

Line(s) of

Insurance: **Insurance Lines**

COUNTRYWIDE SCHEDULED TERMINATION OF TERRORISM RISK INSURANCE PROGRAM

The Terrorism Risk Insurance Program established by the Terrorism Risk Insurance Act of 2002 is scheduled to terminate on December 31, 2005. While the United States Congress may act to extend the duration of the Terrorism Risk Insurance Program, with or without significant change, insurers must soon begin to plan for its possible termination.

This bulletin provides:

- Background information regarding the Terrorism Risk Insurance Act of 2002 (TRIA);
- Key dates that affect the mandatory availability of coverage for loss caused by certified acts of terrorism; and
- Advance information regarding upcoming AAIS filings to introduce revised endorsements and rating information that will become effective if the Terrorism Risk Insurance Program does not extend beyond December 31, 2005.

BACKGROUND AND KEY DATES

TRIA, which established the Terrorism Risk Insurance Program (the Program), was signed into law on November 26, 2002. Under the Program, the U.S. Treasury covers 90% of commercial lines losses that are attributed to certified acts of terrorism, after the application of statutorily defined deductibles. TRIA defines certified acts of terrorism to include the criteria under which the Secretary of the Treasury will determine that loss resulting from terrorists' acts is eligible for the reinsurance provided by the Program. Among other criteria, TRIA specifies that only acts committed by one or more individuals acting on behalf of a foreign person or interest can be declared certified acts of terrorism.

Mandatory TRIA participation requires that insurers make available coverage for loss caused by certified acts of terrorism according to the terms and limits that apply to loss caused by other insured events. The make available requirements apply to all eligible policies from the date of TRIA enactment, November 26, 2002, through December 31, 2004 (Transition Period and Program Years 1 and 2).

By September 1, 2004, TRIA specifies that Treasury is to determine whether or not insurers will be required to make coverage available for loss caused by certified acts of terrorism for all eligible policies during the period beginning on January 1, 2005 and ending on December 31, 2005 (Program Year 3).

Treasury's recommendation regarding the make available requirements for Program Year 3 will be based on a variety of factors, including the availability and affordability of insurance for the risk of terrorism.

TRIA also calls for Treasury to study the effectiveness of the Program and submit a report to Congress on the results of that study by June 30, 2005. The extent to which the Treasury's study or other factors may influence any decision by Congress to extend the Program is unknown at this time.

CHANGES TO TERRORISM ENDORSEMENTS AND RATING INFORMATION - ADVANCE INFORMATION

Endorsements

In order to address the possible termination of the Program as of December 31, 2005, AAIS is developing a new series of endorsements to exclude loss caused by acts of terrorism that will apply on a conditional basis. The terms of the new terrorism endorsements will indicate that the terrorism exclusion included therein will apply only if and when the Terrorism Risk Insurance Program is no longer in effect or continues in effect, but is no longer applicable to one or more types of insurance. The terms of the conditional terrorism exclusion endorsements will supersede the terms of any other endorsement attached to the policy to address loss caused by certified or non-certified acts of terrorism.

The conditional terrorism exclusions will rely on the definition of terrorism used prior to the implementation of TRIA. Unlike the definition of certified acts of terrorism, the pre-TRIA definition of terrorism did not attribute a terrorist act to a foreign person or to foreign interests. The conditional terrorism exclusions will apply to any loss that is caused by terrorism involving nuclear, biological, or chemical means. Loss caused by acts of terrorism perpetrated by other means will be excluded only when the total of insured damages exceed \$25,000,000, or with respect to liability coverages, fifty or more persons sustain death or serious physical injury.

The conditional terrorism exclusions filed for use with policies that are subject to standard fire policy statutes will include limited exceptions for loss caused by fire, but only in those jurisdictions that have not enacted terrorism exemptions under the standard fire policy statutes. At this time, we anticipate filing the conditional terrorism exclusions only for those lines of insurance where terrorism exclusions were filed prior to the implementation of TRIA. Policyholder notices that explain the conditional nature of the new terrorism exclusions will also be made available.

Rating Information

Depending on Treasury's September 1, 2004 determination regarding the mandatory availability of coverage for loss caused by certified acts of terrorism during Program Year 3, the rating information currently used in most states to develop the additional premium charge for that coverage may require modification. We are currently in the process of developing such modifications for filing.

FUTURE BULLETINS

At this time, we expect to release more information regarding upcoming terrorism filings during the month of April, 2004.

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