



# Circular

MAY 29, 2008

ANNOUNCEMENT

CIF-2008-04

## Countrywide—Item P-1406—Withdrawal of Endorsement WC 00 01 13 A and Revisions to Endorsements WC 00 04 21 B and WC 00 04 22

### ACTION NEEDED

Please review the changes outlined in the attachments to this circular for impact on your company's systems and procedures. Also review the *Status of Item Filings* circular for state approval of this item.

**Caution:** At the time of distribution of this circular, this item has been filed with the regulators but is **not yet approved**. This information is provided for your convenience and analysis. Please do not use the information until the regulators have approved the filing.

### BACKGROUND

NCCI has submitted Item P-1406—Revisions to Endorsements WC 00 01 13 A, WC 00 04 21 B, and WC 00 04 22 to the state regulators. Item P-1406 proposes to withdraw the Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 00 01 13 A), and to update 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) to reflect certain changes required to address losses from "terrorism" and "catastrophes (other than certified acts of terrorism)."

### IMPACT

There is no change in premium as a result of this item.

### NCCI ACTION

NCCI will release updated pages of NCCI's *Forms Manual of Workers Compensation and Employers Liability Insurance* upon approval.

### PERSON TO CONTACT

If you have any questions, please contact:  
Customer Service Center  
NCCI, Inc.  
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800-NCCI-123

## **FILING MEMORANDUM**

### **ITEM P-1406—WITHDRAWAL OF ENDORSEMENT WC 00 01 13 A AND REVISIONS TO ENDORSEMENTS WC 00 04 21 B AND WC 00 04 22**

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**(To be effective 12:01 a.m. on September 1, 2008 applicable to new and renewal policies.)**

#### **PURPOSE**

This item withdraws the Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 00 01 13 A), and updates 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) to reflect certain changes required to address losses from “terrorism” and “catastrophes (other than certified acts of terrorism).”

#### **BACKGROUND**

In response to the Terrorism Risk Insurance Act of 2002 (“TRIA” or the “Act”) and the Terrorism Risk Insurance Extension Act of 2005 (“TRIEA”), NCCI filed items B-1383, B-1393, B-1398, P-1392, and P-1404, which implemented variations of a TRIA Disclosure Endorsement, Foreign Terrorism Premium Endorsement, and Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement. At the time these endorsements were created, it was determined that two separate endorsements were necessary for foreign and domestic terrorism because the Act’s definition of terrorism did not include domestic terrorism.

Congress has now (December 26, 2007) enacted the Terrorism Risk Insurance Program Reauthorization Act of 2007 (“TRIPRA”), which amends the definition of “act of terrorism” to include domestic terrorism. Due to the short time frame for compliance, NCCI filed Items B-1405 and P-1405 in response to TRIPRA, to update the rule reference and disclosure requirements in the TRIA Disclosure Endorsement and the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement.

After receiving feedback from the industry and upon further review, it has been determined that both domestic and foreign terrorism should be reflected in the same endorsement. In addition, the information contained in the disclosure endorsement should be incorporated in the terrorism premium endorsement. These changes will allow carriers to provide only one TRIPRA endorsement.

Accordingly, this item will remove acts of domestic terrorism from the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement and include them in the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (formerly the Foreign Terrorism Premium Endorsement). Secondly, the disclosure endorsement will be eliminated and the information will be incorporated in the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement. Finally, the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement will be renamed the Catastrophe (other than Certified Acts of Terrorism) Premium Endorsement.

#### **PROPOSAL**

It is proposed that:

1. The Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 00 01 13 A) be withdrawn and the disclosure information be included on the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (formerly the Foreign Terrorism Premium Endorsement) (WC 00 04 22 A)

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## FILING MEMORANDUM

### ITEM P-1406—WITHDRAWAL OF ENDORSEMENT WC 00 01 13 A AND REVISIONS TO ENDORSEMENTS WC 00 04 21 B AND WC 00 04 22

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2. The Foreign Terrorism Premium Endorsement (WC 00 04 22) be revised to:
  - a. Change the title of the endorsement to "Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement"
  - b. Remove references to foreign terrorism,
  - c. Incorporate the information from the Terrorism Risk Insurance Program Reauthorization Act Endorsement (WC 00 01 13 A)
3. The Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement (WC 00 04 21 B) be revised to:
  - a. Change the title of the endorsement to "Catastrophe (other than Certified Acts of Terrorism) Premium Endorsement"
  - b. Remove references to domestic terrorism, and
  - c. Revise the definition of "catastrophe," and
  - d. Add the definition of "noncertified act of terrorism"

Additionally, this item is being filed in conjunction with Item B-1407—Terrorism and Catastrophe (Other Than Certified Acts of Terrorism), which proposes that, effective September 1, 2008, changes be made to the manual rules, statistical code labels, miscellaneous value labels, and miscellaneous values for terrorism to reflect that acts of terrorism now include domestic terrorism. This item and Item B-1407 should be adopted concurrently.

