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## **Terrorism Risk Insurance Act of 2002**

- “Acts of terrorism” must be certified by Secretary of Treasury, Secretary of State, and Attorney General.
- Acts must be carried out on behalf of foreign persons or interests.
- Damage must occur in the U.S. or on U.S. air carriers, marine vessels, or missions.
- “Acts of terrorism” do not include acts committed during a war declared by Congress (except covered by WC).
- Program covers “insured losses” for primary and excess commercial lines, including WC and bonds.
- Not covered are crop, mortgage, financial guaranty, medical malpractice, flood, or life and health insurance.
- Program does not include punitive damages from civil actions (i.e., no federal backstop).
- Federal cause of action is the exclusive remedy for terrorism claims based on state law where the act occurred.
- All admitted and E&S commercial carriers MUST participate.
- Act may be extended to captive insurers and selfinsurance programs, including governmental entities.
- Act may be extended to group life insurance following study of that and personal lines.
- Program Transitional Period: From enactment to 12/31/02.
- Program Year 1: 01/01/03 to 12/31/03.
- Program Year 2: 01/01/04 to 12/31/04.
- Program Year 3: 01/01/05 to 12/31/05 (optional...to be decided by Treasury Secretary by 09/01/04).
- Insured loss threshold...“act of terrorism” must exceed \$5,000,000 in aggregate damages to trigger the program.
- Industry deductible...individual insurer participation begins when the following deductibles are exceeded:  
Transition period...1% of direct earned premiums from the prior calendar year.  
Program Year 1...7%, Program Year 2...10%, Program Year 3...15%
- Federal share...90% of losses that exceed the insurer’s deductible (annual cap is \$100 Billion for insured losses).
- Mandatory recoupment...for the federal share, insurers must repay the amount which is in excess of their deductibles AND 10% quota share retention, and less than \$10 billion during the transition period and Year 1, \$12.5 billion in Year 2, and \$15 billion in Year 3.
- Recoupment funding...insurers may add a policy surcharge of up to 3% of the policy premium.
- All current terrorism exclusions on risks covered by this act are voided on the date of enactment.
- Insurers must notify insureds of policy surcharges...if the insured declines or does not pay within 30 days, terrorism exclusions may be reinstated.

The NAIC has developed model forms for insurer filing submissions and policyholder disclosure notices. As soon as the documents are finalized, we will be posting them on the Virtual University web site.

**For late breaking details, visit the IIABA Virtual University at <http://vu.iiiaa.net>.**