PROFESSIONAL
INSURANCE
WHOLESALERS
ASSOCIATION
OF NEW YORK STATE, INC.

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Export List Testimony

I'm Gary D. Ricker, Jr, President of the Professional Insurance Wholesalers Association of New York State Inc. (PIWA). Our organization is a not-for-profit corporation incorporated in New York. It is the only trade association whose purpose is to represent issues affecting insurance wholesalers which are mostly small businesses located throughout the state. Associate members consist of insurance carriers who use wholesalers as their method of distribution as well as vendors who provide ancillary products used to transact business. In 2007, PIWA members accounted for excess line transactions with a taxable premium of $943,517,274.

On average, we estimate that 40 percent of accounts placed through wholesalers are with admitted insurers.

As a wholesaler, our customers are the retail insurance brokers. We focus on providing access to the specialty insurance companies, finding the broadest coverage for the insured and providing our technical expertise.

The insurers that PIWA members work with are both admitted and non-admitted. Generally they only allow access through appointed wholesale producers, as they are not set up to handle the volume that working with a large number of retail producers would provide. This helps reduce their expenses and the cost of the products offered which is to the benefit of the consumer.

Of course, the retail producer's first choice is to place business directly with their standard markets. Thus, wholesalers act in a secondary role. There are many reasons for this including:

- More revenue to the producer;
- Direct control over the placement;
- No additional taxes for the insured to pay as with a non admitted placement;
- No additional paperwork with affidavits; and
- Concerns over the lack of the Guaranty Fund for non-admitted placements.

Accordingly, philosophically and in practice, the markets used by wholesalers do not compete with the standard markets. Instead, they fill a void by providing capacity or coverage to which consumers would not otherwise have access.

One of the main purposes of the export list is to reduce the complexity of the non-admitted placement process. Certain risks or coverages are not readily available to large numbers of retailer brokers through admitted carriers. We see the major advantage of expanding the export list to be the reduction in time, expense and effort of retail producers in documenting declinations for accounts that are clearly not within the risk appetite of licensed insurers.

In addition, the requirement to seek three declinations for a coverage/risk that the admitted market has limited, if any, interest in and documenting each of them means that the retailer producer must also complete an affidavit that verifies the process by completing, on average, 21 entries. As the wholesaler, before submitting the coverage for stamping, we also review the retail producer's affidavit. If they are not completed correctly they are sent back to be reissued. Regarding coverage that has so limited availability in the admitted market; this is just a time-consuming (thus costly) burdensome process for coverage which has so limited availability in the admitted market.

You will hear from other brokers and associations regarding the various classes proposed to be added to the export list, but I will focus on construction. I have been a wholesale broker my entire career of 23 years and place mostly New York construction business. From my perspective, middle market accounts (accounts under 100k in premium) are the ones that generally are difficult to place with admitted markets. There are a few direct markets, of course, that will consider artisans but they cherry pick them. Construction is a dangerous business as evidenced by the recent crane collapses in New York City. Each and every New York contractor has a Labor Law 240/241 issue; some have height exposures such as scaffolding or roofing, others just get dragged in as third-party defendants by an injured employee or an employee of another subcontractor on the job, etc. This exposure keeps the admitted carriers away from quoting contractors in New York state and more so in New York City. The standard markets generally do not favor general contractors either, as the concern is lack of control over the subcontractor employees.

On the larger accounts, many of the standard markets require the insured to buy all lines of coverage including workers compensation which may be currently insured in a New York State Safety Group offering very competitive terms. It puts the contractor at a disadvantage when they are forced to move their workers compensation that pays them a dividend and provides multiple discounts to a carrier that does not. However, we are not advocating that the insureds or their representative should move accounts from admitted carriers to non-admitted carriers, but when there are significant differences in terms and conditions it has to be given consideration. For example, a standard market may want to insure a larger contractor with a significant retention which the insured may feel they cannot bear, while a non-admitted market may be able to offer it with a smaller deductible.

Accordingly, we feel that it is in the insured's best interest for their broker to seek both admitted and non-admitted quotes so that the best terms and conditions are obtained.

Since the export list is monitored by the Department and can be changed at any time, the Department always has the authority to add or delete coverages from that list.

With this in mind, we believe it is in the public's best interest and are recommending the expansion of the export list as proposed by the Department.

In summary, it has been our experience that the coverage and risks proposed for inclusion to the export list are not readily available to the majority of retail producers from admitted insurers. As a result, to obtain the three declinations required is of no value to the insured and sometimes retailers advise their customers they are unable to assist rather than pursue the declinations. In these situations, the retail producer looses, as the growth of their business is limited. Further, and more importantly, the consumers may be forced to make decisions that may not be in their best interests.

Submitted by the Professional Insurance Wholesalers Association of New York

Gary D. Ricker Jr.

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