## IMPACT

There is no change in premium as a result of this item.

## IMPLEMENTATION

The attached exhibits outline the changes required to the Terrorism Risk Insurance Program Reauthorization Act Endorsement, the Domestic Terrorism, Earthquakes, and Catastrophic Industrial Accidents Premium Endorsement, and the Foreign Terrorism Premium, which will be located in NCCI's ***Forms Manual of Workers Compensation and Employers Liability Insurance***.

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**ITEM P-1406—WITHDRAWAL OF ENDORSEMENT WC 00 01 13 A AND REVISIONS TO  
ENDORSEMENTS WC 00 04 21 B AND WC 00 04 22**

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**EXHIBIT 1****FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE****~~TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT ENDORSEMENT (WC 00 01 13 A)~~**

~~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 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 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.~~

~~"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 exceeds \$100,000,000,000.~~

**ITEM P-1406—WITHDRAWAL OF ENDORSEMENT WC 00 01 13 A AND REVISIONS TO  
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**EXHIBIT 1 (CONT'D)  
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE**

- ~~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.~~

# ITEM P-1406—WITHDRAWAL OF ENDORSEMENT WC 00 01 13 A AND REVISIONS TO ENDORSEMENTS WC 00 04 21 B AND WC 00 04 22

## EXHIBIT 2 FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE

### ~~CATASTROPHE (OTHER THAN CERTIFIED ACTS OF TERRORISM), DOMESTIC TERRORISM, EARTHQUAKES, AND CATASTROPHIC INDUSTRIAL ACCIDENTS~~ PREMIUM ENDORSEMENT (WC 00 04 21-B C)

This endorsement is notification that your insurance carrier is charging premium to cover the losses that may occur in the event of a Catastrophe (other than Certified Acts of Terrorism) as that term is defined below. ~~domestic terrorism, earthquakes, and/or a catastrophic industrial accident.~~ Your policy provides coverage for workers compensation losses caused by a Catastrophe (other than Certified Acts of Terrorism). ~~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.~~ This premium charge does not provide funding for Certified Acts of foreign Terrorism as that term is defined in the Foreign Terrorism Premium Endorsement (WC 00 04 22 ), attached to this policy contemplated under the Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement (WC 00 04 22 A), attached to this policy.

For purposes of this endorsement, the following definitions apply:

- Catastrophe (other than Certified Acts of Terrorism) ~~Domestic Terrorism~~: Any single event, resulting from an Earthquake, Noncertified Act of Terrorism, or Catastrophic Industrial Accident, which results in aggregate workers compensation losses in excess of \$50 million. ~~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 are 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.~~
- Noncertified Act of Terrorism: An event that is not certified as an Act of Terrorism by the Secretary of Treasury pursuant to the Terrorism Risk Insurance Act of 2002 (as amended) but that meets all of the following criteria:
  - a. It is an act that is violent or dangerous to human life, property, or infrastructure;
  - b. The act results in damage within the United States, or outside of the United States in the case of the premises of United States missions or air carriers or vessels as those terms are defined in the Terrorism Risk Insurance Act of 2002 (as amended); and
  - c. It is an act that 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.
- Catastrophic Industrial Accident: A chemical release, large explosion, or small blast that is localized in nature and affects workers in a small perimeter the size of a building.

The premium charge for the coverage your policy provides for workers compensation losses caused by a Catastrophe (other than Certified Acts of Terrorism) is shown in Item 4 of the Information Page or in the Schedule below.

### Schedule

ITEM P-1406—WITHDRAWAL OF ENDORSEMENT WC 00 01 13 A AND REVISIONS TO  
ENDORSEMENTS WC 00 04 21 B AND WC 00 04 22

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EXHIBIT 2 (CONT'D)

FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE

~~Payroll~~ **State**

**Rate**

**Premium**

**ITEM P-1406—WITHDRAWAL OF ENDORSEMENT WC 00 01 13 A AND REVISIONS TO  
ENDORSEMENTS WC 00 04 21 B AND WC 00 04 22**

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**EXHIBIT 3****FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE****~~FOREIGN TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT DISCLOSURE  
PREMIUM ENDORSEMENT (WC 00 04 22 A)~~**

~~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. This endorsement is notification. It serves to notify you of certain limitations under the Act, and 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.

**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 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 (and, except for Pennsylvania, 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 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.

“Program Year” refers to each calendar year between January 1, 2008 and December 31, 2014, as applicable.

~~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.~~



**ITEM P-1406—WITHDRAWAL OF ENDORSEMENT WC 00 01 13 A AND REVISIONS TO  
ENDORSEMENTS WC 00 04 21 B AND WC 00 04 22**

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**EXHIBIT 3 (CONT'D)  
FORMS MANUAL OF WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE****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 exceed \$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 premium charge for the coverage your policy provides for ~~workers compensation~~ Insured Losses is included in the amount shown in Item 4 of the Information Page or in the Schedule below.

**Schedule****State****Rate ~~per \$100 of payroll~~****Premium**