Comment One: A comparison of surplus lines premium tax through the comparison of premium reported by surplus lines carriers on the NAIC Schedule T to the premium reported and taxes remitted by surplus lines brokers will not result in an accurate or conclusive reconciliation.

Examples: **Exhibit I** illustrates that comparing broker tax reports to carrier premium reports will often not reconcile based on a variety of factors that we outlined in our October 4, 2019 comment letter (**Attachment A**), the most common of which include:

- **Fees**. Additional fees and costs beyond the carrier's base premium are reported by the broker only and will not be reflected in the premium reported by a carrier. Some states require that surplus lines premium tax be paid on these fees as well, such that the tax base for the broker will be different than the premium reported by the carrier. Broker fee reporting is denoted by line 5 of **Exhibit I**.
- **Non-taxable premium**. Not all premium is taxable in some states. For example, it is not unusual for certain risks, such as inland marine, boiler & machinery, native lands and interstate commerce related railways, to be exempt from taxation. These are risks that carriers would report as premium but would not be reflected in broker tax filings, further distinguishing the carrier's premium base from the broker's tax base and skewing any reconciliation thereof. Non-taxable premium is denoted in line 3 of **Exhibit I**.
- **Home state**. It is the statutory responsibility of the surplus lines licensee to determine and report the home state of the insured, and a carrier may not always underwrite and report premium based on the same determination factors. Most carrier underwriting and reporting systems are designed based upon the physical location of the risk and underwriting requirements in those particular physical locations or states, such that carrier reporting by home state will require significant system and process changes. Such changes seem unwarranted when their purpose will not achieve the intended result for the reasons described herein. Brokers determine the home state of the insured for multi-state policies, which is denoted in line 1 of **Exhibit I**, whereas the carriers allocate and report premium based on the location of the risk as denoted in lines 1 and 2.
- **Return premium, midterm endorsements and cancellations**. Policies can change throughout the year and the original premium reported by a carrier may differ based on the broker reporting period for these factors. This is very common and another key reason why reconciliation will be ineffective. Return premium and the discrepancy in reporting timeframes between the broker and the carrier are denoted in lines 6 and 7 of **Exhibit I**.

In addition to those variables illustrated in **Exhibit I**, the following factors could also provide discrepancies between broker and carrier reporting:

- **Independent Procurement**. Some states exempt taxation or have a different tax requirement or structure if a consumer is allowed to procure policies without an insurance producer. These premiums are reported by carriers but there would be no record of the transaction from a broker to cross reference. Again, these would skew any reconciliation results.
- **Reporting**. States have different reporting and payment dates for surplus lines brokers, whereas all surplus lines carriers report their quarterly and annual premium at the same NAIC-required intervals.

Conclusion: **Exhibit I** illustrates known variances based on the difference in how surplus lines carriers report premium and how surplus lines brokers report and remit taxes. These differences are based on each parties' regulatory responsibilities as well as underwriting standards and industry protocols. Even though both brokers and carriers each report premium, there are differences between the premium received and reported by the carrier in its Annual Statement and the premium (or tax basis) and related taxes collected and reported by the surplus lines broker. Carriers must establish premium based on the underwriting characteristics of the entire risk, which may be in many locations,

and only a small portion may be in the insured's home state. However, the broker must determine the home state of the insured (i.e., where the premium tax is to be paid). The basis upon which the broker must calculate and remit tax to the state is different from the premium reported by the carrier for the reasons illustrated in **Exhibit I**. Therefore, if carriers reported premium data based upon the "home state," the carrier and broker reports would still not be an "apples to apples" comparison. Conducting a reconciliation based on two irreconcilable bases will result in significant administrative investments by regulators, carriers and brokers. As is illustrated in **Exhibit II**, such administrative investments are unwarranted when there is no apparent gap in tax revenues nationwide.

The known variances illustrated in **Exhibit I** are for one surplus lines insurance policy. Should a state try to reconcile the total difference between carrier and broker reported premium, the illustration would grow much more complex as you factor in the volume of surplus lines policies with such variances. Add to that the number of surplus lines brokers and surplus lines carriers doing business in each state, parties for which there is no one-to-one direct reporting within the Annual Statement, and the reconciliation grows more complex. Our concern is that regulators will not know if the reconciling variance is one policy, thousands of policies, one broker and carrier, or multiple brokers and carriers. In fact, we anticipate the known variances to apply to a high volume of policies and nearly all brokers and carriers, which makes the reconciliation process administratively unworkable.

