



GOVERNMENT OF PUERTO RICO
Office of the Commissioner of Insurance

August 16, 2018

CIRCULAR LETTER CC-2018-1936-D

TO ALL INSURERS THAT ARE AUTHORIZED TO ENTER INTO SURPLUS LINES INSURANCE CONTRACTS IN PUERTO RICO, SURPLUS LINES BROKERS, AND GENERAL PUBLIC

SURPLUS LINES CONTRACTS FOR EXEMPT COMMERCIAL PURCHASERS

Dear Sirs and Madams:

Some of the provisions of Chapter 10 of the Insurance Code and Regulations that are applicable to the surplus lines market in Puerto Rico were affected by the approval of the federal legislation “Nonadmitted and Reinsurance Reform Act of 2010” (NRRA), 15 U.S.C. § 8201 *et seq.* This is due to the fact that the provisions of the NRRA are applicable in Puerto Rico, to the same extent that they are applicable in all states and territories of the United States.¹

Section 525 of the NRRA establishes that surplus lines brokers that solicit or place surplus lines insurance for exempt businesses are not obligated to circulate such risk, provided that:

1. The surplus lines broker has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market, including in the case of insolvency, the protection provided by the Miscellaneous Insurance Surety Association, under Chapter 38 of the Puerto Rico Insurance Code, that may provide protection admitted insurers; and
2. the exempt commercial purchaser has subsequently accepted in writing the broker to procure or place such insurance from a nonadmitted insurer.

Section 527(6), 15 USC § 8206 (5) of the NRRA defines an exempt commercial customer as any person that seeks to purchase commercial insurance and that at the date of the placement meets the following requirements:

¹ 15 USC § 8206- Definitions:

For purposes of this part, the following definitions shall apply:

...

(16) The term "State" includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.



1. Employs or contracts a qualified risk manager, as defined in Section 527 (13) of the NRRA, to negotiate insurance coverage;
2. Has paid aggregate premium at the national level for commercial property and casualty insurance in excess of \$100,000 in the immediately preceding (12) months; and
3. Meets at least one of (1) the following five (5) criteria:
 - a. Has a net worth in excess of \$22,000,000;
 - b. Generates annual profits in excess of \$50,000,000;
 - c. Has more than five hundred (500) full-time employees per insured individual, or is a member of an affiliated group employing more than one thousand (1,000) employees in the aggregate;
 - d. Is a not-for-profit organization or public entity that generates annual budgeted expenditures of no less than \$30,000,000; or
 - e. Is a municipality with a population in excess of fifty thousand (50,000) persons.

Every five years, the amount of capital, profit, and annual budget will be adjusted to reflect the changes in the Consumer Price Index published by the Bureau of the United States Department of Labor. The most recent adjustment was made in 2015, for the aforementioned amounts.

In accordance with the above, this Letter sets forth the standards for the placement of surplus lines insurance for exempt commercial purchases, as established in the NRRA. We must remind you that the transactions that meet the requirements set forth herein will only be exempt from the requirement to circulate risk and not other applicable requirements, as provided in Chapter 10 of the Puerto Rico Insurance Code and Rule 28 of the Regulations of the Code.

We should also mention that as provided in Section 104 of the NRRA, 15 USC § 8204, in order for a nonadmitted insurer domiciled in the United States to be considered an insurer that is eligible to write surplus lines insurance in Puerto Rico, such insurer must be admitted in the insurer's home state to enter into insurance contracts for the class or classes of insurers which it proposes to contract as surplus lines insurance and shall maintain a minimum capital and surplus in the amount of \$15 million. In addition, with regard to a nonadmitted insurer domiciled outside of the United States, the surplus lines broker may solicit or place surplus lines insurance with a nonadmitted insurer domiciled outside of the United States that is on the Quarterly Listing of Alien Insurers maintained by the Department of International Insurers of the National Association of Insurance Commissioners (NAIC).

Strict compliance with the provisions of this letter is hereby required.

Very truly yours,

Javier Rivera-Ríos, LUTCF
Commissioner of Insurance of Puerto Rico