

THE STATE



OF WYOMING

Matthew H. Mead
Governor

Insurance Department

Ken Vines
Commissioner

106 East 6th Avenue ♦ Cheyenne, Wyoming 82002

**NONADMITTED INSURANCE MULTI-STATE AGREEMENT
MEMORANDUM**

TO: All insurers eligible to write nonadmitted insurance in Wyoming, all licensed surplus lines brokers and insureds

FROM: *KV* Ken Vines, Insurance Commissioner

DATE: August 3, 2011

RE: Nonadmitted Insurance Multi-State Agreement

The Nonadmitted and Reinsurance Reform Act of 2010 ("NRRA") which was incorporated as part of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act becomes effective on July 21, 2011. The NRRA directs states to adopt nationwide uniform requirements, forms, and procedures and authorizes the states to participate in tax sharing arrangements that provide for the reporting, payment, collection, and allocation of premium taxes for nonadmitted insurance.

Wyoming has entered into the Nonadmitted Insurance Multi-State Agreement (NIMA) in order to implement the requirements of the NRRA. Wyoming will contract with a central Clearinghouse to facilitate the receipt and distribution of premium taxes and transaction data related to nonadmitted insurance of multi-state risks and single-state risks.

For nonadmitted insurance business placed where Wyoming is the insured's Home State, the following information is provided for the benefit of insurers, brokers and insureds:

Should policies be reported to the Wyoming Insurance Department or to the Clearinghouse?

All new and renewal policies with effective dates prior to July 21, 2011 will be subject to the laws and regulations of Wyoming and other jurisdictions, as applicable, as of the effective date. Any endorsements, audits or cancellations to these policies which reflect additional or return premium are required to be reported to the Wyoming Insurance Department by affidavit within 30 days of the transaction date. These policies and any subsequent policy transactions will be included in the 2011 surplus lines annual report and tax payment due on March 1, 2012.

New and renewal policies with an effective date on or after July 21, 2011 and any endorsements, audits or cancellations which reflect additional or return premiums to those policies are required to be reported through the Clearinghouse. It is anticipated that the Clearinghouse will be operational prior to November 15, 2011.

What information must be included in the tax filing?

A tax filing for Wyoming must include contact information for the submitter and the party to be billed. Contact information, along with Wyoming license numbers, should be provided for the Surplus Lines Broker Firm and the individual Surplus Lines Broker. Required policy data includes but is not limited to the data fields listed in Exhibit 1.

When is premium tax allocation required and on what basis?

For multi-state placements, a single Home State tax rate shall be computed based on a formula that incorporates the Home State's tax rate as well as the tax rates of other states where a portion of the risk or exposure on the policy is located. Any taxes that otherwise would be allocated to a state that does not participate in NIMA will revert back to the Home State.

The applicable tax rate for surplus lines in Wyoming is 3 percent. For multi-state policies, Wyoming will allocate premium tax payments in accordance with Annex A - Nonadmitted Insurance Premium Tax Allocation Schedule and Annex B - Allocation Formula.

For single-state placements where Wyoming is the Home State, the entire gross premium will be taxed at 3 percent to be remitted to the Clearinghouse.

How will premium tax payments be processed and when are they due?

For multi-state and single state placements, Wyoming will contract with a central Clearinghouse that operates and maintains a web-based system to facilitate the receipt and distribution of nonadmitted insurance premium taxes and transaction data. The Clearinghouse maintains tax rates for States participating in NIMA and calculates premium tax based upon each Participating State's statewide nonadmitted insurance premium tax rate and statewide assessments for each Participating State with exposure.

Tax filings and payments are due to the Clearinghouse according to the following schedule: February 15 for the quarter ending the preceding December 31, May 15 for the quarter ending the preceding March 31, August 15 for the quarter ending the preceding June 30, and November 15 for the quarter ending the preceding September 30.

How will the Clearinghouse pay the cost of operations and activities?

The Clearinghouse is authorized to collect a reasonable fee payable by the insured directly or through a surplus lines broker on each transaction processed through the Clearinghouse.

What is the expanded definition of “Home State” found in the NonAdmitted Insurance Multi-State Agreement?

“Home State” means,

(1) In General.—Except as provided in paragraphs (2) through (5), the term “Home State” means, with respect to an insured—

(A) 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

(B) if 100 percent of the insured risk is located out of the State referred to in subparagraph (A), the State to which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated.

(2) “Principal place of business” means, with respect to determining the Home State of the insured, (a) the State where the insured maintains its headquarters and where the insured’s high-level officers direct, control and coordinate the business activities; or (b) if the insured’s high-level officers direct, control and coordinate the business activities in more than one State, the State in which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated; or (c) if the insured maintains its headquarters or the insured’s high-level officers direct, control and coordinate the business activities outside any State, the State to which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated.