While we understand the motivation for states to seek a reconciliation method, we are concerned that the proposal installs sweeping changes that will lead to a lengthy reconciliation process for a relatively small number of jurisdictions. States with surplus lines stamping offices that serve as intermediaries between surplus lines brokers and state tax collection entities have more certainty that all necessary surplus lines tax revenues are being collected. These states collectively represent 64% of all surplus lines premium written in the U.S. in 2018 according to the NAIC Insurance Department Resources Report.

Finally, we do not believe that changing the carrier's Schedule T reporting basis will result in a starting point for states. Rather, the proposal will facilitate significant work and cost to reconcile valid differences in carrier and broker reporting. It facilitates an extensive and costly process, impacting all parties with no benefit or gain in the end.

Scenario A (Policy fees are not taxable)
4% Tax

Policy Attributes		Broker Report in 2019		Totals	Carrier Report in 2019		Totals
Taxable premium located in home state	$ 1,000,000	1)	Taxable premium reported to home state	$ 1,011,000	1)	Premium credited to home state in Schedule T[1]	$ 970,554
Taxable premium located outside home state	11,000	2)	Taxable premium reported to other states	-	2)	Premium credited to other states in Schedule T[1]	10,676
Tax-exempt premium	10,200	3)	Tax-exempt premium	-	3)	Tax-exempt premium (allocated above)	-
Endorsement premium (taxable in 2020)[2]	10,030	4)	Endorsement premium (taxable in 2020)[2]	-	4)	Endorsement premium (allocated above)[2]	-
Policy fees	10,004	5)	Policy fees	-	5)	Policy fees	-
Return 2018 premium[3]	(100,000)	6)	Return 2018 premium[3]	(100,000)	6)	Return 2018 premium[3]	-
Return 2019 premium[4]	(50,000)	7)	Return 2019 premium[4]	-	7)	Return 2019 premium (allocated above)[4]	-
		8)	Broker's tax basis reported to home state	$ 911,000	8)	Total premium reported in Schedule T	$ 981,230
		9)	4% Tax on premium only	$ 36,440			

Scenario B (Policy fees are taxable)
4% Tax

Policy Attributes		Broker Report in 2019		Totals	Carrier Report in 2019		Totals
Taxable premium located in home state	$ 1,000,000	1)	Taxable premium reported to home state	$ 1,011,000	1)	Premium credited to home state in Schedule T[1]	$ 970,554
Taxable premium located outside home state	11,000	2)	Taxable premium reported to other states	-	2)	Premium credited to other states in Schedule T[1]	10,676
Tax-exempt premium	10,200	3)	Tax-exempt premium	-	3)	Tax-exempt premium (allocated above)	-
Endorsement premium (taxable in 2020)[2]	10,030	4)	Endorsement premium (taxable in 2020)[2]	-	4)	Endorsement premium (allocated above)[2]	-
Policy fees	10,004	5)	Policy fees	10,004	5)	Policy fees	-
Return 2018 premium[3]	(100,000)	6)	Return 2018 premium[3]	(100,000)	6)	Return 2018 premium[3]	-
Return 2019 premium[4]	(50,000)	7)	Return 2019 premium[4]	-	7)	Return 2019 premium (allocated above)[4]	-
		8)	Broker's tax basis reported to home state	$ 921,004	8)	Total premium reported in Schedule T	$ 981,230
		9)	4% Tax on premium and policy fees	$ 36,840			

[1] In this example, the carrier will credit $970,554 of premium to the home state and $10,676 of premium to other states within its 2019 Schedule T. This is based upon the allocation of taxable, tax-exempt, endorsement and return premium proportionately between the home state and other states in which the risk physically located.

[2] If policy is endorsed and premium is paid in 2019, premium may be reported by the carrier in 2019 but not reported by the broker until tax is due in 2020.

[3] If a policy is cancelled in 2018, premium will be returned to the consumer by the broker. However, the carrier and broker may report returned premium in different quarters or calendar years.

[4] If a policy is cancelled in 2019, premium will be returned to the consumer by the broker. Again, the timing of carrier and broker reporting may vary.

Comment Two: Comparing carrier premium reporting within Schedule T to broker premium and tax reports will not result in substantial changes to surplus lines tax revenues for any of the states.

