COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

One South Station • Boston, MA 02110-2208
(617) 521-7794 • FAX (617) 521-7773
TTY/TDD (617) 521-7490
http://www.state.ma.us/doi

JANE SWIFT
GOVERNOR

JENNIFER DAVIS CAREY
DIRECTOR, CONSUMER AFFAIRS
AND BUSINESS REGULATION

LINDA RUTHARDT
COMMISSIONER OF INSURANCE

Bulletin No. 01-17

To: Licensees, Insurers and Interested Parties

From: Linda Ruthardt, Commissioner of Insurance

Date: November 30, 2001

Re: Minimum Requirements for Terrorism Exclusions to be Applied to Regulated Property/Casualty Insurance Policies

As part of its efforts to maintain viable insurance markets in Massachusetts following the September 11, 2001 terrorist attack in the U.S., the Division of Insurance ("Division") has actively engaged in discussions with insurers and insurer organizations regarding coverage availability for the near term. The reinsurance market currently is reported to be such that endorsements that provide exclusions for terrorism may be appropriate and necessary for some insurers in order to protect their policyholders generally. In order to ensure that any such endorsements filed for subsequent approval by the Commissioner will be a reasonable response to the September 11, 2001 events, the Division has established minimum criteria for any such endorsements that require approval. This bulletin is designed to help insurers and insurance service organizations as they consider "terrorism exclusion" language and rates that need to be submitted. These minimum criteria are not meant to substitute for all applicable law. Insurers must comply with all applicable Massachusetts law.

N.B. Consistent with Massachusetts law insurers are responsible for notifying their insureds of all policy changes and endorsements.

General

Terrorism exclusions are not permitted for workers' compensation insurance under MA law.

Terrorism exclusions are not permitted for automobile insurance under MA law.

Property Coverages

1. The exclusion will apply only when property damage from the terrorism incident exceeds some reasonable monetary threshold.
2. The threshold in (1) is based on losses sustained by all individuals and/or entities affected by the terrorism incident.
3. The threshold in (1) relates to property coverage in the U.S., U.S. territories & possessions, and Canada.
4. The threshold in (1) will not apply to nuclear, biological or viral related terrorism events as coverage is excluded when resulting from these events.
5. This threshold is independent of any threshold for liability.
6. The definition of terrorism should include a single terrorism event resulting from multiple related incidents.
7. A direct fire loss resulting from an act of terrorism can't be subject to the terrorism exclusion under the standard fire insurance policy defined in MA law.
8. The definition of terrorism should clearly distinguish between terrorism, malicious mischief & vandalism, civil unrest, and other coverages typically obtained as property coverage.

Liability Coverages

1. The exclusion will apply only when liability from a terrorism incident not involving injury or death exceeds some reasonable monetary threshold.
2. The threshold for application of the exclusion for liability for injury or death should be based upon serious injury or death to a logically selected (reasonably large) number of persons.
3. The threshold in (1) relates to liability coverage worldwide.
4. The threshold in (1) will not apply to nuclear, biological or viral related terrorism events as coverage is excluded when resulting from these events.
5. This threshold is independent of any threshold for property.
6. The definition of terrorism should include a single terrorism event resulting from multiple related incidents.
7. Serious injury in (2) should be defined based upon 18 USC Section 1365 or other similar statutes.
8. The definition of terrorism should clearly distinguish between terrorism, malicious mischief & vandalism, civil unrest and the like.

Insurers may file terrorism exclusion endorsements that have already been approved for insurers or rating organizations provided they comply with any licensing requirements. It is the Division's understanding that at least one rating organization with an approved terrorism exclusion endorsement will license insurers free of charge.

If you have any questions regarding this bulletin, please contact Wayne Perkins, Director of SRB/Policy Forms Review, by e-mail at wayne.perkins@state.ma.us or by telephone at (617) 521-7341.