(3) “Principal residence” means, with respect to determining the Home State of the insured, (a) the State where the insured resides for the greatest number of days during a calendar year; or (b) if the insured’s principal residence is located outside any State, the State to which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated.

(4) Affiliated Groups.—If more than one 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 paragraph (1) of this subsection, of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.

(5) Group Insurance. When the group policyholder pays 100% of the premium from its own funds, the term “Home State” means the Home State, as determined pursuant to subparagraph (A) of paragraph (1) of this subsection, of the group policyholder. When the group policyholder does not pay 100% of the premium from its own funds, the term “Home State” means the Home State, as determined pursuant to subparagraph (A) of paragraph (1) of this subsection, of the group member.

ANNEX A
Nonadmitted Insurance Premium Tax Allocation Schedule

This Annex sets forth the provisions governing the method of tax allocation for Multi-State Risks. If the allocation schedule does not identify a classification appropriate to the property or risk being insured, then the Surplus Lines Licensee, or an insured who independently procures insurance, consistently shall use an alternative method of equitable allocation across similar types of insurance policies and contracts, and shall maintain for at least five years, documented evidence of the bases and other criteria used by the Surplus Lines Licensee or insured who independently procures insurance in order to substantiate the method.

EXPOSURE ALLOCATION METHODOLOGY

MAJOR COVERAGE	COVERAGE TYPE	INCLUDING	*ALLOCATION BASIS BY STATE
PROPERTY	<p>ALL PROPERTY UNLESS MORE SPECIFICALLY DESCRIBED ELSEWHERE</p> <p>INCLUDES BOTH REAL AND PERSONAL PROPERTY, GLASS, CROP, ANIMALS, RESIDUAL VALUE</p>	<p>ALL RISK INCLUDING LEAKAGE OF SPRINKLERS, EXPLOSION, RIOT & CIVIL COMMOTION, EARTHQUAKE, BLANKET FORM, WATER DAMAGE, BUSINESS INTERRUPTION, TIME ELEMENT OR SIMILAR TIME VALUE COVERAGE, FIRE AND EXCESS OF LOSS</p>	<p>TIV (TIV= PD + BI) TOTAL INSURED VALUE = PHYSICAL DAMAGE + BUSINESS INTERRUPTION</p>
	AVIATION	PHYSICAL DAMAGE, ALL OTHERS	TIV
	BOILER & MACHINERY	DIRECT, CONSEQUENTIAL, ENGINE & MACHINERY, ALL OTHERS	TIV
	INLAND MARINE	FINE ARTS DEALERS, JEWELERS BLOCK, FURRIERS BLOCK, BUSINESS & PERSONAL FLOATER, BUILDERS RISK, ALL OTHER NON APPEARANCE & ABANDONMENT	TIV
	INLAND MARINE	MOTOR TRUCK CARGO	GARAGE LOCATION
	MOTOR VEHICLE PHYSICAL DAMAGE		TIV OF MOTOR VEHICLES PRINCIPALLY GARAGED OR PRINCIPALLY USED IN STATES
CASUALTY	GENERAL LIABILITY /		PAYROLL IN STATE

MAJOR COVERAGE	COVERAGE TYPE	INCLUDING	*ALLOCATION BASIS BY STATE
	UMBRELLA / EXCESS LIABILITY	MANUFACTURERS AND CONTRACTORS	
		PREMISES OPERATIONS	SQUARE FOOTAGE OF PREMISES IN STATE
		OWNERS AND CONTRACTORS PROTECTIVE	COST OF CONTRACT IN STATE
		PRODUCTS	SALES IN STATE
		COMPLETED OPERATIONS	RECEIPTS IN STATE
		CHILD CARE	NUMBER OF CHILDREN IN STATE
		CONTRACTUAL	IF "STAND ALONE" POLICY, VALUE OF SALES IN STATE
		RECREATIONAL	AMOUNT OF GATE RECEIPTS IN STATE
		SPECIAL EVENTS	NUMBER OF EVENTS IN STATE
		PROFESSIONAL LIABILITY	NUMBER OF INSURED IN STATE
	ERRORS & OMISSIONS (E&O) / PROFESSIONAL LIABILITY		REVENUES (RECEIPTS) OR NUMBER OF PROFESSIONALS BY STATE
	MEDICAL MALPRACTICE	INCLUDES MEDICAL MALPRACTICE FOR INDIVIDUAL HEALTHCARE PROVIDERS OR FACILITIES, I.E. HOSPITALS, NURSING HOMES, PSYCHIATRIC CENTERS	REVENUES (RECEIPTS), NUMBER OF PROFESSIONALS OR BED COUNT BY STATE
CASUALTY	EMPLOYMENT PRACTICES	EPLI FOR ALL	HEADCOUNT BY STATE

