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BULLETIN NO. 2009-03

TO: All insurers and surplus lines brokers licensed to do business in Alabama

FROM: Jim L. Ridling
Commissioner of Insurance *JLR*

DATE: March 9, 2009

**RE: Use of OPTins electronic tax and fee filing and payment system –
temporary suspension of mandatory effect of Regulation 482-1-144**

Insurance Department Regulation 482-1-144, effective January 1, 2009, requires that insurer premium tax and surplus line broker tax returns are to be filed electronically and that tax and certain fee payments must be made with an electronic funds transfer ("EFT") through the OPTins system. The Regulation implements these requirements effective with quarterly premium tax returns due not later than May 15, 2009, and for annual returns for 2009, due not later than March 1, 2010.

The Commissioner has determined that, for the immediate future, the effect of Regulation 482-1-144 will be suspended in the sense that electronic return filing and EFT tax and fee payments through OPTins shall be voluntary, not mandatory.

Continuing until further notice:

1. The Department of Insurance expects the OPTins system to be operational and available for use in Alabama by the due date for filing second quarter returns (August 15, 2009). Until the system is operational, the Department will accept paper tax returns and payment of taxes and fees by check through the existing lock-box method, **subject to the revised receipt requirements in paragraph (4).**

2. A company's ability to use OPTins will necessitate that the company complete a set-up process through the NAIC that may take two weeks. The NAIC OPTins Help Desk is available to answer any questions and assist with implementation – optinshelp@naic.org or (816) 783-8990.

3. **When the OPTins system is operational in Alabama, the filer, at its election, may either (1) use electronic filing and payment by EFT through the OPTins system or (2) transmit paper returns and payment by check through the existing lock-box method to either:**

Postal service address
[Annual Statement/Audit and Examination Fees]
Alabama Department of Insurance
c/o Compass Bank
Post Office Box 830707
Birmingham, Alabama 35283-0707

Postal service address
[Premium tax and renewal fees]
Alabama Department of Insurance
c/o Compass Bank
Post Office Box 830691
Birmingham, Alabama 35283-0691

Courier/express address:
Alabama Department of Insurance
c/o Compass Bank
701 South 32nd Street
Birmingham, Alabama 35233

4. **To the extent a return filing and tax and fee payment are made through the lock-box method, the return and check for payment of taxes and fees must be received by Compass Bank not later than the applicable due date.** Filings and payments received after the due date, as shown by the records of Compass Bank, will be deemed untimely and the filer will be assessed the appropriate penalty.

5. **Postmarks or other evidence that the return and payment were placed in the United States mail or with a private courier or delivery service by the due date will not be accepted as a timely filing and payment.** It is the company's responsibility to see that the returns and payments are mailed or placed with a delivery service early enough to assure that filings are received on or before the due date. In instances of multiple manual filings by a company group, each company within that group should mail or send its return and payment in an envelope separate from other companies in the group in order to have proof of mailing available in the event of non-receipt of the filing and payment. Proof of a group mailing will not be accepted by the Department.

The Commissioner and the Department of Insurance strongly recommend that companies begin using the OPTins system, once it becomes operational in Alabama, to electronically submit tax forms and payments. As Regulation 482-1-144 indicates, the Department has made the decision to partner with the NAIC in the use of the OPTins tax filing program since OPTins provides immediate, secure transmission and receipt of tax reports and payments. An electronic filing and payment system eliminates or substantially reduces the trouble and expense associated with paper checks and printed forms and the cost of mailing or delivery, as well as the inherent uncertainty about timely delivery that comes with using conventional mail or courier services. Electronic filing will immediately confirm that the filing and payment has occurred.

It is likely that the mandatory effect of Regulation 482-1-144 will be reinstated at a future time, so companies should make every effort to enable compliance. Since the OPTins system employs an ACH debit payment methodology, companies that do not already have in place procedures to permit use of the ACH debit process are strongly encouraged to begin discussions with their banking institutions about adapting their account restrictions. There should be available methods to allow for specific tax and fee payments using ACH debit through a program like OPTins while continuing to maintain the security of debit-blocking on accounts.