to the company or to the wholesaler, an agent needs to determine if additional systems are needed to insure compliance within the agency.

NAPSLO & PIA - Working to Bring Markets Together

The National Association of Professional Surplus Lines Offices, Ltd. (NAPSLO) and the National Association of Professional Insurance Agents (PIA) are working to help members of both associations better understand each other and to work together.

NAPSLO, based in Kansas City, Missouri, is a national trade association representing the surplus lines industry and the wholesale insurance marketing system.

Founded in 1975, NAPSLO has become the authoritative voice of surplus lines. Acting as a source of information, NAPSLO communicates to regulatory bodies, other segments of the insurance industry, the media and the public the vital role surplus lines plays in the insurance industry.

In addition, NAPSLO provides other important services to its constituency and the industry, including educational programs, financial data and legislative information.

PIA, founded in 1931, is a national association representing approximately 180,000 independent insurance agents and their employees. Independent agents own their own businesses, sell and service commercial and professional insurance, including property, casualty, auto and home insurance.

Surplus Lines Checklist

Date: ____________________

Coverage Requested: GL ❐ Umbrella ❐ D&O ❐ E&O ❐ Property ❐ Other ❐ AL/APD ❐

Insured: ____________________

____

Wholesaler: ____________________

____

Licensed? Yes ❐ No ❐ State ________ Lic. # ________

Responsible filing party Retailer ________ Wholesaler ________

Surplus Lines Company:

Name ____________________

____

Rating ________ Source: AM Best ❐ S&P ❐ Weiss ❐

Policy Information:

Premium ________

State Tax ________

Total ________

Minimum Earned Premium ________

Policy Fee ________

Inspection Fee ________

Effective Dates ____________________

Terms & Conditions ____________________

Admitted Companies:

Name	Declined
	Yes/No
	Yes/No
	Yes/No

Checklist:

Amount collected equal or greater than the minimum earned premium? Yes ❐ No ❐

Counter signature required? Yes ❐ No ❐

Surplus lines guarantee fund exclusion stamp required and included? Yes ❐ No ❐

Underlying policies reported? Yes ❐ No ❐