



INFORMATIONAL MEMORANDUM

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Office of Insurance Regulation

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Director

All Property and Casualty Insurers

Additional Information Regarding The Terrorism Risk Insurance Act of 2002

This Informational Memorandum provides additional information to Florida property and casualty insurers that are subject to the Terrorism Risk Insurance Act of 2002 (**TRIA**).

Certified Acts

The Florida Office of Insurance Regulation (**OFFICE**) recently approved form, rate and rule filings submitted by the Insurance Services Office (**ISO**) relating to coverage of "Certified Acts" of terrorism as defined by **TRIA**.

ISO's form filings provide a variety of endorsements intended for use in connection with the *Mandatory Availability* provision of **TRIA** (Section 103 (c)(1)). This provision gives the consumer a choice and is addressed, in detail, in interim guidance documents and proposed interim rules published by the Department of the Treasury.

Rate Impact

Insurers wishing to use these or similar forms should evaluate the rate level impact associated with such use. Whether the use of certain endorsements will result in a premium credit, debit or be premium neutral may depend upon the following:

- Whether an insurer has rate need at the time such forms are introduced;
- The amount of additional rate need that is supported ; and
- The premium or charge associated with the terrorism coverage, as determined by the insurer.

Separate Line Item Disclosures

The **OFFICE** has received a number of filings containing endorsements intended to comply with Section 103 (b)(2)(C) of **TRIA**, commonly referred to as the "*separate line item requirement*". Many such filings propose to specify *zero* or an equivalent as the premium or cost for insured losses covered by **TRIA**. Many insurers have indicated to the **OFFICE** that the premium for terrorism coverage is nominal or indeterminable, and

an exercise designed to determine such premium would be overly burdensome. This Informational Memorandum reminds insurers of Florida's prohibition against free insurance found in section 626.9541(1)(n), Florida Statutes, and that TRIA requires the costs of terrorism coverage to be disclosed to insureds.

Coverage for "Other than Certified" or "Non Certified" Acts

The **OFFICE** has not approved terrorism exclusions or limitations for use with contracts where terrorism coverage already exists, i.e. "*open peril*" policies, "*special cause of loss*" policies or their equivalents. However, given the federal government's view that choice serves both the public and the insurance industry, filings seeking to exclude or limit terrorism coverage from such contracts, when such exclusion or limitation is at the option of the consumer, should reflect the rate level impact associated with such endorsements. Such filings should be filed with the **OFFICE**.

Exclusions for Nuclear, Biological and Chemical losses

While Section 103 (c)(1) of **TRIA** requires insurers to make coverage available for losses insured under **TRIA**, interim guidance from the Department of the Treasury indicates that this provision does not require that insurers make coverage available for risks which a state has previously permitted to be excluded. The **OFFICE** has previously approved the use of Nuclear Hazard exclusions, in connection with commercial lines policies.

Filings that seek to exclude biological or chemical hazards, at the option of the consumer, should reflect the rate level impact of such exclusions and should be filed with the **OFFICE**.

Additional questions regarding this Informational Memorandum may be directed to:

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