Example: Comparing surplus lines tax revenue data from Business Insurance (collected annually through a survey of state regulators and stamping offices) with NAIC Insurance Department Resource Report (IDRR) data (collected primarily from NAIC Schedule T filings) indicates miniscule variances in surplus lines taxes collected – variances which are expected as illustrated in **Exhibit I**. To illustrate this, WSIA has:

1. Estimated the tax revenue for each state based upon IDRR data from 2016 to 2018, based simply upon IDRR premium as collected predominately from all carriers' Schedule T reporting multiplied by the applicable surplus lines tax rate in each state;
2. Calculated any variance between the tax estimated in item 1 above and the tax collected according to the Business Insurance survey; and
3. Calculated the 3-year average of the variances identified in item 2 above from 2016 to 2018.

From 2016 – 2018, the Business Insurance tax revenue lagged our estimated tax revenue by an average of 1.96%. However, Florida is the only state remaining to collect surplus lines taxes at rates based upon where the risk is located, rather than 100% at their 5% rate, which lowers Florida's effective tax rate and has a fairly significant impact on the 3-year average given the size of the Florida surplus lines market. Excluding Florida illustrates actual tax revenue lagged expected revenue by only $3.7 million, or 0.22% when averaged for 2016-2018.

3-Year Average
2016 - 2018

	Tax Rate	Variance	% Variance	WSIA Estimated Revenue	NAIC IDRR Premium	BI Tax Collected
TOTALS		$ (32,478,577)		$ 1,689,797,891	$ 43,035,404,358	$ 1,657,319,314
As % of BI Tax Collected		-1.960%				
TOTALS less Florida		$ (3,695,548)				
As % of BI Tax Collected		-0.223%				
AVERAGE	3.569%	$ (662,828)	-1.972%	$ 34,485,671	$ 878,273,558	$ 33,822,843
MEDIAN	3.000%	$ (155,369)	-0.627%	$ 14,904,089	$ 397,046,347	$ 13,748,598
MAX	6.000%	$ 9,661,818	30.061%	$ 269,314,194	$ 7,339,041,013	$ 269,133,529
MIN	1.000%	$ (28,783,029)	-22.077%	$ 1,611,388	$ 62,443,173	$ 1,624,719

See **Exhibit II** for complete detail by state and by year.

Conclusion: Taxes collected nationwide are falling within 0.22% of WSIA's estimate of surplus lines taxes by state. Because WSIA's estimated revenue is based solely on carrier reported premium, the miniscule variances can be explained by the premium reporting and tax remittance responsibilities between surplus lines brokers and carriers described in **Exhibit I** (e.g., taxation of fees, risk and premium tax exemptions, differences in the timing of broker and carrier reporting, etc.). Implementing home state premium reporting for carriers will require them to obtain additional information from the broker, with a significant and costly compliance impact that will have no demonstrable benefit. By way of example, suppose a carrier writes 8,000 policies worth $250 million in premium in a state through 300 surplus lines producers. To reconcile these figures, the state adds up the premium reported by all 300 surplus lines producers, compares the result to the carrier's Schedule T, and finds a discrepancy of $500,000. That difference could be comprised

of hundreds of variances, which are not errors but known and valid differences between carrier reporting and broker tax requirements. It's entirely possible that a lengthy reconciliation will find overpayment of premium tax requiring refunds and amended reductions to the overall tax revenue. Current data available, as summarized in **Exhibit II**, demonstrates that taxes are being accurately remitted for surplus lines premium. Therefore, before implementing an imperfect, potentially time-consuming and costly reconciliation process, we encourage the NAIC and the Surplus Lines Task Force to consider conducting similar analysis as that outlined in **Exhibit II**, to assess the reasonableness of surplus lines tax collections nationwide.

