

insurer domiciled outside the United States that is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the NAIC.

(Pub. L. 111-203, title V, § 524, July 21, 2010, 124 Stat. 1590.)

§ 8205. Streamlined application for commercial purchasers

A surplus lines broker seeking to procure or place nonadmitted insurance in a State for an exempt commercial purchaser shall not be required to satisfy any State requirement to make a due diligence search to determine whether the full amount or type of insurance sought by such exempt commercial purchaser can be obtained from admitted insurers if—

- (1) the broker procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and
- (2) the exempt commercial purchaser has subsequently requested in writing the broker to procure or place such insurance from a non-admitted insurer.

(Pub. L. 111-203, title V, § 525, July 21, 2010, 124 Stat. 1591.)

§ 8206. Definitions

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

(1) Admitted insurer

The term “admitted insurer” means, with respect to a State, an insurer licensed to engage in the business of insurance in such State.

(2) Affiliate

The term “affiliate” means, with respect to an insured, any entity that controls, is controlled by, or is under common control with the insured.

(3) Affiliated group

The term “affiliated group” means any group of entities that are all affiliated.

(4) Control

An entity has “control” over another entity if—

- (A) the entity directly or indirectly or acting through 1 or more other persons owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the other entity; or
- (B) the entity controls in any manner the election of a majority of the directors or trustees of the other entity.

(5) Exempt commercial purchaser

The term “exempt commercial purchaser” means any person purchasing commercial insurance that, at the time of placement, meets the following requirements:

- (A) The person employs or retains a qualified risk manager to negotiate insurance coverage.
- (B) The person has paid aggregate nationwide commercial property and casualty in-

surance premiums in excess of \$100,000 in the immediately preceding 12 months.

(C)(i) The person meets at least 1 of the following criteria:

(I) The person possesses a net worth in excess of \$20,000,000, as such amount is adjusted pursuant to clause (ii).

(II) The person generates annual revenues in excess of \$50,000,000, as such amount is adjusted pursuant to clause (ii).

(III) The person employs more than 500 full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than 1,000 employees in the aggregate.

(IV) The person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least \$30,000,000, as such amount is adjusted pursuant to clause (ii).

(V) The person is a municipality with a population in excess of 50,000 persons.

(ii) Effective on the fifth January 1 occurring after July 21, 2010, and each fifth January 1 occurring thereafter, the amounts in subclauses (I), (II), and (IV) of clause (i) shall be adjusted to reflect the percentage change for such 5-year period in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(6) Home State

(A) In general

Except as provided in subparagraph (B), the term “home State” means, with respect to an insured—

(i) the State in which an insured maintains its principal place of business or, in the case of an individual, the individual’s principal residence; or

(ii) if 100 percent of the insured risk is located out of the State referred to in clause (i), the State to which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated.

(B) Affiliated groups

If more than 1 insured from an affiliated group are named insureds on a single non-admitted insurance contract, the term “home State” means the home State, as determined pursuant to subparagraph (A), of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.

(7) Independently procured insurance

The term “independently procured insurance” means insurance procured directly by an insured from a nonadmitted insurer.

(8) NAIC

The term “NAIC” means the National Association of Insurance Commissioners or any successor entity.

(9) Nonadmitted insurance

The term “nonadmitted insurance” means any property and casualty insurance permitted to be placed directly or through a sur-