



February 28, 2008

**BUREAU CIRCULAR NO. 830**

To All Members of the Bureau:

Re: **APPROVED ENDORSEMENT FORMS IN RESPONSE TO PROVISIONS  
OF THE TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION  
ACT OF 2007 (TRIPRA)**

The Bureau has filed and, by action dated February 28, 2008, the Department of Insurance has approved a number of endorsement forms for use by all members. This circular is to announce that approval, provide copies of the approved forms, and inform all members of important considerations related to policyholder notice and disclosure accomplished by use of the approved forms. In addition, this circular will provide guidance with respect to the use of approved statistical codes for policy and unit statistical reporting.

**Carrier Filing Requirements:**

*The Bureau has requested and the Department of Insurance has granted an exception to prevailing filing requirements for the purposes of adopting these endorsement forms. Members are advised that Delaware carriers will be allowed to use these forms without submitting separate adoption filings. This exception is limited only to this filing, and carriers are advised that separate adoption filings are expected to be required of carriers upon approval of subsequent Bureau filings.*

**Approved Forms**

Three of the approved endorsement forms are amended versions of existing approved forms in Delaware. These endorsements are as follow:

- WC 00 01 13 A – Terrorism Risk Insurance Program Reauthorization Act Endorsement
- WC 00 04 21 B – Domestic Terrorism, Earthquakes and Catastrophic Industrial Accidents Premium Endorsement
- WC 00 04 22 – Foreign Terrorism Premium Endorsement

Copies of the above endorsement forms are provided with this circular. The Bureau's filing included explanatory notes associated with each of the above endorsements for the benefit of carriers and made limited other changes to the existing Delaware forms. Those features of the Bureau's filing notwithstanding, the above endorsements are based upon endorsement forms filed for use in most states countrywide by the National Council on Compensation Insurance, Inc. (NCCI) in response to the enactment of TRIPRA. The Bureau proposed approval of these forms in Delaware in order to allow carriers, particularly those carriers writing multi-state policies, to use these common forms for their Delaware policies.

The fourth form approved with this filing is a Delaware-specific endorsement that consolidates provisions of the above-cited forms. This endorsement was established so that carriers may elect to use a single endorsement in lieu of the set of standard forms based on NCCI filings. The new endorsement is numbered and titled as follows:

WC 07 04 09 – Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement

A copy of the new endorsement form is also provided with this circular.

***Carriers may elect the use of either the set of forms, WC 00 01 13 A, WC 00 04 21 B and WC 00 04 22 in combination, or the single endorsement form, WC 07 04 09 alone, for any policy or policies at their discretion.***

### **Policyholder Notice and Disclosure Requirements**

Important elements of TRIPRA and intended purposes of the newly-approved endorsement forms are the notification of policyholders of a reimbursement mechanism for terrorism losses and disclosure of terrorism premium charges to policyholders. Premium disclosures may be accomplished by carriers either providing such amounts in Item 4 of the Policy Information Page or within the portion of selected endorsement forms labeled as "Schedule." ***The Bureau intends that carriers be given broad flexibility in providing such premium disclosures owing to various system and processing considerations, but the following guidance to carriers regarding the determination of terrorism premium charges based on approved Bureau rating values should be considered in developing the required premium disclosures.***

Currently Delaware has (and many other jurisdictions also have) two approved statistical codes and rating values related to terrorism exposures. Those statistical codes are 9740 and 9741. Consistent with prior versions of the Terrorism Risk Insurance Act of 2002 (TRIA), Code 9740 was defined as applicable to foreign terrorism. Code 9741 was subsequently established to embrace risks of domestic terrorism, earthquake and catastrophic industrial accident. The current Bureau loss cost for Code 9740 is \$0.02, and the Bureau loss cost for Code 9741 is \$0.01.

Under TRIPRA, the distinction between foreign and domestic causes of terrorism has been eliminated. The Bureau is providing an allocation factor for use in conjunction with the rating values associated with Code 9741 to compute the premium attributable to domestic terrorism.

