State of Idaho
DEPARTMENT OF INSURANCE

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DATE: July 1, 2026

TO: All insurers eligible to write nonadmitted insurance in Idaho, all licensed surplus line brokers, all insureds independently procuring non-admitted insurance, and stamping offices

FROM: Dean L. Cameron, Director

SUBJECT: Amendments to the Idaho Surplus Line Law, Title 41, Chapter 12, Idaho Code, and Implementation of the Federal Nonadmitted and Reinsurance Reform Act of 2010 (Reissuance of Bulletin 11-08)

On July 21, 2010, the "Dodd-Frank Wall Street Reform and Consumer Protection Act," P.L. 111-203 was signed into law, which includes the "Nonadmitted and Reinsurance Reform Act of 2010" (NRRA), 15 U.S.C. § 8201, *et seq*. Subsequently, the Idaho Legislature amended the surplus line law in Idaho Code Title 41, chapter 12, effective July 1, 2011 (except § 41-1229, effective July 21, 2011).

This bulletin explains Idaho's amended surplus line law and how placements with nonadmitted insurers are to comply with that law. Any transaction with an unauthorized insurer, including independently procured insurance, must comply with Idaho surplus line law and be placed only with eligible insurers. *See* Idaho Code §§ 41-1201, 41-1217, 41-1233.

SCOPE OF NRRA

The NRRA limits regulation of nonadmitted insurance to the insured's "home state" and does not preempt any state law, rule, or regulation restricting the placement of workers' compensation insurance or excess insurance for self-funded workers' compensation plans with nonadmitted insurers. *See* 15 U.S.C. § 8202. The NRRA does not affect insurance issued by insurers licensed or authorized in the state.

INSURED'S HOME STATE FOR PURPOSES OF A PARTICULAR PLACEMENT

Idaho is the insured's home state if the insured's principal place of business or, for an individual, the principal residence is in Idaho. If Idaho is considered the insured's home state, only Idaho's requirements regarding the placement of such business will apply. If 100% of the insured risk is located outside of Idaho, then the insured's home state is the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated. See Idaho

Code § 41-1213. For affiliated groups with multiple named insureds on a single placement, Idaho is the home state when the group member that has the largest percentage of premium attributed to it under such insurance contract is in Idaho.

REQUIREMENTS FOR PREMIUM TAX PAYMENT IN IDAHO

The NRRA permits only the insured's home state to require the payment of premium tax for nonadmitted insurance. Idaho premium tax applies to 100% of the premium on new and renewal policies, when Idaho is the insured's home state. The filing process and tax rate will be in accordance with § 41-1229, Idaho Code.

LICENSE REQUIREMENTS FOR BROKERS

Only the insured's home state may require a surplus lines broker to be licensed to sell, solicit, or negotiate nonadmitted insurance for a particular placement. If Idaho is the insured's home state, the broker must be licensed in Idaho. *See* 15 U.S.C. § 8202(b); Idaho Code § 41-1223.

WHEN DILIGENT SEARCH IS REQUIRED OR NOT REQUIRED

Before procuring coverage from unauthorized insurers, a diligent search must be conducted among insurers authorized in Idaho to transact and write that kind and class of insurance. Coverage may be exported only to the extent it exceeds the amount procurable from authorized insurers. *See* Idaho Code § 41-1214.

Exempt Commercial Purchaser. A surplus lines broker procuring or placing nonadmitted insurance for an "exempt commercial purchaser" is not required to conduct a diligent search if:

1. The broker discloses that insurance may or may not be available in the admitted market that may provide greater protection with more regulatory oversight; and
2. The exempt commercial purchaser subsequently requests in writing that the broker procure or place the insurance with a nonadmitted insurer.

The broker must maintain records that demonstrate compliance with these provisions. *See* Idaho Code § 41-1214(5).

Export List. The Director may publish a list of classes of insurance coverage or risks eligible for export upon finding no reasonable or adequate market among authorized insurers. Insurance written for classes or risks identified on the export list is exempt from the diligent search requirement but must comply with all other applicable provisions. *See* Idaho Code § 41-1216.

ELIGIBILITY REQUIREMENT FOR NONADMITTED INSURERS

For nonadmitted insurers domiciled in a U.S. jurisdiction, a broker may place nonadmitted insurance only if the insurer:

1. is authorized to write such business in its state of domicile and maintains the greater of (a) the minimum capital and surplus required under Idaho law or (b) $15,000,000 (*See* Idaho Code § 41-1214(6)(a)); and
2. appears on the "whitelist" as provided by law (*See* Idaho Code § 41-1217; IDAPA 18.06.06.021).

A U.S. domiciled insurer that meets the standards in (1) may contact the Department to be added to Idaho's whitelist.

For nonadmitted insurers domiciled outside the U.S., a broker may place business only if the insurer appears on the *Quarterly Listing of Alien Insurers* maintained by the International Insurers Department of the NAIC. *See* Idaho Code § 41-1214(6)(b). This Bulletin is not new law but is an agency interpretation of existing law, except as authorized by law or as incorporated into a contract. Requests for additional information or other inquiries regarding this Bulletin can be directed to the Company Activities Bureau at 208-334-4230.