



United States  
Department of  
Agriculture

**BULLETIN NO.: MGR-12-014**

Farm and Foreign  
Agricultural  
Services

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

Risk  
Management  
Agency

**FROM:** William J. Murphy /s/ Michael F. Hand for 9/18/2012  
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**SUBJECT:** Private Crop Insurance Product Sales

**BACKGROUND:**

All private crop insurance policies and endorsements are regulated by the States in which they are sold. The Risk Management Agency (RMA) does not regulate or reinsure these private crop insurance policies and endorsements. However, in many cases Approved Insurance Providers (AIP) or agents require that the producer have a Federal reinsured Multiple-Peril Crop Insurance (MPCI) policy in order to be eligible to purchase these private crop insurance policies and endorsements. This bulletin will apply to all private crop insurance policies and endorsements sold and serviced by AIPs that require the producer to have an MPCI policy. It does not apply to Federal endorsements to MPCI policies.

Questions have been raised regarding whether an AIP or agent may require that the producer purchase an MPCI policy from the AIP or agent as a condition of eligibility to purchase their private crop insurance policies and endorsements. While RMA has previously not prohibited the practice of requiring an MPCI policy with a particular AIP or agent as a condition of being eligible to purchase a private crop insurance policy or endorsement, RMA has had to re-examine this position in light of the new anti-rebating provisions in section 508(a)(9) of the Federal Crop Insurance Act (Act).

Section 508(a)(9) of the Act states:

- (A) PROHIBITION. Except as provided in subparagraph (B), no person shall pay, allow, or give, directly or indirectly, either as an inducement to procure insurance or after insurance has been procured, any rebate, discount, abatement, credit, or reduction of the premium named in an insurance policy or any other valuable consideration or inducement not specified in the policy.



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

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Section II(a)(5) of the Standard Reinsurance Agreement (SRA) follows the prohibition set forth in the Act and states, in part:

A Company and its affiliates are prohibited from providing a rebate except as authorized in section 508(a)(9)(B) of the Act (7 U.S.C. § 1508(a)(9)(B)).

Section II(a)(6) of the SRA further states:

A violation of paragraph (5) will result in the denial of reinsurance, A&O subsidy, CAT LAE, and risk subsidy, for all eligible crop insurance contracts for which such violation occurred, and may subject the person who committed or authorized the violation to administrative sanctions, including, but not limited to, disqualification under the Act or applicable regulations.

Section 508(a)(9) of the Act is an absolute prohibition on any practice which would provide a rebate or, more broadly, an inducement for any producer to purchase Federal crop insurance from a particular AIP or agent.

RMA has examined whether private crop insurance policies and endorsements are a valuable consideration or inducement not specified in the policy that could result in an inducement to purchase MPCCI through a particular AIP or agent if the private crop insurance policy requires the producer to have MPCCI with a particular AIP or agent to be eligible for coverage.

RMA has determined that private crop insurance policies and endorsements provide a valuable consideration to producers in that they provide coverage that otherwise would not be provided by the underlying MPCCI policy. The practice of “tying” a private crop insurance policy or endorsement to an underlying MPCCI policy is, by itself, not a sufficient condition to be considered an illegal inducement. There is no Federal statute that prohibits the practice of tying, and tying by itself is not necessarily an inducement. However, if an AIP or agent will only sell a private crop insurance policy or endorsement to a producer who purchases an MPCCI policy from that AIP or agent, they have created an inducement to purchase the MPCCI policy from that AIP or agent and have violated the terms of the Act and SRA.

RMA does not have the authority to regulate these private crop insurance policies and endorsements. These products and their rates are approved and regulated by the States in which they are sold. The fact that similar products may be sold at different rates is not by itself a violation of section 508(a)(9) of the Act.

Other activities related to the sale of private crop insurance policies and endorsements are not considered inducements in violation of the Act and SRA. These include:

- (1) Non-renewal of a private crop insurance policy or endorsement if the producer fails to obtain the underlying MPCCI policy. Renewal of private crop insurance policy or endorsement is an activity regulated by the States in which they are sold.
- (2) Non-renewal of an agent's contract for not meeting a minimum level of MPCCI premium. An agent's contract with an AIP is not regulated by RMA.
- (3) Offering tiered commission structures or disparate agent commissions for different private crop insurance policies and endorsements. An agent's commission structure is not regulated by RMA, except that the total amount of agent compensation for the sale of MPCCI business is subject to the limitations set forth in section III(a)(4) of the SRA. Differing commission rates may provide an inducement for the agent selling a particular private crop insurance policy or endorsement, but it is not an inducement for producers to buy from a particular AIP or agent.
- (4) The financial terms of private crop insurance policies and endorsements may be different for those tied to an MPCCI policy than those not tied to an MPCCI policy. RMA does not regulate the financial terms of private crop insurance policies and endorsements. The coverage provisions are regulated by the States in which they are sold.

**ACTION:**

For all MPCCI policies with a sales closing date or cancellation date on or after January 1, 2013, an AIP or agent cannot require that a producer purchase an MPCCI policy from the AIP or agent in order to be eligible to purchase a private crop insurance policy or endorsement offered by that AIP or agent.

If an AIP has a private crop insurance policy or endorsement containing provisions that require an underlying MPCCI policy to be written with that same AIP or agent, the private crop insurance policy or endorsement must be revised to remove such provisions. If the private crop insurance policy or endorsement had previously been reviewed by RMA, the AIP will not be required to resubmit the private crop insurance policy or endorsement in accordance with 7 C.F.R. § 400.413 to make the revisions required by this bulletin.

However, a copy of the revised private crop insurance policy or endorsement must be sent 60 days prior to the sales closing date, or cancellation, renewal or other similar date for policies without sales closing dates, applicable to the revised private crop insurance policy or endorsement, to the Deputy Administrator, Product Management, Risk Management Agency, 6501 Beacon Drive, Stop 0812, Kansas City, MO 64133-4676 or electronically to [DirectorPDD@rma.usda.gov](mailto:DirectorPDD@rma.usda.gov).

An issue has been raised regarding the sharing of MPCCI information between agents or AIPs if the MPCCI policy and the private crop insurance policy or endorsement is with different AIPs or agents. For the purposes of the private crop insurance policy or endorsement, because it is a private policy or endorsement, the AIP and agent are considered the public and the sharing of producer information from the MPCCI policy would be a violation of section 502(c) of the Act and the Privacy Act, unless the producer consents in writing and expressly authorizes the AIP to share information for the purpose of administering their private crop insurance policies and endorsements.

Following the issuance of this bulletin, any AIP or its agent that violates the rebating prohibition, or does not remove provisions in the private crop insurance policy or endorsement that require an underlying MPCCI policy to be written with that same AIP or agent, will be denied reinsurance, administrative and operating subsidy, catastrophic risk protection loss adjustment expense, and risk subsidy on all policies where rebating has occurred.

**DISPOSAL DATE:**

This bulletin will remain in effect until rescinded or until incorporated into procedures.