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**SUBJECT:** PROPOSED TERRORISM POOL IN THE NETHERLANDS  
**SUBJECT AREA(S):** Update on progress towards the establishment of a terrorism pool including opportunities for underwriters  
**ATTACHMENTS:** Annexe 1 – Information on the Proposals  
**ACTION POINTS:** **Syndicates and Brokers to note**  
**DEADLINE:** None

The purpose of this bulletin is to advise the market on the latest developments emerging from The Netherlands regarding proposals for a terrorism pool. Subject to further clarification, Lloyd's underwriters may be able to cede terrorism exposure to the pool. Additionally, there may be opportunities for Lloyd's underwriters to reinsure the pool.

In reaction to the terrorist attack on the WTC in Sept 2001, the Dutch government and Dutch insurance industry has been considering proposals for a pool to cover the insurance of terrorist acts against 'Dutch' risks. The Dutch Ministry of Finance ('the Ministry') published a report in Nov 2002 which analysed various scenarios. The Verbond Van Verzekeraars ('the VVV' – the Dutch Insurers' Association) has been discussing with the Dutch Government the extent to which the financial impact of terrorist activity is a risk which can be carried in the commercial insurance world.

Proposals have now emerged for a joint industry/state arrangement, which will be overseen and administered by the VVV. Lloyd's Worldwide Markets has recently met both with the Ministry and with the VVV. Attachment 1 to this Bulletin provides summary details of the background and proposals.

It is expected that the inauguration of the pool will, when it occurs, trigger the simultaneous withdrawal of terrorism cover by reinsurers for their cedants who are active in The Netherlands.

At the time of writing, it appears that the pool is likely to become effective from 1<sup>st</sup> July 2003, subject to legislative progress. It will also be seen that some matters need further clarification and it must be understood that the pool depends to an extent on the support of

the international reinsurance community. The information contained in this Bulletin should therefore be considered as an interim report, subject to update in due course.

Further information on this subject can be obtained as follows

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# Developments towards the establishment of a pool to cover terrorism risks in The Netherlands.

## **1.0 Background**

The Ministry's November 2002 report considers that a key terrorist threat is an attack on a full sports stadium. The total insured losses from this scenario would be spread across all sectors of the market, including a very significant proportion of life claims.

In line with insurers around the world after 9/11, insurers in the Netherlands sought to review and restrict terrorism coverage. Although exclusions could be brought into non-life policies by endorsement or at subsequent renewals, in the Netherlands it is impossible to vary the conditions of a Life contract once it has begun.

The VVV has reached a negotiated position with the Dutch Government. Legislation will be enacted to enable the exclusion of terrorism from in-force life policies, and the VVV will co-operate with the Government in setting up a pool in which the insurance industry would be the first port of call in the event of a major terrorist atrocity. However, the Government would become involved as a participant in the pool.

## **2.0 Basic principles of the Pool**

As will be seen, these proposals, although well-developed, are not yet finalised. In summary, the key proposals are

### 2.1 Structure & Capacity

A three-layered structure with total capacity of €1 billion, provided by a combination of the Dutch insurance industry, the professional reinsurance community, and the Dutch Government. The limit of €1 billion will operate per event and in the annual aggregate. If the total of insured claims made for one event and/or in the annual aggregate exceeds the €1 billion limit, the Government will intervene to scale back all claims proportionately to fit within the €1 billion.

### 2.2 Who can participate – participant's obligations

Membership of the pool is voluntary. Participating insurers will be deemed to cede all their terrorism exposure to the pool. Because a participant's entire portfolio is 'pooled', there is no obligation on an insurer to declare individual risks to the pool.

### 2.3 What the Pool covers

The pool will respond to Life and Non-Life claims in the aggregate. The pool will respond to claims from events falling under a standard definition of terrorism. This definition, in Dutch, was put forward by the VVV in January 2002 and accepted by the Government, although this definition has not been tested in the Courts.

