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To
All Approved Insurance Providers
All RMA Field Offices
All other Interested Parties

From
Michael A. Alston, Deputy Administrator for Insurance Services

Subject
Agent Compensation – Schemes or Devices

Section III(a)(4)(E) of the Standard Reinsurance Agreement (SRA) states:

If FCIC discovers that the Company, its MGA, or affiliate has paid compensation in excess of the amounts allowed in subparagraphs (B) or (C), the Company will be subject to any sanction described in this Agreement or applicable regulations. Any scheme or device to circumvent the limitations in subparagraphs (B) or (C) will be considered a violation of this Agreement.

Approved insurance providers (AIPs) have asked the Risk Management Agency (RMA) to provide guidance regarding what scheme or devices have been identified by RMA to circumvent the limitations in section III(a)(4)(E) of the SRA. A scheme or device is the making of a payment or benefit that meets the requirements for compensation paid to persons involved in the direct sale and service of eligible crop insurance contracts when such benefit or payment should be counted as compensation.

RMA has compiled a list of identified and potential schemes or devices included herein that will be posted on RMA’s website, www.rma.usda.gov under "Frequently Asked Questions." Most of these scenarios were identified from questions posed by

the AIPs and other interested persons and not necessarily actions discovered by RMA. These scenarios will be updated as RMA receives additional questions from AIPs or others in the industry.

Nothing in the SRA, Manager’s Bulletin MGR-10-011.1 (Bulletin), or this memorandum constitutes approval or disapproval by RMA of any particular payment or benefit, and nothing in this memorandum constitutes a prohibition of any business practice or transaction by any AIP. The AIPs are free to conduct business as they determine in their best interest, provided that it does not otherwise violate any other provision of the SRA. The only purpose of this document is to specify those situations where RMA has determined a payment or benefit to be considered as compensation, and a business practice to be a potential scheme or device under the terms of the SRA or Bulletin.

Section III(a)(4) of the SRA sets forth requirements and limitations on compensation paid by AIPs to persons involved in the direct sale and service of eligible crop insurance contracts. On October 29, 2010, RMA issued the Bulletin to provide guidance regarding section III(a)(4) of the SRA and agent compensation. The AIPs have asked that RMA provide a list of those situations where it has, or has not, found that a particular payment or benefit constitutes compensation for the purposes of section III(a)(4) of the SRA, or whether a business practice constitutes a scheme or device in accordance with section III(a)(4)(E) of the SRA and item 12 of the Bulletin.

For the purposes of this memorandum, the term "payment or benefit" includes anything of value provided to the agent such as money, trips, dinners, insurance, or any other thing of value or benefit not otherwise excluded from compensation in the Bulletin. RMA considers "policy compensation" to be commissions, salary, bonuses, and profit sharing, which are Action items 1(a), (b), (c), and (d) respectively, of the Bulletin. Furthermore, RMA considers "non-policy compensation" to be any additional payments or benefits that constitute compensation under the SRA or Bulletin such as health benefits, etc.

In determining whether a particular action is a scheme or device, RMA has taken into consideration whether the action would provide the means for the AIP to provide a payment or benefit in addition to the commission, salary, bonuses, and other payments or benefits customarily included in the agent contracts, and not otherwise excluded from compensation in the Bulletin. Failure to treat such payments as compensation would create unfairness in the marketplace. To ensure an even

playing field for all AIPs, RMA is providing these guidelines.