

## Surplus Lines Insurance Reform

- *Conflicting state regulations and licensing rules, especially with regard to premium tax collection and allocation, characterize the surplus lines market. These conflicts could be resolved through an interstate compact or federal legislation.*
- *An interstate compact could simplify premium tax collection and allocation for surplus lines brokers, provide relief from conflicting regulations, and ensure that states receive all the revenues they are due.*
- *There is broad industry and Congressional consensus to reform surplus lines oversight. Legislation addressing this issue passed the House unanimously in both the 109<sup>th</sup> & 110<sup>th</sup> Congresses.*

### Issue Background

Surplus lines (or non-admitted insurance) provide coverage for unusual risks typically unavailable in the traditional insurance marketplace. The majority of these policies are purchased by sophisticated commercial entities to cover commercial risk. Since most of the transactions are business-to-business, the surplus lines market is generally less regulated than traditional insurance (or “the admitted”) market. The policies are not protected by guaranty funds.

However, some individuals also purchase coverage in the non-admitted market. Consumer protections that states have established in the areas of life, health, property, workers’ compensation and medical malpractice insurance, among others, may be undermined if reform legislation is not properly crafted.

Developing a common premium tax allocation system and providing a single point of contact for premium tax collection would simplify the process for surplus lines brokers. Legislation that addresses this issue, and aspects of reinsurance oversight, passed the House unanimously in both the 109<sup>th</sup> and 110<sup>th</sup> Congresses. Parallel to the legislation, a group of interested parties, with input from regulators, continues working on a draft interstate compact model that would address the problem without the need for federal legislation.

### Key Points

- Streamlining the regulatory process for surplus lines insurance should not create an incentive for companies to shift risk from the admitted market into the non-admitted market.
- Streamlining the regulatory process for surplus lines insurance should not hinder the ability of states to collect and share data related to surplus lines policies providing medical malpractice or workers’ compensation coverage.
- Eligibility requirements for surplus lines companies should be uniform but must include criteria beyond capital requirements to ensure that insurers are properly managed and able to remain solvent for the purpose of paying claims.