



October 22, 2014

Mr. Bob Schump
IID Manager
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

SENT VIA EMAIL TO: rschump@naic.org

Re: Exempt Commercial Purchaser, CPI-U Adjustment

Dear Mr. Schump:

On behalf of the American Association of Managing General Agents (AAMGA), American Insurance Association (AIA), the Independent Insurance Agents and Brokers of America (IIABA), the Council of Insurance Agents and Brokers (CIAB), National Association of Professional Surplus Lines Offices (NAPSLO), National Association of Professional Insurance Agents (PIA), and the Property Casualty Insurers Association of America (PCI), we appreciate the opportunity to provide comments to the Surplus Lines (C) Task Force regarding implementation of adjustments to Exempt Commercial Purchaser (ECP) qualifications as defined under section 527 of the Nonadmitted and Reinsurance Reform Act of 2010 (NRRRA).

Our associations represent the surplus lines industry and we appreciate the Task Force's desire to achieve a consensus interpretation of Section 527 (5)(C)(ii) of the NRRRA which requires adjustments to be made to the monetary thresholds that one must meet to qualify as an ECP of surplus lines.

We believe that the final recommendation should be one that avoids unnecessary complexity and creates a uniform solution implemented by all states to avoid regulatory confusion and inefficiency. Below are our recommendations.

Uniform Application of Adjustment

The NRRRA intended to simplify the regulation and taxation of the surplus lines industry and encourage the states to adopt uniform regulations and tax practices. Congress specifically included a definition of ECP in the NRRRA so it would be easier to uniformly establish an insured's eligibility as an ECP in each state. We believe it is critical that the ultimate recommendation from this process be uniformly implemented by all states.

Timing of Adjustment

We believe it is necessary to implement a timely adjustment based on Section 527(C)(ii) to allow insureds an appropriate amount of time to determine if they qualify or continue to qualify as an ECP. In general, new or renewing business is quoted 60 to 90 days in advance of the policy's effective date. Therefore, insureds must know in advance if they will proceed as an ECP or not during this time period. It is necessary to establish the criteria well in advance of the January 1 effective date to add certainty to this process. At a minimum, an insured needs to be able to plan beginning October 1 for an ECP status; however, our recommendation is to use the CPI-U results published in July to determine the percentage adjustment. For that reason July is an appropriate date given the July NRRRA effective date. The critical benefit of using mid-year data is, going forward, it allows an appropriate amount of time for an insured to determine if they qualify as an ECP in advance of the January re-calculation date and early year renewal dates. Waiting for data released in the last quarter of the year does not provide ample time to do so.

Five Year Adjustment Period

Unfortunately, the language of section 527(C)(ii) contains some confusion, both requiring an adjustment, "effective on the fifth January 1 occurring after the date of the enactment of this subtitle," and requiring that, "the amounts...shall be adjusted to reflect the percentage change for such 5-year period..." The overarching intent of the NRRRA seems to be that the thresholds established in law on July 2010 are indexed for inflation going forward, and it seems to conflict with Congressional intent to suggest that the thresholds should be indexed from a point in time before the law was enacted and the initial thresholds were put into place. Therefore, Recommendation I (which would come closest to capturing the change in the CPI-U between the date of enactment and January 1, 2015) seems to be the more appropriate interpretation in order to capture the inflation period for post-adoption of the NRRRA.

To that end, we would request adoption of Recommendation I with a modification that adjusts for CPI-U based upon the period between July 2010 and July 2014. This adjustment will allow insureds to proactively anticipate their status as an ECP and adjust their business practices accordingly. An adjustment based upon this criterion would result in a 9.28% change to the ECP thresholds, such that:

	<u>Current</u>	<u>Effective January 1, 2015</u>
Net Worth	\$ 20,000,000	\$ 21,856,700
Annual Revenues	\$ 50,000,000	\$ 54,641,700
NFPO Annual Budgeted Expenditures	\$ 30,000,000	\$ 32,785,000
CPI Adjustment	July 2010 218.011	
	July 2014 238.250	
	% Change	9.28%

This proposal will also allow for a five year adjustment period in the future. That is, beginning January 1, 2020, the CPI-U would be based on the July 2014 – July 2019 period, and so forth every five years thereafter.

Conclusion

We believe it is critical to establish a uniform adjustment formula for ECP criteria and to do so in a time frame that allows insureds ample opportunity to determine if they qualify as an ECP. We believe using July 2014 CPI-U data to establish the latter end of the CPI-U adjustment will give insureds the opportunity to anticipate their status as an ECP prior to quoting policies. Further, we believe using July 2010 as the starting point for a CPI-U adjustment will adhere to the NRRRA's Congressional intent. We encourage the Task Force to finalize and establish the adjustment well in advance of the Fall National Meeting so that states and insureds are able to appropriately establish the ECP criteria well in advance of the January renewal and inception dates for policies. Lastly, and perhaps most critical, we encourage all states to uniformly accept the Task Force's final recommendation so that ECP eligibility criteria is the same in all states.

If you have any questions regarding our comments, please do not hesitate to contact us. We stand ready to assist in developing an interpretation that achieves the intent envisioned by the NRRRA and will be uniformly implemented across your membership.

Sincerely,



Bernd G. Heinze
Executive Director
American Association of Managing General
Agents



Keri Kish
Director of Government Relations
National Association of Professional
Surplus Lines Offices



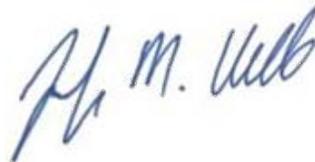
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