



Circular

DECEMBER 28, 2007

ANNOUNCEMENT

HI-2007-11

Hawaii—Item 05-HI-2007—Terrorism Risk Insurance Program Reauthorization Act of 2007

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 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.

TRIA 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 P-1404 was subsequently filed to implement the disclosure requirements of TRIEA.

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 the Terrorism Risk Insurance Program Reauthorization Act of 2007 ("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 Hawaii Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 52 01 01) and the Hawaii Terrorism Premium Endorsement (WC 52 04 04) to this circular. These endorsements will also be located in NCCI's *Forms Manual of Workers Compensation and Employers Liability Insurance* shortly. NCCI will also be releasing updated pages to NCCI's *Basic Manual for Workers Compensation and Employers Liability Insurance* and *Unit Report Expansion Statistical Plan*.

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FILING MEMORANDUM

ITEM 05-HI-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007

(Effective date is determined upon regulatory approval of the individual carrier's election to adopt this change.)

PURPOSE

As a result of the recent passage of the Terrorism Risk Insurance Program Reauthorization Act of 2007 ("TRIPRA") by the United States Congress (Congress), this item makes the following changes:

- Replaces the references of "foreign terrorism" in NCCI manuals with the term "terrorism" to eliminate the distinction between foreign and domestic terrorism
- Removes the December 31, 2005 expiration date from Rule 3-A-24-a of NCCI's *Basic Manual for Workers Compensation and Employers Liability Insurance*
- Withdraws the Terrorism Risk Insurance Extension Act Endorsement (WC 00 01 13) and replaces it with the Hawaii Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 52 01 01)
- Withdraws the Foreign Terrorism Premium Endorsement (WC 00 04 22) and replaces it with the Hawaii Terrorism Premium Endorsement (WC 52 04 04)
- Establishes a statistical code for reporting premium collected under the terrorism catastrophe provision in Hawaii

BACKGROUND

The Terrorism Risk Insurance Act of 2002 ("TRIA" or the "Act") was implemented as a result of the 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.

TRIA 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 P-1404 was subsequently filed to implement the disclosure requirements of the TRIEA.

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 the Terrorism Risk Insurance Program Reauthorization Act of 2007 ("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 exceed \$100,000,000,000

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FILING MEMORANDUM

ITEM 05-HI-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007

PROPOSAL

This item proposes the following:

- Changes the references of “Foreign Terrorism” to “Terrorism” in the Hawaii Workers Compensation Premium Algorithm located on the Hawaii Miscellaneous Rules pages of NCCI’s **Basic Manual** and the Miscellaneous Values Pages located in NCCI’s **Basic Manual**
- Creates Hawaii State Exception 3-A-24-c, which will be located in NCCI’s **Basic Manual** and will replace National Rule 3-A-24-c
- Removes the December 31, 2005 expiration date from National Rule 3-A-24-a located in NCCI’s **Basic Manual**.
- Adopts the Hawaii Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 54 01 01) which:
 - a. References TRIPRA
 - b. Defines “act of terrorism” to include domestic terrorism
 - c. Provides the new insurer deductible provisions
 - d. Defines “program year”
 - e. Discloses the \$100,000,000,000 cap as required by Section 4 of TRIPRA
 - f. Updates the required disclosures
- Adopts the Hawaii Terrorism Premium Endorsement (WC 54 04 05) which shows that the “act of terrorism” includes domestic as well as foreign terrorism.
- Withdraws the Terrorism Risk Insurance Extension Act Endorsement (WC 00 01 13) and Foreign Terrorism Premium Endorsement (WC 00 04 22)
- Establishes a statistical code in Hawaii to be used for reporting the premium for the terrorism catastrophe provision, which will be located in NCCI’s **Unit Report Expansion (URE) Workers Compensation Statistical Plan**

IMPACT

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

IMPLEMENTATION

The attached exhibits outline the changes necessary:

