



OCTOBER 5, 2015

POOL INFORMATION

POOL-TN-2015-01

Pool–Tennessee–Change in the Tennessee Workers Compensation Insurance Plan and Reinsurance Pool Mechanism

ACTION NEEDED

Please review the changes in this circular for impact on your company related to Tennessee.

BACKGROUND

Pursuant to the attached Order, the Commissioner of the Department of Commerce & Insurance (TDCI) of the State of Tennessee has terminated the Tennessee Workers Compensation Insurance Plan (TWCIP) and replaced it with NCCI's Workers Compensation Insurance Plan, effective July 1, 2015. Reinsurance of TWCIP servicing carrier policies will be provided through the Tennessee Reinsurance Mechanism (TRM), by the former TWCIP participating companies, in the form of quota share reinsurance.

IMPACT

The reinsurance mechanism for the TWCIP, Tennessee Aggregate Excess of Loss Reinsurance Mechanism (TAELRM), has been converted to a quota share reinsurance mechanism similar to other NCCI-administered state assigned risk plans. Insurance companies participating in the TAELRM during the period January 1, 1998, through June 30, 2015, are deemed participating companies in the quota share mechanism, which is the TRM.

To facilitate this conversion of the TAELRM to the TRM, the former TWCIP administrator (Aon) is distributing the TAELRM assets, representing cumulative cash flow from inception through June 30, 2015, to each of the TAELRM participating companies based on the respective market shares of each individual participating company. Reinsurance transactions on these pre-July 2015 TWCIP servicing carrier policies will be reported and settled with each participating company on the same quota share basis as used for the distribution of TAELRM assets, on a quarterly basis through the TRM, with administration by NCCI. NCCI will provide additional information in future communications.

NCCI ACTION

NCCI is the Tennessee Reinsurance Mechanism Administrator and will provide quarterly reporting to the TRM participating companies in conjunction with its quarterly distributions of operating results for other residual market pooling mechanisms administered by NCCI.

PERSON TO CONTACT

If you have any questions, please contact:
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**BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE
OF THE STATE OF TENNESSEE**

IN THE MATTER OF:)
)
THE ESTABLISHMENT OF THE)
TENNESSEE REINSURANCE MECHANISM)
AND APPOINTMENT OF NATIONAL)
COUNCIL ON COMPENSATION INSURANCE,)
INC. (NCCI) AS TRM REINSURANCE)
ADMINISTRATOR)

No.: 15-107

**ORDER ESTABLISHING THE TENNESSEE REINSURANCE MECHANISM AND
APPOINTMENT OF NATIONAL COUNCIL ON COMPENSATION INSURANCE, INC.
(NCCI) AS TRM REINSURANCE ADMINISTRATOR**

WHEREAS, Pursuant to the insurance laws of the State of Tennessee, the Commissioner of the Department of Commerce and Insurance of the State of Tennessee (the "Commissioner"), established and approved the former Tennessee Workers Compensation Insurance Plan (the "TWCIP") for the equitable apportionment among licensed Tennessee insurers of applicants for workers' compensation and employers' liability insurance who were in good faith entitled to, but were unable to procure insurance through ordinary methods, for the period January 1, 1998 through June 30, 2015.

WHEREAS, In conjunction with the TWCIP, the Commissioner further established and approved the Tennessee Aggregate Excess of Loss Reinsurance Mechanism (the "TAELRM"), which was attached and made a part of the TWCIP, as the mechanism for the equitable apportionment amongst all insurance carriers licensed to write workers' compensation and employers' liability insurance in the State of Tennessee.

WHEREAS, Pursuant to the TWCIP, the Commissioner has the power and authority to dissolve the TWCIP at any time. Such dissolution shall not, however, affect the rights and obligations of any party accrued prior to dissolution. Pursuant to such authority, the Commissioner terminated the TWCIP and replaced it with NCCI's Workers Compensation Insurance Plan and associated rules and procedures for the State of Tennessee ("NCCI's WCIP" or "NCCI's Plan

Documents”), which were filed with and approved by the Commissioner in accordance with Tennessee insurance laws.

WHEREAS, In consideration of the ongoing run-off rights and obligations under the TAELRM, the Commissioner has determined that certain components of the TAELRM shall continue, provided, however, that the TAELRM shall be converted effective July 1, 2015 to a quota share reinsurance mechanism which shall be administered by NCCI.

