

Rule 28

Excess/surplus lines insurance and reports required from brokers

Section 1: Circulation of risk

- (A) All excess/surplus lines brokers, prior to placing any insurance of this kind, must offer the risk to be placed using the form designed by the Office of the Commissioner of Insurance for this purpose. The excess/surplus lines broker will make such offer using the risk circulation center to be established and administered for this purpose by the Office of the Commissioner of Insurance.
- (B) It will be deemed that the excess/surplus lines broker has failed to comply with the obligation to offer the risk for placement if not all of the information requested in the above-mentioned form is provided or if the information provided is incorrect, ambiguous, vague, or does not allow the insurers among which the risk will be circulated to make an adequate evaluation of the risk.
- (C) In administering the risk circulation center the Commissioner of Insurance shall have the obligation to:
 - (1) Circulate risk among at least five authorized insurers or their authorized representatives in Puerto Rico.
 - (2) Use insurers that normally write the kind of insurance for the kind of risk that is going to be circulated.
 - (3) Alternate circulation among the greatest number possible of authorized insurers to prevent circulation being restricted to a limited number of insurers.

Dossier 5358, December 26, 1995

Section 2: Placement of risk

Excess/surplus lines brokers may not place any risk as excess/surplus lines insurance until such has been rejected by the insurers among whom the risk was circulated. The excess/surplus lines broker may consider that the risk is rejected if an answer is not received from such insurers within five (5) business days from the date on which the risk circulation center received the circulation form.

Dossier 5265, July 3, 1995

Section 3: Filing form and paying premium tax

- (A) Excess/surplus lines brokers will file the report and pay the premium tax on excess/surplus lines required respectively in Sections 10.080 and 10.130 of the Insurance Code, 26 L.P.R.A. Secs. 1008 and 1013, on the form designed by the Office of the Commissioner of Insurance, using the following procedures:
 - (1) Filing the report and paying the tax for each excess/surplus coverage within sixty (60) days, to be counted from the earlier between the date of the policy or the binder and the date the excess/surplus coverage is confirmed, or
 - (2) Filing an annual report within sixty (60) days of the last day of the year preceding the filing of the report. This report will include payment of the premium tax for all excess/surplus coverage during that calendar year.
- (B) Before using any procedure excess/surplus lines brokers will inform the Insurance Commissioner the method chosen to file the report and pay the premium tax set forth in subsection (A) of this Section.
- (C) If the excess/surplus lines broker should choose to file the report and pay the premium tax [or submit] a financial guarantee bond or certificate of deposit assigned in trust to the Secretary of the Treasury of Puerto Rico, to guarantee timely payment of such tax, the security required herein, whether the bond or the certificate shall be equivalent to 10% of the total premium of the excess/surplus lines insurance during the previous calendar year, but never less than twenty five thousand (25,000) dollars.
- If a bond is posted, it shall be previously approved by the Commissioner of Insurance, be obtained from surety authorized in Puerto Rico, and not be subject to cancellation, unless prior written notice of the cancellation is submitted to the Commissioner of Insurance at least sixty (60) days in advance of such cancellation. This financial guarantee bond will be separate from the bond required of the excess/surplus lines broker under section 10.110(3) of the Puerto Rico Insurance Code, 26 L.P.R.A. sec. 1011(3). If a certificate of deposit is submitted, it shall be issued by a commercial bank authorized to do business in Puerto Rico.

Dossier 5265, July 3, 1995

Section 4: Renewal of excess/surplus lines insurance

The procedure set forth in Section 1 of this Rule will be used for the renewal of excess/surplus lines insurance.

Dossier 5265, July 3, 1995

Section 5: Annual report

(a) Within sixty (60) days of the end of each calendar year all excess/surplus lines brokers will file a loss report as required in Section 10.140(3) of the Puerto Rico Insurance Code, 26 L.P.R.A. sec. 1014(3), using the forms designed by the Insurance Commissioner for this purpose. If there have not been any transactions, a report will be filed to that effect.

Dossier 5265, July 3, 1995

Section 6: Penalties

If the excess/surplus lines broker fails to comply with the procedure established in this Rule for the circulation of risk, the Commissioner of Insurance, in addition to any other penalty provided for in the Puerto Rico Insurance Code, will suspend the excess/surplus lines broker license.

Dossier 5265, July 3, 1995

Section 7: Ruling of unconstitutionality or illegality.

Ruling of unconstitutionality or illegality.

Dossier 5265, July 3, 1995