

# AMERICAN ASSOCIATION OF INSURANCE SERVICES MINNESOTA COMMERCIAL UMBRELLA MANUAL SUPPLEMENT

## TERRORISM LOSSES -- RULES

These pages provide rules addressing coverage and exclusions for losses arising from acts of terrorists.

**Certified Terrorism Losses** -- In accordance with the Terrorism Risk Insurance Act of 2002 (the Act), companies writing Commercial Umbrella insurance must make available to policyholders coverage for certified terrorism losses. A certified terrorism loss is any loss that is covered by an applicable coverage part and that results from an act of terrorism if:

1. such loss occurs:
  - a. within the United States; or
  - b. to an air carrier (as defined in section 40102 of title 49, United States Code); to a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs; or at the premises of any United States mission; and
  
2. the act of terrorism is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States:
  - a. to be an act of terrorism;
  - b. to be a violent act or an act that is dangerous to human life, property, or infrastructure;
  - c. to have resulted in damage:
    - 1) within the United States; or
    - 2) outside of the United States in the case of an air carrier or vessel described in paragraph 1.b. above or at the premises of any United States mission; and

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- d. to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as a 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.

An act of terrorism resulting in losses less than \$5,000,000 in the aggregate will not be certified by the Secretary of the Treasury as an act of terrorism. In addition, when the Secretary of the Treasury determines that certified terrorism losses have exceeded the maximum annual liability as set forth in the Act (or any amendments thereto) and a company has met its deductible as required by the Act, the company is not liable for the payment of any portion of certified terrorism losses that exceed the maximum annual liability.

The Act requires that companies notify policyholders of the availability of coverage for certified terrorism losses and the premium charge (if any) that is applicable to such coverage. In addition, for policies issued on or after February 25, 2003, the premium charged (if any) for the portion of coverage the company retains and the Federal share of compensation for insured losses must be disclosed on a separate line item of the policy.

The separate line item requirement can be satisfied by indicating the premium charge and Federal share of compensation on the Declarations page of the policy; elsewhere within the policy; or in any rider or endorsement that is made a part of the policy. Attach endorsement CL 0605 when electing to satisfy the separate line item requirement by endorsement. Make an entry to show the premium (if any) that applies when the policyholder accepts coverage for certified terrorism loss.

When a policyholder accepts coverage for certified terrorism losses, attach endorsement UM 0755 to exclude coverage for certified terrorism losses that exceed the maximum annual liability as set forth in the Act. Refer to the company to determine if any premium adjustment applies.

When a policyholder rejects coverage for certified terrorism losses, attach endorsement UM 0765 to exclude coverage for such losses.

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**Non-certified Terrorism Losses** -- At the option of the company, a Commercial Umbrella policy can be endorsed to exclude coverage for non-certified terrorism losses and to restate the war exclusion. The exclusion pertaining to non-certified terrorism losses can be limited to nuclear, biological, or chemical events, or it can apply to those events as well as to others meeting certain specified thresholds.

A non-certified terrorism loss is any loss covered by an applicable coverage part that results from a violent act or an act that is dangerous to human life, property, or infrastructure that:

1. is committed by an individual or individuals; and
2. appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion; and
3. is not certified as a terrorist act pursuant to the Federal Terrorism Risk Insurance Act of 2002; and
4. for the type of coverage being provided and the type of exclusion attached, meets one or more of the criteria shown below.
  - a. Exclusion pertaining only to losses resulting from nuclear, biological, or chemical events
    - 1) The loss involves the use, release, or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination; or
    - 2) the loss is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
    - 3) pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

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- b. Exclusion pertaining to losses resulting from biological or chemical events and other events
  - 1) The loss meets one or more of the criteria shown above for losses resulting from nuclear, biological, or chemical events; or
  - 2) the total of insured damage to all types of property and business interruption losses exceeds \$25,000,000; or
  - 3) 50 or more persons sustain death or serious physical injury.

However, exclusions for non-certified terrorism losses do not apply to any loss that results from an act that is not certified by the Secretary of the Treasury to be an act of terrorism solely because the property and casualty losses resulting from the act do not exceed \$5,000,000 in the aggregate.

No premium adjustment applies.

An endorsement must be attached to exclude coverage for non-certified terrorism losses. Use endorsement UM 0785 to exclude coverage for nuclear, biological, or chemical terrorist events. Use UM 0775 to exclude coverage for nuclear, biological, chemical, and other terrorist events.

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**TERRORISM LOSSES -- RATING INFORMATION**

**Certified Terrorism Losses** -- To determine the additional premium charge (if any) for the portion of certified terrorism loss coverage that is retained by the company, refer to the company for the factor that will be multiplied by the total policy premium for all exposures in this state.

<b>Program</b>	<b>Factor -- Coverage For Certified Terrorism Loss Accepted</b>
Commercial Umbrella	Refer To Company