

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

_____	)	
	)	
IN RE: INSURANCE BROKERAGE	)	MDL No. 1663
ANTITRUST LITIGATION	)	Civil No. 04-5184 (FSH)
	)	
APPLIES TO ALL ACTIONS	)	Hon. Faith S. Hochberg
	)	
_____	)	

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT,  
SETTLEMENT HEARING AND RIGHT TO APPEAR**

**TO: All individuals or entities who, from August 26, 1994 through September 1, 2005, inclusive (the "Class Period"):**

engaged the services of any of the Defendant Brokers (as identified below) in connection with the purchase or renewal of commercial insurance or reinsurance from any of the Zurich Insurers (as identified below) or from any of the Insurer Defendants (as identified below)

*and/or*

engaged the services of any other broker in connection with the purchase or renewal of commercial insurance or reinsurance from any of the Zurich Insurers (as identified below).

***PLEASE READ THIS NOTICE CAREFULLY. IT HAS BEEN SENT TO YOU TO ADVISE YOU ABOUT THE PROPOSED SETTLEMENT AS TO THE ZURICH INSURERS OF THIS CLASS ACTION AND YOUR RIGHTS WITH RESPECT TO THE SETTLEMENT.***

***IF YOU DETERMINE YOU DO NOT WANT TO PARTICIPATE IN THIS SETTLEMENT, YOU MUST (AS DISCUSSED MORE FULLY BELOW) REQUEST EXCLUSION FROM THE SETTLEMENT BY NO LATER THAN***

\_\_\_\_\_  
***THIS NOTICE IS NOT AN OPINION BY THE COURT AS TO THE MERITS OF ANY OF THE CLAIMS OR DEFENSES IN THIS CLASS ACTION. THE STATEMENTS MADE IN THIS NOTICE ARE NOT FINDINGS OF THE COURT.***

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## I. BASIC INFORMATION

### 1. Who are the Broker Defendants?

The “**Broker Defendants**” are insurance brokers who are defendants in the Class Action that is discussed in this Notice. The names of the Broker Defendants are:

Acordia, Inc.	Branch Banking and Trust Company
Affinity Insurance Services, Inc.	Brown & Brown, Inc.
Aon Broker Services, Inc.	Hilb, Rogal & Hobbs Company
Aon Corporation	Hub International Limited
Aon Group Inc.	Marsh & McLennan Companies, Inc.
Aon Re, Inc.	Marsh Inc.
Aon Re Worldwide, Inc.	Marsh USA, Inc.
Aon Risk Services Companies, Inc.	Marsh USA Inc. (Connecticut)
Aon Risk Services, Inc. of Louisiana	Seabury & Smith, Inc
Aon Risk Services, Inc. of Maryland	Stewart Smith Group
Aon Risk Services, Inc. of Michigan	Summit Global Partners of Florida, Inc.
Aon Risk Services Inc. U.S.	U.S.I. Holdings Corporation
Aon Risk Services of Texas, Inc.	USI Insurance Services of Florida, Inc. (d/b/a USI Florida)
Aon Services Group, Inc.	Wells Fargo & Company
Arthur J. Gallagher & Co.	Willis Group Holdings Limited
Arthur J. Gallagher Risk Management Services, Inc.	Willis Group Limited
BB&T Corporation	Willis North America, Inc.
BB&T Insurance Services, Inc.	Willis of New York, Inc.
	Willis Re Inc.

In addition to policy purchases and renewals through Broker Defendants, purchases and renewals of commercial policies issued by Zurich through any other broker – even if such broker is not named as a defendant in this lawsuit (which is known as a “Class Action”) – may also be covered by the Zurich Settlement if the policies were purchased or renewed within the Class Period.