***The allocation factor identifying the portion of Code 9741 loss costs attributable to domestic terrorism is 0.2750, based upon analysis of the Domestic Terrorism, Earthquake and Catastrophic Industrial Accident loss cost submitted to the Department of Insurance and in the previously-approved Bureau Filing No. 0502.***

Accordingly, for any carrier electing to use the series of approved endorsement forms (WC 00 01 13 A, WC 00 04 21 B and WC 00 04 22), the premium charge developed under Code 9740 would be the basis for policyholder disclosure on endorsement WC 00 04 22, and the premium charge developed under Code 9741, multiplied times the Bureau allocation factor, would be the basis for policyholder disclosure on endorsement WC 00 04 21 B.

**Sample Calculations**

*For carriers using the WC 00 01 13 A, WC 00 04 21 B and WC 00 04 22 set of endorsements:*

An example of the calculations we envision in support of endorsements WC 00 04 21 B and WC 00 04 22 for a risk having \$8,550,000 in insured payrolls and insured by a carrier utilizing a loss cost multiplier of 1.333 against Bureau loss costs is shown below:

For endorsement WC 00 04 21 B:

Code	Payroll	Rate	Terrorism Allocation Factor	Domestic Terrorism Premium
9741	\$8,550,000	\$0.01	0.2750	\$235

For endorsement WC 00 04 22, the entire amount of premium developed under Code 9740 would be used as the basis for policyholder disclosure, as shown below:

Code	Payroll	Rate	Terrorism Allocation Factor	Foreign Terrorism Premium
9740	\$8,550,000	\$0.03	1.0000	\$2,565

For carriers electing to use the consolidated Delaware endorsement form WC 07 04 09, the combination of terrorism premium charges under Codes 9740 and 9741 would be used as the basis for policyholder disclosure.

*For carriers using the WC 07 04 09 endorsement alone:*

An example of the calculations we envision in support of endorsement WC 07 04 09 for the same risk having \$8,550,000 in insured payrolls and insured by a carrier utilizing a loss cost multiplier of 1.333 against Bureau loss costs is shown below:

Code	Payroll	Rate	Terrorism	
			Allocation Factor	Terrorism Premium
9740	\$8,550,000	\$0.03	1.0000	\$2,565
9741	\$8,550,000	\$0.01	0.2750	\$ 235
Total Terrorism Premium Charge				\$2,800

Consistent with the above approach, the derivation of a premium charge attributable to earthquake and catastrophic industrial accidents for use with WC 07 04 09 would be as shown below (although this calculation and disclosure is not mandated by TRIPRA):

Code	Payroll	Rate	Complement of	
			Code 9741 Terrorism Allocation Factor	Earthquake and Catastrophic Industrial Accident Premium
9741	\$8,550,000	\$0.01	0.7250	\$ 620

***The Bureau would note that premium charges determined consistent with part or all of the above examples would be appropriate entries in Item 4 of the Information Page or on the endorsement schedules filed herewith for carriers basing their terrorism premium charges on Bureau loss costs. Carriers using independent filings for such purposes may have to develop their own approaches to premium calculations and disclosure.***

**Policy and Statistical Reporting Procedures**

The above calculations or other appropriate approaches based on individual carrier filings are necessary for purposes of the policyholder disclosures mandated under TRIPRA. However, and aside from recognizing the requirements and adaptations in calculations necessary in order to comply with definitions adopted under TRIPRA, the Bureau’s approved statistical codes and rating values have not been changed at this time. ***Consequently, overall premium development and statistical reporting will remain the same and will continue to utilize Codes 9740 and 9741 as previously defined, and Policy Information Pages and unit statistical reports should each include entries for Codes 9740 and 9741 using rating values consistent with carrier filings, unless and until the Bureau provides further notice changing those procedures.***

Questions regarding this circular may be directed to Betty Ann Campbell at (302) 654 1435, Extension 4425 or [bcampbell@dcrb.com](mailto:bcampbell@dcrb.com), Bruce Decker at Extension 4411 or [bdecker@dcrb.com](mailto:bdecker@dcrb.com), or me at Extension 4413 or [twisecarver@dcrb.com](mailto:twisecarver@dcrb.com),

Timothy L. Wisecarver  
President

## **WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY**

**WC 00 01 13 A**

### **TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT 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.

#### **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 the 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 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 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 exceed \$100,000,000,000.
3. The premiums charged for the coverage for Insured Losses under this policy are included in the amounts shown in Item 4 of the Information Page or in the Schedules in the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement (WC 00 04 21 B) and the Foreign Terrorism Premium Endorsement (WC 00 04 22), attached to this policy.

