

November 4, 2004

To: ALL ASSOCIATION MEMBERS

Circular Letter No. 04-1435

**RE: NCCI Item P-1392 — Notification Endorsement of Pending Law Change to
Terrorism Risk Insurance Act of 2002 (WC 00 01 12)**

The Minnesota Department of Commerce has approved the above filing to become effective 12:01 a.m., January 1, 2005, for new and renewal business only.

Currently the premium rate for coverage that a standard Workers' Compensation and Employer's Liability policy provides for terrorism or war losses is shown in Item 4 of the policy Information Page or on the *Terrorism Risk Insurance Act Endorsement* (WC 00 04 20) attached to the policy. The purpose of the above filing is to address uncertainties regarding the issuance of policies effective on or after January 1, 2005 without knowing if Congress will extend the Terrorism Risk Insurance Act of 2002 (TRIA) beyond December 31, 2005. The *Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Act of 2002* (WC 00 01 12) was created by NCCI to clarify for policyholders that premium charges for foreign terrorism may either continue to be applied, or change from the amount applied to policies in effect on or after December 31, 2005 in the event of TRIA's expiration. The language on Endorsement No. WC 00 01 12 includes the following phrase:

"this amount may continue or change for new, renewal, and **inforce** policies in effect on or after December 31, 2005 in the event of TRIA's expiration, **subject to regulatory review in accordance with applicable state law.**" (emphasis added)

Minnesota statute prohibits midterm rate increases on "inforce" policies. Specifically, Minnesota Statute 60A.351 prohibits policies from being renewed "at less favorable terms as to the dollar amount of coverage or deductibles, higher rates, and/or higher rating plan", unless notice of the new terms is given at least 60 days prior to the expiration date of the policy.

The Minnesota Commerce Department has approved Endorsement No. WC 00 01 12 with the inclusion of the following footnote to clarify the restricted use of this endorsement in Minnesota for policies effective on or after 12:01 a.m., January 1, 2005:

1. Pursuant to Minn. Stat. § 60A.351, a policy may not be renewed at less favorable terms unless notice of the new terms is given at least 60 days prior to the expiration date.

Minnesota's Commerce Department will issue a Bulletin providing additional guidance on this matter once Congress decides whether or not to act on TRIA's proposed extension.

When reviewing MWCIA's Exhibit I, please note the special Minnesota language in the notes section of Endorsement WC 00 01 12 is highlighted in yellow. The purpose of Exhibit II is to update the index in the **Minnesota Forms Manual**. A copy of National Council's original filing memorandum is also included for your convenience to provide additional background information on this particular filing. To view copies of currently approved forms and endorsements for Minnesota including Endorsement No. WC 00 01 12 visit our website at www.mwcia.org and select the dropdown menu for "Minnesota Manuals" on the left-hand margin of our homepage.

Please direct any questions you may have regarding this filing to one of our Member & Customer Services staff at 952.897.1737 or by emailing info@mwcia.org.



EXHIBIT I

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

WC 00 01 12

Original

Effective January 1, 2005

Standard

NOTIFICATION ENDORSEMENT OF PENDING LAW CHANGE TO TERRORISM RISK INSURANCE ACT OF 2002

This endorsement is being sent to you with respect to your workers compensation and employers liability insurance policy. This endorsement does not replace the separate Terrorism Risk Insurance Act Endorsement (WC 00 04 20) that is attached to your current policy and which remains in effect as applicable.

The Terrorism Risk Insurance Act of 2002 (TRIA) took effect on November 26, 2002 and provides for a three-year program under which the Federal Government will share in the payment of insured losses caused by certain acts of terrorism. In the absence of affirmative U.S. Congressional action to extend, update or otherwise reauthorize in whole or in part, TRIA is scheduled to expire December 31, 2005.

Since the timetable for any further Congressional action respecting TRIA is unknown at this time, and the exposure to acts of terrorism remains, we are providing our policyholders with relevant information concerning their workers compensation policies in effect on or after January 1, 2005 in the event of TRIA's expiration.

Your policy provides coverage for workers compensation losses caused by acts of terrorism or war, 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.

The premium charge for the coverage your policy provides for terrorism or war losses is shown in Item 4 of the Information Page or the Schedule in the Terrorism Risk Insurance Act Endorsement (WC 00 04 20) that is attached to your policy, and this amount may continue or change for new, renewal, and inforce policies in effect on or after December 31, 2005 in the event of TRIA's expiration, subject to regulatory review in accordance with applicable state law.