### 2. Who are the Zurich Insurers?

The “**Zurich Insurers**” are:

American Guarantee and Liability Insurance Company	National Standard Insurance Company
American Zurich Insurance Company	Northern Insurance Company of New York
Assurance Company of America	Steadfast Insurance Company
Colonial American Casualty and Surety Company	Universal Underwriters Insurance Company
Empire Fire and Marine Insurance Company	Universal Underwriters of Texas Insurance Company
Empire Indemnity Insurance Company	Valiant Insurance Company
Fidelity and Deposit Company of Maryland	Zurich American Insurance Company
Maine Bonding and Casualty Company	Zurich American Insurance Company of Illinois
Maryland Casualty Company	Zurich Financial Services
Maryland Insurance Company	Zurich International (Bermuda) Ltd. (ZIB)
	Zurich Insurance Bermuda Branch (ZIBB)
	Zurich Specialties London, Ltd. (ZSL)

The term “Zurich” is used throughout this Notice to include some or all of these entities, depending on the context in which it is used.

**3. Who are the Insurer Defendants?**

The “**Insurer Defendants**” are insurers (other than the Zurich Insurers) who are defendants in the Class Action that is discussed in this Notice. The names of the Insurer Defendants are:

ACE American Insurance Co.	Illinois Union Insurance Co.
ACE INA Holdings, Inc.	Indemnity Insurance Co. of North America
ACE Limited	Indian Harbor Insurance Co.
ACE USA, Inc.	Lexington Insurance Company
AIU Insurance Co.	Liberty Mutual Fire Insurance Co.
American Alternative Insurance Corp.	Liberty Mutual Holding Company, Inc.
American Casualty Co. of Reading, PA	Liberty Mutual Insurance Co.
American Home Assurance Co.	Mt. Hawley Insurance Co.
American International Group, Inc.	Munich Reinsurance Co.
American International Insurance Co.	Munich-American Risk Partners, Inc.
American International Specialty Lines Insurance Co.	National Surety Corp.
American Re Corporation	National Union Fire Insurance Co. of Louisiana
American Re-Insurance Co.	National Union Fire Insurance Co. of Pittsburgh, Pa.
Athena Assurance Co.	New Hampshire Insurance Co.
AXIS Reinsurance Company	Nutmeg Insurance Co.
AXIS Specialty Insurance Company	Pacific Insurance Co., Ltd
AXIS Surplus Insurance Company	RLI Corporation
Berkshire Hathaway, Inc.	RLI Insurance Co.
Berkshire Hathaway Insurance Group	St. Paul Fire & Marine Insurance Co.
Birmingham Fire Insurance Co. of Pennsylvania	St. Paul Mercury Insurance Co.
Chicago Insurance Co.	St. Paul Travelers Companies, Inc.
CNA Financial Corp.	The Chubb Corporation
Commerce and Industry Insurance Co.	The Continental Insurance Corp.
Continental Casualty Co.	The Hartford Fidelity & Bonding Co.
Crum & Forster Holdings Corp.	The Hartford Financial Services Group, Inc.
Executive Risk Indemnity Inc.	The Insurance Company of the State of Pennsylvania
Federal Insurance Co.	Travelers Casualty & Surety Co. of America
Fireman's Fund Insurance Co.	Travelers Indemnity Company
General Re Corporation	Twin City Fire Insurance Co.
General Reinsurance Corp.	United States Fire Insurance Co.
Greenwich Insurance Co.	Vigilant Insurance Co.
Gulf Insurance Co.	Wausau Underwriters Insurance Co.
Hartford Fire Insurance Co.	Westchester Surplus Lines Insurance Co.
Hartford Steam Boiler Inspection and Insurance Co.	XL Capital Ltd.

**4. Why did you receive this Notice?**

You have received this Notice because it appears that during the Class Period (August 26, 1994 through September 1, 2005, inclusive) you engaged the services of

- (i) a Broker Defendant (or a subsidiary or affiliate of a Broker Defendant) in connection with one or more purchases or renewals of commercial insurance or reinsurance from a Zurich Insurer or an Insurer Defendant

and/or

- (ii) any other broker in connection with one or more purchases or renewals of commercial insurance or reinsurance from a Zurich Insurer.

