

THE COUNCIL OF STATE GOVERNMENTS

RESOLUTION IN SUPPORT OF A COMPREHENSIVE SURPLUS LINES INSURANCE COMPACT

Resolution Summary

President Barack Obama signed the *Dodd-Frank Wall Street Reform and Consumer Protection Act* on July 21, 2010. Congress incorporated the *Nonadmitted Insurance and Reinsurance Reform Act (NRRA)* as Title V, Subtitle B, Part I, of the Dodd-Frank Act and made many of the non-admitted insurance provisions effective upon the expiration of the 12-month period following enactment. The NRRA preempts certain state laws and provides a minimal window of opportunity within which states must act to address NRRA requirements or risk losing millions of dollars in premium tax revenue.

The NRRA relies in large part on the laws and regulations of an insured's home state and preempts the application of laws and regulations by any other state. Specifically, the NRRA permits only an insured's home state to require premium tax payment for non-admitted insurance, and to require a surplus lines broker to be licensed in that state to transact business with the insured. The NRRA stipulates that only the insured's home state laws and regulations shall apply to the placement of non-admitted insurance. It also outlines exemptions to state due diligence requirements for brokers seeking to place non-admitted insurance for exempt commercial purchasers. The NRRA also prohibits a state:

- after two years, from collecting surplus lines broker licensing fees if the state does not participate in a national insurance producer database;
- from imposing eligibility requirements on U.S.-domiciled non-admitted insurers, except in conformance with select provisions of the National Association of Insurance Commissioners (NAIC) *Nonadmitted Insurance Model Act*, unless the state has adopted nationwide uniform standards that include eligibility requirements; and
- from prohibiting a broker from placing non-admitted insurance with an alien non-admitted insurer listed on the NAIC *Quarterly Listing of Alien Insurers*

Congress recommends in the NRRA that states adopt uniform requirements, forms, and procedures, such as an interstate compact, to facilitate the reporting, payment, collection, and allocation of premium taxes for non-admitted insurance. The National Conference of Insurance Legislators (NCOIL) and the surplus and excess lines industry, and major national property-casualty and producer organizations have endorsed a *Surplus Lines Insurance Multistate Compliance Compact (SLIMPACT)*—an interstate compact developed over several years by

non-admitted insurance experts, with input from insurance legislators, regulators, and industry representatives.

As the NRRA requirements take effect in June 2011, states must act quickly to address NRRA requirements. The failure by the states to streamline non-admitted insurance taxation and regulation would not only cause some states to lose vital premium tax revenue but could also invite further federal preemption, and possibly federal oversight, with respect to the business of insurance.

Additional Resources

- National Conference of Insurance Legislators – www.ncoil.org
- National Association of Professional Surplus Lines Offices, Ltd. – www.naplso.org

CSG Management Directives

- **Management Directive #1:** Support efforts by state legislators and policymakers to implement the intent of Congress in the *Dodd-Frank Wall Street Reform and Consumer Protection Act*.
- **Management Directive #2:** Encourage the adoption of a comprehensive interstate surplus lines insurance compact that would streamline surplus lines taxation and regulation.
- **Management Directive #3:** Demonstrate to Congress and the Administration that the states, collectively, will modernize insurance regulation, when appropriate.

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**RESOLUTION IN SUPPORT OF A COMPREHENSIVE
SURPLUS LINES INSURANCE COMPACT**

WHEREAS, Congress passed and President Barack Obama signed into law on July 21, 2010, the *Dodd-Frank Wall Street Reform and Consumer Protection Act*;

WHEREAS, Title V, Subtitle B, Part I of Dodd-Frank, the *Nonadmitted Insurance and Reinsurance Reform Act (NRRA)*, calls for states to streamline regulation of excess and surplus lines insurance;

WHEREAS, states need to act to achieve modernization and uniformity where necessary or the federal government will likely step in and preempt state regulation of insurance;

WHEREAS, Congress in NRRA authorizes states to enter into an interstate compact as a means for adopting uniform requirements, forms, and procedures and facilitating the reporting, payment, collection, and allocation of premium taxes for non-admitted insurance;

WHEREAS, the *Surplus Line Insurance Multi-State Compliance Compact (SLIMPACT)*—a compact developed over the past several years by non-admitted insurance experts, with input from insurance legislators, regulators, and industry representatives—establishes a mechanism that would fully respond to NRRA requirements;

WHEREAS, to date, other proposals brought forward do not go far enough to respond to NRRA provisions regarding uniform requirements, forms and procedures, but instead would continue the burdensome system that Congress seeks to eliminate and invite further federal preemption;

WHEREAS, as the NRRA requirements take effect in June 2011, states must act quickly or risk losing millions of dollars in premium tax revenue; and

WHEREAS, The Council of State Governments (CSG), the National Conference of Insurance Legislators (NCOIL), and the National Conference of State Legislatures (NCSL) support compacts as a way for states to modernize and achieve uniformity, while at the same time preserve state authority.

NOW, THEREFORE BE IT RESOLVED, that The Council of State Governments (CSG) supports The Surplus Lines Insurance Multi-State Compliance Compact, also supported by the National Conference of Insurance Legislators (NCOIL), the surplus and excess lines industry,

and major national property-casualty and producer organizations—to comply with the NRRA and maximize state non-admitted insurance premium tax collection; and

BE IT FURTHER RESOLVED, that The Council of State Governments (CSG) urges states to take the appropriate measures to ensure compliance with NRRA, including joining The Surplus Lines Insurance Multi-State Compliance Compact to streamline and make more uniform non-admitted insurance regulation and to demonstrate to Congress that states can and will modernize when and where necessary.

Adopted by the Governing Board this 6th Day of December, 2010 at CSG's 2010 National Conference in Providence, Rhode Island.