You need not do anything further at this time.

Notes:

1. Pursuant to Minn. Stat. § 60A.351, a policy may not be renewed at less favorable terms unless notice of the new terms is given at least 60 days prior to the expiration date.

EXHIBIT II

INDEX MINNESOTA FORMS MANUAL

The following forms and endorsements in this Minnesota Forms Manual have been approved by the Minnesota Commerce Department and are available for use in Minnesota.

- Introduction
- Workers' Compensation and Employers Liability Insurance Policy Rules
- WC 00 00 00 A Workers Compensation and Employers Liability Insurance Policy
- WC 00 01 01 A Defense Base Act Coverage Endorsement
- WC 00 01 04 A Federal Employers' Liability Act Coverage Endorsement
- WC 00 01 06 A Longshore and Harbor Workers' Compensation Act Coverage Endorsement
- WC 00 01 08 A Nonappropriated Fund Instrumentalities Act Coverage Endorsement
- WC 00 01 09 A Outer Continental Shelf Lands Act Coverage Endorsement
- WC 00 01 11 Migrant and Seasonal Agricultural Worker Protection Act Coverage Endorsement
- WC 00 01 12 Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Act of 2002
- WC 00 02 01 A Maritime Coverage Endorsement
- WC 00 02 03 Voluntary Compensation Maritime Coverage Endorsement
- WC 00 02 04 Limited Maritime Coverage Endorsement
- WC 00 03 01 A Alternate Employer Endorsement
- WC 00 03 02 Designated Workplaces Exclusion Endorsement
- WC 00 03 03 C Employers Liability Coverage Endorsement
- WC 00 03 04 Insurance Company as Insured Endorsement
- WC 00 03 05 Joint Venture as Insured Endorsement
- WC 00 03 09 A Rural Electrification Administration Endorsement
- WC 00 03 10 Sole Proprietors, Partners, Officers and Others Coverage Endorsement
- WC 00 03 11 A Voluntary Compensation and Employers Liability Coverage Endorsement

- WC 00 03 13 Waiver of Our Right to Recover from Others Endorsement
- WC 00 04 01 A Aircraft Premium Endorsement
- WC 00 04 03 Experience Rating Modification Factor Endorsement
- WC 00 04 05 Policy Period Endorsement
- WC 00 04 06 A Premium Discount Endorsement
- WC 00 04 09 Premium Determination Endorsement – Former Self-Insurers 1
- WC 00 04 10 Premium Determination Endorsement – Former Self-Insurers 2
- WC 00 04 12 Contingent Experience Rating Modification Factor Endorsement
- WC 00 04 14 Notification of Change in Ownership Endorsement
- WC 00 04 19 Premium Due Date Endorsement
- WC 00 04 20 Terrorism Risk Insurance Act Endorsement
- Policyholder Disclosure Notice of Terrorism Insurance Coverage
- Policyholder Disclosure Notice of Terrorism Insurance Coverage
- WC 00 05 03 A Retrospective Premium Endorsement One Year Plan
- WC 00 05 04 A Retrospective Premium Endorsement Three Year Plan
- WC 00 05 05 A Retrospective Premium Endorsement Long-Term Construction Project
- WC 00 05 08 Retrospective Premium Endorsement Aviation Exclusion
- WC 00 05 09 A Retrospective Premium Endorsement Changes
- WC 00 05 10 Retrospective Premium Endorsement Non-Ratable Catastrophe Element or Surcharge
- WC 00 05 11 Retrospective Premium Endorsement Short Form
- WC 00 05 12 A Retrospective Premium Endorsement One Year Plan – Multiple Lines
- WC 00 05 13 A Retrospective Premium Endorsement Three Year Plan - Multiple Lines
- WC 00 05 14 A Retrospective Premium Endorsement Long Term Construction Project - Multiple Lines
- WC 00 05 15 Retrospective Premium Endorsement Flexibility Options
- WC 00 06 03 Benefits Deductible Endorsement
- WC 89 06 09 B Policy Termination/Cancellation/Reinstatement Notice

