



April 14, 2026

Stacy Bergendahl
DPFR- Bureau of Insurance
34 State House Station, Augusta, ME, 04333-0034
(207) 624-8537
Stacy.L.Bergendahl@maine.gov

Re: Follow-Up Comments on Draft proposed Rule 161 - Surplus Lines Insurers

Dear Ms. Bergendahl,

The Wholesale & Specialty Insurance Association (WSIA)¹ wishes to follow up on its written comments submitted to the Maine Bureau of Insurance on February 24, 2026 regarding proposed Rule 161. We also wish to extend our sincere apologies for our inability to participate in the public hearing on this matter. Unfortunately, we encountered unexpected technical difficulties that prevented our participation, and we regret any inconvenience that may have caused. We remain deeply engaged on this issue and appreciate the Bureau's continued openness to stakeholder input.

In reviewing this matter further, WSIA would like to draw the Bureau's attention to existing guidance in [Bulletin 378](#) from 2011. The bulletin mirrors National Association of Insurance Commissioners (NAIC) [Nonadmitted Insurance Reform Sample Bulletin](#) as an ideal framework for addressing surplus lines insurer eligibility. The NAIC's model guidance on this subject — specifically the NAIC Nonadmitted Insurance Model Act — represents well-established, nationally uniform standards that are specifically designed to satisfy the eligibility criteria established by the Nonadmitted and Reinsurance Reform Act (NRRRA), align with Maine's own statutory requirements under Chapter 19 § 2007 of the Maine Insurance Code, and ensure consistency with the regulatory approaches adopted across the majority of states. We respectfully submit that this existing NAIC guidance represents the most appropriate and legally sound basis for the Bureau's eligibility framework, and that it provides more than sufficient regulatory structure without the need for additional prescriptive requirements.

As detailed in our February 24, 2026, comment letter, WSIA respectfully urges the Bureau to adhere to the eligibility standards prescribed by the NRRRA and mirrored in Maine statute — specifically the

¹ WSIA is the U.S. professional trade association representing the wholesale and specialty insurance market and the wholesale distribution system. WSIA represents approximately 750 member firms that employ tens of thousands of individual brokers, insurance company professionals, underwriters and other insurance professionals worldwide conducting business in the U.S. surplus lines market.

requirements that a U.S.-domiciled surplus lines insurer (1) be authorized to write such insurance in its domiciliary jurisdiction and (2) maintain the requisite minimum capital and surplus. We remain concerned that several provisions of Section 3 of proposed Rule 161, including the plan of operation requirement and open-ended submission authority, exceed what is permitted under federal law and Maine statute, and risk creating undue barriers to insurer participation in Maine's surplus lines market.

WSIA is fully committed to working constructively with the Bureau on this important rulemaking. Should the Bureau have any questions regarding the positions outlined in our original letter or in this follow-up communication, we would welcome the opportunity to respond in writing or to discuss these issues further on a separate call at the Bureau's convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "John Meetz". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

John H. Meetz
Director of Government Relations
Wholesale and Specialty Insurance Association (WSIA)
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816.799.0863



February 24, 2026

Stacy Bergendahl
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34 State House Station, Augusta, ME, 04333-0034
(207) 624-8537
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Re: Draft proposed Rule 161 Surplus Lines Insurers

Dear Ms. Bergendahl,

The Wholesale & Specialty Insurance Association (WSIA)¹ appreciates the opportunity to provide comments on proposed Rule 161, which would repeal and replace Rule 160 governing surplus lines insurers when Maine is the home state of the insured risk. We thank the Bureau of Insurance for its work implementing recent statutory changes and for seeking stakeholder input.

WSIA has several concerns regarding Section 3 of the proposed rule, which establishes a new eligibility framework and formal application process for U.S.-domiciled surplus lines insurers. While we recognize the Bureau's goal of ensuring appropriate oversight, the proposed requirements appear substantially more prescriptive than those outlined in state and federal law and what is utilized in most jurisdictions. Those issues may create unintended barriers to insurer participation in the Maine surplus lines market.

State and federal statutes

WSIA appreciates that several components of proposed Rule 161, including the recognition of domiciliary licensing, capital and surplus standards, and acceptance of the NAIC International Insurers Department Quarterly Listing for non-U.S. insurers, reflect core principles of the Federal Nonadmitted and Reinsurance Reform Act (NRRRA) framework and align with prevailing national regulatory practices. Under the NRRRA, states must make eligibility determinations based upon limited objective criteria, including licensing in the insurer's domiciliary jurisdiction, minimum capital and surplus, and, for non-U.S. insurers, listing on the NAIC International Insurers Department Quarterly Listing, rather than prior review of an insurer's intended underwriting activities or business plans.

[Nonadmitted and Reinsurance Reform Act \(NRRRA\) of 2010](#)
SEC. 524. UNIFORM STANDARDS FOR SURPLUS LINES ELIGIBILITY.

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A State may not—

- (1) impose eligibility requirements on, or otherwise establish eligibility criteria for, nonadmitted insurers domiciled in a United States jurisdiction, except in conformance with such requirements and criteria in sections 5A(2) and 5C(2)(a) of the Non-Admitted Insurance Model Act², unless the State has adopted nationwide uniform requirements, forms, and procedures developed in accordance with section 521(b) of this subtitle that include alternative nationwide uniform eligibility requirements; or*
- (2) prohibit a surplus lines broker from placing nonadmitted insurance with, or procuring nonadmitted insurance from, a nonadmitted 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.*

Chapter 19 § 2007 of the Maine Insurance Code directly mirrors these requirements of the NIRA and states that:

- 3. The superintendent shall approve a United States insurer's request for eligibility if the insurer:*
 - A. Is authorized to write such insurance in its domiciliary jurisdiction; and*
 - B. Repealed. Laws [2025, c. 348, § 19, eff. Sept. 24, 2025.](#)*
 - C. Maintains capital and surplus, or its equivalent under the laws of its state of domicile, in an amount at least equal to the greater of:*
 - (1) The minimum capital and surplus that would be required if the insurer were licensed in this State; and*
 - (2) \$15,000,000.*

Because of that, we believe the mandatory provisions of proposed Rule 161 go beyond those allowed by federal law and Maine's statutes. Requirements that go beyond these standards reduce multi-state consistency and create additional barriers to entry that could ultimately limit market capacity for Maine policyholders seeking coverage for complex or hard-to-place risks.

Surplus lines insurer solvency and voluntary eligibility lists

The surplus lines market has a stellar financial reputation. AM Best, an insurance industry-focused credit rating agency that has monitored and reported on the surplus lines insurance market for over thirty years, publishes an annual report providing data and an overview of the market for those the insurance industry as well as insurance regulators and legislators (See attachment [AM Best's 2025 Market Segment Report](#)). Surplus lines insurers continue to maintain a higher proportion of secure ratings than the overall property/casualty industry. Through mid-year 2025, 100% of surplus lines companies maintained secure AM Best ratings compared to 96% for the total property/casualty industry, with surplus lines carriers having much higher proportions in the Exceptional, Superior and Excellent rating categories.

² Section 5A(2) of the [NAIC Nonadmitted Insurance Model Act](#) states that each eligible insurer must be authorized to write the type of insurance in its domiciliary jurisdiction.

Section 5C(2)(a) of the [NAIC Nonadmitted Insurance Model Act](#) states that a surplus lines licensee shall not place surplus lines insurance, unless, at the time of placement, the surplus lines licensee has determined that the insurer is eligible to write surplus lines insurance under one of the following subsections: a. For a nonadmitted insurer domiciled in another United States jurisdiction, the insurer shall have both of the following: (i) The authority to write the type of insurance in its domiciliary jurisdiction; and (ii) Capital and surplus or its equivalent under the laws of its domiciliary jurisdiction that equals the greater of: The minimum capital and surplus requirements under the law of this state; or \$15,000,000.

Notwithstanding the impeccable solvency record of the surplus lines industry, roughly 20 states maintain voluntary eligibility lists for surplus lines insurers, and some require additional criteria that goes beyond the NRRA criteria. These voluntary lists provide an additional layer of oversight beyond the eligibility standards that are permitted by the NRRA, and they may give surplus lines brokers additional assurance that they are placing business with a financially secure carrier. WSIA is supportive of states that maintain voluntary eligibility lists presuming the criteria for inclusion on the list is reasonable and relevant to the insurer's solvency.

Issues with specific criteria in proposed Rule 161

Several of the provisions listed in within Section 3(3) of the proposed rule would be significantly onerous for surplus lines insurers to comply with, are not relevant to the scrutiny of a carrier's solvency and would go far beyond existing eligibility requirements in other states, even for voluntary lists.

Section 3(3)(I) would require applicants to submit "a plan of operation describing the types of surplus lines risks the insurer proposes to write in this State." Requiring a forward-looking description of underwriting scope is uncommon and may introduce uncertainty regarding permissible business activity. Because surplus lines insurers must respond to changing market needs, a fixed description of intended risks may quickly become outdated or may inadvertently limit the insurer's ability to provide coverage for emerging or hard-to-place exposures. Additionally, this requirement could serve as an unusual form of prior market review, potentially discouraging insurers from entering Maine and reducing policyholder capacity.

WSIA is also concerned that the overall application described in Section 3(3) is extensive and may duplicate information already reviewed by domiciliary regulators or available through NAIC filings. For example, Section 3(3)(K) requires a certification signed by a senior officer that the insurer has complied with its charter and bylaws, is in sound financial condition, and that its underwriting methods are permitted by officials of the domiciliary state and approved by the insurer's directors. Insurers are already subject to comprehensive financial regulation, periodic examination, and corporate governance oversight in their domiciliary jurisdictions. Requiring additional certifications of this nature may impose administrative burden without providing meaningful additional consumer protection.

Similarly, Section 3(3)(L) would allow the Superintendent to require "such other information as the Superintendent may from time to time deem necessary and appropriate." While we understand the need for regulatory flexibility, open-ended authority of this type may create uncertainty for applicants regarding the scope of required submissions and could result in inconsistent or evolving requirements over time.

Conclusion

WSIA respectfully recommends that the Bureau reconsider imposing mandatory eligibility criteria on surplus lines carriers that goes beyond the NRRA and Maine statute. The NRRA was intended to reduce duplicative or inconsistent state requirements for nonadmitted insurance and to promote efficient interstate placement of surplus lines coverage when the state is acting as the insured's home state. If the Bureau were to consider adopting a voluntary eligibility list we would respectfully request that the

criteria be limited to factors specific to matters of solvency and exclude duplicative criteria or criteria that is already available through other means, i.e. the National Association of Insurance Commissioner.

WSIA thanks the Bureau for considering these comments and respectfully encourages further dialogue on potential approaches that would preserve strong consumer protections while promoting a competitive and effective surplus lines market. WSIA stands ready to work with the Bureau to provide additional insight and support on this issue.

Sincerely,

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