

(b) *Residual Market Mechanism Disclosure.* A State residual market insurance entity or State workers' compensation fund may provide the disclosures required by this subpart B to policyholders using normal business practices, including forms and methods of communication used to communicate similar policyholder information to policyholders. The disclosures may be made by the State residual market insurance entity or State workers' compensation fund itself, the individual insurers that participate in the State residual market insurance entity or a State workers' compensation fund, or its servicing carriers. The ultimate responsibility for ensuring that the disclosure requirements have been met rests with the insurer filing a claim under the Program.

(c) *Other requirements.* Except as provided in this section, all other disclosure requirements set out in this subpart B apply to State residual insurance market entities and State workers' compensation funds.

(d) *Prior safe harbor superseded.* This section supersedes the disclosure safe harbor provisions found at paragraph C.4 of the Interim Guidance issued by Treasury in a notice published on December 18, 2002, and published at 67 FR 78864 (December 26, 2002).

■ 3. Subpart D of part 50 is amended by adding §§ 50.30, 50.33, 50.35, and 50.36 to read as follows:

§ 50.30 General participation requirements.

(a) *Insurers.* As defined in § 50.5(f), all State residual market insurance entities and State workers' compensation funds are insurers under the Program even if such entities do not receive direct earned premiums.

(b) *Mandatory Participation.* State residual market insurance entities and State workers' compensation funds that meet the requirements of § 50.5(f) are mandatory participants in the Program subject to the rules issued in this Subpart.

(c) *Identification.* Treasury will release and maintain a list of State residual market insurance entities and State workers' compensation funds at www.treasury.gov/trip. Procedures for providing comments and updates to that list will be posted with the list.

§ 50.33 Entities that do not share profits and losses with private sector insurers.

(a) *Treatment.* A State residual market insurance entity or a State workers' compensation fund that does not share profits and losses with a private sector insurer is deemed to be a separate insurer under the Program.

(b) *Premium calculation.* A State residual market insurance entity or a State workers' compensation fund that is deemed to be a separate insurer should follow the guidelines specified in § 50.5(d)(1) or 50.5(d)(2) for the purposes of calculating the appropriate measure of direct earned premium.

§ 50.35 Entities that share profits and losses with private sector insurers.

(a) *Treatment.* A State residual market insurance entity or a State workers' compensation fund that shares profits and losses with a private sector insurer is not deemed to be a separate insurer under the Program.

(b) *Premium and loss calculation.* A State residual market insurance entity or a State workers' compensation fund that is not deemed to be a separate insurer should continue to report, in accordance with normal business practices, to each participant insurer its share of premium income and insured losses, which shall then be included respectively in the participant insurer's direct earned premium or insured loss calculations.

§ 50.36 Allocation of premium income associated with entities that do share profits and losses with private sector insurers.

(a) *Servicing Carriers.* For purposes of this Subpart, a servicing carrier is an insurer that enters into an agreement to place and service insurance contracts for a State residual market insurance entity or a State workers' compensation fund and to cede premiums associated with such insurance contracts to the State residual market insurance entity or State workers' compensation fund. Premiums written by a servicing carrier on behalf of a State residual market insurance entity or State workers' compensation fund that are ceded to such an entity or fund shall not be included as direct earned premium (as described in § 50.5(d)(1) or 50.5(d)(2)) of the servicing carrier.

(b) *Participant Insurers.* For purposes of this Subpart, a participant insurer is an insurer that shares in the profits and losses of a State residual market insurance entity or a State workers' compensation fund. Premium income that is distributed to or assumed by participant insurers in a State residual market insurance entity or State workers' compensation fund (whether directly or as quota share insurers of risks written by servicing carriers), shall be included in direct earned premium (as described in § 50.5(d)(1) or 50.5(d)(2)) of the participant insurer.

Dated: October 1, 2003.

Wayne A. Abernathy,

Assistant Secretary of the Treasury.

[FR Doc. 03-26250 Filed 10-16-03; 8:45 am]

BILLING CODE 4811-15-P

DEPARTMENT OF THE TREASURY

31 CFR Part 50

RIN 1505-AA98

Terrorism Risk Insurance Program; Disclosures and Mandatory Availability Requirements

AGENCY: Departmental Offices, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (Treasury) is issuing this final rule concerning disclosures and mandatory availability requirements as part of its implementation of Title I of the Terrorism Risk Insurance Act of 2002 (Act). The final rule incorporates and clarifies conditions for federal payment, set forth in section 103(b) of the Act, that require insurers to make certain disclosures to policyholders. It also incorporates and clarifies the section 103(c) requirements that insurers "make available" in their commercial property and casualty policies terrorism risk insurance coverage for insured losses resulting from certified acts of terrorism under the Act. Treasury issued an interim final rule and proposed rule with request for comment. This final rule, which is the second in a series of regulations that Treasury is issuing to implement the Program, adopts the interim final rule with several modifications as discussed below.

DATES: This final rule is effective October 17, 2003.

FOR FURTHER INFORMATION CONTACT: Mario Ugoletti, Deputy Director, Office of Financial Institutions Policy (202) 622-2730, or Martha Ellett or Cynthia Reese, Attorney-Advisors, Office of the Assistant General Counsel (Banking & Finance), (202) 622-0480, or C. Christopher Ledoux, Senior Attorney, Terrorism Risk Insurance Program (202) 622-6770 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

A. Terrorism Risk Insurance Act of 2002

On November 26, 2002, President Bush signed into law the Terrorism Risk Insurance Act of 2002 (Pub. L. 107-297, 116 Stat. 2322). The Act was effective immediately. The Act's purposes are to address market disruptions, ensure the continued widespread availability and