

Bulletin No. 08-001

January 15, 2008

**FILING PROCEDURES FOR COMPLIANCE WITH THE PROVISIONS OF THE
TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007**

This Bulletin Replaces Nevada Bulletin No. 06-001

Background

In 2002, Congress enacted and the President signed into law, the Terrorism Risk Insurance Act of 2002 (TRIA). This federal law provides a federal backstop for defined acts of terrorism and imposes certain obligations on insurers. TRIA was extended for a two-year period covering Program Years 2006 and 2007. TRIA has now been extended for an additional seven years through December 31, 2014, with the enactment of the Terrorism Risk Insurance Program Reauthorization Extension Act of 2007 (2007 Extension). The 2007 Extension became effective January 1, 2008.

Several provisions of TRIA have changed in the 2007 Extension. The intent of this bulletin is to advise insurers of certain provisions of TRIA, as extended, that may require commercial insurers to submit filings in Nevada of disclosure notices, policy language and in the case of workers' compensation insurers, applicable rates.

Definitions and Clarifications

One of the changes made to TRIA with the 2007 Extension is a revision to the definition of an act of terrorism that eliminates the requirement that an individual(s) that carry(ies) out an act of terrorism be acting on behalf of a foreign person or foreign interest. In short, this means that acts formerly referred to as "domestic" terrorism may now be certified as an act of terrorism under TRIA.

Section 102(1)(B) states, "No act shall be certified by the Secretary as an act of terrorism if—(i) the act is committed as part of the course of a war declared by the Congress, except that this clause shall not apply with respect to any coverage for workers' compensation; or (ii) property and casualty insurance losses resulting from the act, in the aggregate, do not exceed \$5,000,000." Section 102(1)(C) and (D) specify that the determinations are final and not subject

to judicial review and that the Secretary of the Treasury cannot delegate the determination to anyone.

TRIA, as amended, contains in Section 103(1)(B) a program trigger of \$100 million in aggregate industry insured losses resulting from a certified act of terrorism before federal reimbursement is triggered.

Nevada will not allow exclusions of coverage for acts of terrorism that fail to be *certified losses* solely because they fall below the \$5,000,000 threshold as stated in Section 102(1)(B) on any policy that provides coverage for acts of terrorism. Insurers may submit language containing coverage limitations for *certified losses* that exceed \$100 billion in the aggregate.

Submission of Rates

Workers' Compensation

No rate filing is required unless an insurer plans to use a different loss cost multiplier than is currently on file for coverage for certified losses. If an insurer plans to use a different loss cost multiplier, an insurer must file the rate change 15 days prior to use with supporting documentation for the change.

Commercial Lines (Except Workers' Compensation)

Commercial rates are deregulated in Nevada and, therefore, no rate filing is necessary for commercial lines. This does not apply to the insurance line of workers' compensation.

Submission of Policy Form Language and Disclosure Notices

The 2007 Extension introduces a new disclosure requirement for any policy issued after the enactment. Specifically, in addition to other disclosure requirements previously contained in TRIA, insurers must now also provide clear and conspicuous disclosure to the policyholder of the existence of the \$100 billion cap under Section 103(e)(2), at the time of offer, purchase and renewal of the policy.

Commissioner Molasky-Arman requests that disclosure notices be filed with policy forms, as they are an integral part of the process for notification to policyholders in Nevada. The disclosure forms should be clear and not misleading to business owners and should comply with the requirements of TRIA, as amended, and be consistent with the policy language and rates, if applicable, filed by the insurer.

Insurers must file policy language that they intend to use for approval in Nevada. The policy should define *acts of terrorism* in ways that are consistent with TRIA, as amended, state law and the guidance provided in this bulletin. The definitions, terms and conditions should be complete and accurately describe the coverage that will be provided in the policy. Insurers may conclude that current filings are in compliance with TRIA, as amended, state law and the requirements of this bulletin. If so, these forms need not be refiled. However, if policy forms make a distinction between acts of a foreign person or foreign interest and a domestic person or domestic interest, it is likely that a filing is required.

In order to effectuate the January 1, 2008, implementation date of the 2007 Extension of TRIA, and to avoid disruption of the Nevada insurance market, Commissioner Molasky-Arman will allow insurers to implement the forms necessary to comply with TRIA, as amended, subject to later review and approval by the Nevada Division of Insurance (Division). The forms must be filed with the Division for approval no later than 10 days after implementation of the form or policy. This accommodation will expire April 1, 2008, and all forms will require prior approval before use after that date. Insurance Services Office (ISO) and National Council of Compensation Insurance (NCCI) forms have been approved for use in Nevada. An insurer only needs to submit a form, policy or disclosure form that differs from these approved Rate Service Organization forms.

To expedite the filing process, insurers should complete the attached Expedited Filing Transmittal Document for Terrorism Risk Insurance Forms and Pricing, and certify on the form that it is in compliance with the terms of the 2007 Extension of TRIA and the laws of the state of Nevada. Completion of the Expedited Filing Transmittal will relieve an insurer from having to complete the Property & Casualty Transmittal Document normally required to accompany filings. This expedited process will expire April 1, 2008, and all filing submittals after that date will require the Property & Casualty Transmittal Document.

The Division of Insurance encourages filers to take advantage of the SERFF system for submitting such filings. Please use the notation "TRIPRA" as the first six letters under "Project Name" so that these filings may be easily identified and expedited for review.

Effective Date

This bulletin shall take immediate effect and shall expire on December 31, 2014, unless Congress extends the duration of TRIA or unless noted otherwise in this Bulletin.

ALICE A. MOLASKY-ARMAN
Commissioner of Insurance

**EXPEDITED FILING TRANSMITTAL DOCUMENT
FOR TERRORISM RISK INSURANCE FORMS AND PRICING**

This page applies to the following state(s) _____

Indicate Type of Filing
<input type="checkbox"/> Filing Related to <i>Certified Losses</i>
<input type="checkbox"/> Filing Related to <i>Non-Certified Losses</i>
<input type="checkbox"/> Filing Applicable to Both Certified and Non-Certified Losses

Department Use only

Company Name(s)	Domicile	NAIC #	FEIN #

Contact Info for Filer

Name and address of Filer(s)	Telephone #	FAX #	e-mail

Filing information

Line of Insurance (see attachment)	
Company Program Title (Marketing title) (if applicable)	
Filing Type ** see note below	
This application is used with:	
Effective Date Requested	
Filing date	
Company Tracking Number	
Date filing approved in domiciliary state, if applicable	

	<u>Component/Form Name /Description/Synopsis</u>	<u>Form # or Rate Page Include edition date</u>	<u>Replacement Or withdrawn?</u>	<u>If replacement, give form # or rate page(s) it replaces</u>	<u>Previous State Filing Number, if required by state</u>
01			<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input type="checkbox"/> Neither		
02			<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input type="checkbox"/> Neither		

To be complete, a filing must include the following:

- A completed Expedited Filing Transmittal Document for each insurer or advisory organization.
- One copy of each endorsement, disclosure form or other policy language, unless the insurer has given an advisory organization authorization to file them on its behalf.
- A copy of the rates, rating systems and supporting documentation.
- The appropriate filing fees, if required
- A postage-paid, self-addressed envelope **large enough to accommodate the return.**

The insurer(s) submitting this filing certifies that it:

- Is in compliance with the terms of the Terrorism Risk Insurance Act, as amended, and the laws of this state; and
- Is in compliance with the requirements of the bulletin containing the voluntary expedited filing procedures.

Signature

Print Name:

Title: