

SERFF Tracking Number: ARKS-125688630 State: Arkansas
Filing Company: 00006 - INSURANCE SERVICES OFFICE, INC. State Tracking Number: #104896 \$50
Company Tracking Number: FR-2008-RTOAL
TOI: 05.0 Commercial Multi-Peril - Liability & Non- Sub-TOI: 05.0006 Commercial Farm and Ranch
Liability
Product Name: n/a
Project Name/Number: /

Filing at a Glance

Company: 00006 - INSURANCE SERVICES OFFICE, INC.

Product Name: n/a SERFF Tr Num: ARKS-125688630 State: Arkansas
TOI: 05.0 Commercial Multi-Peril - Liability & Non-Liability SERFF Status: Closed State Tr Num: #104896 \$50
Sub-TOI: 05.0006 Commercial Farm and Ranch Co Tr Num: FR-2008-RTOAL State Status: Fees verified and received
Filing Type: Rule Co Status: Reviewer(s): Betty Montesi, Llyweyia Rawlins
Author: Disposition Date: 06/12/2008
Date Submitted: 06/09/2008 Disposition Status: Filed
Effective Date Requested (New): 10/01/2008 Effective Date (New): 10/01/2008
Effective Date Requested (Renewal): 10/01/2008 Effective Date (Renewal): 10/01/2008

State Filing Description:

Revise Farm Liability and Farm Umbrella Liability Terrorism Rule (TRIPA)

General Information

Project Name: Status of Filing in Domicile:
Project Number: Domicile Status Comments:
Reference Organization: Reference Number:
Reference Title: Advisory Org. Circular:
Filing Status Changed: 06/12/2008
State Status Changed: 06/12/2008 Deemer Date:
Corresponding Filing Tracking Number:
Filing Description:

Company and Contact

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Liability
Product Name: n/a
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Filing Contact Information

NA NA, NA@NA.com
NA (123) 555-4567 [Phone]
NA, AR 00000

Filing Company Information

00006 - INSURANCE SERVICES OFFICE, INC. CoCode: 6 State of Domicile: Arkansas
No Address Group Code: Company Type:
City, AR 99999 Group Name: State ID Number:
(999) 999-9999 ext. [Phone] FEIN Number: 99-9999999

Filing Fees

Fee Required? No
Retaliatory? No
Fee Explanation:
Per Company: No

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Correspondence Summary

Dispositions

Status	Created By	Created On	Date Submitted
Filed	Llyweyia Rawlins	06/12/2008	06/12/2008

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Disposition

Disposition Date: 06/12/2008

Effective Date (New): 10/01/2008

Effective Date (Renewal): 10/01/2008

Status: Filed

Comment:

Rate data does NOT apply to filing.

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Item Type	Item Name	Item Status	Public Access
Supporting Document	ARKS-125688630		Yes

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Supporting Document Schedules

Review Status:

Satisfied -Name: ARKS-125688630

06/13/2008

Comments:

Attachment:

ARKS-125688630.pdf

00006

104896
50.00

LR



2828 E. TRINITY MILLS ROAD SUITE 150 CARROLLTON, TX 75006
TEL: (214) 390-1825 FAX: (214) 390-1975

ARKS-125688630

Kenneth J. Hill, CPCU
Regional Director, Government Relations

June 5, 2008

Honorable Julie Benafield Bowman
Commissioner of Insurance
Arkansas Insurance Department
1200 West Third Street
Little Rock, Arkansas 72201-1904

~~Approved until withdrawn
or revoked~~

JUN 12 2008

Arkansas Insurance Department

By: *DK - Filed*

Attention: William R. Lacy, Director
Property and Casualty Division

RE: Insurance Services Office, Inc.
FR 2008-RTOAL
Farm Rules Addressing Liability Revised in Response to
Terrorism Risk Insurance Program Reauthorization Act of 2007
REFERENCE FILING
State of Arkansas

Dear Mr. Lacy:

We hereby file the enclosed advisory reference document.

ISO does not establish an effective date for Farm rules revisions in Arkansas. Each insurer that elects to utilize this revision is responsible for determining its own effective date and complying with any applicable regulatory requirements. We will distribute this material to our participating insurers and update our electronic deliveries under cover of a Notice bearing a date of October 2008, or the earliest possible subsequent date following your acknowledgement.

Companion forms filing FR 2008-OTOAL is also submitted today under separate cover.

Please return an acknowledged copy of this cover letter for our records. An addressed, stamped envelope is enclosed for your convenience. We have also included an additional copy of this letter and envelope; we request that you return it now with a "received" stamp to confirm that you have received the filing.

Very truly yours,

Donald J. Beckel

Donald J. Beckel, CPCU, ARM
Assistant Regional Manager
Government Relations

RECEIVED

JUN 09 2008

PROPERTY AND CASUALTY DIVISION
ARKANSAS INSURANCE DEPARTMENT

DJB:dlb
Encl.

Property & Casualty Transmittal Document

1. Reserved for Insurance Dept. Use Only

APPROVED UNTIL WITHDRAWN
 Approved until withdrawn
 or revoked

JUN 12 2008

Arkansas Insurance Department
 BY: LR - filed

2. Insurance Department Use only

a. Date the filing is received:

b. Analyst:

c. Disposition:

d. Date of disposition of the filing:

e. Effective date of filing:

New Business	
Renewal Business	

f. State Filing #:

g. SERFF Filing #:

h. Subject Codes

3. Group Name _____ **Group NAIC #** _____

4. Company Name(s)	Domicile	NAIC #	FEIN #	State #
Insurance Services Office, Inc.	DE		13-3131412	

RECEIVED

JUN 09 2008

5. Company Tracking Number FR-2008-RTOAL **PROPERTY AND CASUALTY DIVISION**
 ARKANSAS INSURANCE DEPARTMENT

Contact Info of Filer(s) or Corporate Officer(s) [include toll-free number]

6. Name and address	Title	Telephone #s	FAX #	e-mail
Donald J. Beckel Insurance Services Office, Inc. 2828 E. Trinity Mills Rd., Ste. 150 Carrollton, TX 75006	Asst. Regional Manager	(214) 390-1825 Ext. 224	(214) 390-1975	DBECKEL@iso.com

7. Signature of authorized filer 

8. Please print name of authorized filer Donald J. Beckel

Filing information (see General Instructions for descriptions of these fields)

9. Type of Insurance (TOI)	05.0 Commercial Multiple Peril
10. Sub-Type of Insurance (Sub-TOI)	05.0006
11. State Specific Product code(s)(if applicable)[See State Specific Requirements]	
12. Company Program Title (Marketing title)	Farm
13. Filing Type	<input type="checkbox"/> Rate/Loss Cost <input checked="" type="checkbox"/> Rules <input type="checkbox"/> Rates/Rules <input type="checkbox"/> Forms <input type="checkbox"/> Combination Rates/Rules/Forms <input type="checkbox"/> Withdrawal <input type="checkbox"/> Other (give description)
14. Effective Date(s) Requested	New: 10/1/2008 Renewal: 10/1/2008
15. Reference Filing?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
16. Reference Organization (if applicable)	Not Applicable
17. Reference Organization # & Title	Not Applicable
18. Company's Date of Filing	6/5/08
19. Status of filing in domicile	<input type="checkbox"/> Not Filed <input checked="" type="checkbox"/> Pending <input type="checkbox"/> Authorized <input type="checkbox"/> Disapproved

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Property & Casualty Transmittal Document---

20. This filing transmittal is part of Company Tracking # FR-2008-RTOAL

21. Filing Description [This area can be used in lieu of a cover letter or filing memorandum and is free-form text]

This filing revises Farm Liability and Farm Umbrella Liability terrorism rules in response to the enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007.

22. Filing Fees (Filer must provide check # and fee amount if applicable)
[If a state requires you to show how you calculated your filing fees, place that calculation below]

Check #: 104896
Amount: \$ 50.00

Refer to each state's checklist for additional state specific requirements or instructions on calculating fees.

***Refer to each state's checklist for additional state specific requirements (i.e. # of additional copies required, other state specific forms, etc.)

3

RATE/RULE FILING SCHEDULE

(This form must be provided ONLY when making a filing that includes rate-related items such as Rate; Rule; Rate & Rule; Reference; Loss Cost; Loss Cost & Rule or Rate, etc.)

(Do not refer to the body of the filing for the component/exhibit listing, unless allowed by state.)

1.	This filing transmittal is part of Company Tracking #	FR-2008-RTOAL
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2.	This filing corresponds to form filing number (Company tracking number of form filing, if applicable)	FR-2008-OTOAL
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Rate Increase
 Rate Decrease
 Rate Neutral (0%)

3.	Filing Method (Prior Approval, File & Use, Flex Band, etc.)	File and Use
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4a. Rate Change by Company (As Proposed)

Company Name	Overall % Indicated Change (when applicable)	Overall % Rate Impact	Written premium change for this program	# of policyholders affected for this program	Written premium for this program	Maximum % Change (where required)	Minimum % Change (where required)
Insurance Services Office, Inc.	N/A	N/A	N/A	N/A	N/A	N/A	N/A

4b. Rate Change by Company (As Accepted) For State Use Only

Company Name	Overall % Indicated Change (when applicable)	Overall % Rate Impact	Written premium change for this program	# of policyholders affected for this program	Written premium for this program	Maximum % Change	Minimum % Change

5. Overall Rate Information (Complete for Multiple Company Filings only)

		COMPANY USE	STATE USE
5a.	Overall percentage rate indication (when applicable)	N/A	
5b.	Overall percentage rate impact for this filing	N/A	
5c.	Effect of Rate Filing – Written premium change for this program	N/A	
5d.	Effect of Rate Filing – Number of policyholders affected	N/A	

6.	Overall percentage of last rate revision	N/A
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7.	Effective Date of last rate revision	N/A
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8.	Filing Method of Last filing (Prior Approval, File & Use, Flex Band, etc.)	File and Use
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9.	Rule # or Page # Submitted for Review	Replacement or Withdrawn?	Previous state filing number, if required by state
01	Terrorism Options - Federal Backstop - Farm Liability	<input type="checkbox"/> New <input checked="" type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	
02	Rule 40.N. Farm And CGL Farm Umbrella Liability Coverage General Rules, Terrorism Endorsements Options - Federal Backstop	<input type="checkbox"/> New <input checked="" type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	
03		<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	

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Farm Rules Addressing Liability Insurance Revised In Response To Terrorism Risk Insurance Program Reauthorization Act Of 2007

About This Filing

This filing revises certain Farm Liability and Farm Umbrella Liability terrorism rules in response to enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007.

Revised Rules

We are revising the following rules:

- ◆ Terrorism Options – Federal Backstop – Farm Liability
- ◆ Rule 40.N. Farm And CGL Farm Umbrella Liability Coverage General Rules, Terrorism Endorsements Options — Federal Backstop

We have used a format of ~~striking through~~ deletions, underlining additions and inserting a revision bar in the left margin to indicate changes from the current versions to the new versions. Concurrent with implementation, the new versions will supersede the prior versions.

Related Filing(s)

- ◆ Forms Filing FR-2008-OTOAL

Background

The Terrorism Risk Insurance Act (TRIA) of 2002 established a program (Terrorism Risk Insurance Program) within the Department of the Treasury, under which the federal government shares, with the insurance industry, the risk of loss from future terrorist attacks. Pursuant to Section 103(c) of the Act, all insurers providing insurance for applicable lines of business are required to participate in the program by making available coverage for insured losses resulting from an act of terrorism as defined by the Act (so-called certified acts

coverage). The Terrorism Risk Insurance Program was extended for two years, until December 31, 2007, by the Terrorism Risk Insurance Extension Act of 2005, which incorporated various changes with respect to federal share of losses and affected lines of business. We responded in the past to each of these enactments, with filings of various coverage options and related rules addressing the terrorism risk.