- **Exhibits 1–5** show the changes required in NCCI’s **Basic Manual**
- **Exhibits 6–7** outline the changes required in order to create the Hawaii Terrorism Risk Insurance Program Reauthorization Act Endorsement and the Hawaii Terrorism Premium Endorsement, which will be located in NCCI’s **Forms Manual of Workers Compensation and Employers Liability Insurance**
- **Exhibits 8–9** outline the changes required in order to withdraw the National Terrorism Risk Insurance Extension Act Endorsement and the Foreign Terrorism Premium Endorsement from use in Hawaii
- **Exhibit 10** shows the changes required in NCCI’s **URE Workers Compensation Statistical Plan**

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ITEM 05-HI-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF
2007

EXHIBIT 1

BASIC MANUAL

RULE 3—RATING DEFINITIONS AND APPLICATION OF PREMIUM ELEMENTS

A. EXPLANATION AND APPLICATION

24. Catastrophe Provisions

c. ~~Foreign Terrorism~~

~~Premium for Foreign Terrorism is calculated on the basis of total payroll according to Rule 2. A risk's total payroll in each state is divided by units of \$100 and multiplied by the appropriate value found in the state pages. The calculation is expressed as (Payroll/100 x Foreign Terrorism Value = Premium). This premium is applied after standard premium and is not subject to any other modifications including, but not limited to, premium discount, experience rating, schedule rating, or retrospective rating.~~

~~Unless an "If Any" policy develops premium during the policy term or at audit, policies issued on an "If Any" basis will not be charged this premium.~~

~~Per capita charges are not subject to premium under this Act.~~

EXHIBIT 2
BASIC MANUAL—2001 EDITION
HAWAII STATE RULE EXCEPTIONS
RULE 3—RATING DEFINITIONS AND APPLICATION OF PREMIUM ELEMENTS
A. EXPLANATION AND APPLICATION
24. Catastrophe Provisions

c. Terrorism

Change Rule 3-A-24-c as follows:

Premium for Terrorism is calculated on the basis of total payroll according to Rule 2. A risk's total payroll in each state is divided by units of \$100 and multiplied by the appropriate value found in the state pages. The calculation is expressed as $(\text{Payroll}/100 \times \text{Terrorism Value} = \text{Premium})$. This premium is applied after standard premium and is not subject to any other modifications including, but not limited to, premium discount, experience rating, schedule rating, or retrospective rating.

Unless an "If Any" policy develops premium during the policy term or at audit, policies issued on an "If Any" basis will not be charged this premium.

Per capita charges are not subject to premium under this Act.

Expense constants are not subject to premium under this Act.

Premium developed under this act is not included in standard premium.

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EXHIBIT 3
BASIC MANUAL—2001 EDITION
MISCELLANEOUS RULES

HAWAII WORKERS COMPENSATION PREMIUM ALGORITHM

The following algorithm provides the framework for premium charges and credits. Where not specified, the premium base would be the result from the prior line. *

	PREMIUM ELEMENTS	EXPLANATORY NOTES
	MANUAL PREMIUM	[(PAYROLL / 100) * RATE]
+	Supplementary Disease (foundry, abrasive, sandblasting)	[(SUBJECT PAYROLL / 100) * DISEASE RATE]
+	USL&H Exposure for non-F classification codes	[(SUBJECT PAYROLL / 100) * (RATE * USL&H FACTOR)]
	TOTAL MANUAL PREMIUM	
+	Waiver of Subrogation factor	[% applied to the portion of Total Manual Premium where waiver is applicable]
+	Employers Liability (E/L) increased limits factor	[% applied to Total Manual Premium]
+	Employers Liability increased limits charge	[Balance to E/L increased limits minimum premium]
+	Employers Liability increased limits factor (Admiralty, FELA)	[Factor applied to the portion of Manual Premium where Admiralty/FELA coverage is applicable]
+	Employers Liability/Voluntary Compensation flat charge	[Coverage in Monopolistic State Funds]
-	Small Deductible credit	[% applied to Total Manual Premium]
	SUBJECT PREMIUM	
x	Safety Factor (1 - Safety Credit %)	
	TOTAL SUBJECT PREMIUM	
x	Experience Modification (Exp Mod)	
	TOTAL MODIFIED PREMIUM	
x	Contracting Class Prem Adj Program factor (1 - CCPAP credit %)	
+	Supplemental Disease Exposure (Asbestos, NOC) [†]	
+	Atomic Energy Radiation Exposure NOC [†]	
+	Charge for nonratable catastrophe loading [†]	
+	Aircraft Seat Surcharge	
+	Balance to Minimum Premium (State Act)	[Balance to minimum premium at Standard Limits]
+	Balance to Minimum Premium (Admiralty, FELA)	
	TOTAL STANDARD PREMIUM [‡]	
-	Premium Discount [§]	[% applied to Standard Premium]

