



Circular

DECEMBER 28, 2007

ANNOUNCEMENT

AK-2007-09

Alaska—Item 03-AK-2007—Terrorism Risk Insurance Program Reauthorization Act of 2007 Endorsements

ACTION NEEDED

Please review the changes outlined in the attachments for impact on your company's systems and procedures. Also review the **Status of Item Filings** circular for state approval of this item.

Caution: At the time of distribution of this circular, this item has been filed with the regulator but is **not yet approved**. This information is provided for your convenience and analysis. Please do not use the information until the regulator has approved the filing.

BACKGROUND

The Terrorism Risk Insurance Act of 2002 ("TRIA" or the "Act") was implemented as a result of the United States Congress (Congress) recognizing that terrorism is a catastrophe exposure that is real and significant for insurers of workers compensation and other lines of insurance. Items B-1383, B-1398, and P-1392 were subsequently filed to implement the Terrorism Risk Insurance Act of 2002 and to provide miscellaneous values for foreign terrorism.

The Terrorism Risk Insurance Act of 2002 was scheduled to expire on December 31, 2005. Prior to the expiration of that Act, Congress passed the Terrorism Risk Insurance Extension Act of 2005 ("TRIEA"), which is scheduled to expire on December 31, 2007. Item 01-AK-2006 was subsequently filed to implement the disclosure requirements of the Terrorism Risk Insurance Extension Act of 2005.

Recognizing that terrorism is a catastrophe exposure that continues to be significant for insurers of workers compensation and other lines of insurance, Congress has now enacted TRIPRA, which makes several amendments to the Act including:

- Amending the definition of "act of terrorism" to remove "acting on behalf of any foreign person or foreign interest"
- Extending the Act to December 31, 2014
- Requiring insurers to provide a clear and conspicuous disclosure of the requirements of Section 103(e)(B)(2)(A) of TRIA, which states:
 - i. The Federal government should not make any payment under the Act for any portion of the amount of Insured Losses that exceeds \$100,000,000,000; and
 - ii. No insurer that has met its deductible should be liable for the payment of any portion of that amount that exceeds \$100,000,000,000

IMPACT

There is no change in premium as a result of this item.

NCCI ACTION

NCCI has attached the Alaska Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 54 01 01) and Alaska Terrorism Premium Endorsement (WC 54 04 05) to this circular. These endorsements will also be located in NCCI's *Forms Manual of Workers Compensation and Employers Liability Insurance* shortly.

**PERSON TO
CONTACT**

If you have any questions, please contact:
Customer Service Center
NCCI, Inc.
901 Peninsula Corporate Circle
Boca Raton, FL 33487
800-NCCI-123

Technical Contact:
Shani Oulton
Regulatory Services Manager
NCCI, Inc.
901 Peninsula Corporate Circle
Boca Raton, FL 33487
561-893-3168
shani_oulton@ncci.com

FILING MEMORANDUM

ITEM 03-AK-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007 ENDORSEMENTS

(To be effective 12:01 a.m. on January 1, 2008, applicable to new and renewal voluntary and assigned risk policies.)

PURPOSE

Due to the enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007 ("TRIPRA"), it is necessary to withdraw the Terrorism Risk Insurance Extension Act Endorsement (WC 00 01 13) and the Foreign Terrorism Premium Endorsement (WC 00 04 22) to reflect certain changes required by the Terrorism Risk Insurance Program Reauthorization Act of 2007 and replace them with state special endorsements.

BACKGROUND

The Terrorism Risk Insurance Act of 2002 ("TRIA" or the "Act") was implemented as a result of the United States Congress (Congress) recognizing that terrorism is a catastrophe exposure that is real and significant for insurers of workers compensation and other lines of insurance. Items B-1383, B-1398, and P-1392 were subsequently filed to implement the Terrorism Risk Insurance Act of 2002, and to provide miscellaneous values for foreign terrorism.