The pool will cover acts of terrorism insured by direct policies only (not reinsurance) occurring

- (a) in the Netherlands;
- (b) outside the Netherlands, in respect of
  - marine vessels or motor vehicles registered in the Netherlands.

- life, personal accident and personal possessions (eg luggage, jewellery etc) for Dutch citizens abroad.

At this stage it is understood that the pool will not cover acts of terrorism against

- (i) Dutch-owned property outside the Netherlands
- (ii) Aviation risks

### **3.0 Pool Structure**

A non-profit-making foundation will be incorporated in the Netherlands to manage the arrangements. This scheme is technically reinsurance.

1. The first layer operates on a pool basis, with capacity of € 400 million provided by Insurers on a voluntary, not compulsory, basis.
2. The second layer of € 300 million is to be provided by the professional reinsurance industry and purchased in the commercial market for a premium.
3. The top layer, also of €300 million, is being provided by the Dutch Government which will act as a reinsurer and charge a premium. At present the Government appears to be waiting on progress with the second layer before working out how much to charge.

### **4.0 Participation**

Participation in the primary € 400 million layer is voluntary, but the Government has issued statements pointing out the advantages of being a pool member. Thus there is great moral pressure on the industry to sign up. It is thought that only a relatively small number of specialist/mono-line insurers may choose to stay out.

Although it was initially suggested that participation only open to those insurers supervised by the Dutch supervisory authorities (the PVK), this restriction now seems unlikely to be carried forward. Participation is likely to be open to non-Dutch insurers.

Those Lloyd's underwriters active on the Dutch Market may wish to participate in the new arrangements, either in the pool or to offer reinsurance capacity as a reinsurer in the second layer.

Although the VVV initially felt that Lloyd's should participate in the first layer as a whole, they are currently considering whether syndicates may participate on an individual basis. A further update will be provided on this point.

With regard to the second layer, it is understood that the VVV is already in 'direct' contact with Munich Re and Swiss Re, but has also appointed Guy Carpenter as broker to approach other markets in a more traditional manner.

### **5.0 Costs of Participation**

At present, there are no proposals for a per-risk premium charge for business ceded to the pool. However, as has been mentioned, a commercial premium will be charged by the professional reinsurers and the Dutch Government for the second and third layers respectively. Details of any premiums involved are as yet unknown.

The pool will be administered from the VVV and any related charges are expected to be minimal.

#### **6.0 Claims Procedures/Allocation**

Within the pool layer of €400 million, claims will be allocated to insurers in proportion to their premium income from Dutch business. This will be calculated upon total premium volume for life and non-life business, but will exclude reinsurance.

Each participant will bear their respective proportion of all losses arising, whether life or non-life. Precise claims handling procedures have yet to be established (although technically a reinsurance arrangement, it seems likely that the pool might be able to respond directly to policyholders).

#### **7.0 Government intervention if the aggregate limit is exceeded**

The Dutch Emergency Act on Financial Traffic allows emergency powers to be granted to the Minister of Finance. It is envisaged that these powers could be used when the financial sector can no longer function properly due to exceptional circumstances. In the event of a major terrorist attack (or more than one attack) whereby the aggregate limit of €1bn is exceeded, the emergency powers would enable the Minister proportionately to reduce the amounts paid out in claims, in order to ensure a proper and fair functioning of the insurance system. Claims would be scaled back to ensure the €1bn limit is not breached.

#### **8.0 Timing**

- The VVV expects to have the infrastructure of the pool set up by the end of 1Q 2003.
- The legislative procedure to set this up is unlikely to be completed before End 2Q 2003 at the earliest.

#### **9.0 Effect on reinsurance programmes**

At the date upon which the pool becomes active, insurers in The Netherlands will have their terrorism cover withdrawn by reinsurers (the risks from that date being covered by the pool). The likely establishment of the pool has been common knowledge for some time and it is understood that 2003 treaties incorporate clauses to give effect to this intention.