

FROM: Senior Manager, US, Worldwide Markets
LOCATION: G12
EXTENSION: 5131
DATE: 5th February 2002
REFERENCE: Y2714
SUBJECT: ILLINOIS: TERRORISM EXCLUSIONS ON
COMMERCIAL INSURANCE POLICIES –
DOCUMENTING LOSS OF ADEQUATE
REINSURANCE
ATTACHMENTS: None
ACTION POINTS: **Underwriters to note instructions**
DEADLINE: **Immediate effect**

Purpose of bulletin: to provide further guidance on how syndicates can file documentation with the Illinois Department of Insurance showing that they do not have adequate reinsurance cover for terrorism.

NMA members will find it useful to consult NMA circular 06/2002 dated 24th January 2002 and headed "Use of terrorism exclusion endorsements in the United States". It gives a wider view of the issue in the US.

Background: See Market bulletin Y2700. It pointed out that the Illinois Department of Insurance will only permit an insurer to use specified ISO or substantially similar terrorism exclusions for licensed commercial business if the insurer has provided proof of loss of adequate terrorism reinsurance for lines of coverage to which the exclusion applies. Following correspondence between the Illinois Department of Insurance and Lloyd's Attorney in Fact, further guidance on this issue is set out below.

1 Documentation to be provided

The Dept's bulletin states that insurers must provide the Department of Insurance "...with:

- a) A copy of the reinsurer's letter, reinsurance agreement, cover slip, or cover note showing such loss of reinsurance; and
- b) A copy of the reinsurer's terrorism exclusion and its effective date."

Application to Lloyd's syndicates: Responsibility for providing this documentation rests with individual syndicates. Any syndicate proposing to write Illinois licensed commercial insurance with terrorism exclusions should ensure that it can provide documentation in line with the Department's requirements.

The Department has, in correspondence with Lloyd's Attorney in Fact in Illinois, stressed that the relevant documents should originate from the reinsurer, not the reinsurance intermediary arranging the cover.

2 Route for provision of documentation

Syndicates should provide this documentation to the Department of Insurance via Lloyd's Attorney in Fact in Illinois. Contact details are:

John C. Gurley
 Attorney in Fact in Illinois for Licensed Underwriters
 115 South LaSalle Street
 Suite 2450
 Chicago
 IL 60603

Tel (from the UK): 001 (312) 443 0318

Fax (from the UK): 001 (312) 896 6318

E mail: jgurley@lordbissell.com

Documentation may be mailed or faxed to Lloyd's Attorney in Fact's office, or may be scanned and sent electronically. Documents provided should meet a reasonable standard of authenticity – for example letters should be on the reinsurer's headed paper and signed by a member of the reinsurer's staff.

3 Deadline for submission

The Dept's bulletin required insurers to provide this documentation by 15th January 2002 if they proposed to adopt terrorism exclusions with effect from 1st January 2002. As noted in bulletin Y2700, we have asked the Department to allow syndicates until **15th February 2002** to comply. The Department has neither confirmed nor denied its approval of this request.

We therefore suggest that syndicates wishing to adopt terrorism exclusions with effect from 1st January 2002 should provide the documentation as soon as possible, and in any case before 15th February.

Some syndicates may have adequate reinsurance cover for terrorism in place, although at renewal cover for terrorism will be removed. A syndicate in this position which intends to use terrorism exclusions for Illinois licensed commercial business should provide the required documentation demonstrating an absence of adequate reinsurance cover for terrorism at, or shortly after, renewal of its reinsurance cover. The syndicate will not be able to use terrorism exclusions for Illinois licensed commercial business until it has provided the documentation.

4 “Adequate reinsurance coverage”

Lloyd’s Attorney in Fact has asked the Department to clarify what this means. The Department has responded as follows:

“There has not been any standard set as to what “adequate reinsurance coverage” means. If, in the future, the Director needs to make such determination, he will do so on a company-by-company basis, as the financial conditions and needs of companies vary, and determinations will need to take into account an individual company’s needs. This does not mean that an insurer cannot have some reinsurance. Rather, the insurer would have to show that its use of the exclusion is appropriate given the reinsurance it has available to it.”

Syndicates with no reinsurance cover for terrorism at all will clearly not have a problem demonstrating that it is inadequate. In other cases the syndicate underwriter must make an assessment of whether it is adequate in the light of the Illinois licensed commercial business it proposes to underwrite.

Please contact the following if you have any questions about this Market Bulletin:

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Market Services, tel: 020 7327 6677.

John Gurley, Attorney in Fact in Illinois for Licensed Underwriters, contact details on page 2.

This market bulletin has been sent to active underwriters and the compliance officers of managing agents and (for information) Lloyd’s brokers.

James Walmsley
Senior Manager, US
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