



United States Department of Agriculture

Farm and Foreign Agricultural Services
Risk Management Agency

INFORMATIONAL MEMORANDUM COM-08-001

TO: All Reinsured Companies
All Risk Management Agency Field Offices
All Other Interested parties

FROM: Michael F. Hand /s/ *Michael F. Hand* March 17, 2008
Deputy Administrator
for Compliance

SUBJECT: Compliance Reviews of Reports of Prohibited Rebating Practices

BACKGROUND:

The Federal crop insurance program has historically held that prohibited rebating practices discourage the optimal sales and service of taxpayer subsidized risk management products and harm program integrity. On December 17, 2007, the Risk Management Agency (RMA) launched an initiative with State Departments of Insurance aimed at increased enforcement of insurance rebating prohibitions. The initiative comes in response to the growing number of recent complaints and allegations of illegal rebates tied to Federal crop insurance purchases. Examples of recent prohibited rebating schemes identified by RMA Compliance include creating special investment entities and recruiting producers as licensed sub-agents to write their own or other single policy.

The 2008 Standard Reinsurance Agreement (SRA) defines rebating as follows:

“Rebate” means a direct or indirect benefit (including money, goods or services for which payment is usually made [except any service provided to fulfill an obligation of the Company under this Agreement]) provided to an eligible producer contingent upon the purchase of an eligible crop insurance contract from the Company or its affiliate.

Rebating allegations and reports have increased dramatically since the announcement of the cooperative effort between the States and RMA to limit rebating on Federal crop insurance policies. In order to address these potential program violation reports, RMA Compliance is providing notification of a new nationwide standard rebating review and corrective action protocol.



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The Risk Management Agency Administers and Oversees
All Programs Authorized Under the Federal Crop Insurance Corporation

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ACTION:

RMA Compliance will review all reports of alleged rebating. In the course of its review, RMA Compliance will consult with the respective State insurance regulatory body to determine whether the conduct violates the State's insurance laws. It is only those State rebating laws that may conflict with the definition of "rebate" in the SRA that are preempted. Therefore, a State's determination that its rebating laws have or have not been violated may assist RMA in determining whether there has been a violation of the rebating provisions under the SRA.

Regardless of whether the State determined its rebating laws have been violated, RMA Compliance personnel will review the reported practice to determine if it meets the definition of a rebate under the SRA. These reviews will also focus on all aspects of sales and service to ensure the practice in question does not violate other provisions of the SRA including licensing, training, and conflict of interest provisions intended to promote a sound system of crop insurance and program integrity.

Sanctions for participating in a prohibited rebate or violating the Federal Crop Insurance Act, applicable regulations, the SRA, or FCIC-approved policies or procedures will be contingent on the facts associated with an identified prohibited practice or violation. RMA reserves the right to take any authorized corrective action, regardless of any actions a State regulatory body may take based on the same prohibited practice.

For policyholders, remedies to alleviate identified prohibited practices may include, but are not limited to:

- Voiding the policy
- Government-wide suspension and debarment
- Disqualification
- Civil penalties

For Approved Insurance Providers, their employees, and affiliates, the remedies to alleviate identified prohibited practices may include, but are not limited to:

- Denial of reinsurance
- Monetary damages
- Government-wide suspension and debarment
- Disqualification
- Civil penalties

Reports of known or suspected prohibited rebating practices can be addressed to this office or the Regional Compliance Office responsible for assigned State program monitoring. Contact information and links to the Compliance Offices for the States they oversee can be found on the RMA public website at:

<http://www.rma.usda.gov/aboutrma/fields/cfos.html>