

Dec. 21, 2001

**TO: ALL PROPERTY & CASUALTY INSURERS WRITING  
COMMERCIAL LINES INSURANCE PRODUCTS**  
**RE: VOLUNTARY EXPEDITED FILING PROCEDURES FOR  
EXCLUSIONS RELATED TO ACTS OF TERRORISM**  
**FROM: James E. Long, Commissioner of Insurance**  
**Date: January 7, 2002**

### **Background**

There has been much uncertainty in the markets for commercial lines property and casualty insurance coverage in light of the substantial losses experienced by the industry on September 11, 2001. Soon after the events, many reinsurers announced that they did not intend to provide coverage for acts of terrorism in future reinsurance contracts. This led to a concerted effort on behalf of all interested parties to seek a temporary federal backstop to calm market fears over future terrorists attacks and the ability of the insurance industry to allocate capital to provide coverage for these unpredictable and potentially catastrophic events. Unfortunately, Congress has been unable to reach agreement on the terms of a temporary federal solution. As a result, insurance regulators find themselves having to consider approval of certain coverage exclusions for acts of terrorism or risk possible serious solvency concerns in the insurance industry.

The intent of this bulletin is to inform you of the decision in this state to approve certain limited exclusions for acts of terrorism and to provide a voluntary procedure for insurers to use to expedite the filing and timely review of these limited exclusions. As Commissioner I was involved in recent discussions at the National Association of Insurance Commissioners (NAIC) related to this issue. In a recent conference call the members of the NAIC adopted a motion that "if the Congress adjourns without enacting federal terrorism legislation, the states should grant conditional approval to commercial lines endorsements that exclude coverage for acts of terrorism consistent with the exclusion framework developed by ISO. To the extent permitted by state law, such approvals would sunset or be withdrawn 15 business days after the President signs into law a federal backstop to address insurance losses attributed to acts of terrorism, or be subject to other conditions on the approval consistent with state law." By this bulletin, I am informing you of my intent to act in a manner consistent with the recommendation from the NAIC membership. I believe this to be the best course of action as it balances the need of insurers to have some certainty related to solvency concerns with the business consumer's concerns that their businesses not be subject to uninsured events.

This state will, on an expedited basis, grant approval to exclusions that are substantially similar to the series of optional endorsements developed by the Insurance Services Office, Inc. (ISO). These endorsements include the following:

COMMERCIAL PROPERTY INTERLINE ENDORSEMENT: IL 09 41 01 02  
(N/A to Standard Fire Policy States)  
COMMERCIAL PROPERTY INTERLINE ENDORSEMENT: IL 09 40 01 02  
(Applies in Standard Fire Policy States)  
COMMERCIAL PROPERTY INTERLINE ENDORSEMENT: IL 09 42 01 02  
(Applies in Standard Fire Policy States)  
COMMERCIAL GENERAL LIABILITY ENDORSEMENT: CG 21 69 0102

COMMERCIAL GENERAL LIABILITY ENDORSEMENT: CG 31 42 01 02  
COMMERCIAL GENERAL LIABILITY ENDORSEMENT: CG 31 43 01 02  
COMMERCIAL LIABILITY UMBRELLA ENDORSEMENT: CU 21 29 01 02  
BUSINESSOWNERS ENDORSEMENT: BP 05 11 01 02 (N/A to Standard Fire Policy States)  
BUSINESSOWNERS ENDORSEMENT: BP 05 12 02 (Applies in Standard Fire Policy States)  
BUSINESSOWNERS ENDORSEMENT: BP 05 13 01 02  
FARM LIABILITY ENDORSEMENT: FL 10 30 01 02

In an unprecedented move in recognition of the seriousness of the situation, ISO has indicated that it will permit the use of its copyrighted language by any insurer, including one that is not a current licensee of ISO for policy forms. Insurers that are current licensees of ISO for policy forms can use the new language pursuant to their current ISO agreements and approval by this state of its forms. If you are properly affiliated with ISO, and have given them authorization to file on your behalf, no further action is needed on your part.

Any insurer that does not have a license agreement in effect with ISO for policy forms is required to execute a short, limited license agreement that authorizes the use of the new language. ISO has indicated that there will be no fee for this limited license. You may contact ISO's Customer Service department directly for more information at 1-800-888-4ISO(4476) using option 2. You may also contact ISO at "info@ISO.com." You will be responsible for assuring compliance with this state's filing requirements, however, you may find that the expedited approval process outlined in this bulletin to be helpful in receiving prompt acknowledgement of your filing.