Current Environment

The federal Terrorism Risk Insurance Program has been revised and extended by the Terrorism Risk Insurance Program Reauthorization Act of 2007, which incorporates various changes to the Program. Certain changes, summarized as follows, have an impact on ISO terrorism forms (addressed in the companion Forms filing) and the rules associated with those forms:

- ◆ Under Section 102(1)(A)(iv) of the Act, the definition of an act of terrorism (with respect to certification of such act) is revised by eliminating the criterion that the act be committed on behalf of a foreign person or foreign interest. As revised, the definition, in part, requires the act to have 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.
- ◆ Section 103(b)(3) of the Act requires disclosure of the existence of the \$100 billion cap on payments by insurers.
- ◆ Section 103(e)(2)(A) of the Act eliminates the provision asserting that Congress may take action to increase the \$100 billion cap in the event that insured losses exceed such cap; and Section 103(e)(2)(B) requires the Secretary of the Treasury to issue regulations for determining the pro rata share of insured losses to be paid under the Program (up to \$100 billion) when insured losses exceed \$100 billion.

With the revision to the definition of an act of terrorism (with respect to certification of such act), there is no longer a requirement that the act of terrorism be committed on behalf of a foreign person or foreign interest. However, in order for an act of terrorism to be certified under the Program, the act must be committed within the jurisdictional boundaries of the Program. Acts of terrorism that are committed outside the jurisdictional boundaries of the Program would not be eligible for certification under the Program and thus would not be subject to federal participation in losses. Prior to the enactment of the Reauthorization Act of 2007, the ISO "other acts of terrorism" endorsements were available to address acts of terrorism that were not certified acts of terrorism, including those acts committed outside the United States.

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In forms filing FR-2008-OTOAL, we revised endorsements **FL 10 71**, **FL 10 75**, **FB 10 41** and **FB 10 45** to provide underwriters with a tool to exclude acts of terrorism committed outside the jurisdictional boundary of the federal Program for risks which have international exposures. Such acts do not meet the criteria of a certified act of terrorism under the federal Program and thus would not be subject to federal participation in losses.

Explanation of Changes

Terrorism Options – Federal Backstop – Farm Liability Rules (BEX-303)

Rule 40.N. Farm And CGL Farm Umbrella Liability Coverage General Rules, Terrorism Endorsement Options – Federal Backstop (UEX-304)

The rules are revised to reference and instruct on the usage of revised terrorism endorsements FL 10 71, FL 10 75, FB 10 41 and FB 10 45.

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VERSION BEX303 ARKANSAS

TERRORISM OPTIONS – FEDERAL BACKSTOP – FARM LIABILITY

Arkansas Terrorism Endorsement

If the policy includes any of the terrorism endorsements as outlined in this rule or in the terrorism options under Division Six – General Liability when Farm liability coverage is being provided by use of the Commercial General Liability Coverage Form, attach Arkansas Changes – Terrorism Endorsement **FP 01 81**. This endorsement states that no terrorism exclusions or limitations will apply to any dwelling, other private structures appurtenant to the dwelling, household personal property or to an insured's personal or non-business activities.

INTRODUCTION

The "Terrorism Risk Insurance Act" ("TRIA") establishes a program within the Department of the Treasury in which the Federal Government will share the risk of loss from terrorist attacks with the insurance industry. Federal participation will be triggered when the Secretary of the Treasury certifies an act of terrorism, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism, provided the terrorist act results in aggregate losses in excess of an amount stated in the Act. With respect to insured losses resulting from a certified act of terrorism, the Federal Government will reimburse individual insurers for a percentage of losses (as stated in the Act) in excess of the insurer's retention, which is based on a specified percentage of the insurer's earned premium for the year preceding the loss. Insured losses covered by the program are capped at \$100 billion per year; this provision serves to limit insurers' liability for losses. If a terrorism event pierces the cap of a given year, insured losses paid (amounts below the cap) under the federal program may be subject to pro rata allocation in accordance with procedures established by the Treasury. All insurers providing Farm Liability insurance, with the exception of Farmowners multiple peril insurance, are required to participate in the program to the extent of making available coverage for certified acts of terrorism in accordance with the terms and conditions of coverage which apply to non-terrorism events.

For all new and renewal business, an insurer must make available to insureds coverage for losses caused by certified acts of terrorism. The insurer must disclose to the policyholder the premium for losses covered, the federal share of compensation for such losses under the program and the existence of the \$100 billion cap, at the time of offer, purchase and renewal of the policy.

IMPORTANT GENERAL INFORMATION

In the policy Declarations (or by other means at the insurer's option), it is advisable to indicate applicability of terrorism endorsements by line of business. This is especially important for a package policy that includes both TRIA and non-TRIA lines of business.

IMPORTANT INFORMATION REGARDING FARM POLICIES WITH RESPECT TO TREATMENT AS A TRIA OR NON-TRIA LINE OF BUSINESS

On December 22, 2005, President Bush signed the "Terrorism Risk Insurance Extension Act of 2005" which, in part, extended the provisions of TRIA until 2007 **but** excluded "farm owners multiple peril" insurance as a line of insurance subject to the provisions of TRIA.

On May 11, 2006, the Department of the Treasury published its Interim Final Rule as part of its implementation of The Terrorism Risk Insurance Extension Act of 2005. In part, the rule clarifies the types of commercial property and casualty insurance covered by the Act. Policies which are considered to be farmowners multiple peril insurance are not subject to the provisions of the Act and are therefore not eligible for compensation under the federal Program. The Rule describes the insurance as follows: "farmowners multiple peril insurance, including insurance reported under Line 3 (Farmowners Multiple Peril) of the NAIC's Exhibit of Premiums and Losses (commonly known as Statutory Page 14)." Any Farm policy providing coverage against only a single peril or providing monoline farm insurance coverage remains subject to the provisions of the Act and companies are required to make available coverage for certified acts of terrorism.

For those policies in which Farm liability coverage is being provided by use of Commercial General Liability (occurrence) Coverage Form **CG 00 01**, refer to Division Six – General Liability for Terrorism endorsement options.

For those policies in which Farm liability coverage is being provided by use of Farm Liability Coverage Form **FL 00 20 AND** which are considered to be Farmowners multiple peril insurance, refer to Paragraph C. Such policies are not subject to the provisions of the Act and are therefore not eligible for compensation under the federal Program. If the policy is **not** considered to be Farmowners multiple peril insurance, the following apply:

A. THE FOLLOWING PARAGRAPHS, IN THIS SECTION A., INSTRUCT ON THE USAGE OF TERRORISM ENDORSEMENT OPTIONS THAT MAY BE ATTACHED TO POLICIES THAT BECOME EFFECTIVE WHILE THE TERRORISM RISK INSURANCE PROGRAM IS IN EFFECT. REFER TO PARAGRAPH B. OF THIS RULE FOR ADDITIONAL INSTRUCTIONS REGARDING THOSE POLICIES THAT WILL CONTINUE PAST THE ANTICIPATED TERMINATION OF THE TERRORISM RISK INSURANCE PROGRAM. POLICIES THAT BEGIN IN THE LAST PROGRAM YEAR OF THE FEDERAL PROGRAM MAY REQUIRE THE USE OF TWO ENDORSEMENTS DUE TO THE ANTICIPATED MID-TERM TERMINATION OF THE TERRORISM RISK INSURANCE PROGRAM.

1. When coverage for certified acts of terrorism is provided, the following options are available:
 - a. To provide coverage for certified acts of terrorism and other acts of terrorism (subject to underlying policy provisions), but provide that the insurer will not pay any amount for injury or damage for any certified act of terrorism after the amounts of all such events in a statutory period exceed the cap provided by the Act, use Cap On Losses From Certified Acts Of Terrorism Endorsement **FL 10 70**.
 - b. To provide coverage for acts of terrorism (subject to the cap on liability for losses for certified acts of terrorism and subject to underlying policy provisions), except those acts committed outside of the jurisdictional boundaries of the federal Program, use Exclusion Of Other Acts Of Terrorism Committed Outside The United States; Cap On Losses From Certified Acts Of Terrorism Endorsement **FL 10 71**. The exclusion for acts of terrorism committed outside the United States is subject to a \$25 million threshold (valued in U.S. dollars) for events other than nuclear, biological, chemical or radiological events. For nuclear, biological, chemical or radiological events, no dollar threshold applies.
 - bc.** To also exclude punitive damages arising out of a certified act of terrorism, use Arkansas Changes – Exclusion Of Punitive Damages Related To A Certified Act Of Terrorism Endorsement **FL 10 96**.
2. When coverage for certified acts of terrorism is not provided (or is provided with a specific limitation), the following options are available:
 - a. To exclude coverage for certified acts of terrorism but provide coverage for other acts of terrorism (subject to underlying policy provisions), use Exclusion Of Certified Acts Of Terrorism Endorsement **FL 10 73**.

- b.** To exclude all losses arising out of certified acts of terrorism and acts of terrorism committed outside the jurisdictional boundaries of the federal Program, use Exclusion Of Certified Acts Of Terrorism And Exclusion Of Other Acts Of Terrorism Committed Outside The United States Endorsement FL 10 75. The exclusion for acts of terrorism committed outside the United States is subject to a \$25 million threshold (valued in U.S. dollars) for events other than nuclear, biological, chemical or radiological events. For nuclear, biological, chemical or radiological events committed outside the United States, no dollar threshold applies.
- bc.** To provide coverage for certified acts of terrorism subject to a Certified Acts Of Terrorism Aggregate Limit and provide coverage for other acts of terrorism subject to full policy limits, use Certified Acts Of Terrorism Aggregate Limit; Cap On Losses From Certified Acts Of Terrorism Endorsement FL 10 40. (Coverage is subject to the cap on liability for losses and subject to underlying policy provisions.) **This option may be offered to the insured, at the insurer's option, only when the insured initially rejects certified acts of terrorism coverage.**
- ed.** To exclude coverage for losses arising out of a certified act of terrorism that involve nuclear, biological, chemical or radiological materials but provide coverage for other acts of terrorism subject to underlying policy provisions, use Exclusion Of Certified Nuclear, Biological, Chemical Or Radiological Acts Of Terrorism; Cap On Losses From Certified Acts Of Terrorism Endorsement FL 10 44. Coverage for certified acts of terrorism under this endorsement is subject to the statutory cap on liability for losses provided by the Act. **This option may be offered to the insured, at the insurer's option, only when the insured initially rejects certified acts of terrorism coverage.**
- de.** To also exclude punitive damages arising out of a certified act of terrorism when Endorsement FL 10 40 or FL 10 44 is attached to a policy, use Arkansas Changes – Exclusion Of Punitive Damages Related To A Certified Act Of Terrorism Endorsement FL 10 96.

B. THE FOLLOWING PARAGRAPHS, B.1. THROUGH B.3., INSTRUCT ON THE USAGE OF CONDITIONAL TERRORISM ENDORSEMENT OPTIONS FOR:

- **POLICIES THAT BECOME EFFECTIVE DURING THE LAST PROGRAM YEAR OF THE FEDERAL PROGRAM, WITH A POLICY TERM THAT EXTENDS PAST THE TERMINATION DATE OF THE PROGRAM;**
- **POLICIES WRITTEN TO BECOME EFFECTIVE AFTER THE SCHEDULED TERMINATION DATE OF THE FEDERAL PROGRAM, IF THE DISPOSITION OF SUCH PROGRAM IS UNCERTAIN AT THE TIME THE POLICY IS WRITTEN.**

THESE CONDITIONAL ENDORSEMENTS ARE DESIGNED TO BE USED IN CONJUNCTION WITH (ON THE SAME POLICY AS) THE ENDORSEMENTS DESCRIBED ABOVE AND CAN ALSO BE USED IN THE ABSENCE OF SUCH ENDORSEMENTS. REFER TO PARAGRAPH C. OF THIS RULE FOR POLICIES THAT BECOME EFFECTIVE AFTER THE TERMINATION OF THE TERRORISM RISK INSURANCE PROGRAM.

The following information is based on a scheduled termination date of December 31, 2014. However, if there is an extension of the federal Program beyond 2014 and Farm policies which are NOT considered to be farmowners multiple peril insurance remain subject to TRIA under such extension, then the following information would apply instead to the last Program Year enacted via the extension, provided the federal Program will end on a specified date with respect to all policies not considered to be farmowners multiple peril insurance (a so-called hard ending).

Policies that become effective on or after January 1, 2014 may not have the federal backstop apply throughout the entire policy period. The following conditional endorsement options provide insurers with tools to address terrorism exposures given the anticipated termination of the federal Program, which may occur during the policy period. The provisions of the conditional endorsement will apply commencing when the federal Program terminates or is extended without "make available" requirements and with certain changes (revised definition of terrorism; or terrorism coverage made subject to terms or conditions different from those that apply to other events; or increase in insurer retention of or participation in losses). **If the aforementioned conditions do not occur, the provisions of the conditional endorsement will not become effective on the policy.**

1. To exclude terrorism coverage, attach Conditional Exclusion Of Terrorism (Relating To Disposition Of Federal Terrorism Risk Insurance Act) Endorsement **FL 10 67**.
2. To exclude coverage for terrorism that involves nuclear, biological or chemical materials (thereby leaving intact any underlying coverage for terrorism that does not involve nuclear, biological or chemical material), attach Conditional Exclusion Of Terrorism Involving Nuclear, Biological Or Chemical Terrorism (Relating To Disposition Of Federal Terrorism Risk Insurance Act) Endorsement **FL 10 68**.
3. To provide coverage for terrorism subject to a Terrorism Aggregate Limit (and subject to underlying policy provisions), attach Conditional Limitation Of Coverage For Terrorism On An Annual Aggregate Basis (Relating To Disposition Of Federal Terrorism Risk Insurance Act) Endorsement **FL 10 69**.

If this conditional endorsement is used along with terrorism aggregate limit endorsement described in Paragraph **A**, do **not** enter a Terrorism Aggregate Limit amount for the conditional endorsement. A footnote in the Schedule of the conditional endorsement makes reference to relevant text within the endorsement, which in turn explains how the Terrorism Aggregate Limit applies.

C. THE FOLLOWING PARAGRAPHS, C.1. THROUGH C.3., INSTRUCT ON THE USAGE OF TERRORISM ENDORSEMENT OPTIONS THAT MAY BE ATTACHED TO:

POLICIES THAT BECOME EFFECTIVE ON OR AFTER THE DATE WHEN THE TERRORISM RISK INSURANCE PROGRAM HAS TERMINATED;

POLICIES THAT BECOME EFFECTIVE ON OR AFTER THE DATE WHEN AN EXTENSION OF THE TERRORISM RISK INSURANCE PROGRAM HAS GONE INTO EFFECT, IF THE PROGRAM WAS EXTENDED WITHOUT MAKE-AVAILABLE REQUIREMENTS AND WITH CERTAIN CHANGES (REVISED DEFINITION OF TERRORISM; OR TERRORISM COVERAGE MADE SUBJECT TO TERMS OR CONDITIONS DIFFERENT FROM THOSE THAT APPLY TO OTHER EVENTS; OR INCREASE IN INSURER RETENTION OF OR PARTICIPATION IN LOSSES);

POLICIES CONSIDERED TO BE FARMOWNERS MULTIPLE PERIL INSURANCE.

1. To exclude terrorism coverage, attach Exclusion Of Terrorism Endorsement **FL 10 90**.
2. To exclude coverage for terrorism that involves nuclear, biological or chemical materials (thereby leaving intact any underlying coverage for terrorism that does not involve nuclear, biological or chemical material), attach Exclusion Of Terrorism Involving Nuclear, Biological Or Chemical Terrorism Endorsement **FL 10 91**.
3. To provide coverage for terrorism subject to a Terrorism Aggregate Limit (and subject to underlying policy provisions), attach Limitation Of Coverage For Terrorism On An Annual Aggregate Basis Endorsement **FL 10 92**.

VERSION UEX304 ARKANSAS

40. FARM AND CGL FARM UMBRELLA LIABILITY COVERAGE GENERAL RULES

The following is added to Rule 40.:

N. Terrorism Endorsement Options – Federal Backstop

Arkansas Terrorism Endorsement

If the policy includes any of the terrorism endorsements as outlined in this rule or in the terrorism options under Division Thirteen – Commercial Liability Umbrella when Farm Umbrella liability coverage is being provided by use of Commercial Liability Umbrella Coverage Part, attach Arkansas Changes – Terrorism Endorsement **FB 01 81**. This endorsement states that no terrorism exclusions or limitations will apply to apply to an insured's personal or non-business activities.

INTRODUCTION

The "Terrorism Risk Insurance Act" ("TRIA") establishes a program within the Department of the Treasury in which the Federal Government will share the risk of loss from terrorist attacks with the insurance industry. Federal participation will be triggered when the Secretary of the Treasury certifies an act of terrorism, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism, provided the terrorist act results in aggregate losses in excess of an amount stated in the Act. With respect to insured losses resulting from a certified act of terrorism, the Federal Government will reimburse individual insurers for a percentage of losses (as stated in the Act) in excess of the insurer's retention, which is based on a specified percentage of the insurer's earned premium for the year preceding the loss. Insured losses covered by the program are capped at \$100 billion per year; this provision serves to limit insurers' liability for losses. If a terrorism event pierces the cap of a given year, insured losses paid (amounts below the cap) under the federal program may be subject to pro rata allocation in accordance with procedures established by the Treasury. All insurers providing Farm Umbrella Liability insurance for:

- Risks other than commercial automobiles; or
- Umbrella policies whose underlying insurance does not include Farmowners multiple peril insurance;

are required to participate in the program to the extent of making available coverage for certified acts of terrorism in accordance with the terms and conditions of coverage which apply to non-terrorism events.