3-Year Average
2016 - 2018

	Tax Rate	Variance	% Variance	WSIA Estimated Revenue	NAIC IDRR Premium	BI Tax Collected
Alabama	6.00%	$ (3,033,887)	-7.71%	$ 37,229,478	$ 620,491,292	$ 34,195,591
Alaska	2.70%	(662,915)	-18.51%	3,519,912	130,367,127	2,856,997
Arizona	3.00%	(584,185)	-3.46%	16,454,987	548,499,582	15,870,802
Arkansas	4.00%	46,389	0.40%	9,989,898	249,747,441	10,036,287
California	3.00%	(1,051,893)	-0.51%	220,171,230	7,339,041,013	219,119,337
Colorado	3.00%	801,943	3.27%	23,948,098	798,269,933	24,750,041
Connecticut	4.00%	(1,637,097)	-7.00%	23,119,247	577,981,175	21,482,150
Delaware	3.00%	(4,536)	-0.29%	4,143,561	138,118,714	4,139,026
Dist. of Columbia	2.00%	(264,647)	-4.96%	5,662,154	283,107,716	5,397,507
Florida	5.00%	(28,783,029)	-10.79%	266,460,486	5,329,209,725	237,677,457
Georgia	4.00%	9,661,818	30.06%	38,183,300	954,582,495	47,845,118
Hawaii	4.68%	(7,665)	-0.04%	12,169,836	260,039,239	12,162,172
Idaho	1.50%	15,111	1.02%	1,620,617	108,041,132	1,635,728
Illinois	3.50%	3,688	0.01%	52,264,965	1,493,284,723	52,268,653
Indiana	2.50%	(1,629,013)	-8.24%	15,298,142	611,925,683	13,669,129
Iowa	1.00%	203,055	7.07%	2,823,203	282,320,338	3,026,258
Kansas	6.00%	(25,075)	-0.18%	13,773,674	229,561,226	13,748,598
Kentucky	3.00%	(805,849)	-10.90%	7,048,006	234,933,540	6,242,158
Louisiana	4.85%	1,488,839	2.16%	68,058,596	1,403,270,012	69,547,435
Maine	3.00%	(155,369)	-5.11%	3,040,756	101,358,532	2,885,387
Maryland	3.00%	195,526	1.61%	15,357,193	511,906,437	15,552,719
Massachusetts	4.00%	(3,065,109)	-7.51%	41,996,352	1,049,908,798	38,931,243
Michigan	2.00%					
Minnesota	3.00%	551,063	3.55%	14,904,089	496,802,953	15,455,151
Mississippi	4.00%	234,780	1.58%	15,881,854	397,046,347	16,116,633
Missouri	5.00%	(1,185,279)	-3.48%	33,517,236	670,344,717	32,331,957
Montana	2.75%	(337,407)	-10.98%	3,078,874	111,959,049	2,741,467
Nebraska	3.00%	94,428	2.04%	4,811,621	160,387,352	4,906,049
Nevada	3.50%	(142,854)	-1.20%	11,410,872	326,024,921	11,268,018
New Hampshire	3.00%	26,399	0.16%	3,431,359	114,378,631	3,457,758
New Jersey	5.00%					
New Mexico	3.00%	(251,546)	-6.49%	3,982,939	132,632,004	3,731,393
New York	3.60%	657,215	0.47%	143,232,904	3,978,691,765	143,890,118
North Carolina	5.00%	(1,663,938)	-4.64%	36,711,053	734,221,065	35,047,116
North Dakota	1.75%	(26,051)	-1.48%	1,889,748	107,985,576	1,863,697
Ohio	5.00%	(467,266)	-1.26%	40,164,050	803,281,009	39,696,785
Oklahoma	6.00%	(1,669,132)	-4.79%	34,313,732	571,895,527	32,644,599
Oregon	2.30%	196,972	2.56%	8,359,576	363,459,828	8,556,548
Pennsylvania	3.00%	527,871	1.45%	36,328,973	1,210,965,760	36,856,843
Rhode Island	4.00%	(761,156)	-12.26%	6,361,871	159,046,781	5,600,715
South Carolina	6.00%	(279,007)	-0.63%	40,563,094	676,051,575	40,284,088
South Dakota	2.50%	13,331	0.98%	1,611,388	64,455,521	1,624,719
Tennessee	5.00%	2,688,892	9.08%	30,506,854	610,137,080	33,195,746
Texas	4.85%	(180,665)	-0.06%	269,314,194	5,552,869,979	269,133,529
Utah	4.25%	(594,546)	-5.51%	11,651,476	274,152,373	11,056,930
Vermont	3.00%	(459,004)	-22.08%	2,099,503	69,983,433	1,640,499
Virginia	2.25%	(499,874)	-2.76%	17,275,881	767,816,940	16,776,007
Washington	2.00%	1,202,069	9.97%	17,211,952	860,597,603	18,414,021
West Virginia	4.55%	(518,536)	-9.54%	5,640,783	123,973,248	5,122,247
Wisconsin	3.00%	(358,713)	-2.85%	11,335,028	377,834,277	10,976,315
Wyoming	3.00%	17,279	1.15%	1,873,295	62,443,173	1,890,574
Totals		$ (32,478,577)		$ 1,689,797,891	$ 43,035,404,358	$ 1,657,319,314
		-1.96%				

Florida	(28,783,029)
Totals Less Florida	$ (3,695,548)
As % of BI Tax Collected	-0.223%

Comment Three: Surplus lines tax revenue is increasing at a higher rate than surplus lines premium growth.

