



RICARDO LARA
CALIFORNIA INSURANCE COMMISSIONER

BULLETIN 2020-10

TO: All Property and Casualty Insurers Writing Commercial Lines Insurance Products

FROM: Insurance Commissioner Ricardo Lara

DATE: September 4, 2020

RE: Filing Procedures for Compliance with the Provisions of the Terrorism Risk Insurance Program Reauthorization Act of 2019

Purpose

The purpose of this Bulletin 2020-10 is to provide advice regarding certain provisions of the Terrorism Risk Insurance Program Reauthorization Act of 2019 that amend and extend the Terrorism Risk Insurance Act of 2002 (the Act) and which may require insurers to submit updated disclosure notices, policy language, and applicable rates to the California Department of Insurance.

Bulletin 2015-2 is superseded to the extent it is inconsistent with this Bulletin 2020-10.

Background

The reauthorized Act, as amended and extended, contains minimal changes, including:

- Extending the program through December 31, 2027.
- Changing the timing of the mandatory recoupment by moving the date of each referenced year back five years.
- Requiring the Secretary of the Treasury to include in the Secretary's annual report an evaluation of the availability and affordability of terrorism risk insurance, including specifically for places of worship.
- Requiring the Comptroller General of the United States to conduct a study on overall vulnerabilities and potential costs of cyber-attacks on the U.S.; whether state-defined cyber liability under a property/casualty line of insurance is adequate coverage for an act of cyber terrorism; whether such risks can be adequately priced by the private market; and whether the current risk-share systems under TRIA are appropriate for a cyber terrorism event.
- Eliminating outdated language relating to past United States Government reimbursement levels. The reimbursement level of covered terrorism losses exceeding the statutorily established deductible is now (as of January 1, 2020) a fixed 80%.

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Submission of Rates and Disclosure Notices

Rates: Any rate changes that are necessitated by the Act must be approved in advance prior to their use in California. Cal. Ins. Code §1861.05.

Disclosure Notices: Pursuant to Bulletin 2015-2, the Reauthorization Act of 2015 required the filing of amended Disclosure Notices (“Policyholder Disclosure Notice of Terrorism Insurance Coverage”). Insurers are not required to re-file those previously filed Disclosure Notices if they are amended solely to eliminate outdated language related to past U.S. Government reimbursement levels. Specifically, if the only amendment to the previously filed Disclosure Notice is to delete references to reimbursement levels in 2015-2019, a filing is not required. Similarly, any other immaterial or nonsubstantive amendment to the previously filed Disclosure Statement do not require a filing.

SERFF Filings: Any SERFF filings responsive to the Act or this Bulletin must use the term “TRIA2019” in the product name field. Filings shall be submitted on the California Prior Approval Filing Application, and the term “TRIA2019” must be used in the Program field on page 1. Filings must be submitted by line of insurance, and may not combine multiple lines into a single filing. All programs within a line of insurance must be included in the filing for that line.

Workers’ Compensation Policies

Subject to limited exceptions, workers’ compensation insurance coverage is statutorily mandated in California. See, California Labor Code sections 3600 *et. seq.* Thus, employers are not legally permitted to waive terrorism coverage provided by a workers’ compensation insurance policy, and an insurer may not exclude terrorism risk from a workers’ compensation policy.

Contact Information

Please direct any questions about this bulletin to:

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