



Circular

DECEMBER 28, 2007

ANNOUNCEMENT

VA-2007-12

Virginia—Item 06-VA-2007—Terrorism Risk Insurance Program Reauthorization Act of 2007 Endorsements

ACTION NEEDED

Please review the changes outlined in the attachments for their 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.

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 04-VA-2005 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 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

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 45 04 01 A) to this circular. The endorsement will also be located in NCCI's *Forms Manual of Workers Compensation and Employers Liability Insurance* shortly.

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FILING MEMORANDUM

ITEM 06-VA-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007 ENDORSEMENTS

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

PURPOSE

This item updates the Virginia Terrorism Risk Insurance Extension Act Endorsement (WC 45 04 01) to reflect certain changes required by the Terrorism Risk Insurance Program Reauthorization Act of 2007.

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.

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 04-VA-2005 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 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

PROPOSAL

It is being proposed that the Virginia Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 45 04 01A) be revised to:

- a. Change the reference of TRIEA to TRIPRA
- b. Revise the definition of "act of terrorism" to include domestic terrorism
- c. Update the insurer deductible provisions

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FILING MEMORANDUM

**ITEM 06-VA-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT
OF 2007 ENDORSEMENTS**

- 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

Additionally, this item is being filed in conjunction with Item 05-VA-2007—Terrorism Risk Insurance Program Reauthorization Act of 2007, which proposes that effective January 1, 2008, the references to TRIA be revised to eliminate the expiration date with regards to TRIA and to establish a new statistical code for “terrorism.” This item and 05-VA-2007 should be adopted concurrently.

IMPACT

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

IMPLEMENTATION

The attached exhibit outlines the changes required to the Virginia Terrorism Risk Extension Act Endorsement, which will be located in NCCI's *Forms Manual of Workers Compensation and Employers Liability Insurance*.

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**ITEM 06-VA-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT
OF 2007 ENDORSEMENTS**

EXHIBIT 1**FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE****VIRGINIA TERRORISM RISK INSURANCE ~~EXTENSION~~ PROGRAM REAUTHORIZATION ACT
ENDORSEMENT (WC 45 04 01 A)**

This endorsement addresses requirements of the Terrorism Risk Insurance Act of 2002 as amended and extended by the Terrorism Risk Insurance ~~Extension~~ Program Reauthorization Act of 2005~~7~~.

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 resulting from the Terrorism Risk Insurance ~~Extension~~ Program Reauthorization Act of 2005~~7~~.

“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.~~
- 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.~~

ITEM 06-VA-2007—TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007 ENDORSEMENTS

EXHIBIT 1 (CONT'D)

FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE

~~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 premium charged for the coverage ~~this policy provides~~ for Insured terrorism or war Losses under this policy is included in the amount shown in Item 4 of the Information Page or the Schedule below.

Schedule

State

Rate per \$100 of Remuneration