Example: Since 2010, when the Nonadmitted and Reinsurance Reform Act (NRRA) was enacted, average annual tax revenue per state has increased by 7.67%. During this time period, five states (Delaware, Oregon, South Carolina, Tennessee and West Virginia) increased their tax rates and one state (Louisiana) lowered their rate. When these six states are removed from the data, there is no significant change to an annual increase in revenue per state, which reduces the total just slightly to 7.45%. According to NAIC Insurance Department Resource Reports data, surplus lines premium grew by only 6.57% annually during the same time period and only 6.46% when the same six states are removed.

	Average Tax Revenue Change Since 2010	Tax Revenue Change Since 2010	Average Premium Change Per Year Since 2010	Premium Change Since 2010
Average	7.67%	88.34%	6.57%	61.35%
Average Less States with Tax Changes Since 2020	7.45%	83.24%	6.46%	61.69%

See **Exhibit III** for complete detail by state.

Conclusion: Surplus lines tax collection has significantly improved as a result of the clarity brought about by the passage of the NRRA in 2010. The intent of the NRRA was to simplify the taxation and regulation of the surplus lines transaction. This change has led to significant improvements for the states and the industry clarifying the brokers' ability to clearly assign a "home state" to each surplus lines transaction. **Exhibit III** helps us conclude the tax revenue is growing at a faster rate than premium, which further suggests the need for some level of analysis on an annual basis, for purposes of assessing the reasonableness of surplus lines tax collections nationwide, before implementing an imperfect and potentially time-consuming and costly reconciliation process given the known causes of the variances that will exist between surplus lines broker and carrier premium reporting.

