



State of New Jersey

DEPARTMENT OF BANKING AND INSURANCE

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BULLETIN NO. 11-23

TO: ALL FOREIGN AND ALIEN INSURERS SEEKING TO BECOME ELIGIBLE SURPLUS LINES INSURERS IN NEW JERSEY

FROM: THOMAS B. CONSIDINE, COMMISSIONER

RE: CHANGES TO SURPLUS LINES INSURER ELIGIBILITY REQUIREMENTS TO CONFORM WITH THE NON-ADMITTED AND REINSURANCE REFORM ACT OF 2010 (NRRA)

The Non-Admitted and Reinsurance Reform Act of 2010 (NRRA), 15 U.S.C. §8201 et seq., effective July 21, 2011, revises various aspects of the regulation of surplus lines insurance (referred to as nonadmitted insurance in the NRRA) by the states. Among other things, the NRRA also limits the eligibility requirements a state may impose on nonadmitted insurers pursuant to 15 U.S.C. §8204. For nonadmitted insurers domiciled in a United States jurisdiction, a producer is permitted to place nonadmitted insurance with such insurers provided they are authorized to write such business in their state of domicile and maintain minimum capital in surplus of \$15 million or the minimum capital in surplus amount required in this State pursuant to N.J.S.A. 17:17-1 et seq., whichever is greater. For a nonadmitted insurer domiciled outside the United States, a producer may place business with such an insurer, provided the insurer is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the National Association of Insurance Commissioners (NAIC).

The Department of Banking and Insurance (Department) issued Bulletin No. 11-11 on July 13, 2011 to advise insurers eligible to write nonadmitted insurance in New Jersey and licensed surplus lines producers of the changes effectuated by the NRRA. The Department is in the process of drafting proposed amendments to and repeals of existing rules to implement the NRRA. Pending the adoption of such rules, the Department is issuing this Bulletin to provide guidance to foreign and alien insurers seeking surplus lines eligibility in this State as to the procedures to write surplus lines insurance in this State consistent with the NRRA.

The NRRA defines - "Home State" as follows:

(A) In General.—Except as provided in subparagraph (B), the term "Home State" means, with respect to an insured—

(i) the State in which an insured maintains its principal place of business

or, in the case of an individual, the individual's principal residence; or

(ii) if 100 percent of the insured risk is located out of the State referred to in clause (i), the State to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

(B) **Affiliated Groups.**—If more than 1 insured from an affiliated group are named insureds on a single nonadmitted insurance contract, the term “Home State” means the Home State, as determined pursuant to subparagraph (A), of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract. 15 U.S.C. § 8206(6).

Alien Insurers

Pursuant to the NRRA, no surplus lines producer shall be prohibited from placing surplus lines insurance with, or procuring such insurance from, an alien insurer that is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the NAIC. No alien insurer may provide surplus lines coverage with respect to an insured for which this State is its home state unless such alien insurer is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the NAIC.

Foreign Insurers

No certificate of eligibility will be issued to a foreign applicant unless it demonstrates:

1. That it is authorized to write the type of insurance for which eligibility is sought in its domiciliary jurisdiction; and
2. Has capital and surplus or its equivalent under the laws of its domiciliary jurisdiction which equals the greater of the minimum capital and surplus requirements for the type(s) of insurance under N.J.S.A. 17:17-1 et seq. or \$15,000,000.

In order to receive such a certificate, foreign applicants shall submit a request for a certificate of eligibility to the Commissioner accompanied by the following:

1. A certificate of compliance from its state of domicile, which shall be filed annually thereafter;
2. Statements of the applicant's financial condition as of and for the two immediately preceding calendar years;
 - i. The annual statements shall be submitted on NAIC annual statement blanks, including fully completed and executed jurat pages subscribed and sworn to by the applicant's president, secretary and treasurer;

ii. The statement submitted for the most recent year shall be for a calendar year ending not more than nine months prior to the date of submission of the application; and

3. The applicant's quarterly financial statements for the current year in the NAIC format.

The requirement to file financial statements above may be satisfied by the applicant filing such information with the NAIC.

Requests for certificates of eligibility shall be sent to:

New Jersey Department of Banking and Insurance
Office of Solvency Regulation
Attention: Surplus Lines Insurer Eligibility
PO Box 325
Trenton, New Jersey 08625-0325

October 21, 2011

Date



Thomas B. Considine
Commissioner

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