



Circular

DECEMBER 28, 2007

ANNOUNCEMENT

TN-2007-10

Tennessee—Item 02-TN-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

TRIA was enacted by Congress to recognize 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-1393, 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 and domestic terrorism. Also, as a result of TRIA, a catastrophe provision was added to Rule 3-A-24-a of NCCI's *Basic Manual*.

TRIA, which expired on December 31, 2005, was extended by the Terrorism Risk Insurance Extension Act of 2005 ("TRIEA") for two years. Item P-1404 was subsequently filed to implement the disclosure requirements of the Terrorism Risk Insurance Extension Act of 2005.

Congress has now enacted the Terrorism Risk Insurance Program Reauthorization Act of 2007 ("TRIPRA") to extend the Act to December 31, 2014. Therefore, the catastrophe provision in Rule 3-A-24-a of NCCI's *Basic Manual* is being revised to remove the expiration date and replace it with "and any amendments thereto enacted by Congress." TRIPRA includes 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 \$100,000,000,000 cap

IMPACT

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

NCCI ACTION

NCCI has attached the Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 00 01 13 A) and the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement (WC 00 04 21 B) 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*.

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FILING MEMORANDUM

ITEM 02-TN-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007

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

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 amends Rule 3-A-24-a of NCCI's **Basic Manual for Workers Compensation and Employers Liability Insurance** to correct the reference to the Terrorism Risk Insurance Act of 2002 ("TRIA" or the "Act"), and revises the Terrorism Risk Insurance Extension Act Endorsement (WC 00 01 13), and the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement (WC 00 04 21 A) to reflect certain changes required by the Act.

Additionally, this item

BACKGROUND

TRIA was enacted by Congress to recognize 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-1393, 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 and domestic terrorism. Also, as a result of TRIA, a catastrophe provision was added to Rule 3-A-24-a of NCCI's **Basic Manual**.

TRIA, which expired on December 31, 2005, was extended by the Terrorism Risk Insurance Extension Act of 2005 ("TRIEA") for two years. Item P-1404 was subsequently filed to implement the disclosure requirements of the Terrorism Risk Insurance Extension Act of 2005.

Congress has now enacted the Terrorism Risk Insurance Program Reauthorization Act of 2007 ("TRIPRA") to extend the Act to December 31, 2014. Therefore, the catastrophe provision in Rule 3-A-24-a of NCCI's **Basic Manual** is being revised to remove the expiration date and replace it with "and any amendments thereto enacted by Congress." TRIPRA includes 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 \$100,000,000,000 cap

PROPOSAL

This item proposes removal of the December 31, 2005 expiration date from National Rule 3-A-24-a located in NCCI's **Basic Manual**.

Additionally, it is proposed that the Terrorism Risk Insurance Extension Act Endorsement (WC 00 01 13) be revised to:

- a. Change the reference of TRIEA to TRIPRA

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- b. Revise the definition of "act of terrorism" to include domestic terrorism
- c. Update 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 existing disclosures

It is also proposed that the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement (WC 00 04 21 A) be revised to reflect that domestic terrorism premium applies to all acts of domestic terrorism.

IMPACT

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

IMPLEMENTATION

The attached exhibits outline the changes necessary:

- **Exhibit 1** shows the changes required in NCCI's *Basic Manual*
- **Exhibits 2–3** outline the changes required to the Terrorism Risk Extension Act Endorsement and the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement, which will be located in NCCI's *Forms Manual of Workers Compensation and Employers Liability Insurance*

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ITEM 02-TN-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

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

ITEM 02-TN-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007

EXHIBIT 2

FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE

**TERRORISM RISK INSURANCE ~~EXTENSION~~ PROGRAM REAUTHORIZATION ACT ENDORSEMENT
(WC 00 01 13 A)**

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~~ 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 ~~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 thereto resulting from the ~~Terrorism Risk Insurance Extension Act of 2005~~ 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 ~~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 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.

- 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.~~

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**EXHIBIT 2 (CONT'D)
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE**

~~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.~~

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

Limitation of Liability

The Act ~~may~~ limits our liability to you under this policy. If annual aggregate Insured terrorism or war Losses of all insurers exceed \$100,000,000,000 in a Program Year during the applicable period provided in the Act, 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, ~~the amount we will pay for insured terrorism or war losses under this policy will be limited only~~ a pro rata share of such Insured Losses by the Act, as determined by the Secretary of the Treasury.

Policyholder Disclosure Notice

- ~~1. Insured terrorism or war Losses would be partially reimbursed by the United States Government under a formula established by the Act. Under this formula, if the aggregate industry Insured Losses exceeds \$100,000,000 in a Program Year, the United States Government would pay 90% for Program Year 4 and 85% for Program Year 5 85% of our Insured Losses that exceed ing our Insurer Deductible.~~
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 premiums charged for the coverage this policy provides for Insured terrorism or war Losses under this policy ~~are~~ included in the amounts shown in Item 4 of the Information Page or in the Schedules in the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement (WC 00 04 21 B) and the Foreign Terrorism Premium Endorsement (WC 00 04 22), attached to this policy.

ITEM 02-TN-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007

EXHIBIT 3

FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE

DOMESTIC TERRORISM, EARTHQUAKES, AND CATASTROPHIC INDUSTRIAL ACCIDENTS PREMIUM ENDORSEMENT (WC 00 04 21 AB)

This endorsement is notification that your insurance carrier is charging premium to cover the losses that may occur in the event of domestic terrorism, earthquakes, and/or a catastrophic industrial accident.

Your policy provides coverage for workers compensation losses caused by acts of domestic terrorism, earthquakes, and/or catastrophic industrial accident 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.

The premium charge provides funding for the risk of earthquakes, catastrophic industrial accidents, and ~~certain acts of domestic terrorism. It does not provide funding for acts of terrorism certified as such by the Terrorism Risk Insurance Act of 2002 and any amendments resulting from the Terrorism Risk Insurance Extension Act of 2005 (the Act), or acts of foreign terrorism as that term is defined in the Foreign Terrorism Premium Endorsement (WC 00 04 22), attached to this policy.~~

For purposes of this endorsement, the following definitions apply:

- Domestic Terrorism: All acts of terrorism, certified (as defined in the Terrorism Risk Insurance Act of 2002), or non-certified, that are outside the scope of the Act or the Foreign Terrorism Premium Endorsement (WC 00 04 22), with and where aggregate workers compensation losses are in excess of \$50 million.
- Earthquake: The shaking and vibration at the surface of the earth resulting from underground movement along a fault plane or from volcanic activity where aggregate workers compensation losses from the single event are in excess of \$50 million.
- Catastrophic Industrial Accident: Any single event resulting in aggregate workers compensation losses in excess of \$50 million.

Schedule

Payroll

Rate