	Change in Tax Rate Since 2010	IDRR Provided by NAIC?	Broker fees Taxable?	Tax Rate	Average Tax Revenue Change Since 2010	Tax Revenue Change Since 2010	Average Premium Change Per Year Since 2010	Premium Change Since 2010
Alabama	0%	Alien	Yes	6.00%	3.18%	46.10%	5.86%	55.78%
Alaska	0%	Yes	No	2.70%	2.05%	18.55%	2.13%	16.56%
Arizona	0%	No	Yes	3.00%	4.12%	56.28%	7.24%	73.43%
Arkansas	0%	Yes	Yes	4.00%	2.70%	41.95%	2.86%	19.97%
California	0%	Yes	Yes	3.00%	7.22%	116.33%	9.03%	98.81%
Colorado	0%	No	Yes	3.00%	8.43%	99.60%	8.16%	85.58%
Connecticut	0%	Alien	No	4.00%	8.06%	92.34%	6.37%	62.75%
Delaware	1%	No	Yes	3.00%	20.87%	322.50%	23.57%	160.59%
Dist. of Columbia	0%	Yes	Yes	2.00%	9.95%	96.64%	4.87%	37.03%
Florida	0%	No	Yes	5.00%	4.13%	47.66%	3.06%	20.03%
Georgia	0%	Yes	Yes	4.00%	6.59%	83.84%	10.38%	91.81%
Hawaii	0%	No	No	4.68%	2.42%	22.58%	2.97%	23.74%
Idaho	0%	Yes	Yes	1.50%	1.28%	75.30%	7.80%	77.61%
Illinois	0%	No	No	3.50%	5.53%	66.22%	5.69%	54.39%
Indiana	0%	Yes	Yes	2.50%	8.11%	57.15%	6.97%	55.13%
Iowa	0%	Yes	Yes	1.00%	9.04%	120.76%	7.67%	78.59%
Kansas	0%	Yes	Yes	6.00%	3.61%	62.65%	7.41%	66.49%
Kentucky	0%	Domestic	Yes	3.00%	5.98%	67.02%	6.77%	63.34%
Louisiana	-0.15%	Alien	Yes	4.85%	1.36%	14.29%	1.79%	13.95%
Maine	0%	Yes	Yes	3.00%	7.25%	73.59%	7.16%	72.44%
Maryland	0%	Yes	No	3.00%	5.56%	72.66%	6.62%	64.61%
Massachusetts	0%	Alien	No	4.00%	7.21%	91.23%	7.12%	72.40%
Michigan	0%	Yes	No	2.00%	-1.34%			
Minnesota	0%	Yes	Yes	3.00%	9.02%	82.39%	6.21%	59.41%
Mississippi	0%	Yes	Yes	4.00%	1.63%	19.89%	3.42%	30.09%
Missouri	0%	Yes	Yes	5.00%	4.96%	53.37%	5.12%	48.08%
Montana	0%	Yes	No	2.75%	4.83%	43.37%	9.85%	110.89%
Nebraska	0%	Yes	No	3.00%	3.92%	58.81%	6.95%	68.20%
Nevada	0%	No	Yes	3.50%	6.13%	83.97%	8.60%	87.96%
New Hampshire	0%	Yes	No	3.00%	13.24%	114.71%	7.44%	61.50%
New Jersey	0%	No	No	5.00%	11.27%			
New Mexico	0%	Yes	Yes	3.00%	4.01%	61.98%	7.38%	72.33%
New York	0%	No	Yes	3.60%	11.53%	117.25%	8.36%	88.52%
North Carolina	0%	Alien	No	5.00%	6.16%	52.64%	5.23%	44.55%
North Dakota	0%	No	Yes	1.75%	10.46%	113.10%	14.28%	150.60%
Ohio	0%	Alien	No	5.00%	7.02%	68.55%	5.70%	54.69%
Oklahoma	0%	Yes	Yes	6.00%	8.22%	79.47%	7.65%	74.69%
Oregon	0.3%	Yes	Yes	2.30%	6.44%	94.60%	7.21%	72.36%
Pennsylvania	0%	Yes	No	3.00%	4.87%	47.08%	5.33%	50.70%
Rhode Island	0%	Yes	No	4.00%	62.49%	587.95%	6.12%	57.35%
South Carolina	2%	Yes	Yes	6.00%	10.31%	112.72%	5.87%	55.83%
South Dakota	0%	No	Yes	2.50%	10.42%	85.40%	8.36%	82.95%
Tennessee	2.5%	Yes	Yes	5.00%	13.87%	171.99%	3.76%	33.22%
Texas	0%	No	Yes	4.85%	6.87%	82.95%	5.25%	46.73%
Utah	0%	Yes	Yes	4.25%	8.81%	109.74%	9.36%	102.59%
Vermont	0%	Yes	No	3.00%	10.85%	94.89%	1.42%	10.38%
Virginia	0%	No	Yes	2.25%	5.14%	51.92%	4.83%	40.95%
Washington	0%	Yes	Yes	2.00%	6.94%	95.73%	8.89%	79.74%
West Virginia	0.55%	Alien	Yes	4.55%	2.92%	33.22%	2.32%	17.43%
Wisconsin	0%	Yes*	Yes	3.00%	4.41%	48.96%	5.29%	38.21%
Wyoming	0%	Yes	Yes	3.00%	0.90%	16.77%	0.41%	1.17%
State Stamping Offices								
AVERAGE				3.569%	7.67%	88.340%	6.57%	61.35%
MEDIAN				3.000%				
MAX				6.000%				
MIN				1.000%				
Average Less States with Tax Changes Since 2010					7.45%		6.46%	

October 4, 2019

The Honorable James J. Donelon
Chair, Surplus Lines (C) Task Force
National Association of Insurance Commissioners
1100 Walnut Street
Kansas City, MO 64106

Sent via email to: adaleo@naic.org

Re: Surplus Lines Premium Home State Blanks Proposal

Dear Commissioner Donelon:

On behalf of the Wholesale & Specialty Insurance Association (WSIA), we appreciate the opportunity to comment on the Task Force's proposal to include "home state" reporting of surplus lines premium through Schedule T on domestic carriers' Annual Statement filings. As the professional trade association representing the wholesale, specialty and surplus lines industry, WSIA is unique in that we represent both surplus lines brokers and surplus lines carriers. Although this proposal is directed at the reporting of premium by insurance carriers, it will impact both carriers and brokers such that we have worked with various representatives of both to conduct our analysis of the proposal and provide these comments.