For all new and renewal business, an insurer must make available to insureds coverage for losses caused by certified acts of terrorism. The insurer must disclose to the policyholder the premium for losses covered, the federal share of compensation for such losses under the program and the existence of the \$100 billion cap, at the time of offer, purchase and renewal of the policy.

IMPORTANT GENERAL INFORMATION

In the policy Declarations (or by other means at the insurer's option), it is advisable to indicate applicability of terrorism endorsements by line of business. This is especially important for a package policy that includes both TRIA and non-TRIA lines of business.

For those policies in which Farm umbrella liability coverage is being provided by use of Commercial Liability Umbrella Coverage Form **CU 00 01**, refer to Division Thirteen – Commercial Liability Umbrella for Terrorism endorsement options.

On December 22, 2005, President Bush signed the "Terrorism Risk Insurance Extension Act of 2005" which, in part, extended the provisions of TRIA until 2007 **but** excluded "farm owners multiple peril" insurance as a line of insurance subject to the provisions of TRIA.

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On May 11, 2006, the Department of the Treasury published its Interim Final Rule as part of its implementation of The Terrorism Risk Insurance Extension Act of 2005. In part, the Rule clarifies the types of commercial property and casualty insurance covered by the Act. Policies which are considered to be farmowners multiple peril insurance are not subject to the provisions of the Act and are therefore not eligible for compensation under the federal Program. The Rule describes the insurance as follows: "Farmowners multiple peril insurance, including insurance reported under Line 3 (Farmowners Multiple Peril) of the NAIC's Exhibit of Premiums and Losses (commonly known as Statutory Page 14)." Any Farm policy providing coverage only against a single peril or providing monoline farm insurance coverage remains subject to the provisions of the Act and companies are required to make available coverage for certified acts of terrorism. Furthermore, the Rule provides that umbrella insurance is included in the Program only to the extent the umbrella policy provides an upper layer of coverage for a type of insurance included in the Program.

For those policies in which Farm umbrella liability coverage is being provided by use of Farm Umbrella Liability Policy **FB 00 01** and the underlying insurance includes Farmowners multiple peril insurance, refer to Paragraphs **N.4.** and **N.5.** Such policies are not subject to the provisions of the Act and are therefore not eligible for compensation under the federal Program. If the underlying insurance does **not** include Farmowners multiple peril insurance, the following apply:

1. THE FOLLOWING PARAGRAPHS, IN THIS SECTION 1., INSTRUCT ON THE USAGE OF TERRORISM ENDORSEMENT OPTIONS THAT MAY BE ATTACHED TO POLICIES THAT BECOME EFFECTIVE WHILE THE TERRORISM RISK INSURANCE PROGRAM IS IN EFFECT. REFER TO PARAGRAPH 2. OF THIS RULE FOR ADDITIONAL INSTRUCTIONS REGARDING THE TREATMENT OF COVERED AUTOS UNDER FARM UMBRELLA LIABILITY POLICIES. REFER TO PARAGRAPH 3. OF THIS RULE FOR ADDITIONAL INSTRUCTIONS REGARDING THOSE POLICIES THAT WILL CONTINUE PAST THE ANTICIPATED TERMINATION OF THE TERRORISM RISK INSURANCE PROGRAM. POLICIES THAT BEGIN IN THE LAST PROGRAM YEAR OF THE FEDERAL PROGRAM MAY REQUIRE THE USE OF TWO ENDORSEMENTS DUE TO THE ANTICIPATED MID-TERM TERMINATION OF THE TERRORISM RISK INSURANCE PROGRAM.

- a. When coverage for certified acts of terrorism is provided, the following options are available:
- (1) To provide coverage for both certified acts of terrorism and other acts of terrorism (subject to underlying policy provisions), but provide that the insurer will not pay any amount for injury or damage for any certified act of terrorism after the amounts of all such events in a statutory period exceed the cap provided by the Act, use Cap On Losses From Certified Acts Of Terrorism Endorsement **FB 10 40**.
 - (2) To provide coverage for acts of terrorism (subject to the cap on liability for losses for certified acts of terrorism and subject to underlying policy provisions), except those acts committed outside of the jurisdictional boundaries of the federal Program, use Exclusion Of Other Acts Of Terrorism Committed Outside The United States; Cap On Losses From Certified Acts Of Terrorism Endorsement **FB 10 41**. The exclusion for acts of terrorism committed outside the United States is subject to a \$25 million threshold (valued in U.S. dollars) for events other than nuclear, biological, chemical or radiological events. For nuclear, biological, chemical or radiological events, no dollar threshold applies.
 - (23) To also exclude punitive damages arising out of a certified act of terrorism, use Arkansas Changes – Exclusion Of Punitive Damages Related To A Certified Act Of Terrorism Endorsement **FB 10 59**.
- b. When coverage for certified acts of terrorism is not provided (or is provided with specific limitation), the following options are available:
- (1) To exclude coverage for certified acts of terrorism but provide coverage for other acts of terrorism (subject to underlying policy provisions), use Exclusion Of Certified Acts Of Terrorism Endorsement **FB 10 43**.