### Notes:

1. This endorsement is mandatory effective January 1, 2008 for new and renewal policies.
2. This endorsement is available at the carrier's option effective December 26, 2007 for new and renewal policies.
3. Each carrier should consider whether to attach this endorsement to outstanding policies in force as of January 1, 2008.

## WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

WC 00 04 21 B

### DOMESTIC TERRORISM, EARTHQUAKES, AND CATASTROPHIC INDUSTRIAL ACCIDENTS PREMIUM ENDORSEMENT

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.

Your policy provides coverage for workers compensation losses caused by acts of domestic terrorism, earthquakes, and/or catastrophic industrial accident 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.

The premium charge provides funding for the risk of earthquakes, catastrophic industrial accidents, and acts of domestic terrorism. It does not provide funding for 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 certified (as defined in the Terrorism Risk Insurance Act of 2002), or non-certified, that are outside the scope of the Foreign Terrorism Premium Endorsement (WC 00 04 22), and where 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

#### Notes:

1. This endorsement is mandatory effective on or after January 1, 2008 for new and renewal policies.
2. Each carrier should consider whether to attach this endorsement to new and renewal policies effective from December 26, 2007 through December 31, 2007.
3. Each carrier should consider whether to attach this endorsement to outstanding policies in force as of January 1, 2008.

## **WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY**

**WC 00 04 22**

### **FOREIGN TERRORISM PREMIUM ENDORSEMENT**

This endorsement is notification 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.

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.

The premium charge for the coverage your policy provides for workers compensation losses caused by an act of foreign terrorism is shown in Item 4 of the Information Page or in the Schedule below.

### **Schedule**

**Note:**

1. This endorsement is mandatory effective on or after January 1, 2008 for new and renewal policies.



## **WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY**

**WC 07 04 09**

### **TERRORISM, EARTHQUAKES, AND CATASTROPHIC INDUSTRIAL ACCIDENTS PREMIUM ENDORSEMENT**

This endorsement is notification that your insurance carrier is charging premium to cover the losses that may occur in the event of terrorism, earthquakes and/or a catastrophic industrial accident and 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 (the Act).

Subject to all terms, definitions, exclusions, and conditions in your policy, and any applicable federal and/or state laws, rules, or regulations, your policy provides coverage for workers compensation losses caused by acts of terrorism, earthquakes, and/or catastrophic industrial accident including workers compensation benefit obligations dictated by state law.

The premium charge provides funding for the risks of acts of terrorism, earthquakes and catastrophic industrial accidents.

#### **Definitions**

The definitions provided in this endorsement for words or phrases also defined in the Act 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.

For purposes of this endorsement, the following definitions 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 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.

“Earthquake” means 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” means any single event resulting in aggregate workers compensation losses in excess of \$50 million.

“Insured Terrorism 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 Terrorism 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.

“Terrorism 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 for Insured Terrorism Losses under this policy. If aggregate Insured Terrorism Losses exceed \$100 billion in a Terrorism Program Year and if we have met our Insurer Terrorism Deductible, we are not liable for the payment of any portion of the amount of Insured Terrorism Losses that exceeds \$100 billion; and for aggregate industry Insured Terrorism Losses up to \$100 billion, we will pay only a pro rata share of such Insured Terrorism Losses as determined by the Secretary of the Treasury. This limitation of liability does not apply to Earthquake or Catastrophic Industrial Accident losses.

#### Policyholder Disclosure Notice

1 Insured Terrorism Losses would be partially reimbursed by the United States Government under a formula established by the Act. If the aggregate industry Insured Terrorism Losses exceeds \$100 million in a Terrorism Program Year, the United States Government would pay 85% of our Insured Terrorism 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 Terrorism Losses that exceeds \$100 billion.

3 The premiums charged for the coverage for Acts of Terrorism, Earthquakes and Catastrophic Industrial Accidents under this policy are separately shown in Item 4 of the Information Page or in the Schedule below.

#### Schedule

##### Notes:

- 1 This endorsement is mandatory effective on or after January 1, 2008 for new and renewal policies.
- 2 Each carrier should consider whether to attach this endorsement to new and renewal policies effective from December 26, 2007 through December 31, 2007.
- 3 Each carrier should consider whether to attach this endorsement to outstanding policies in force as of January 1, 2008.