

August 13, 2004

Dear Mr. V:

This letter responds to your request for an interpretation concerning the application of the Terrorism Risk Insurance Act of 2002 (the “Act”)¹ and Treasury’s regulations implementing the Act.² The CCC is a captive insurance company licensed under the laws of the State of Vermont and, therefore is an “insurer” under the Act.³ CCC provides direct workers’ compensation insurance coverage to other subsidiaries of its parent under a qualified self-insured workers’ compensation plan. Workers’ compensation insurance is a commercial line of property and casualty insurance included in the Terrorism Risk Insurance Program.⁴

The inclusion of this insurance in the Program does not change because Vermont’s captive insurance law deems this type of insurance to be reinsurance.⁵ The Act does exclude reinsurance from Federal backstop protection⁶; but for purposes of the Program, the insurance CCC provides is not reinsurance. As we have explained, an insurance arrangement between a self-insured and an insurer is more like direct primary (or in some cases excess) property and casualty insurance rather than traditional reinsurance where an insurer reinsures another insurer.⁷ Workers’ compensation insurance provided by a captive insurer directly to employers under a qualified self-insured workers’ compensation plan is “property and casualty insurance” and is not “reinsurance” for purposes of the Program.

Please note that for purposes of calculating its insurer deductible under the Program, CCC will need to include the direct earned premiums received from the insurance provided to employers under the qualified self-insured workers’ compensation plan regardless of how the premiums are reported on CCC’s Annual Report filed with the State of Vermont.

¹ Public Law 107-297, 116 Stat. 2322, 15 U.S.C. §6701, note.

² 31 C.F.R. Part 50. This response is being issued pursuant to 31 C.F.R. §50.9, which sets forth a procedure whereby persons actually or potentially affected by the Act or regulations may request an interpretation.

³ P.L. 107-297 §102(6); 30 C.F.R. §50.5(f)(1)(i)(A).

⁴ P.L. 107-297 §102(12); 30 C.F.R. §50.5(l)

⁵ 8 V.S.A. §6011(d) (“For all purposes of this chapter, insurance by a captive insurance company of any workers’ compensation qualified self-insured plan of its parent and affiliates shall be deemed to be reinsurance.”). We also note that by its terms, the Vermont law is limited to the purposes of “this chapter” of Vermont law.

⁶ P.L. 107-297 §102(12)(B)(vii); 31 C.F.R. § 50.5(l)(2)(vii).

⁷ See 68 Fed. Reg. 59,715, 59,717-18 (Oct. 17, 2003)

Thank you for your inquiry. For additional information or if you have any specific questions, please CCC the Program office at 202-622-6770.

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This response addresses the application of the Act and regulations to the specific situation set forth in your request, as you have represented the facts to Treasury. If there is a change in any of the facts or assumptions presented, and such facts or assumptions are material to a conclusion presented in this response, then the requestor may not rely on the conclusion generally or as support for any proposed or subsequent activity. This response is provided by the Terrorism Risk Insurance Program as a means of stating its current interpretation of the Act and regulations. The Program may revise or revoke this interpretation upon its own initiative or upon the enactment of amendments to the Act or regulations.

TERRORISM RISK INSURANCE PROGRAM

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Executive Director