- (2) To exclude all losses arising out of certified acts of terrorism and acts of terrorism committed outside the jurisdictional boundaries of the federal Program, use Exclusion Of Certified Acts Of Terrorism And Exclusion Of Other Acts Of Terrorism Committed Outside The United States Endorsement **FB 10 45**. The exclusion for acts of terrorism committed outside the United States is subject to a \$25 million threshold (valued in U.S. dollars) for events other than nuclear, biological, chemical or radiological events. For nuclear, biological, chemical or radiological events committed outside the United States, no dollar threshold applies.
- (23) To exclude coverage for losses arising out of a certified act of terrorism that involve nuclear, biological, chemical or radiological materials but provide coverage for other acts of terrorism subject to underlying policy provisions, use Exclusion Of Certified Nuclear, Biological, Chemical Or Radiological Acts Of Terrorism; Cap On Losses From Certified Acts Of Terrorism Endorsement **FB 10 50**. Coverage for certified acts of terrorism under this endorsement is subject to the statutory cap on liability for losses provided by the Act. **This option may be offered to the insured, at the insurer's option, only when the insured initially rejects certified acts of terrorism coverage.**
- (34) To also exclude punitive damages arising out of a certified act of terrorism when Endorsement **FB 10 50** is attached to a policy, use Arkansas Changes – Exclusion Of Punitive Damages Related To A Certified Act Of Terrorism Endorsement **FB 10 59**.
- 2. THE TREASURY DEPARTMENT'S GUIDANCE HAS BEEN THAT COMMERCIAL AUTOMOBILE LOSSES UNDER UMBRELLA LIABILITY POLICIES ARE NOT SUBJECT TO BACKSTOP UNDER TRIA. THE FOLLOWING PARAGRAPHS 2.a., 2.b. AND 2.c. INSTRUCT ON THE USAGE OF TERRORISM ENDORSEMENT OPTIONS, WITH RESPECT TO THE TREATMENT OF COVERED AUTOS, THAT MAY BE ATTACHED TO FARM UMBRELLA LIABILITY POLICIES.**
- a. To:
- (1) Follow the provisions, exclusions and limitations of the underlying Commercial Auto policy, with respect to coverage for acts of terrorism arising out of the ownership, maintenance or use of any covered auto; and
- (2) Indicate that the endorsements described in Paragraphs **N.1.a.(2)**, **N.1.a.(3)** and **N.1.b.**, (if attached to the policy) do not apply to losses arising out of the ownership, maintenance or use of any covered auto;
- use Arkansas Amended Terrorism Coverage – Covered Autos Endorsement **FB 10 28**.
- b. To exclude coverage for terrorism involving any covered autos, use Auto Exclusion Of Terrorism Coverage Endorsement **FB 10 24**. This endorsement should only be used under the following scenario:
- (1) The Farm Umbrella Liability Policy provides Terrorism coverage for Farm Liability;
- (2) The underlying Commercial Auto Policy provides Terrorism coverage; and
- (3) The Farm Umbrella Liability Policy is not being written to follow the provisions of the underlying Commercial Auto Policy, but instead is to exclude Terrorism coverage for covered autos under the Farm Umbrella Liability Policy.
- c. Endorsements **FB 10 24** and **FB 10 28** must not be attached to the same policy.
- 3. THE FOLLOWING PARAGRAPHS, 3.a. AND 3.b., INSTRUCT ON THE USAGE OF CONDITIONAL TERRORISM ENDORSEMENT OPTIONS FOR:**
- **POLICIES THAT BECOME EFFECTIVE DURING THE LAST PROGRAM YEAR OF THE FEDERAL PROGRAM, WITH A POLICY TERM THAT EXTENDS PAST THE TERMINATION DATE OF THAT PROGRAM;**

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- **POLICIES WRITTEN TO BECOME EFFECTIVE AFTER THE SCHEDULED TERMINATION DATE OF THE FEDERAL PROGRAM, IF THE DISPOSITION OF SUCH PROGRAM IS UNCERTAIN AT THE TIME THE POLICY IS WRITTEN.**

THESE CONDITIONAL ENDORSEMENTS ARE DESIGNED TO BE USED IN CONJUNCTION WITH (ON THE SAME POLICY AS) THE ENDORSEMENTS DESCRIBED ABOVE AND CAN ALSO BE USED IN THE ABSENCE OF SUCH ENDORSEMENTS. REFER TO PARAGRAPH 4. OF THIS RULE FOR POLICIES THAT BECOME EFFECTIVE AFTER THE TERMINATION OF THE TERRORISM RISK INSURANCE PROGRAM.

The following information is based on a scheduled termination date of December 31, 2014. However, if there is an extension of the federal Program beyond 2014 and Farm Umbrella policies with no underlying Farmowners multiple peril insurance remain subject to TRIA under such extension, then the following information would apply instead to the last Program Year enacted via the extension, provided the federal Program will end on a specified date with respect to all such Farm umbrella policies with no underlying Farmowners multiple peril insurance (a so-called hard ending).

Policies that become effective on or after January 1, 2014 may not have the federal backstop apply throughout the entire policy period. The following conditional endorsement options provide insurers with tools to address terrorism exposures given the anticipated termination of the federal Program, which may occur during the policy period. The provisions of the conditional endorsement will apply commencing when the federal Program terminates or is extended without "make available" requirements and with certain changes (revised definition of terrorism; or terrorism coverage made subject to terms or conditions different from those that apply to other events; or increase in insurer retention of or participation in losses). **If the aforementioned conditions do not occur, the provisions of the conditional endorsement will not become effective on the policy.**

- a. To exclude terrorism coverage, attach Conditional Exclusion Of Terrorism (Relating To Disposition Of Federal Terrorism Risk Insurance Act) Endorsement **FB 10 67**.
 - b. To exclude coverage for terrorism that involves nuclear, biological or chemical materials (thereby leaving intact any underlying coverage for terrorism that does not involve nuclear, biological or chemical material), attach Conditional Exclusion Of Terrorism Involving Nuclear, Biological Or Chemical Terrorism (Relating To Disposition Of Federal Terrorism Risk Insurance Act) Endorsement **FB 10 68**.
- 4. THE FOLLOWING PARAGRAPHS, 4.a. AND 4.b., INSTRUCT ON THE USAGE OF TERRORISM ENDORSEMENT OPTIONS THAT MAY BE ATTACHED TO:**

POLICIES THAT BECOME EFFECTIVE ON OR AFTER THE DATE WHEN THE TERRORISM RISK INSURANCE PROGRAM HAS TERMINATED;

POLICIES THAT BECOME EFFECTIVE ON OR AFTER THE DATE WHEN AN EXTENSION OF THE TERRORISM RISK INSURANCE PROGRAM HAS GONE INTO EFFECT, IF THE PROGRAM WAS EXTENDED WITHOUT MAKE-AVAILABLE REQUIREMENTS AND WITH CERTAIN CHANGES (REVISED DEFINITION OF TERRORISM; OR TERRORISM COVERAGE MADE SUBJECT TO TERMS OR CONDITIONS DIFFERENT FROM THOSE THAT APPLY TO OTHER EVENTS; OR INCREASE IN INSURER RETENTION OF OR PARTICIPATION IN LOSSES);

POLICIES WITH UNDERLYING FARMOWNERS MULTIPLE PERIL INSURANCE.

