



Minnesota Workers' Compensation  
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December 12, 2007

**ALL ASSOCIATION MEMBERS**

Circular Letter 07-1524

**RE: Update on Foreign Terrorism Surcharge**

The status of the Terrorism Risk Insurance Extension Act (TRIEA) beyond its December 31, 2007 expiration date remains unknown. MWCIA issued Circular Letter 07-1519 a few weeks ago to provide guidance for the handling of Foreign Terrorism Surcharges regardless of what action Congress takes.

However, a number of questions continue to arise, which leads us to conclude that there is a high level of uncertainty and confusion surrounding the TRIEA extension issue.

MWCIA staff recently participated in a national teleconference of Data Collection Organizations (DCO) to discuss the current situation. One of the outcomes of that teleconference was a "Frequently Asked Questions" (FAQ) list that originated with the NCCI. Attached is that list of FAQ's and NCCI's responses. Please note the response to question #1:

***"If TRIEA expires on December 31, 2007, how will policies be impacted".***

***"In most states, the application of the Foreign Terrorism Premium endorsement (WC 00 04 22) to a policy provides a carrier the right to continue to charge for foreign terrorism even if TRIEA expires on December 31, 2007 ..."***

In Minnesota please note that the Terrorism Risk Insurance Act Endorsement (WC 00 01 13) should not be attached to policies with effective dates of January 1, 2008 or thereafter, as the provisions of this endorsement do not extend beyond December 31, 2007. The Foreign Terrorism Premium Endorsement (WC 00 04 22) should be used in the interim. If and when TRIEA is extended and an endorsement that addresses its provisions is available, this endorsement can be added to policies mid-term as was done with WC 00 01 13.

In summary, MWCIA's Foreign Terrorism filings made in 2005 remain in effect for member companies' 2008 rate filings. This is further evidenced by the guidance provided by the Department of Commerce via the footnote contained on Circular Letter 07-1519:

***“Per discussions with the Department of Commerce, regardless of the status of the extension of TRIEA it is permissible to include a foreign terrorism surcharge in filings with effective dates of January 1, 2008 and thereafter. However, due to uncertainty as to the outcome, it may be advisable to label the surcharge as “Foreign Terrorism”.***

For reference purposes, MWCIA Circular Letters can be found on our website – [www.mwcia.org](http://www.mwcia.org).

MWCIA will continue to keep membership informed of additional developments. ***Please direct any questions you may have concerning this item to Craig Anderson, MWCIA Vice President of Actuarial Services at 952.897.6431 or by e-mail at [craig.anderson@mwcia.org](mailto:craig.anderson@mwcia.org).***



# Circular

NOVEMBER 9, 2007

COUNTRYWIDE INFORMATION

CIF-2007-08

## Countrywide—Terrorism Risk Insurance Extension Act of 2005 and Frequently Asked Questions

### ACTION NEEDED

The Terrorism Risk Insurance Extension Act of 2005 (TRIEA) is due to expire on December 31, 2007. In the event that TRIEA is renewed or extended, NCCI will review the language of the Act and proceed accordingly. NCCI will specifically be looking to clarify the application of the following items:

- Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents (DTEC)
- The language addressing industry caps
- Inclusion of Nuclear, Biological, Chemical and Radiological (NBCR) coverage

Regardless of the status of TRIEA, this circular clarifies that the foreign terrorism miscellaneous values previously filed and approved for use in NCCI states will continue to apply, until such time that it is determined an adjustment is necessary. Please review the information contained in this circular for further details.

To ensure policyholder notification, assigned carriers in NCCI Plan Administered states should continue to apply the miscellaneous values and the Terrorism Risk Insurance Extension Act Endorsement (WC 00 01 13) and Foreign Terrorism Premium Endorsement (WC 00 04 22) to new and renewal policies in the residual market until further notification.

### BACKGROUND

TRIEA and the Terrorism Risk Insurance Act of 2002 (TRIA) were implemented as a result of the US Congress recognizing that terrorism is a real and significant catastrophe exposure for insurers of workers compensation and other lines of insurance. In 2005, NCCI filed Item B-1398—Miscellaneous Values for Foreign Terrorism, which became effective January 1, 2006 in most NCCI states. Item B-1398 relabeled all references to TRIA in NCCI's manuals, rules, and rate pages as "Foreign Terrorism" and created Foreign Terrorism Premium Endorsement WC 00 04 22. Therefore, as a result of Item B-1398, carriers that continue to provide coverage for foreign terrorism can continue to collect premium for that exposure even if TRIEA is discontinued.

