

(1) The insurer is an entity meeting the requirements of § 50.5(f);

(2) The insurer's insured losses as defined in § 50.5(e) have exceeded its insurer deductible as defined in § 50.5(g);

(3) The insurer has made payment of an underlying insured loss to a person who had suffered the insured loss, or to a person acting on behalf of such person, and who had filed a claim that was not fraudulent, collusive, made in bad faith or otherwise dishonest;

(4) The insurer had provided a clear and conspicuous disclosure as required by §§ 50.10 through 50.19;

(5) The insurer took all steps reasonably necessary to properly and carefully investigate the underlying insured loss and otherwise processed the underlying loss using appropriate insurance business practices;

(6) The insured losses submitted for payment are within the scope of coverage issued by the insurer for commercial property and casualty insurance as defined in § 50.5(l); and

(7) The procedures specified in this subpart have been followed and all conditions to payment have been met.

(b) *Amount payable.* The Federal share of compensation payable to an insurer under the Program shall be 90 percent of that portion of the insurer's aggregate insured losses that exceed its insurer deductible during a Program Year, subject to any adjustments in § 50.51 and the cap of \$100 billion as provided in section 103(e)(2) of the Act.

§ 50.51 Adjustments to the Federal share of compensation.

(a) *Aggregate amount of insured losses.* The aggregate amount of insured losses of an insurer in a Program Year used to calculate the Federal share of compensation shall be reduced by any amounts recovered by the insurer as salvage or subrogation for its insured losses in the Program Year.

(b) *Amount of Federal share of compensation.* The Federal share of compensation shall be adjusted as follows:

(1) *No excess recoveries.* For any Program Year, the sum of the Federal share of compensation paid by Treasury to an insurer and the insurer's recoveries for insured losses from other sources shall not be greater than the insurer's aggregate amount of insured losses for acts of terrorism in that Program Year. Amounts recovered for insured losses in excess of an insurer's aggregate amount of insured losses in a Program Year shall be repaid to Treasury within 45 days after the end of the month when such amounts are received by the insurer. For purposes of

this paragraph, amounts recovered from a reinsurer pursuant to an agreement whereby the reinsurer's right to any excess recovery has priority over the rights of Treasury shall not be considered a recovery subject to repayment to Treasury.

(2) *Reduction of amount payable.* The Federal share of compensation due an insurer for insured losses shall be reduced by any amounts received by the insurer or an insured or a third party suffering the underlying loss from any other Federal programs as compensation for those insured losses, including, but not limited to, insurance, assistance, grants or disaster relief from the Federal Government. Each insurer shall inquire of each of its claimants whether or not duplicate payments for insured losses have been paid from other Federal sources. Such amounts shall be reported with each underlying claim on the bordereau specified in § 50.53(b)(1) and the total amount subtracted from the aggregate amount claimed as the Federal share of compensation for insured losses.

§ 50.52 Initial Notice of Insured Loss.

Each insurer shall submit to Treasury an Initial Notice of Insured Loss, on a form prescribed by Treasury, whenever the insurer's aggregate insured losses (including reserves for "incurred but not reported" losses) within a Program Year exceed an amount equal to 50 percent of the insurer's deductible as specified in § 50.5(g). Insurers are advised the form for the Initial Notice of Insured Loss will include an initial estimate of aggregate losses for the Program Year, the amount of the insurer deductible and an estimate of the Federal share of compensation for the insurer's aggregate insured losses. In the case of an affiliated group of insurers, the form for the Initial Notice of Insured Loss will include the name and address of a single insurance entity within the affiliated group that will serve as the single point of contact for the purpose of providing loss and compliance certifications as required in § 50.53 and for receiving payments of the Federal share of compensation in accordance with § 50.54(b). An insurer, at its option, may elect to include with its Initial Notice of Insured Loss the certification of direct earned premium required by § 50.53(b)(3).

§ 50.53 Loss certifications.

(a) *General.* When an insurer has paid aggregate insured losses that exceed its insurer deductible, the insurer may make claim upon Treasury for the payment of the Federal share of compensation for its insured losses. The

insurer shall file an Initial Certification of Loss, on a form prescribed by Treasury, and thereafter such Supplementary Certifications of Loss, on a form prescribed by Treasury, as may be necessary to receive payment for the Federal share of compensation for its insured losses.

(b) *Initial Certification of Loss.* An insurer shall use its best efforts to file the Initial Certification of Loss with Treasury within 45 days following the last calendar day of the month when an insurer's aggregate insured losses exceed its insurer deductible. Insurers are advised the Initial Certification of Loss will include the following:

(1) A bordereau, on a form prescribed by Treasury, that includes basic information about each underlying insured loss. The bordereau will include, but may not be limited to:

(i) A listing of each underlying insured loss by catastrophe code and line of business;

(ii) The total amount of reinsurance recovered from other sources;

(iii) A calculation of the aggregate insured losses sustained by the insurer above its insurer deductible for the Program Year; and

(iv) The amount the insurer claims as the Federal share of compensation for its aggregate insured losses.

(2) A certification that the insurer is in compliance with the provisions of section 103(b) of the Act and this part, including certifications that:

(i) The insurer has paid all underlying claims comprising the insured losses listed in the bordereau provided pursuant to § 50.53(b)(1);

(ii) The underlying claims for insured losses were filed by persons who suffered an insured loss, or by persons acting on behalf of such persons;

(iii) The underlying claims for insured losses were processed in accordance with appropriate business practices and the procedures specified in this subpart;

(iv) The insurer has complied with the disclosure requirements of §§ 50.10 through 50.19 for each underlying insured loss that is included in the amount of the insurer's aggregate insured losses; and

(v) The insurer has complied with the mandatory availability requirements of §§ 50.20 through 50.24.

(3) A certification of the amount of the insurer's "direct earned premium" as defined in § 50.5(d), together with the calculation of its "insurer deductible" as defined in § 50.5(g) (provided this certification was not submitted previously with Initial Notice of Insured Loss specified in § 50.52).

(c) *Supplementary Certification of Loss.* If the total amount of the Federal