

March 1, 2004

Dear Mr. F:

This letter is written in response to your letter in which you requested interpretations concerning the application of the Terrorism Risk Insurance Act of 2002 (the “Act”) and Treasury’s regulations implementing the Act to questions being raised by specialty insurers concerning the treatment of livestock mortality insurance under the Program.¹

Section 102(12)(A) of the Act defines the term “property and casualty insurance” as meaning commercial lines of property and casualty insurance, including excess insurance, workers’ compensation insurance, and surety insurance. Section 102(12)(B) states that the statutory definition of property and casualty insurance does not include, *inter alia*, “Federal crop insurance issued or reinsured under the Federal Crop Insurance Act (7 U.S.C. 1501 et. seq.), or any other type of crop or livestock insurance that is privately issued or reinsured.”² We consider livestock mortality insurance to fit within the category of “any other type of ... livestock insurance that is privately issued or reinsured” and therefore the insurance is not included within the Act’s definition of property and casualty insurance.

Within the parameters of the Act’s definition, our implementing regulations further define property and casualty insurance by reference to certain lines of business listed on the NAIC’s Exhibit of Premiums and Losses (commonly known as Statutory Page 14). Although you point out that livestock mortality insurance is generally reported on Line 9 – Inland Marine, which under § 50.5(l)(1) is included among the lines of business considered to be commercial lines of property and casualty insurance for purposes of the Program,³ Section 50.5(l)(2) provides that Federal crop insurance or any other type of crop or livestock insurance that is privately issued or reinsured is not included in the regulatory definition of commercial property and casualty insurance because it is expressly excluded by the Act.⁴ Accordingly, livestock mortality insurance – a type of privately-issued livestock insurance -- is not included in the Program even though it may be reported on an included Statutory Page 14 line of business.

¹ 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.

² See Section 102(12)(B)(i) of the Act; 31 C.F.R. §50.5(l)(2)(i)(emphasis added).

³ 31 C.F.R. §50.5(l)(1).

⁴ *Id.* at §50.5(l)(2)(i). See also 68 Fed. Reg. 41,250, 41,257 (Jul. 11, 2003).

Thank you for your inquiry. For additional information or if you have any specific questions, please call 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 that 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