Because Zurich's records reflect that you fall within one or both of these groups, you might be a member of a group of individuals and entities (the "Settlement Class") on whose behalf a settlement with Zurich (the "Zurich Settlement") has been reached in this Class Action.

Under the Federal Rules of Civil Procedure and an \_\_\_\_\_ Order entered by the United States District Court for the District of New Jersey – the Court in which the Class Action is pending – the parties to the settlement are required to send this Notice to you to (i) describe the claims against Zurich, (ii) describe the proposed stipulation of settlement (the "Zurich Settlement Agreement") executed by Plaintiffs (the entities that brought the Class Action) and Zurich, (iii) describe the process by which the Court will consider whether to approve the proposed settlement, (iv) tell you how your participation in the Zurich Settlement will affect your legal rights, (v) tell you what you must do if you wish to object to any of the terms of the Zurich Settlement, and (vi) tell you what you must do if you wish to exclude yourself from the Zurich Settlement.

If the Zurich Settlement is finally approved by the Court – and if you do not exclude yourself from it – you will be eligible to receive monetary relief if you are a member of the Settlement Class. As more fully explained below (at paragraph 25), if you wish to exclude yourself from the Zurich Settlement you must follow the procedures described in this Notice – including meeting the \_\_\_\_\_ deadline for requesting exclusion from the Settlement Class.

**5. What is a class action?**

A class action is a lawsuit in which one or more persons and/or entities sue on behalf of other persons and/or entities that have similar claims. In this case, the Plaintiffs have decided to settle their claims against Zurich. The persons and entities on whose behalf this settlement has been made are those within the Settlement Class that the Court has preliminarily certified in its \_\_\_\_\_ Order. Those persons and entities – *i.e.*, the "Settlement Class Members" – are described above (at paragraph 4).

Because the settlement of a class action determines the rights of all members of the settlement class, the court in which the class action is pending – in this case the United States District Court for the District of New Jersey – must approve the settlement.

**6. What is this Class Action about?**

Several class actions were filed against the Broker Defendants, the Insurer Defendants and Zurich. These actions were consolidated into this Class Action under the caption *In re Insurance Brokerage Antitrust Litigation*, MDL No. 1663, Civil No. 04-5184 (FSH) (the "Class Action"). As noted above, the Class Action is pending in the United States District Court for the District of New Jersey.



Plaintiffs in the case allege that the Broker Defendants, the Insurer Defendants and Zurich violated federal and state antitrust laws, the Racketeer Influenced and Corrupt Organizations Act, and common law through (i) practices by which the Insurer Defendants and Zurich provided quotations to policyholders and prospective policyholders through the Broker Defendants in connection with the placement and renewal of insurance contracts, and (ii) contracts, agreements, arrangements and understandings about the payment of commissions that are contingent upon, among other things, the Broker Defendants placing a particular number of policies or dollar value of premium with the Insurer Defendants and Zurich.

Zurich denies the allegations made against it.

**7. What is the status of this Class Action?**

Numerous class actions were filed beginning in August 2004 against various brokers and insurers. Zurich was added as a defendant in \_\_\_\_\_, 2005, and the class actions were consolidated into this Class Action in August 2005. The proceedings as to Zurich were stayed in November 2005 in light of Plaintiffs' and Zurich's agreement to act in good faith to attempt to negotiate a settlement.

As to all defendants other than Zurich, the proceedings have continued. Thus, the Broker Defendants and the Insurer Defendants have filed motions to dismiss the Plaintiffs' claims, Plaintiffs have filed a motion to certify a class and discovery has been proceeding. As of the date of this Notice, the Court has not decided the motions to dismiss or the motion to certify.

