

Terrorism Rate, Rule and Form Filing Instructions, pursuant to the Terrorism Risk Insurance Act (TRIA or “the Act”) of 2002.

This information is being provided to insurers in response to questions received and requests for guidance in preparing terrorism rate, form, and rule filings pursuant to the TRIA. This information should be read in conjunction with Bulletin 2002-9 available on the CDI website, at www.insurance.ca.gov under the insurers and rate filing sections.

- **File by Line of Insurance:**
Insurers submitting rate, rule, and forms filings pursuant to the Act must submit each filing by line of insurance, and may not combine multiple lines into a single submission.
- **Prior to 12/31/03 Separate “Certified” from “Non-Certified Filings:**
Filings for “certified” acts of terrorism must be filed separately from “non-certified” filings, as different statutory requirements or time-lines apply to each. After 12/31/03, all filings are reviewed as prior approval filings as the file and use provision sunsets.
- **Statutory Framework under the Act:**
For certified filings, only the prior approval waiting periods are preempted by the Act; states still have the authority to invalidate a rate as excessive, inadequate or unfairly discriminatory, using the state application, exhibits, and data submission requirements. While there is no waiting period for certified acts filings, the Department will still require rate justification and form compliance, and will perform a review for rate reasonableness after receipt of a complete filing. Therefore, the Department may reject non-compliant rates or forms during the post filing review.
- **Application Transmittals/Approval letters:**
Both certified and non-certified terrorism filings must be submitted on the California rate filing application (CA-RA for rates and CA-FA for forms, endorsements, or notices). Workers’ compensation filings must be submitted on the existing California application (CA-WC 1, 2, &3). Workers’ Compensation form filings must continue to be sent to the WCIRB for intake and initial review. California approval letters will be sent to insurers after receipt of a complete, compliant filing.
- **Type of Filing Required:**
Generally, initial TRIA filings will be reviewed as “both rate and form” filings and must include rates, manual rules, forms and endorsements, and TRIA disclosure notices. The filings may not be submitted as “new programs.” Historical data required for submission of rate filings must be provided on a line basis, not a program basis. Program filings for terrorism or sub-line filings will not be accepted, as terrorism filings must be submitted on a “per-line” or “entire line” basis. However, if a previous rate filing has been approved in the line of insurance in the prior 2 years, the TRIA rates, rules, forms, and disclosure notices may be submitted as a simple rule filing by selecting “Manual Rule” option of page CA-RA2. Also, if the TRIA coverage is being provided at no additional charge, the TRIA rates, rules, forms, endorsements, and disclosure notices may be submitted as a simple rule filing by selecting the “Manual Rule” option.

Subsequent revisions to the TRIA coverage, including Treasury rules clarifying insurer requirements, advisory organization updates to provide conditional extension rules and rates, and other TRIA updates may be submitted as “Manual Rule” filings, even if the rule changes include new forms, endorsements or disclosure notices.

- **Workers’ Compensation Statutory Framework:**

Terrorism rate filings for the Workers’ Compensation line will remain under the existing file and use framework, with the existing review for completeness and rate adequacy as well as excessiveness, pursuant to the Act.

- **Historical Data Requirements:**

As the filings will be submitted on a “per line basis” the historical loss and expense data must be specific to the *entire line of insurance*, and must not be limited to terrorism loss and expense data for the line. To the extent, if any, that an insurer has incurred terrorism losses and expenses, that data may be included in the total for the line of insurance, and this fact should be noted in the filing memorandum.

- **Prospective Terrorism Pricing Data Requirements:**

To the extent that an insurer has credible, segregated, terrorism loss and expense data, such data may be relied upon in development of and justification for the rate. It is understood that many insurers will not have such data available in-house, and it is recommended that they rely upon advisory organizations or statistical agent rates for support and justification of the insurer’s proposed rate. In California, rates are being developed by ISO, the WCIRB, or EQECAT. In other states, rates have already been developed by NCCI and ISO. Insurers may rely upon such rates for justification and may deviate from such rates where appropriate. However, where a filing deviates from an advisory organization or statistical agent’s rate that has been pre-approved in California, or where a filing relies upon a rate that has not been filed in California, AND where the rate appears excessive, inadequate, or unfairly discriminatory, the Department reserves the right to request the underlying data used by the source, advisory organization, or statistical agent, as support for the insurer’s filing. When reviewing the reasonableness of a proposed rate, the Department will consider the insurer’s experience and rate indications for the entire line of business. Proposals for terrorism coverage at no charge will be reviewed for rate adequacy and the risk of insolvency. The filing must provide an analysis of the projected or probable exposure. This analysis may be supplied in the filing memorandum and Exhibits 12, 13, or 23, of the CA-RA application, but please note that the filings may not be submitted as “new programs.”

- **Disclosure Notice Requirements:**

For certified acts, a disclosure notice of availability and price is mandatory and must be provided, clearly disclosing the premium charge. Because the Disclosure Notice must contain the premium charge, it must be filed with a rate application with an explanation of the amount attributed to the terrorism coverage.

- **Form/Endorsement Coverage Requirements:**
For certified acts, insurer participation is mandatory for all covered commercial lines, and terrorism coverage must be made available without exclusions except as specifically provided. Therefore, pursuant to the Act, insurers may not add or broaden exclusions to bar coverage in the event of certified acts involving nuclear, chemical, or biological weapons, or place other conditions on coverage, not specified by the Act.
- **Incomplete filings:**
Filings that do not contain the appropriate forms, exhibits, data, or not complying with the above instructions will be rejected by the intake unit and will toll the review and will delay approval.
- **TRIA Extension Update:**
HR 4634 which provides for a 2 year extension to TRIA, has passed the US House Committee on Financial Services. A full House vote is expected before the November 2004 presidential elections. HR 4634 would still need to be adopted by the US Senate and signed by the President to become effective. If and when this occurs, these instructions will be revised to clarify the filing requirements.