

NAPSLO Regulatory Principles
January 2012

I. Freedom From Regulation of Surplus Lines Rates and Forms

Freedom from regulation of rates and forms is what distinguishes the surplus lines market from the admitted market and is the essential feature that allows the surplus lines industry to serve the consumer and function as a market for hard to place risks. It should be defended at all times in all states, even for seemingly minor infringements.

II. The Principle of Export

The principle of export means that surplus lines transactions involve state regulated surplus lines brokers exporting business to nonadmitted companies not regulated by the state. This principle forms the regulatory framework of the surplus lines market. It defines the role of the surplus lines broker in the transaction as the regulated entity. It separates the company from direct 50 state regulation—including rates and forms. It establishes context of the taxation of the transaction.

III. Primacy of Surplus Lines

State based residual market mechanisms should not be given risk placement preference before surplus lines. The sequence of risk placement priority should be as follows: admitted market → surplus lines market → state based residual market.

IV. Uniform and Reciprocal Licensing of Surplus Lines Brokers Between the States

NAPSLO's goal is a uniform and reciprocal 50 state system.

V. Standardization of Taxation of Multi-State Surplus Lines Risks

NAPSLO's goal is a simple and conflict free single payment system for remitting surplus lines taxes on multi-state risks.

VI. Guaranty Funds

NAPSLO is opposed to surplus lines guaranty funds for the following reasons:

- They promote a false security because the coverage is typically inadequate for commercial lines;
- They promote the use of financially weak companies;
- Potential premium assessments are an unfair burden on surplus lines consumers; and
- The surplus lines marketplace is financially secure and dominated by companies with average ratings significantly higher than the overall market.

VII. Commercial Lines Deregulation—Automatic Export

Transactions involving exempt commercial policyholders under state commercial lines deregulation laws should automatically qualify for export to the surplus lines market without conducting a diligent search.

VIII. State Regulation

The surplus lines marketplace has proven to be an essential part of the national insurance market. It operates successfully in the state-based regulatory system where business is export from one state to another.

NAPSLO favors the continuation of a state-based regulatory system for insurance over a federal system. However, the current state-based system must become more uniform and efficient.

Federal Standards for State Regulation

Uniformity and reciprocity among and between the states in the areas of producer licensing and taxation are desirable. The adoption of such truly national standards could be a positive step in improving the efficiency and effectiveness of the state regulatory system.

However, no federal standard should be enacted that curtails, hinders or otherwise prevents the surplus lines market from performing its vital role as a supplemental market for insurance consumers.

IX. Federal Regulation

NAPSLO does not believe that a federal based system of regulation can be effective in the oversight of an industry established to address a state based system of reparations.

Optional Federal Charter

Proponents of creating optional federal charters believe that regulation of rates and forms will be reduced or eliminated by securing such charters. If a system of optional federal charters is created, it will be an unproven regulatory system. Under a system of federal charters, it will be essential, for surplus lines underwriters, that the regulatory structure permit a holding company to simultaneously hold federal and state charters so that the insurance can be placed under the regulatory system that offers rates, terms and conditions most consistent with the policyholder's needs.

Federal Insurance Office (FIO)

NAPSLO supports the role of the FIO in studying and overseeing the efficiency and modernization of the system of insurance regulation in the United States, and believes any federal policy regarding insurance regulation continue a course aimed at strengthening state insurance regulation and coordinating the efforts of federal agencies with state regulatory systems. NAPSLO supports the elimination of Federal subpoena authority as it relates to insurance data and recommends that any Federal entity secure such data through the appropriate state insurance regulator. Protecting our industry from such subpoena authority prevents insurance companies from unnecessary and costly reporting requirements that would ultimately add little value while increasing the costs of doing business. As in any business, these costs would ultimately be felt by the consumers of our services.

X. Nonadmitted and Reinsurance Reform Act

NAPSLO strongly supports the uniform implementation of the NRRRA by the states. Properly implemented as consistent with the letter of the law and Congressional intent, the NRRRA will significantly improve the surplus lines market. NAPSLO will continue to revisit these Regulatory Principles as the NRRRA is implemented.