- a. To exclude terrorism coverage, attach Exclusion Of Terrorism Endorsement **FB 10 90**.
- b. To exclude coverage for terrorism that involves nuclear, biological or chemical materials (thereby leaving intact any underlying coverage for terrorism that does not involve nuclear, biological or chemical material), attach Exclusion Of Terrorism Involving Nuclear, Biological Or Chemical Terrorism Endorsement **FB 10 91**.

5. Premium Determination

a. Premium Determination

In determining the umbrella premium for coverage for acts of terrorism:

- (1) If there is underlying coverage for acts of terrorism, the factors, credits, surcharges, etc., used in determining the premium for such coverage should only be applied in the calculation of the premium of the equivalent umbrella coverage for acts of terrorism (refer to Rule **41.G.1.a.** or **42.D.1.a.**, as applicable), not to the total umbrella premium (refer to Rule **41.G.1.c.** or **42.D.1.c.**, as applicable).
- (2) If there is no underlying coverage for the acts of terrorism, apply the factors, credits, surcharges, etc., for determining the premium for such coverage to the umbrella premium for acts of terrorism at the umbrella limits. Refer to Rule **41.G.1.b.** or **42.D.1.b.** as applicable.

All factors, credits, surcharges, etc., used in determining the premium for coverage for acts of terrorism must be referred to company prior to using.

b. Prorating

(1) When Certified Exclusion And Conditional Exclusion Are Not Used

For annual policies with a term that begins in the last Program Year of the federal Program and extends into the following year, pro rate the additional terrorism premium based on the proportion of time the policy will be in effect before and after the Program's termination.

If such a policy is rated prior to a Congressional decision on extension of the federal Program, the insurer may:

- (a) Pro rate as indicated above, based on the federal Program's anticipated termination date. If the federal Program is extended, recalculate the premium and refund the excess premium, unless such amount falls within the waiver of return premium, if any, on file for the insurer in this state; or
- (b) Not pro rate. If the federal Program terminates, recalculate the premium and charge additional premium. If the federal Program is extended with changes in the backstop, recalculate the premium and charge additional premium or refund excess premium, if applicable. The additional or return premium may be waived if such amount falls within the waiver of additional or return premium, if any, on file for the insurer in this state.

(2) When Terrorism Coverage Applies Subject To Conditional Exclusion

When a conditional exclusion is attached, the duration of coverage and the commensurate premium are not fully determined until the disposition of the federal Program is decided. When a conditional exclusion is used, pro rate the additional terrorism premium based on the proportion of time that coverage will apply. Make no charge for the portion of time that coverage will be excluded. Example: Annual policy begins on 6/1/14; exclusion is anticipated to become effective on 1/1/15. The additional terrorism premium would be 59% of the additional premium applicable to the 2014 Program Year (214/365 days).

If such a policy is rated prior to a Congressional decision on extension of the federal Program, the insurer may:

- (a) Pro rate as indicated above, based on the federal Program's anticipated termination date. If the federal Program is extended in such a manner that the conditional exclusion does not become applicable, and coverage continues to apply, recalculate the premium and charge additional premium unless such amount falls within the waiver of additional premium, if any, on file for the insurer in this state; or

- (b) Calculate the additional terrorism premium using the applicable Program Year premium for the entire policy term. If the federal Program terminates, recalculate the premium by prorating the applicable Program Year additional terrorism premium and refund the excess premium. If the federal Program is extended in such a manner that the conditional exclusion does not become applicable, and coverage continues to apply, recalculate the premium and charge additional premium or refund excess premium, if applicable. The additional or return premium may be waived if such amount falls within the waiver of return premium, if any, on file for the insurer in this state.

c. Disclosure Of Premium

(1) For Policies That Begin Prior To The Last Program Year Of The Federal Program

Disclosure of premium attributable to coverage for certified acts of terrorism, and disclosure of federal participation in payment of potential terrorism losses and the existence of the \$100 billion cap, is a condition for reimbursement under the federal program. Use Disclosure Pursuant To Terrorism Risk Insurance Act Endorsement **IL 09 85**, which responds to the Treasury Guidance on line item disclosure.

(2) For Policies That Begin In The Last Program Year Of The Federal Program

- (a) Use Disclosure Of Premium Through End Of Year For Certified Acts Of Terrorism Coverage (Pursuant To Terrorism Risk Insurance Act) Endorsement **IL 09 98** for policies that begin in the last Program Year of the federal Program and extend into the following year, when a Conditional Exclusion is used and premium is being disclosed only for the period during which the federal Program is in effect. This is the situation described in Paragraph **N.5.b.(2)(a)**. This endorsement recognizes the possibility of a mid-term additional premium charge.
- (b) Use Disclosure Of Premium And Estimated Premium For Certified Acts Of Terrorism Coverage (Pursuant To Terrorism Risk Insurance Act) Endorsement **IL 09 99** for policies that begin in the last Program Year of the federal Program and extend into the following year, when premium is being disclosed for the period during which the federal Program is in effect and estimated premium is being disclosed for the remainder of the policy term. This situation is described in Paragraphs **N.5.b.(1)(a)**, **N.5.b.(1)(b)** and **N.5.b.(2)(b)**. This endorsement recognizes the possibility of a mid-term additional premium charge or return of excess premium.