

**NAPSLO Positions on NRRRA Implementation**  
**January 10, 2012**

**Benefits of the NRRRA**

- NAPSLO has long supported uniformity in the regulation of the surplus lines market and its taxation within the state-based regulatory system.
- Properly implemented as consistent with the letter of the law and Congressional intent, the NRRRA will significantly improve the surplus lines market.
- NAPSLO strongly supports the “home state” regulation and taxation of the surplus lines market and believes the NRRRA definition of “home state” should be applied uniformly nationwide. The adoption of a definition of “home state” that conflicts with the NRRRA will result in less uniformity and inevitably lead to disagreements among the states over which is the insured’s “home state.”
- In the absence of the ideal nationwide, uniform system, it is logical that NAPSLO continues to work to harmonize and improve state laws and to improve the workability of existing compacts or agreements to mitigate any negative effects on its members and their customers. These actions are not in conflict with any past or present stance of NAPSLO. Rather, they simply recognize the realities of the states’ NRRRA implementation effort and NAPSLO’s work to improve it.

**State Implementation – Tax Sharing Compacts or Agreements**

- NAPSLO supports the intention of Congress, as stated in the NRRRA, that each state adopt nationwide uniform requirements, forms and procedures for the reporting, payment, collection and allocation of surplus lines premium taxes.
- NAPSLO is not opposed to tax sharing among the states; however, tax sharing is the option of the home state of the insured and is not required by the NRRRA.
- NAPSLO is not an advocate of interstate compacts or agreements that focus exclusively on sharing surplus lines tax on multi-state policies. Rather, NAPSLO believes any compact or agreement should enhance uniformity and efficiency in the regulation of surplus lines and surplus lines taxation. NAPSLO is strongly opposed to any tax compact that reduces uniformity or that increases the reporting burden on purchasers of nonadmitted insurance or the brokers that serve them.
- The Nonadmitted Multi-State Agreement (NIMA) does not adequately enhance uniformity. The states that have joined NIMA continue to have unique tax requirements, forms, data requirements and state-specific procedures that make it more difficult to calculate and remit surplus lines taxes. Even if NIMA adopts an allocation formula that is based, in part, on industry practices, NAPSLO believes NIMA should do more to promote uniformity and efficient tax remittance. NAPSLO opposes legislation that could allow a state agency to enter into NIMA.
- NAPSLO has aggressively raised concerns regarding the complexity and additional burdens of the current NIMA tax allocation methodology since it was first released. NAPSLO has dedicated resources to focus on the uniformity, clarity and efficiency of the tax allocation approach among the NIMA States and any states participating in a tax sharing structure.
- NAPSLO is concerned with the inconsistency in practices and procedures in effectively three categories of NRRRA implementation scenarios: (1) states regulating and taxing as home state only; (2) SLIMPACT; and (3) NIMA. NAPSLO cannot support multiple compacts or multi-state agreements, or a situation where some states enter into tax sharing arrangements and others do not, as this would not provide the nationwide, uniform system required by the NRRRA. Therefore, it is logical that NAPSLO would oppose this scenario.
- Absent a nationwide, uniform system for tax sharing, the next best scenario is no compacts or allocation agreements. This scenario, where each state collects 100% of the tax on each surplus lines policy, would then represent the next best nationwide, uniform system for the industry.
- NAPSLO members continue to be concerned with various components of the NRRRA’s implementation among the states, including:
  - (1) Taxing at other states’ rates for the portion of risk allocated to such states, including SLIMPACT and NIMA states, but especially in circumstances where states are not participating in either SLIMPACT or NIMA;
  - (2) Widely diverse guidance for the reporting, allocation and payment of surplus lines taxes subsequent to the July 21, 2011 effective date of the NRRRA;
  - (3) Variations in definitions of “home state” among many states; and
  - (4) The application of the NRRRA’s insurer eligibility requirements, including continued administrative practices in some states (e.g., financial reporting, biographical affidavits, etc.), which are preempted by the NRRRA.

**Tax Allocation Methodology**

- NAPSLO will only support methods of allocating surplus lines premium tax amongst the states that are based on simplicity and uniformity, from readily available information and developed with input from surplus line licensees. NAPSLO opposes any proposal that would require the creation of data solely for the purpose of allocating taxes.
- If the states implement a system to allocate taxes based upon risk exposures, NAPSLO believes it should be based upon the same exposure criteria used to rate the policy. Any requirement to allocate casualty premium is unworkable unless it uses the same allocation data as the exposure data used to rate the policy.
- The Kentucky compromise reflects common industry practice that allocates casualty premium on general liability and medical malpractice premium when the policy is rated based upon state-specific data. Umbrella, E&O, EPLI, Financial Risk, Crime and A&H policies are allocated to the home state, because the location of a liability exposure is historically considered to reside at the corporate headquarters. Property policies are allocated based upon TIV. The current NIMA allocation methodology presently requires data that is not collected or used to rate the policy and is strongly opposed by NAPSLO.