

**TEXAS DEPARTMENT OF INSURANCE COMMENTS ON  
NONADMITTED INSURANCE MULTI-STATE AGREEMENT (NIMA)**

Having reviewed the proposed NIMA, the Texas Department of Insurance (“Texas”) believes that this proposal is promising. Because the Texas Comptroller’s Office is responsible for collecting the premium tax, the comments will not address the taxing issues and will defer to the comments to be filed by the Texas Comptroller’s Office regarding the taxing issues.

I. Substantive Concerns

A. Definitions\_

1. “Agreement” – Texas believes the definition of agreement should contain the official name of this agreement (i.e. NonAdmitted Insurance Multi-State Agreement), rather than referring to it as “this *nonadmitted* premium tax coordination agreement.”
2. “Independently Procured Insurance” – means insurance procured by an insured directly, without the use of an agent/broker, from a Non-Admitted Insurer as permitted by the laws of the Home State.
3. “Non-Admitted Insurance” – “home” should be inserted into the definition so that it reads “any property and casualty insurance permitted in a home State to be placed directly or through a surplus lines broker with a nonadmitted insurer eligible to accept such insurance. This Agreement shall not require a home State to treat any property and casualty insurance as Non-Admitted Insurance where the laws of the home State do not provide such treatment.”
4. “Surplus Lines Licensee” – the definition refers to the “agent of record” but agent of record is not defined. “‘Surplus Lines Agent of Record’ means the surplus lines agent procuring the coverage from the nonadmitted insurer and is the agent responsible for reporting the transaction.”

B. Implementation - Texas would like to see some flexibility regarding the acceptable computer software systems. Texas feels it is important that states and agents who have already invested in software be able to continue using these systems. Specifically whatever software is chosen it should be compatible to export or accept data in an XML format.

C. Collection and Allocation Procedures –

1. Number 12 needs to specifically state that the home State’s stamping fee does not need to be incorporated into their nonadmitted insurance tax rate. Also the word “insurance” should be inserted in the first sentence after “nonadmitted” and before “premium.”
2. Number 13 – those participating states that have a stamping office may continue to process surplus lines policies. Texas would prefer to allow the stamping offices to report the transaction data to the clearinghouse. The clearing house would then send the clearinghouse fee invoices to the licensees.

II. Allocation Table – Texas believes the allocation formula needs some more work. It seems very complicated.

III. Typographical/Style Concerns

- A. Purpose Number 4 states “. . . this *Nonadmitted* Insurance Multi-State Agreement . . .”  
Either the name of the whole agreement should be in italics or none of it.
- B. The document uses both nonadmitted and non-admitted. Should be consistent throughout. For instance, “Non-Admitted Insurance” is hyphenated in the definition section, yet the word is not hyphenated in other places. Texas does not have an opinion as to whether it should be hyphenated, but believes it should be consistent throughout the document.
- C. The definition for “Independently Procured Insurance” currently states “. . . insurance procured by an insured directly by an insured . . .” The second “by an insured” needs to be deleted.