

January 20, 2006

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Workers Compensation Insurance

Filing for NCCI Item P-1404 – Terrorism Risk Extension Act of 2005

The Bureau has adopted and the North Carolina Commissioner of Insurance has approved NCCI Item P-1404 – Terrorism Risk Extension Act of 2005.

The purpose of this filing is to address the catastrophe provisions in the Terrorism Risk Insurance Extension Act of 2005. The filing introduced form WC 00 01 13 - Terrorism Risk Insurance Extension Act Endorsement. In addition the filing revised form WC 00 04 21 - Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement to reflect a revised definition of Domestic Terrorism. The new form number will be WC 00 04 21A. To comply with federal guidelines concerning the Terrorism Risk Insurance Extension Act of 2005 the effective date of this filing is January 1, 2006.

The NCCI version of P-1404 also withdrew form WC 00 04 20 – Terrorism Risk Insurance Act Endorsement and form WC 00 01 12 – Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Act of 2002. As announced in a previous circular (C-06-2), the withdrawal of these forms was approved in the filing for NCCI Item B-1398, also effective January 1, 2006.

It is our interpretation of the “Federal Register / Vol. 71, No. 3 / Thursday, January 5, 2006 / Notices” that form WC 00 01 13 is to be added to all policies that are effective as of January 1, 2006 and subsequent. This article can be reviewed using the following link: <http://www.treasury.gov/offices/domestic-finance/financial-institution/terrorism-insurance/interim-guidance.shtml>.

A table summarizing the changes to the forms to be used and the effective periods for which the forms apply follows. A copy of NCCI Item P-1404 is attached for your reference.

Sincerely,

Sue Taylor

Director of Workers Compensation

ST:dg

C-06-3

Attachment

**Table of Changes to Endorsements as a Result of the Implementation of NCCI B-1398 and NCCI P-1404
Foreign Terrorism and Terrorism Risk Insurance Extension Act of 2005**

The following forms are to be used for policies with effective dates through December 31, 2005:

- a. WC 00 01 12 – Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Act of 2002,
- b. WC 00 04 18 B – Assigned Risk Mandatory Loss Sensitive Rating Plan Endorsement,
- c. WC 00 04 20 – Terrorism Risk Insurance Act Endorsement, and
- d. WC 00 04 21 – Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement.

The following forms are to be used for policies with effective dates of January 1, 2006 and subsequent:

- a. WC 00 01 13 – Terrorism Risk Insurance Extension Act Endorsement
- b. WC 00 04 18 C – Assigned Risk Mandatory Loss Sensitive Rating Plan Endorsement,
- c. WC 00 04 21 A - Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement, and
- d. WC 00 04 22 – Foreign Terrorism Premium Endorsement.

The use of all forms is mandatory for both the voluntary market and the assigned risk market.

FILING MEMORANDUM

ITEM P-1404—TERRORISM RISK INSURANCE EXTENSION ACT OF 2005

PURPOSE

The purpose of this item is to address the catastrophe provisions in the Terrorism Risk Insurance Extension Act of 2005.

BACKGROUND

The Terrorism Risk Insurance Act of 2002 was implemented as a result of the U.S. 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-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 and domestic terrorism, earthquakes, and catastrophic industrial accidents.

The Terrorism Risk Insurance Act of 2002 was scheduled to expire on December 31, 2005. Terrorism catastrophe exposure continues to be significant for insurers of workers compensation and other lines of insurance. As a result, Congress has passed the Terrorism Risk Insurance Extension Act of 2005.

The key provisions of the Terrorism Risk Insurance Extension Act of 2005 are:

- The Terrorism Risk Insurance Act of 2002 is extended through 2007 with certain amendments

- The size of an event needed to trigger the Extension Act is raised from \$5 million in the current program to \$50 million in 2006 and \$100 million in 2007 after March 31, 2006

- Program Year 4 means the period beginning on January 1, 2006 and ending on December 31, 2006

- Program Year 5 means the period beginning on January 1, 2007 and ending December 31, 2007

- Insurer deductibles are added for Program Year 4 and Program Year 5

- The amount of reimbursement paid to carriers by the U.S. Government for insured terrorism of war losses exceeding deductibles is added for Program Year 4 and Program Year 5

- Aggregate retention amounts are added for Program Year 4 and Program Year 5

- Authority is given to the Secretary of the Treasury to establish procedures and requirements for litigation management for causes of action arising out of the Extension Act

- The President's Working Group on Financial Markets, in consultation with the National Association of Insurance Commissioners, representatives of the insurance industry, representatives of the securities industry, and representatives of policyholders, shall perform an analysis regarding the long-term availability and affordability of insurance for terrorism risk. The President's Working Group on Financial Markets shall submit a report to the Committee on Financial Services of the House of Representatives on its findings not later than September 30, 2006

PROPOSAL

The purpose of this item is to implement the provisions of the Terrorism Risk Insurance Extension Act of 2005 and to create, amend, and withdraw as applicable endorsements contained in previously filed Items B-1383, B-1393, and P-1392. This item proposes to :

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FILING MEMORANDUM

ITEM P-1404—TERRORISM RISK INSURANCE EXTENSION ACT OF 2005

Exhibit 1- Replace the Terrorism Risk Insurance Act Endorsement (WC 00 04 20) with the newly created Terrorism Risk Insurance Extension Act Endorsement (WC 00 01 13) to be applied in conjunction with the Foreign Terrorism Premium Endorsement (WC 00 04 22)

Exhibit 2- Amend the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement (WC 00 04 21) to reflect a revised definition of Domestic Terrorism

Exhibit 3- Withdraw the Terrorism Risk Insurance Act Endorsement (WC 00 04 20)

Exhibit 4- Withdraw the Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Act of 2002 (WC 00 01 12)

IMPACT

There is no expected premium impact as a result of this item.

IMPLEMENTATION

The attached exhibits include the proposed changes necessary to implement this item.

In all states except Hawaii, this item will be implemented effective 12:01 a.m. on January 1, 2006 applicable to new renewal and outstanding voluntary and assigned risk business.

In Hawaii, the effective date is determined upon regulatory approval of the individual carrier's election to adopt this change.

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ITEM P-1404—TERRORISM RISK INSURANCE EXTENSION ACT OF 2005

**EXHIBIT 1
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
TERRORISM RISK INSURANCE EXTENSION ACT ENDORSEMENT WC 00 01 13**

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.

ITEM P-1404—TERRORISM RISK INSURANCE EXTENSION ACT OF 2005

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.

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 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.

**EXHIBIT 1 (CONT'D)
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE**

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, 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.
2. 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 P-1404—TERRORISM RISK INSURANCE EXTENSION ACT OF 2005

**EXHIBIT 2
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE
DOMESTIC TERRORISM, EARTHQUAKES, AND CATASTROPHIC INDUSTRIAL ACCIDENTS PREMIUM
ENDORSEMENT WC 00 04 21 A**

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.

The premium charge provides funding for the risk of earthquakes, catastrophic industrial accidents, and certain acts of domestic ~~and foreign~~ terrorism. It does not provide funding for acts of terrorism certified as such by the Terrorism Risk Insurance Act (~~TRIA~~) of 2002 and any amendments resulting from the Terrorism Risk Insurance Extension Act of 2005 (the Act), ~~but rather provides funding for all other acts of terrorism specifically excluded by TRIA~~ 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 outside the scope of ~~TRIA~~ the Act or the Foreign Terrorism Premium Endorsement (WC 00 04 22), with aggregate workers compensation losses 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