

REQUIRED STATE DISCLOSURE LANGUAGE: WHAT DOES IT MEAN?



Seeing the words “not licensed”, “insolvency” and “payment of claims may not be guaranteed” on an insurance policy can, understandably, cause concern with insureds, especially those with little to no experience with the excess and surplus (E&S) marketplace.

Let’s take a closer look at required disclosure wording used on surplus lines policies so when your insureds have questions, you can put them at ease.

“This insurance has been placed with an insurer that is not licensed as an admitted carrier by the State of Michigan.”

Wording on a policy that references an unlicensed carrier means that the policy was issued by a non-admitted insurance company. A non-admitted insurance company is not licensed in the state where the risk or insured is domiciled and does not file rates in that state. “Not licensed as an admitted carrier” does not mean unregulated. Each insurer must meet certain criteria to be an eligible non-admitted market, including regulations for solvency. It does mean that the carrier has the ability to set their own rates for the classes of business they write, leading to the flexibility in rate and form that is a key differentiator in the E&S marketplace.

“In case of insolvency, payment of claims may not be guaranteed.”

This means that the state fund will not compensate a qualified insured if the carrier goes bankrupt and cannot pay claims. While this seems intimidating on the surface, there is not a substantial difference in the risk to an insured. In fact, while the surplus lines market more than doubled between 1993 and 2013, their ratings and impairment experience has remained above average. According to A.M. Best’s 2014 “Best’s Special Report”:

- Surplus lines companies in 1994 held a higher median A.M. Best financial strength rating than the total property and casualty (P&C) industry – 85.4% of surplus lines companies had secure ratings (defined as an A.M. Best rating from B+ to A++), compared to 74.2% for the industry. Through mid-year 2014, 100% of surplus lines companies maintained secure ratings versus 94.8% for the P&C industry.
- Almost 97% of surplus lines insurers have A.M. Best ratings of A- or higher, compared with 77% for the total P&C industry
- Financial impairments in the U.S. admitted P&C industry in 2013 plunged to their lowest level since 2007. Year over year, impairments were down 26.5% for 2012 and 44% for 2013. For the surplus lines market, 2013 marked the 10th consecutive year without a financial impairment.
- The causes and characteristics of financial impairments have remained generally consistent for both surplus lines and the admitted P&C industry:
 - Accounting for the largest portion of impairments among surplus lines and admitted companies were the related categories of deficient loss reserves/inadequate pricing and rapid growth. When combined, these two categories accounted for 38% of surplus lines impairments and 58.5% of admitted P&C company impairments.
 - The second-highest cause of surplus lines impairment has been affiliate problems, at 20%, vs. 7.7% for admitted P&C companies. Some surplus lines companies became impaired when their parent companies, which were engaged primarily in the admitted market, were declared insolvent. The surplus lines failures of the past also highlight the extent to which poorly managed program operations of a parent company can impact its surplus lines affiliates.

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CONTACT

To learn more about how AmWINS can help you place coverage for your clients, reach out to your local AmWINS broker or marketing@amwins.com.

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It's important to note that the guarantee funds ability/authority to pay claims in case of an admitted carrier insolvency is typically very limited. This negates much of the perceived value of admitted over non-admitted paper. In fact, guaranty funds vary by state and can impose limitations on the collection of funds. Some of these limitations include:

- Insured with significant assets may be excluded or limited in their ability to file a claim
- Coverage does not apply to all lines of business
- Limitation on the amount of a claim payment either through a maximum cap or deductibles

Understanding your broker's protocols for placing business with non-admitted carriers is crucial. At AmWINS, our market security team reviews and approves all new markets; with few exceptions, our minimum standard is a carrier with an A- rating. However, in a case where a market is relatively new, growing quickly, or otherwise warranted, a carrier with less than an A- rating may be approved. In this situation, we ensure that our client is aware of the carriers rating prior to binding business. In the event that a carrier is downgraded, AmWINS proactively communicates with our clients and is willing to remarket the account mid-term if instructed.

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