

**NAPSLO TALKING POINTS  
FOR NIMA STATES MEETING – 11/4/11**

1. On behalf of the NAPSLO membership, thank you for the opportunity to present our thoughts and concerns regarding state approaches to tax allocation.
2. As you know, NAPSLO, in collaboration with 9 other trade associations in mid-October, submitted a letter to each of you urging you to adopt the tax allocation methodology proposed by the KY Department of Insurance, which we call the Kentucky compromise.
3. I want to start by clarifying a few key points about NAPSLO's position:
  - a. First – our position today and purpose in providing our perspective today is not to advocate any compact or agreement, or any other model for that matter. What we advocate is the adoption of uniform allocation approaches and requirements as these models continue their work toward implementation. Uniformity, clarity and efficiency in the future of surplus lines tax collection and filing is our goal and represents a significant concern to the NAPSLO membership.
  - b. Second – The most significant difference, and the current most significant concern to the industry, is the difference in approaches to allocating multi-state casualty risks. The KY compromise is called a compromise, because it continues to require the allocation of general/excess liability and medical malpractice liability premiums on a state-specific or location-specific basis when a multistate policy's premiums are determined (rated) on a state-specific or location-specific basis. So, it does require the allocation of some multi-state casualty risks, which is a critical point that is generally overlooked.

It does not require the allocation of such premiums when no location-specific or state-specific data is collected, nor is any location-specific or state-specific rating occurring, in connection with the placement.

This is the key issue and concern for the NAPSLO membership and, I believe, many of the other trades – a potential new requirement to collect and report data that is not collected in some casualty placements today – resulting in new challenges and additional costs to brokers and policyholders, and added complexity versus streamlining of the nonadmitted marketplace (which was the intent of the Nonadmitted and Reinsurance Reform Act) – all for the purpose of multi-state tax allocation, which arguably represents a relatively small component of the nonadmitted insurance market.

4. As you might have seen in our letter to Commissioner Chaney last week, we believe the Kentucky compromise is our only viable option for a number of reasons:

- a. #1 – The vast majority of pre-NRRA laws did not require the allocation of casualty premium.
- b. #2 – The insurance applications for many multi-state casualty policies do not contain the data that would be required by the NIMA allocation schedule. We have a number of examples of casualty submission documents, specifically general/excess liability, where no location-specific or state-specific information is captured within the insured’s application or supplemental schedules, because the data is not required for rating/underwriting purposes. Director Linda Hall has been graciously agreed to meet with us next week, and we plan to share some of these specific examples with her. Our point is that brokers are not trying to avoid collecting/reporting data where it is required for rating purposes – they just want the system to be as consistent with current practice as possible, efficient and practical.
- c. #3 – The Kentucky compromise mirrors the manner in which insurers are instructed to allocate and report premiums today in Schedule T instructions, and thus offers important consistency with current practice.

***Schedule T Instructions***

*For liability coverage where a separate premium charge is determined for each physical location that may generate liability claims, allocate to the state consistent with the premium determination by physical location.*

*For liability coverage where a single premium amount is determined for multiple locations, allocate to the state of the principal office.*

- d. #4 – Existing statutes in NIMA States appear to allow for the adoption and implementation of an allocation schedule set for in the NIMA agreement; therefore, we believe NIMA States have the ability to adopt and implement the Kentucky compromise by incorporating it as part of the NIMA agreement.
  - e. #5 – The compromise is supported as the best viable option by 10 industry trade associations – AAMGA, American Bankers Insurance Association, AIA, CIAB, IIABA, NAMIC, PIA, NAPSLO, PCI and RIMS.
- 5. We want the much-needed uniformity, clarity and efficiency the NRRA was intended to provide – and we sincerely want to be helpful in working with you to achieve these goals. We also need clarity and consistency among the states between now and the effective date of NIMA with respect to guidance/instructions for collecting and filing surplus lines taxes in NIMA States.
  - 6. We urge you to adopt the Kentucky compromise. Thank you very much for the opportunity to share our thoughts – I am happy to answer any questions you may have, as are the other trades participating in today’s meeting.