



**THE WORKERS' COMPENSATION
RATING AND INSPECTION BUREAU**

September 30, 2008

CIRCULAR LETTER NO. 2100

To All Members and Subscribers of the Bureau:

ALTERNATIVE TERRORISM RISK INSURANCE PROGRAM ENDORSEMENT

The Massachusetts Division of Insurance (DOI) recently approved the Bureau's proposal for carriers providing Massachusetts coverage to have the option of using NCCI's *Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement* (WC 00 04 22A) as an alternative to the *Massachusetts Terrorism Risk Insurance Program Reauthorization Act Endorsement* (WC 20 01 01). The Massachusetts Endorsement WC 20 01 01 remains in effect for use in Massachusetts.

NCCI's Endorsement WC 00 04 22A may be used at the option of individual carriers any time on or after October 1, 2008. Carriers choosing to use the Endorsement need to obtain it from NCCI. It is available by accessing NCCI's *Forms Manual* at www.ncci.com.

The approval letter from the Division of Insurance and the Bureau's Filing are attached for your information.

If you have any questions you may contact me at 617-646-7553 or ekeefe@wcribma.org

ELLEN F. KEEFE, CPCU
Vice President and General Counsel

Attachments



COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

One South Station • Boston, MA 02110-2208
(617) 521-7794 • FAX (617) 521-7475
TTY/TDD (617) 521-7490
<http://www.mass.gov/doi>

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

DANIEL O'CONNELL
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

DANIEL C. CRANE
DIRECTOR

NONNIE S. BURNES
COMMISSIONER OF INSURANCE

September 23, 2008

Ellen F. Keefe, CPCU
Vice President and General Counsel
Workers' Compensation Rating and
Inspection Bureau of Massachusetts
101 Arch Street, 5th Floor
Boston, MA 02110

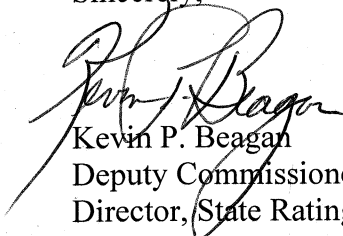
**RE: APPROVAL OF AN ALTERNATIVE TERRORISM RISK INSURANCE
PROGRAM ENDORSEMENT (WC 00 04 22A)**

Dear Ms. Keefe:

I am writing to inform you of the Division's Approval of your filing, dated September 22, 2008, to provide an alternative to the Massachusetts Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 20 01 01). I understand that while the differences between these two terrorism-related endorsements are not material, some Massachusetts carriers would prefer to use the same form currently approved for use in NCCI states.

In accordance with your request, either endorsement may be used by your members on or after October 1, 2008. Thank you for your work on this filing.

Sincerely,


Kevin P. Beagan
Deputy Commissioner &
Director, State Rating Bureau

Received

SEP 29 2008

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**THE WORKERS' COMPENSATION
RATING AND INSPECTION BUREAU**

The Honorable Nonnie S. Burnes
Commissioner of Insurance
Division of Insurance
One South Station
Boston, MA 02110-2208

September 22, 2008

RE: Approval of the *Terrorism Risk Insurance Program Reauthorization Act Disclosures Endorsement* WC 00 04 22A for use in Massachusetts

Dear Commissioner Burnes:

As set forth in the attached Filing Memorandum, the Bureau seeks your approval of the *Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement* (WC 00 04 22A) for use in Massachusetts effective October 1, 2008, to be used at the option of individual carriers as an alternative to the *Massachusetts Terrorism Risk Insurance Program Reauthorization Act Endorsement* (WC 20 01 01).

Thank you for your attention to this matter. I can be reached at 617-646-7553, if you or your staff has any questions.

Sincerely,

Ellen F. Keefe A.P.

Ellen F. Keefe, CPCU
Vice President and General Counsel

cc: *Kevin Beagan, Deputy Commissioner and Director, State Rating Bureau*
Walter Horn, PhD, State Rating Bureau
Caleb Huntington, State Rating Bureau



THE WORKERS' COMPENSATION RATING AND INSPECTION BUREAU

Filing Memorandum

Terrorism Risk Insurance Program Reauthorization Act of 2007

Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement WC 00 04 22A

Purpose

The purpose of this filing is to obtain approval of the *Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement WC 00 04 22A* for use in Massachusetts at the option of individual carriers. (Exhibit A). This Endorsement was drafted by the National Council on Compensation Insurance, Inc. ("NCCI"). The Bureau has been granted permission from NCCI to adopt its copyrighted Endorsement for use in Massachusetts.

Background

Currently, the *Massachusetts Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 20 01 01)* is the only Endorsement approved for use in Massachusetts. (Exhibit B).

In response to the enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007 ("the Act"), the Bureau filed for approval of the Massachusetts Endorsement (WC 20 01 01) on February 11, 2008. At that time, the Bureau was unable to adopt NCCI's *Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement WC 00 01 13A* because the Policyholder Disclosure Notice section of NCCI's Endorsement WC 00 01 13A indicated that the premium charge for Insured Losses could be included in the *Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement* and the *Foreign Terrorism Premium Endorsement*, neither of which are approved for use in Massachusetts. The Bureau also wanted to ensure that the premium charges for Insured Losses appeared on Item 4 of the Policy Information Page in order to comply with the Act's requirement for insurer's to provide clear and conspicuous disclosure of the premium charged for Insured Losses under the Program on a separate line item of the policy.

Proposal

Recently, NCCI revised its *Foreign Terrorism Premium Endorsement* and issued the *Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement WC 00 04 22A* (Exhibit C). NCCI's Endorsement WC 00 04 22A does not contain references to other endorsements that

THE WORKERS' COMPENSATION RATING & INSPECTION BUREAU OF MASSACHUSETTS

101 ARCH STREET, 5TH FLOOR, BOSTON, MASSACHUSETTS 02110-1103

(617) 439-9030, FAX (617) 439-6055, www.wcribma.org

are not approved in Massachusetts which would have precluded its use in Massachusetts. Bureau members would like to have the option of using Endorsement WC 00 04 22A.

The Bureau proposes that the *Massachusetts Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 20 01 01)* remain in effect and that the *Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement WC 00 04 22A* be approved for use in Massachusetts, effective October 1, 2008, to be used at the option of individual carriers any time on or after October 1, 2008.

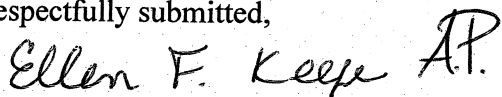
Impact

The Bureau is not requesting a change in the premium charge for terrorism losses and therefore there should not be any premium impact as a result of this filing.

Implementation

Upon approval of this Filing, the Bureau will issue a Circular Letter and distribute the *Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement WC 00 04 22A* that is attached to this Filing as Exhibit A.

Respectfully submitted,



Ellen F. Keefe, CPCU
Vice President and General Counsel
The Workers' Compensation Rating and
Inspection Bureau of Massachusetts
101 Arch Street, 5th Floor
Boston, MA 02110
Phone: 617-646-7553
Fax: 617-646-7569
ekeefe@wcribma.org

EXHIBIT A

TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT DISCLOSURE ENDORSEMENT

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. It serves to notify you of certain limitations under the Act, and 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.

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 thereto 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 (and, except for Pennsylvania, 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 exceed \$100,000,000 in a Program Year, the United States Government would pay 85% of our Insured Losses that exceed 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 exceed \$100,000,000,000.
3. The premium charge for the coverage your policy provides for Insured Losses is included in the amount shown in Item 4 of the Information Page or in the Schedule below.

Schedule

State

Rate

Premium

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective
Insured

Policy No.

Endorsement No.
Premium \$

Insurance Company

Countersigned by _____

EXHIBIT B

**MASSACHUSETTS TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT
ENDORSEMENT**

This Endorsement addresses 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 there to 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

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

WC 20 01 01

Original Printing

Effective January 1, 2008

Standard

\$100,000,000,000. 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.
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 shown in Item 4 of the Information Page.

EXHIBIT C

**ITEM P-1406—WITHDRAWAL OF ENDORSEMENT WC 00 01 13 A AND REVISIONS TO
ENDORSEMENTS WC 00 04 21 B AND WC 00 04 22**

EXHIBIT 3

FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE

**~~FOREIGN TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT DISCLOSURE
PREMIUM ENDORSEMENT (WC 00 04 22 A)~~**

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. ~~This endorsement is notification.~~ It serves to notify you of certain limitations under the Act, and 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.

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 thereto 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 (and, except for Pennsylvania, 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.

~~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.~~

**ITEM P-1406—WITHDRAWAL OF ENDORSEMENT WC 00 01 13 A AND REVISIONS TO
ENDORSEMENTS WC 00 04 21 B AND WC 00 04 22**

**EXHIBIT 3 (CONT'D)
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE**

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 exceed \$100,000,000 in a Program Year, the United States Government would pay 85% of our Insured Losses that exceed 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 exceed \$100,000,000,000.
3. The premium charge for the coverage your policy provides for ~~workers compensation~~ Insured Losses is included in the amount shown in Item 4 of the Information Page or in the Schedule below.

Schedule

State	Rate per \$100 of payroll	Premium
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