



July 22, 2008

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Re: Endorsement CA 23 17 03 06 -  
Truckers - Uniform Intermodal  
Interchange Endorsement

During a recent meeting of the Board of Governors, the Board considered whether Endorsement CA 23 17 03 06 - Truckers - Uniform Intermodal Interchange Endorsement Form UIIE - 1 (which is used on a Truckers Policy) is eligible for cession to the Reinsurance Facility. The Board voted to allow cession of the coverage provided by this Endorsement.

The effect of the UIIE is to cover specifically the motor carrier's assumption of liability of those who provide equipment commonly used in road transportation of intermodal freight (trailers, chassis, containers, etc.) under the terms of Uniform Intermodal Interchange and Facilities Access Agreement. The Board concluded that since the Commercial Auto Policy provides certain contractual liability in other sections of the policy and since those coverages have been ceded to the Reinsurance Facility since inception, the UIIE should be eligible for cession.

In addition, the UIIE also provides coverage for attorney's fees incurred by the indemnitee (Section F.4 of the UIIE) in defense of a claim against the indemnitee. The Board concluded that this type of attorney fees (1) is not the same type of attorney fees that is contemplated in the claims expense allowance paid by the Reinsurance Facility to the member companies and not separately reimbursed; (2) should be paid as part of a claim and would constitute a portion of a loss under the policy and would be payable by the Reinsurance Facility; and (3) would be subject to the limits of coverage provided by the policy.

The Uniform Intermodal Interchange and Facilities Access Agreement appears to require a motor carrier to provide \$1 million single limit coverage through a commercial auto policy. Please note that, in commercial auto, the amount cedable to the Reinsurance Facility generally tracks the amounts an insured is

required to carry by the state or federal government or their administrative agencies. The Uniform Intermodal Interchange and Facilities Access Agreement does not expand the limits cedable to the Facility. Therefore, if the UIIE is issued with \$1 million single limits coverage but the motor carrier is only required under applicable law or regulations to carry \$750,000, only \$750,000 would be cedable to the Facility. The insurer would be liable for any loss between \$750,000 and the \$1 million limit provided in the UIIE.

Very truly yours,

F. Timothy Lucas

Automobile Manager

FTL:dms

RF-08-8