Our members fully understand the motivation for this proposal is to help individual states reconcile surplus lines premium reported by surplus lines carriers to surplus lines taxes remitted by surplus lines brokers. They also understand and take seriously their surplus lines tax obligations; however, we are concerned that the proposed premium reporting changes will not yield the desired results. We are further concerned that an imperfect reconciliation process will require a significant investment of financial and human resources for all parties (i.e., carriers, brokers and regulators) and will result in no substantial change in surplus lines revenues for any of the states.

Reconciliation of surplus lines premium tax through the comparison of premium reported by surplus lines carriers to the surplus lines taxes remitted by surplus lines brokers will not result in an accurate or appropriate outcome for the regulators. Some of the most significant reasons that this approach to reconciliation will not produce accurate results are:

- **Fees.** Additional fees and costs beyond the carrier's base premium are reported by the broker only and will not be reflected in the premium reported by a carrier. Some states require that surplus lines premium tax be paid on these fees as well, such that the tax base for the broker will be different than the premium reported by the carrier.

- **Non-taxable premium.** Not all premium is taxable in some states. For example, it is not unusual for certain risks, such as inland marine, boiler & machinery, native lands and interstate commerce related railways, to be exempt from taxation. These are risks that carriers would report as premium but would

not be reflected in broker tax filings, further distinguishing the carrier's premium base from the broker's tax base and skewing any reconciliation thereof.

- **Independent Procurement.** Some states exempt taxation or have a different tax requirement or structure if a consumer is allowed to procure policies without an insurance producer. These premiums are reported by carriers but there would be no record of the transaction from a broker to cross reference. Again, these would skew any reconciliation results.

- **Home state.** It is the statutory responsibility of the surplus lines licensee to determine and report the home state of the insured, and a carrier may not always underwrite and report premium based on the same determination factors. Most carrier underwriting and reporting systems are designed based upon the physical location of the risk and underwriting requirements in those particular physical locations or states, such that carrier reporting by home state will require significant system and process changes. Such changes seem unwarranted when their purpose will not achieve the intended result for the reasons described herein.

- **Return premium, midterm endorsements and cancellations.** Policies can change throughout the year and the original premium reported by a carrier may differ based on the broker reporting period for these factors. This is very common and another key reason why reconciliation will be ineffective.

- **Reporting.** States have different reporting and payment dates for surplus lines brokers, whereas all surplus lines carriers report their annual premium at the same time each year (March 1) for the prior calendar year.

Based on these particular examples, we know that reconciliation is not a simple undertaking for any of the impacted parties (i.e., regulators, carriers or brokers). The above factors illustrate how difficult, if not impossible, it is to get an "apples to apples" accounting to effectively reconcile surplus lines premium taxes remitted by brokers to surplus lines premium reported by carriers. Attempts at reconciliation between broker and carrier data in the past on a state-by-state basis have rarely resulted in additional tax owed.

Finally, compliance with this proposal will have a significant impact on certain carriers. For some carriers, this change may be easier to implement because they generally write single state policies or monoline business. This could also be true for larger carriers writing personal lines or casualty risks where multistate policies are less common. However, this proposal gets much more complex and potentially costly, from a systems and administration perspective, when the surplus lines products are more complex and cover risks across many state lines. Regardless of the size of the carrier, all will be required to invest in technology changes to capture this information to comply with the proposal.

In closing, states should continue to rely on broker filings, with brokers remitting surplus lines taxes on 100% of the premium to the home state of the insured at the home state's tax rate. While we understand that states desire an easy reconciliation, we are concerned that implementing this Schedule T proposal will not yield the desired results. Before the states decide to move forward with a reconciliation approach, we encourage a more detailed discussion with the carriers and brokers regarding any underlying state concerns. We further suggest discussing reconciliation efforts with representatives from the fifteen Stamping Offices because of their significant experience in this area, either in performing reconciliations or electing not to because of their experiences. We want to work with the states to better understand any concerns and/or help identify the right solution, and, for all of the above factors, we respectfully request that the Task Force table this proposal and further study it with the industry's help.

We appreciate the opportunity to work with our members and provide their perspective on this proposal. Please contact us with questions of if you need any additional information.

Sincerely,

Keri Kish
Director of Government Relations
816.799.0855

Brady R. Kelley
Executive Director
816.799.0860

John Meetz
State Relations Manager
816.799.0863