ORDER

NOW THEREFORE, based on the foregoing, it is hereby **ORDERED** as follows:

1. The run-off rights and obligations of the TWCIP policies reinsured through the TAELRM are ongoing, and certain components and/or provisions of the TAELRM shall continue prospectively and are incorporated by reference into this Order;

2. Effective July 1, 2015, the TAELRM shall be converted in the form of a quota share reinsurance mechanism similar to other NCCI-administered state assigned risk plans, for insurance transactions and activities occurring July 1, 2015 and subsequent;

3. Effective July 1, 2015, said quota share reinsurance mechanism shall be established and known as the Tennessee Reinsurance Mechanism (the “TRM”);

4. Effective July 1, 2015 and subsequent, NCCI is designated as the organization named by the Commissioner as the TRM Reinsurance Administrator (“the TRM Reinsurance Administrator”) to administer the Tennessee Reinsurance Mechanism;

5. Concurrent with the effective date of this Order, the Commissioner and NCCI shall enter into a contract for services under which NCCI shall assume the reinsurance administration functions for the TAELRM run-off through the Tennessee Reinsurance Mechanism in its capacity as the TRM Reinsurance Administrator;

6. Effective July 1, 2015, any insurer that satisfied its TWCIP participation requirement under Tenn. Code Ann. § 56-5-314 by becoming a participating insurance carrier in the TAEARM at any time during the period of January 1, 1998 through June 30, 2015, shall be deemed a participating company in the TRM subject to a Quota Share Reinsurance Agreement executed by the TRM Reinsurance Administrator for the benefit of the TRM participating companies; and

7. Effective July 1, 2015, the following provisions of Article III., A. of the former TWCIP shall be adopted in their entirety, made a part of, and incorporated by reference into the TRM:

Article III - Participation in TWCIP

A. Participation Mandatory On Workers Compensation Insurers:

In accordance with Tenn. Code Ann. § 56-5-314 (1996), all insurers licensed to write Workers Compensation Insurance in Tennessee are required to participate in the TWCIP. An insurer must satisfy its participation requirement by either: a) being a Participating Insurance Carrier in the Tennessee Aggregate Excess of Loss Reinsurance Agreement Mechanism, or b) by electing, subject to the approval of the Department and not less than ninety (90) days prior to the beginning of the calendar year during which such carrier makes its election or as prescribed by the Department, to be a Direct Assignment Carrier. Such election may not be changed during the calendar year of election, except where an insurer's approval to be a Direct Assignment Carrier is disapproved by the Department. Any insurance carrier that has been approved to be a Direct Assignment Carrier must maintain an A.M. Best & Company rating of "A" or higher in order to continue to provide TWCIP policyholders with Workers Compensation Insurance. Failure to maintain said rating may be grounds for disqualification. If disqualified, none of the TWCIP Workers Compensation Insurance policies issued by such carriers will be renewed and no further assignments will be made. If the annual allotment of premium falls short of that Direct Assignment Carrier's required allotment of premium, the Direct Assignment Carrier will be required to be a Participating Insurance Carrier to the extent of such shortfall. Any employer insured in the TWCIP whose policies were non-renewed will need to re-apply to the TWCIP for placement with a qualifying Direct Assignment Carrier or Servicing Carrier through the normal, random assignment process.

It further is hereby **ORDERED** as follows:

8. NCCI, acting in its capacity as the TRM Reinsurance Administrator, is authorized to counter-sign, for the benefit of the TRM participating companies, the quota share reinsurance agreements executed by those certain carriers that formerly were servicing carriers for the TWCIP for the period January 1, 1998 through June 30, 2015 (the “TWCIP Servicing Carriers”);

9. NCCI may engage legal counsel or other third parties as necessary to effectively administer the TRM within the scope of NCCI’s contract for services with the Tennessee Department of Commerce and Insurance;

10. NCCI’s Chief Actuary is hereby authorized and appointed by the Commissioner to produce and issue an annual Statement of Actuarial Opinion (the “SAO”) for the loss reserves carried in the financial statements of the TRM. Such SAO will be available to the Tennessee Department of Commerce and Insurance, and available upon request to any TRM participating insurance company. NCCI’s Chief Actuary shall be deemed to be the person acting in such capacity for NCCI at the time such annual SAO is issued;

11. The Commissioner hereby establishes the TRM Oversight Board consisting of five (5) representatives of TRM participating companies with significant reinsurance transactions experience and appointed by the Commissioner to oversee the operations of the TRM, and performance of the TRM Reinsurance Administrator in regard to its contractual duties and responsibilities as the TRM Reinsurance Administrator, in accordance with any processes or procedures as may be developed by the Tennessee Department of Commerce and Insurance. The Oversight Board may consider and act upon any matter, referred to the Oversight Board by the Commissioner or the Reinsurance Administrator, which relates to the operation of the TRM, and shall hold such meetings as are necessary and appropriate for the conduct of the affairs and

business of the TRM. The Oversight Board shall annually elect, from among its members, a Chair and Vice Chair, as well as such other officers as the Oversight board may from time to time determine necessary. NCCI, in its discretion, may provide the TRM Oversight Board with certain limited services as are provided within the scope of NCCI's contract for services with the Tennessee Department of Commerce and Insurance; and

12. A non-voting, advisory reserving committee of six (6) credentialed actuaries representing the TRM participating companies and appointed by the TRM Oversight Board is hereby established by the Commissioner to perform a quarterly peer review of the Contractor's loss projections (the "TRM Reserving Committee").

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It is so **ORDERED**.


ENTERED this 29th day of September, 2015.



Julie Mix McPeak
Commissioner of Commerce and Insurance

APPROVED FOR ENTRY:

Respectfully Submitted,



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