### **Explanation and Instructions for Expedited Review**

The policy exclusions filed by ISO and approved by this state have some significant limitations that provide coverage for acts of terrorism under certain circumstances. For policies providing property insurance coverage the following limitations apply:

- Exclusion for acts of terrorism only apply if the acts of terrorism result in industry-wide insured losses that exceed \$25,000,000 for related incidents that occur within a 72 hour period;
- Exclusions for acts of terrorism are not subject to limitations above if:
  - The act involves the use, release or escape of nuclear materials, or that directly or indirectly results in nuclear reaction or radiation or radioactive contamination;
  - The act is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
  - Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

For policies providing liability insurance coverage the following limitations apply:

- Exclusion for acts of terrorism only apply if the acts of terrorism result in industry-wide insured losses that exceed \$25,000,000 for related incidents that occur within a 72 hour period; or
- Fifty or more persons sustain death or serious physical injury. For purposes of this provision serious physical injury means:
  - Physical injury that involves a substantial risk of death;
  - Protracted and obvious physical disfigurement; or
  - Protracted loss of or impairment of the function of a bodily member or organ.
- Exclusions for acts of terrorism are not subject to limitations above if:
  - The act involves the use, release or escape of nuclear materials, or that directly or indirectly results in nuclear reaction or radiation or radioactive contamination;
  - The act is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
  - Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

This state will accept the following definition of acts of terrorism or definitions that are more liberal to policyholders:

Terrorism means activities against persons, organizations or property of any nature:

1. That involve the following or preparation for the following:
  - a. Use or threat of force or violence; or
  - b. Commission or threat of a dangerous act; or
  - c. Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
2. When one or both of the following applies:
  - a. The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
  - b. It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or to express opposition to) a philosophy or ideology.

For an insurer to receive expedited approval of its exclusions for commercial lines insurance coverages, the exclusionary endorsements must comply with the terms and conditions set forth in this bulletin and be submitted in accordance with the instructions specified below. Further, you must certify that you are either using the ISO endorsements or using an endorsement that provides coverage at least as broad as the approved ISO endorsements.

### **Forms with Instructions**

Attached to this bulletin is a uniform filing transmittal form that has been agreed upon by this state and other states. An insurer wishing to receive expedited treatment of its filing for approval [insert appropriate language for your state] shall complete the EXPEDITED FILING—TERRORIST EXCLUSIONS APPLICATION Form Filing Transmittal Header as directed. In addition, the insurer(s) submitting this filing must certify that it is either using one or more of the ISO endorsements or has developed its own exclusionary language that provides coverage at least as broad as the approved ISO endorsement with respect to coverage granted to policyholders. Further, the insurer(s) must certify that

the reason for seeking approval of these endorsements is that it is unable to obtain reinsurance coverage for acts of terrorism. Certification is made by signing the appropriate blank on the transmittal form.

To be complete, a form filing must include the following:

1. A completed, certified Form Filing Transmittal Header and Forms Questionnaire (FC-048).
2. One copy of each endorsement to be reviewed for the reviewer's records.
3. A postage-paid, self-addressed envelope **large enough to accommodate the return**. Note that a comparable filing transmittal form is available in SERFF.

If this filing is for multiple companies, please complete one (1) transmittal header and list all companies that the filing is applicable.

**Effective Date**

This bulletin shall take immediate effect and shall expire on March 1, 2002.



*COMPLETED SAMPLE FORM*

**EXPEDITED FILING—COMMERCIAL LINES TERRORIST EXCLUSIONS APPLICATION**

Ed. 12/21/01

This page applies to the following state(s) \_\_\_\_\_

Department Use only

Company Name(s)	Domicile	NAIC #	FEIN #
ABC Insurance Company	NY	0000-99999	99-1234567

**Contact Information for Filer**

Name and address of Filer(s)	Telephone #	FAX #	e-mail
John Doe (Form Filing) Regulatory Compliance ABC Insurance Co. 12345 Fifth Ave New York, NY 10234	501-555-5555	501-555-5551	John.doe@abcins.com

**Filing information**

<b>Line of Insurance</b> (see attachment)	Commercial General Liability
<b>Company Program Title</b> (Marketing title) (if applicable)	General Liability Program
<b>Filing Type</b> ** see note below	Form (Endorsement)
<b>This application is used with:</b>	(Insert policy form number to which the application attaches)
<b>Effective Date Requested</b>	01-01-02 (Enter your desired effective date)
<b>Filing date</b>	(Date Company sends filing)
<b>Company Tracking Number</b>	ABC-EP-2001-01 (Enter your filing tracking number, if applicable)
<b>Date filing approved in domiciliary state</b>	Not approved yet. Filed on same date as this filing.

	<u>Component/Form Name</u> <u>/Description/Synopsis</u>	<b>Form #)</b> Include edition date	<b>Replacement</b> Or withdrawn?	<b>If replacement,</b> give form # it replaces	<b>Previous State</b> Filing Number, if required by state
01	War or Terrorism Exclusion	CG 21 69 01 02	[ ] Replacement [ ] Withdrawn [x] Neither		
02			[ ] Replacement [ ] Withdrawn [ ] Neither		

To be complete, a form filing must include the following:

- A completed Form Filing Transmittal Header for each insurer
- One copy of each application form to be reviewed for the reviewer's records for each insurer.
- 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:

Using one of the approved ISO endorsements; or

Using an endorsement that provides coverage that is at least as broad as the ISO endorsements; and

That it is unable to obtain reinsurance coverage for acts of terrorism.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name:

\_\_\_\_\_  
Title: