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BULLETIN 2011-10 MISSISSIPPI DEPARTMENT OF INSURANCE

CLARIFICATION OF BULLETIN 2011-8; REPORTING AND COLLECTION OF PREMIUM TAXES FOR MULTI-STATE SURPLUS LINES POLICES FOR THE THIRD AND FOURTH QUARTERS OF 2011

October 28, 2011

I. Purpose

On July 19, 2011, the Mississippi Department of Insurance ("Department") issued Bulletin 2011-8, "Nonadmitted Insurance Multi-State Agreement" ("NIMA"), the purpose of which was to provide surplus lines insurance producers with guidance concerning the reporting, payment, collection and allocation of taxes and fees for multi-state policies pursuant to the procedures set forth in NIMA.

Bulletin 2011-8 directed surplus lines insurance producers to begin collecting the NIMA participating states' taxes and fees pursuant to the NIMA allocation schedule on and after the date the tax provisions of NIMA became effective, and to hold those collections until such time as the Clearinghouse was operational. It was expected that the Clearinghouse would be operational on November 15, 2011. However, it has become apparent that the Clearinghouse will not be operational by November 15, 2011, and the requirements set forth in Bulletin 2011-8 will have to be amended.

Therefore, the Department is hereby issuing Bulletin 2011-10, to provide information and guidance to surplus lines insurance producers concerning NIMA and the requirements for the reporting, payment, collection and allocation of taxes and fees for multi-state policies for the third and fourth quarters of 2011.

II. Amendment to NIMA

On October 21, 2011, in an emergency meeting, the NIMA Participating States amended Paragraph 24 of the NIMA Agreement to change the effective date of the premium-tax allocation

schedule from July 21, 2011 to January 1, 2012. This amendment defers the applicability of multi-state premium-tax allocations and the NIMA allocation schedule until January 1, 2012.

Therefore, for the third and fourth quarters of 2011, the tax allocation provisions of NIMA will not apply. The taxes and fees due under a multi-state policy would be remitted entirely to the home state of the insured, pursuant to that state's statutory and regulatory requirements.

III. Reporting Requirements for the Third and Fourth Quarters of 2011

As the tax allocation provisions of NIMA will not apply to multi-state surplus lines policies written or renewed during the third and fourth quarters of 2011, the home state provisions of the Nonadmitted and Reinsurance Reform Act (NRRA) will apply to such policies until January 1, 2012. For the third and fourth quarters of 2011, surplus lines insurance producers should follow the following procedure for a multi-state surplus lines policy when Mississippi is the home state of the insured.

A. Premium Tax and Fee Collection for the Third and Fourth Quarters of 2011.

Mississippi has a 4% surplus lines premium tax and a 5% nonadmitted policy fee (windpool fee). There is also a .25% stamping fee.

In calculating the taxes and fees, the calculation would be the premium and any company or producer fee added together and multiplied by the amount of the combined premium tax and statutory fees.

$$[\text{Premium} + \text{Company/Producer Policy Fee}] \times [\text{Mississippi Premium Tax} + \text{Nonadmitted Policy Fee/Windpool Assessment Fee} + \text{MSLA Stamping Fee}] = \text{Amount of Tax/Fee Owed.}$$

As an example, on a policy where Mississippi is the home state and the premium is \$1000 and a producer policy fee of \$100 is imposed, the calculation to determine the taxes and fees owed would be as follows:

$$[\text{Premium} (\$1000) + \text{Company/Producer Policy Fee} (\$100)] \times [\text{Premium Tax} (4\%) + \text{Nonadmitted Policy/Windpool Assessment Fee} (5\%) + \text{MSLA Stamping Fee} (.25\%)] = \text{Tax/Fee Owed}$$

$$[\$1000 + \$100] \times [.04 + .05 + .0025] = \text{Tax/Fee Owed}$$

$$\$1100 \times .0925 = \$101.75$$

B. Reporting and Payment Periods for the Third and Fourth Quarters of 2011.

The following are the third and fourth quarter, 2011, reporting and payment times for multi-state surplus lines policies where Mississippi is the home state. All reports and payments should be made to the Mississippi Surplus Lines Association ("MSLA"); MSLA will invoice the producer for the payment due.

- Third Quarter:
Report Due to MSLA – November 15, 2011
Producer Invoiced by MSLA – January 2, 2012
Payment Due to MSLA- January 31, 2012

- Fourth Quarter:
Report Due to MSLA – February 15, 2012
Producer Invoiced by MSLA - July 1, 2012
Payment Due to MSLA – July 31, 2012

IV. Reporting Requirements for NIMA States other than Mississippi

If Mississippi is not the home state of the insured, surplus lines insurance producers are advised to contact the appropriate agency in the home state for direction regarding the requirements for the reporting and payment of multi-state surplus lines premium taxes and fees in that state.

V. NIMA after January 1, 2012

For multi-state surplus lines policies issued or renewed on and after January 1, 2012, the tax payment and allocation provisions of NIMA, including the NIMA allocation schedule, will be in effect. Surplus lines insurance producers should then follow the premium tax and fee collection guidelines set forth in Sections IV. and V. of Bulletin 2011-8, for the reporting, payment, collection and allocation of taxes and fees for multi-state policies.

VI. Contact Information

The Department is aware that this transition pursuant to the NRRA and NIMA will be difficult and there will be many issues and questions that will need to be addressed. We urge surplus lines insurance producers or eligible surplus lines companies that have any questions concerning the provisions of the NRRA, NIMA or this Bulletin to contact the Department at (601)359-3569.


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