- WC 22 00 00 A Minnesota Amendatory Endorsement
- WC 22 00 01 Information Page
- WC 22 03 01 Minnesota Compliance with Applicable Trade Sanction Laws
- WC 22 03 02 Minnesota Independent Contractors Coverage Endorsement
- WC 22 04 01 Minnesota Contracting Premium Adjustment Program Endorsement
- WC 22 04 02 Minnesota Anniversary Rating Date Endorsement
- WC 22 06 00 Minnesota Policy Change Endorsement
- WC 22 06 01 B Minnesota Cancellation and Nonrenewal Endorsement
- WC 22 06 02 Minnesota Policy Information Page Endorsement Insured's Name
- WC 22 06 03 Minnesota Policy Information Page Endorsement Policy Number
- WC 22 06 04 Minnesota Policy Information Page Endorsement Effective Date
- WC 22 06 05 Minnesota Policy Information Page Endorsement Expiration Date
- WC 22 06 06 Minnesota Policy Information Page Endorsement Insured's Mailing Address
- WC 22 06 07 Minnesota Policy Information Page Endorsement Experience Modification
- WC 22 06 08 Minnesota Policy Information Page Endorsement Producer's Name
- WC 22 06 09 Minnesota Policy Information Page Endorsement Change in Workplace of Insured
- WC 22 06 10 Minnesota Policy Information Page Endorsement Insured's Legal Status
- WC 22 06 11 Minnesota Policy Information Page Endorsement Add States
- WC 22 06 12 Minnesota Policy Information Page Endorsement Employer Limits
- WC 22 06 13 Minnesota Policy Information Page Endorsement Change in State
- WC 22 06 14 Minnesota Policy Information Page Endorsement Endorsement Numbers
- WC 22 06 15 Minnesota Policy Information Page Endorsement Class, Rate, Other Change
- WC 22 06 16 Minnesota Policy Information Page Endorsement Interim Adjustment of Premium
- WC 22 06 17 Minnesota Policy Information Page Endorsement Carrier Servicing Office
- WC 22 06 18 Minnesota Policy Information Page Endorsement Interstate/Intrastate Risk ID Number

- WC 22 06 19 Minnesota Policy Information Page Endorsement Carrier Number
- WC 22 06 20 Minnesota Entity Address Schedule

FILING MEMORANDUM

ITEM P-1392— NOTIFICATION ENDORSEMENT OF PENDING LAW CHANGE TO TERRORISM RISK INSURANCE ACT OF 2002 (WC 00 01 12)

(To be effective 12:01 a.m. on January 1, 2005 applicable to new, renewal, and outstanding policies.)

PURPOSE

The purpose of this item is to address uncertainties in having to issue new, outstanding or renewal policies for periods effective January 1, 2005 and thereafter without knowing if Congress will extend the Terrorism Risk Insurance Act (TRIA) beyond December 31, 2005.

Additionally, this item will be used to clarify for policyholders that a premium charge for foreign terrorism may either continue to be applied, or change from the amount currently applied, following the possible expiration of TRIA.

While the use of this endorsement will be optional for insurers, the continued application of the premium charged by insurers for foreign terrorism will be subject to regulatory review in accordance with applicable rating law.

BACKGROUND

TRIA took effect on November 26, 2002 and provides for a three-year program under which the Federal Government will share in the payment of insured losses caused by certain acts of terrorism. In the absence of United States Congressional action to extend, update or otherwise reauthorize it in whole or part, TRIA is scheduled to expire December 31, 2005.

It is unknown at this time whether Congress will take action regarding TRIA. Additionally, exposure to acts of terrorism remains. Therefore, we want to provide policyholders with relevant information concerning their workers compensation policies in effect January 1, 2005 in the event of TRIA's expiration.

PROPOSAL

It is proposed that effective 12:01 a.m. January 1, 2005, the Notification Endorsement of Pending Law Change to Terrorism Risk Insurance Act of 2002 (WC 00 01 12) be adopted for use on a national basis for new, renewal, and outstanding voluntary and assigned risk policies.

IMPACT

The premium impact for coverage that a standard workers compensation and employers liability policy provides for terrorism or war losses is shown in Item 4 of the policy Information Page or the Terrorism Risk Insurance Act Endorsement (WC 00 04 20) Schedule that is attached to the policy. This amount may continue or change for new, renewal, and outstanding policies in effect on or after December 31, 2005 in the event of TRIA's expiration.

IMPLEMENTATION

The attached exhibit proposes the changes that must be implemented in NCCI's *Forms Manual of Workers Compensation and Employers Liability Insurance*.

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**ITEM P-1392— NOTIFICATION ENDORSEMENT OF PENDING LAW CHANGE TO TERRORISM
RISK INSURANCE ACT OF 2002 (WC 00 01 12)**

EXHIBIT 1

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY WC 00 01 12

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You need not do anything further at this time.