* The above rating method would be used in absence of independent carrier filings.

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**EXHIBIT 3 (CONT'D)
BASIC MANUAL—2001 EDITION
MISCELLANEOUS RULES**

	PREMIUM ELEMENTS	EXPLANATORY NOTES
+	Coal Mine Disease Charge	[Underground, surface, surface auger]
+	Expense Constant	
+	Foreign -Terrorism	[(PAYROLL / 100) * FOREIGN -TERRORISM VALUE]
	ESTIMATED ANNUAL PREMIUM	

** Premium charges established for Waiver of Subrogation are not filed by NCCI for the voluntary market.

NOC= Not Otherwise Classified.

† Nonratable Element Premiums generated by nonratable portion of manual rate are subject to all applicable premium elements applied to the policy, however, not subject to experience rating or retrospective rating.

‡ Statistical calls for ratemaking data contain a different definition of "Standard Premium." Refer to *Reporting Guidebook for the Annual Calls for Experience*.

§ For policies subject to premium adjustments under a retrospective rating plan, premium discount does not apply.

Note: For short rate cancellations, short rate percentage/short rate penalty premium factor is subject to experience rating, included in Total Subject Premium, and applied prior to Experience Modification.

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EXHIBIT 4
BASIC MANUAL
HAWAII
MISCELLANEOUS VALUES PAGES
ADVISORY LOSS COST PAGES

Foreign Terrorism (Advisory Loss Cost) 0.02

ITEM 05-HI-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF
2007

EXHIBIT 5

BASIC MANUAL

Rule 3—RATING DEFINITIONS AND APPLICATION OF PREMIUM ELEMENTS

A. EXPLANATION AND APPLICATION

24. Catastrophe Provisions

- a. **Terrorism Risk Insurance Act (TRIA) of 2002** ~~This provision expires effective December 31, 2005~~ and any amendments thereto enacted by Congress

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**EXHIBIT 6
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE**

HAWAII TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT ENDORSEMENT (WC 52 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.

EXHIBIT 6 (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 exceeds \$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 Hawaii Terrorism Premium Endorsement. (WC 52 04 04), attached to this policy.

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EXHIBIT 7

FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE

HAWAII TERRORISM PREMIUM ENDORSEMENT (WC 52 04 04)

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 05-HI-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007

**EXHIBIT 8
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 05-HI-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007

**EXHIBIT 8 (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.~~

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**EXHIBIT 9
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

ITEM 05-HI-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007

**EXHIBIT 10
URE WORKERS COMPENSATION STATISTICAL PLAN**

9. STATISTICAL CODES – PREMIUM AMOUNT NOT SUBJECT TO EXPERIENCE MODIFICATION FACTOR

Description	Stat Code	Premium Credit (-) or Debit (+)	Applicable States	Effective Date	Discontinuation Date
Catastrophe Provisions for Foreign Terrorism—Not Subject to Experience Rating	9740	+	HI	1/1/06	12/31/07
Terrorism—Not Subject to Experience Rating	9752	+	HI	1/1/08	