The Terrorism Risk Insurance Act of 2002 was scheduled to expire on December 31, 2005. Prior to the expiration of that Act, Congress passed the Terrorism Risk Insurance Extension Act of 2005 ("TRIEA"), which is scheduled to expire on December 31, 2007. Item 01-AK-2006 was subsequently filed to implement the disclosure requirements of the Terrorism Risk Insurance Extension Act of 2005.

Recognizing that terrorism is a catastrophe exposure that continues to be significant for insurers of workers compensation and other lines of insurance, Congress has now enacted TRIPRA, which makes several amendments to the Act including:

- Amending the definition of "act of terrorism" to remove "acting on behalf of any foreign person or foreign interest"
- Extending the Act to December 31, 2014
- Requiring insurers to provide a clear and conspicuous disclosure of the requirements of Section 103(e)(B)(2)(A) of TRIA, which states:
 - i. The Federal government should not make any payment under the Act for any portion of the amount of Insured Losses that exceeds \$100,000,000,000; and
 - ii. no insurer that has met its deductible should be liable for the payment of any portion of that amount that exceeds \$100,000,000,000

PROPOSAL

This item proposes to withdraw the Terrorism Risk Insurance Extension Act Endorsement (WC 00 01 13) and Foreign Terrorism Premium Endorsement (WC 00 04 22) from use in Alaska.

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FILING MEMORANDUM

ITEM 03-AK-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007 ENDORSEMENTS

It is proposed that the Alaska Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 54 01 01) be created to:

- a. Reference TRIPRA
- b. Define “act of terrorism” to include domestic terrorism
- c. Provide the insurer deductible provisions
- d. Define “program year”
- e. Disclose the \$100,000,000,000 cap as required by Section 4 of TRIPRA, and
- f. Update the disclosure requirements

It is also proposed that the Alaska Terrorism Premium Endorsement (WC 54 04 05) be created to show that the definition of “act of terrorism” now includes domestic as well as foreign acts of terrorism.

This item is being filed in conjunction with Item 02-AK-2007—Terrorism Risk Insurance Program Reauthorization Act of 2007, which proposes that effective January 1, 2008:

- The references to “foreign terrorism” be revised to “terrorism” because TRIPRA eliminates the distinction between foreign and domestic terrorism
- Rule 3-A-24 of NCCI’s *Basic Manual for Workers Compensation and Employers Liability Insurance* be updated
- A new statistical code for “terrorism” be created

This item and Item 02-AK-2007 should be adopted concurrently.

IMPACT

There is no change in premium as a result of this item.

IMPLEMENTATION

Exhibits 1–2 outline the changes required in order to create the Alaska Terrorism Risk Insurance Program Reauthorization Act Endorsement and the Alaska Terrorism Premium Endorsement, which will be located in NCCI’s *Forms Manual of Workers Compensation and Employers Liability Insurance*.

Exhibits 3–4 outline the changes required in order to withdraw the Terrorism Risk Insurance Extension Act Endorsement and the Foreign Terrorism Premium Endorsement from use in Alaska.

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ITEM 03-AK-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007 ENDORSEMENTS

EXHIBIT 1

FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE

ALASKA TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT ENDORSEMENT (WC 54 01 01)

This endorsement addresses the requirements of the Terrorism Risk Insurance Act of 2002 as amended and extended by the Terrorism Risk Insurance Program Reauthorization Act of 2007.

Definitions

The definitions provided in this endorsement are based on and have the same meaning as the definitions in the Act. If words or phrases not defined in this endorsement are defined in the Act, the definitions in the Act will apply.

“Act” means the Terrorism Risk Insurance Act of 2002, which took effect on November 26, 2002, and any amendments resulting from the Terrorism Risk Insurance Program Reauthorization Act of 2007.

“Act of Terrorism” means any act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State, and the Attorney General of the United States as meeting all of the following requirements:

- a. The act is an act of terrorism.
- b. The act is violent or dangerous to human life, property or infrastructure.
- c. The act resulted in damage within the United States, or outside of the United States in the case of the premises of United States missions or certain air carriers or vessels.
- d. The act has been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

“Insured Loss” means, any loss resulting from an act of terrorism (including an act of war, in the case of workers compensation) that is covered by primary or excess property and casualty insurance issued by an insurer if the loss occurs in the United States or at the premises of United States missions or to certain air carriers or vessels.

“Insurer deductible” means, for the period beginning on January 1, 2008, and ending on December 31, 2014, an amount equal to 20% of our direct earned premiums, over the calendar year immediately preceding the applicable Program Year.

“Program Year” refers to each calendar year between January 1, 2008 and December 31, 2014, as applicable.

Limitation of Liability

The Act limits our liability to you under this policy. If aggregate Insured Losses exceed \$100,000,000,000 in a Program Year and if we have met our Insurer Deductible, we are not liable for the payment of any portion of the amount of Insured Losses that exceeds \$100,000,000,000; and for aggregate Insured Losses up to \$100,000,000,000, we will pay only a pro rata share of such Insured Losses as determined by the Secretary of the Treasury.

Policyholder Disclosure Notice

1. Insured Losses would be partially reimbursed by the United States Government. If the aggregate industry Insured Losses exceeds \$100,000,000 in a Program Year, the United States Government would pay 85% of our Insured Losses that exceed our Insurer Deductible.

**ITEM 03-AK-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT
OF 2007 ENDORSEMENTS**

EXHIBIT 1 (CONT'D)

FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE

2. Notwithstanding item 1 above, the United States Government will not make any payment under the Act for any portion of Insured Losses that exceed \$100,000,000,000.
3. The premium charged for the coverage for Insured Losses under this policy is included in the amounts shown in Item 4 of the Information Page or in the Schedule in the Alaska Terrorism Premium Endorsement. (WC 54 04 05), attached to this policy.

**ITEM 03-AK-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT
OF 2007 ENDORSEMENTS**

EXHIBIT 2

FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE

ALASKA TERRORISM PREMIUM ENDORSEMENT (WC 54 04 05)

This endorsement is notification that your insurance carrier is charging premium for losses that may occur in the event of an act of terrorism.

Your policy provides coverage for workers compensation losses caused by acts of terrorism, including workers compensation benefit obligations dictated by state law. Coverage for such losses is still subject to all terms, definitions, exclusions, and conditions in your policy, and any applicable federal and/or state laws, rules, or regulations.

For purposes of this endorsement, an “act of terrorism” is defined as:

- a. Any act that is violent or dangerous to human life, property or infrastructure; and
- b. The act has been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

The premium charge for the coverage your policy provides for workers compensation losses caused by an act of terrorism is shown in Item 4 of the Information Page or in the Schedule below.

Schedule

State

Rate per \$100 of payroll

ITEM 03-AK-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007 ENDORSEMENTS

**EXHIBIT 3
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
TERRORISM RISK INSURANCE EXTENSION ACT ENDORSEMENT
WC 00 01 13****TERRORISM RISK INSURANCE EXTENSION ACT ENDORSEMENT**

This endorsement addresses the requirements of the Terrorism Risk Insurance Act of 2002 as amended and extended by the Terrorism Risk Insurance Extension Act of 2005.

Definitions

The definitions provided in this endorsement are based on the definitions in the Act and are intended to have the same meaning. If words or phrases not defined in this endorsement are defined in the Act, the definitions in the Act will apply. "Act" means the Terrorism Risk Insurance Act of 2002, which took effect on November 26, 2002, and any amendments resulting from the Terrorism Risk Insurance Extension Act of 2005.