### IMPACT

Foreign terrorism coverage cannot be excluded from a workers compensation policy; therefore, the foreign terrorism miscellaneous values previously filed and approved for use in NCCI states will continue to apply even if TRIEA is not extended or rewritten. Please note that there are a few state exceptions to these provisions, which are addressed in the FAQs on [ncci.com](http://ncci.com).

### NCCI ACTION

NCCI is monitoring the activities of Congress related to TRIEA and is prepared to address any changes that might be necessary to currently filed rates, rules, and programs when a TRIEA-related bill does pass. Our Web site at [ncci.com](http://ncci.com) includes a resource library, which is your central source for all information on terrorism, including FAQs, a video, all NCCI circulars on the topic, and links to other Web sites. To locate this information from the [ncci.com](http://ncci.com) home page, select **Industry Information, Terrorism and WC**, then **Resource Library**.

### PERSON TO CONTACT

For more information, please contact our Customer Service Center at 800-NCCI-123 (800-622-4123) or submit your questions to the following e-mail address: [terrorism\\_act@ncci.com](mailto:terrorism_act@ncci.com). We're here to assist you Monday–Friday, 8:00 a.m.–8:00 p.m. ET.

**Q1. If TRIEA expires on December 31, 2007, how will policies be impacted?**

- A. In most states, the application of the Foreign Terrorism Premium Endorsement (WC 00 04 22) to a policy provides a carrier the right to continue to charge for foreign terrorism exposure even if TRIEA expires on December 31, 2007. Therefore, it would be appropriate to continue to apply the foreign terrorism premium charge that has already been filed and approved in a state even after December 31, 2007.

Florida did not approve the Foreign Terrorism Premium Endorsement (WC 00 04 22). However, the charge for foreign terrorism as approved in Item B-1398—Miscellaneous Values for Foreign Terrorism is applicable to Florida policies. This charge will continue to apply to Florida policies after December 31, 2007 and will appear on the policy Information Page.

Virginia did not approve Item B-1398; therefore, further action will be required and instructions will be given at a later date.

To ensure policyholder notification, assigned carriers in NCCI Plan Administered states should continue to apply the Terrorism Risk Insurance Extension Act Endorsement (WC 00 01 13) to new and renewal policies in the residual market until further notice. Voluntary market carriers should use their own discretion regarding the continued application of the Terrorism Risk Insurance Extension Act Endorsement (WC 00 01 13) and the Florida Terrorism Risk Insurance Extension Act Endorsement (WC 09 04 03).

**Q2. What actions will NCCI take if TRIEA is extended or rewritten?**

- A. NCCI is monitoring the activities of Congress related to TRIEA. If a TRIEA-related bill passes, NCCI is prepared to address any changes that might be necessary to currently filed rates, rules, and programs. NCCI will review the language of the new Act and specifically look to clarify the application of the following items:

- Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents (DTEC)
- The language addressing industry caps
- Inclusion of Nuclear, Biological, Chemical and Radiological (NBCR) coverage

**Q3. If TRIEA is rewritten to include coverage for domestic terrorism or nuclear, biological, chemical and radiological (NBCR) events, how will NCCI address these items?**

- A. Miscellaneous Values for Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents (DTEC) are applicable in most states. If TRIEA is rewritten to include coverage for domestic terrorism or NBCR events, NCCI will evaluate the miscellaneous values for DTEC and the DTEC Premium Endorsement (WC 00 04 21 A) to determine if adjustments to these items are needed and how the adjustments, if any, will apply to outstanding, new, and renewal policies.

For states that have not approved miscellaneous values for DTEC, further action will be required and instructions will be given at a later date.

**Q4. Will NCCI file any adjustments to the foreign terrorism miscellaneous value if TRIEA expires on December 31, 2007?**

- A. Whether or not TRIEA is extended or rewritten, NCCI will evaluate the current foreign terrorism miscellaneous values at a later date to determine if adjustments are needed. Proposed changes, if any, will probably be made through an item filing.

**Q5. Why isn't NCCI filing a notification of pending law change endorsement similar to WC 00 01 12?**

- A. Unlike Item B-1383, which implemented a premium charge as a result of TRIA, Item B-1398 allows the carrier to continue to collect premium for the exposure of foreign terrorism even if TRIEA were not to be continued by the federal government.