MAJOR COVERAGE	COVERAGE TYPE	INCLUDING	ALLOCATION BASIS BY STATE
(CONT'D)	LIABILITY (EPLI)	INDUSTRIES	
	MUNICIPALITIES, PUBLIC AUTHORITIES AND OTHER POLITICAL SUBDIVISIONS		NUMBER OF MUNICIPALITIES, ETC.
	ENVIRONMENTAL IMPAIRMENT		NUMBER OF UNITS OF EXPOSURE
	ASBESTOS ABATEMENT		PAYROLL
	EMPLOYEE/MEMBER BENEFIT PROGRAM		NUMBER OF EMPLOYEES/MEMBERS
	MOTOR VEHICLE	AUTOMOBILE LIABILITY, EXCESS AUTOMOBILE LIABILITY	NUMBER OF MOTOR VEHICLES PRINCIPALLY GARAGED OR PRINCIPALLY USED IN STATES
	RAILROAD PROTECTIVE		MILES OF TRACK IN STATE
MARINE	VESSELS		PRINCIPAL BERTHING LOCATION
	ALL OTHER PROPERTY		TIV
AVIATION	AIRCRAFT	NON-OWNED AIRCRAFT, AIRCRAFT LIABILITY	HANGAR LOCATION
FINANCIAL RISK	DIRECTORS AND OFFICERS LIABILITY	GENERAL PARTNERSHIP LIABILITY	REVENUE GENERATED IN STATE
	SEC LIABILITY	UNAUTHORIZED TRADING	REVENUE GENERATED IN STATE
	KIDNAP & RANSOM		EMPLOYEES
	EXCESS SIPC		REVENUE GENERATED IN STATE
	MORTGAGE IMPAIRMENT		TIV
FINANCIAL RISK	PATENT INFRINGEMENT		REVENUE GENERATED IN STATE

MAJOR COVERAGE	COVERAGE TYPE	INCLUDING	*ALLOCATION BASIS BY STATE
(CONT'D)			
	SECURITIES	MAIL	TIV
	MEDIA LIABILITY		TIV
	SERVICE CONTRACTS/WARRANTIES		REVENUE GENERATED IN STATE
	TAX OPINION GUARANTEE		REVENUE GENERATED IN STATE
	INTELLECTUAL PROPERTY		REVENUE GENERATED IN STATE
CRIME	CRIME	BLANKET CRIME, FIDELITY BOND, INDIVIDUAL BOND, EMPLOYEE DISHONESTY, FORGERY, THEFT, ROBBERY, BURGLARY, FRAUD	EMPLOYEE COUNT
ACCIDENT AND HEALTH	ACCIDENT AND HEALTH	DISEASE, ACCIDENTAL INJURY OR DEATH, MEDICAL SURGICAL EXPENSES AND INCOME PAYMENTS	LOCATION OF EMPLOYEES OR CORPORATE HEADQUARTERS
CREDIT	CREDIT		VALUE OF INSURED DEBT IN STATE
FIDELITY & SURETY	PERFORMANCE BONDS		TOTAL BOND VALUE OF CONTRACTS IN STATE
	OTHER SURETY BONDS		TOTAL BOND VALUE OF CONTRACTS IN STATE

* U.S. PREMIUM ONLY

ANNEX B
Allocation Formula

The Nonadmitted Insurance premium tax revenue for a calendar tax year or for a sub-period of a calendar tax year, as the case may be, is the amount determined by the formula:

Tax Allocation = (Net tax due to each State/net tax due to all States) x Amount collected

Home State Net Taxes = (Taxes collected for the Home State + Taxes due from other Participating States) – Taxes owed to other Participating States

Total Premium Tax to be Collected on Each Multi-State Policy = (Home State's tax rate x Portion of premium allocated to Home State) + (Home State's tax rate x Premium allocated to Non-Participating State if insurer is nonadmitted in that State) + (Participating States' tax rate x Premium allocated to each Participating State if insurer is nonadmitted in that state)

Exhibit 1

**Information Required to be Submitted
By the Broker or Insured via the Clearinghouse Web Portal**

A. Submission Contact

Name

Address

Phone Number

E-mail address

Independently procured policy? (Y/N)

B. Agency/Brokerage Firm Data

State

License Number

Name

Address

Phone Number

C. Agent/Sublicensee or Individual Licensee Data

State

License Number

Name

Office Address

Mailing Address

Phone Number

E-mail Address

D. Billing Contact

Name

Address

E-mail Address

Phone Number

E. Policy Data

Policy Number/Binder Number if Policy Number is not available

Effective Date

Expiration Date

Insured Name

Home State of Insured

F. Transaction Data

NAIC Insurer Code Number(s)

Insurer Name(s)

Total Policy Premium by Insurer(s)

Coverage Code

Tax Status

Transaction Type (New, Renewal or Endorsement)

Allocation among States:

Allocation Method

Premiums Allocated to Each State