"Act of terrorism" means any act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State, and the Attorney General of the United States as meeting all of the following requirements:

- a. The act is an act of terrorism.
- b. The act is violent or dangerous to human life, property or infrastructure.
- c. The act resulted in damage within the United States, or outside of the United States in the case of United States missions or certain air carriers or vessels.
- d. The act has been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

"Insured terrorism or war loss" means any loss resulting from an act of terrorism (including an act of war, in the case of workers compensation) that is covered by primary or excess property and casualty insurance issued by an insurer if the loss occurs in the United States or at United States missions or to certain air carriers or vessels.

"Insurer deductible" means:

- a. For the period beginning on November 26, 2002 and ending on December 31, 2002, an amount equal to 1% of our direct earned premiums, as provided in the Act, over the calendar year immediately preceding November 26, 2002.
- b. For the period beginning on January 1, 2003 and ending on December 31, 2003, an amount equal to 7% of our direct earned premiums, as provided in the Act, over the calendar year immediately preceding January 1, 2003.
- c. For the period beginning on January 1, 2004 and ending on December 31, 2004, an amount equal to 10% of our direct earned premiums, as provided in the Act, over the calendar year immediately preceding January 1, 2004.
- d. For the period beginning on January 1, 2005 and ending on December 31, 2005, an amount equal to 15% of our direct earned premiums, as provided in the Act, over the calendar year immediately preceding January 1, 2005.
- e. For the period beginning on January 1, 2006 and ending on December 31, 2006, an amount equal to 17.5% of our direct earned premiums, as provided in the Act, over the calendar year immediately preceding January 1, 2006.
- f. For the period beginning on January 1, 2007 and ending on December 31, 2007, an amount equal to 20% of our direct earned premiums, as provided in the Act, over the calendar year immediately preceding January 1, 2007.

Limitation of Liability

The Act may limit our liability to you under this policy. If annual aggregate insured terrorism or war losses of all insurers exceed \$100,000,000,000 during the applicable period provided in the Act, and if we have met our

**ITEM 03-AK-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF
2007 ENDORSEMENTS**

**EXHIBIT 3 (CONT'D)
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
TERRORISM RISK INSURANCE EXTENSION ACT ENDORSEMENT
WC 00 01 13**

~~insurer deductible, the amount we will pay for insured terrorism or war losses under this policy will be limited by the Act, as determined by the Secretary of the Treasury.~~

~~Policyholder Disclosure Notice~~

~~Insured terrorism or war losses would be partially reimbursed by the United States Government under a formula established by the Act. Under this formula, the United States Government would pay 90% for Program Year 4 and 85% for Program Year 5 of our insured terrorism or war losses exceeding our insurer deductible.~~

~~The premium charged for the coverage this policy provides for insured terrorism or war losses is included in the amount shown in Item 4 of the Information Page or in the Schedule in the Foreign Terrorism Premium Endorsement. (WC 00 04 22), attached to this policy.~~

ITEM 03-AK-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007 ENDORSEMENTS

**EXHIBIT 4
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
FOREIGN TERRORISM PREMIUM ENDORSEMENT
WC 00 04 22**

~~FOREIGN TERRORISM PREMIUM ENDORSEMENT~~

~~This endorsement is notification that your insurance carrier is charging premium for losses that may occur in the event of an act of foreign terrorism.~~

~~Your policy provides coverage for workers compensation losses caused by acts of foreign terrorism, including workers compensation benefit obligations dictated by state law. Coverage for such losses is still subject to all terms, definitions, exclusions, and conditions in your policy, and any applicable federal and/or state laws, rules, or regulations.~~

~~For purposes of this endorsement, an "act of foreign terrorism" is defined as:~~

- ~~a. Any act that is violent or dangerous to human life, property or infrastructure; and~~
- ~~b. The act has been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.~~

~~The premium charge for the coverage your policy provides for workers compensation losses caused by an act of foreign terrorism is shown in Item 4 of the Information Page or in the Schedule below.~~

Schedule

State

Rate per \$100 of payroll