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### **BULLETIN 2011-11 MISSISSIPPI DEPARTMENT OF INSURANCE**

### **REPORTING AND COLLECTION OF PREMIUM TAXES FOR MULTI-STATE SURPLUS LINES POLICES FOR THE FIRST AND SECOND QUARTERS OF 2012**

**December 22, 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, the Clearinghouse was not operational by November 15, 2011, and it was necessary to amend the requirements set forth in Bulletin 2011-8.

Therefore, on October 28, 2011, the Department issued Bulletin 2011-10, "Clarification of Bulletin 2011-8; Reporting and Collection of Premium Taxes for Multi-State Surplus Lines Policies for the Third and Fourth Quarters of 2011". Bulletin 2011-8 amended NIMA to defer the applicability of multi-state premium-tax allocations and the NIMA allocation schedule until January 1, 2012.

As of the date of this Bulletin, it is apparent that the Clearinghouse cannot be operational before July 1, 2012. 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 first and second quarters of 2012.

## **II. Amendment to NIMA**

On December 20, 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 January 1, 2012 to July 1, 2012. This amendment defers the applicability of multi-state premium-tax allocations and the NIMA allocation schedule until July 1, 2012.

Therefore, for the first and second quarters of 2012, 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 First and Second Quarters of 2012.**

As the tax allocation provisions of NIMA will not apply to multi-state surplus lines policies written or renewed during the first and second quarters of 2012, the home state provisions of the Nonadmitted and Reinsurance Reform Act (NRRA) will apply to such policies until July 1, 2012. For the first and second quarters of 2012, 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 First and Second Quarters of 2012.**

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 First and Second Quarters of 2012.**

The following are the first and second quarter, 2012, 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. First Quarter Reports are due to MSLA by May 15, 2012; and Second Quarter Reports are due to MSLA by August 15, 2012. Further instructions regarding invoicing and payment dates will be posted on the Department and MSLA websites.

**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. Substantial Hardship Due to Change in Allocation Schedule**

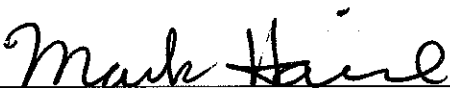
The Department recognizes the possibility that the delay in implementing NIMA’s Allocation Schedule may result in a substantial hardship to the parties in some cases where policies may have already been quoted. Therefore, pursuant to the Department’s authority in Miss. Code Ann. § 83-21-18 to establish procedures for the allocation of premium taxes and fees, the Department will review such matters on a case by case basis. In a hardship situation, the surplus lines insurance producer is advised to contact the Department to seek a resolution of the issue. The surplus lines insurance producer may contact the Department directly at 601-359-3569, or by e-mail at [nima@mid.state.ms.us](mailto:nima@mid.state.ms.us).

**VI. NIMA after July 1, 2012**

For multi-state surplus lines policies issued or renewed on and after July 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**

Surplus lines insurance producers or eligible surplus lines companies that have any questions concerning the provisions of the NRRA, NIMA or this Bulletin are encouraged to contact the Department at (601)359-3569.

  
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MARK HAIRE  
DEPUTY COMMISSIONER OF INSURANCE