Without regard to how the Court rules on the motions pending before it, if the Zurich Settlement is approved, the Court will not make any determination as to the merits of Plaintiffs' claims against Zurich or Zurich's defenses to those claims. This Notice does not imply that there has been or would be any finding of violation of the law, or that any relief or recovery would be awarded against Zurich if the claims against it were not settled. Nor does this Notice imply that Zurich could have successfully defended the claims. Both sides have agreed to the settlement to ensure a resolution and to provide benefits to Settlement Class Members.

If approved by the Court (and such approval becomes final), the Zurich Settlement will resolve and dismiss with prejudice all claims that have been made or that could have been made in the Class Action as to Zurich.

**8. Will your participation in the Zurich Settlement affect your ability to obtain relief from other defendants in the Class Action?**

Participation in the Zurich Settlement will *not* affect your ability to obtain relief from any other defendant in the Class Action. Thus, if a judgment is entered against one or more of the Broker Defendants and/or the Insurer Defendants resulting in a damages award, you will be able to participate in that award even if you participate in the Zurich Settlement (as long as you are within any class the Court might certify in connection with that judgment). Similarly, if Plaintiffs reach a settlement with one or more of the Broker

Defendants and/or the Insurer Defendants, you will be able to participate in that settlement even if you participate in the Zurich Settlement (as long as you are within any settlement class certified in connection with that settlement).

**9. Will Settlement Class Members have to give up anything to participate in the Zurich Settlement?**

If the Zurich Settlement is finally approved, Settlement Class Members will release all claims that have been raised or that could have been raised in the Class Action as set out in the release contained in the Zurich Settlement Agreement (the “Release”), against all of the people and entities that are included in the definition of “Releasee” in the Zurich Settlement Agreement. The Class Action will be dismissed with prejudice as to Zurich. The effect of the Release is further discussed below (at paragraph 19). In addition, a complete copy of the Release – including the relevant definitions – is attached as Appendix A to this Notice and is also available at [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

## **II. SETTLEMENT BENEFITS**

**10. What relief will be provided under the Zurich Settlement Agreement?**

At least \$121,800,000 will be distributed in connection with the Zurich Settlement – with a possibility under certain circumstances (described below) that Zurich will be required to fund an additional \$29,900,000 in connection with the Zurich Settlement. Payment of settlement relief will occur as follows:

- Zurich has funded \$70,100,000 into an escrow account set up under the Zurich Settlement Agreement (the “Class Action Escrow Account”).
- Under the Zurich Settlement Agreement, Zurich will be required to pay up to an additional \$29,900,000 into the Class Action Escrow Account *but only if less than that amount* is distributed under a separate settlement agreement that Zurich entered with the Office of the Attorney General of the States of New York, Connecticut and Illinois and with the Superintendent of Insurance for the State of New York (collectively, the “Three-State Agreement”).

In other words, Zurich will be required to pay into the Class Action Escrow Account *the difference* between what is distributed under the Three-State Agreement and \$29,900,000 if the amount that is distributed under the Three-State Agreement is *less than* \$29,900,000. Thus, for example:

- If only \$27,000,000 is distributed under the Three-State Agreement, Zurich will be required to pay an additional \$2,900,000 into the Class Action Escrow Account.
- If, on the other hand, \$41,000,000 is distributed under the Three-State Agreement, Zurich will not be required to pay any portion of the \$29,900,000 into the Class Action Escrow Account.

Neither the Plaintiffs nor Zurich are able to predict at this point whether Zurich will end up paying any portion of the \$29,900,000 under the Zurich Settlement Agreement. In any event, an aggregate amount of \$100,000,000 will be distributed to policyholders that fall within the definition of Settlement Class Members – though \$29,900,000 of that amount may be distributed under the Three-State Agreement and *not* under the Zurich Settlement Agreement. (A more detailed explanation of the Three-State Agreement is set out below (at \_\_\_)).

In addition, under an agreement that Zurich entered into with the Office of the Attorney General of the States of California, Florida, Hawaii, Maryland, Oregon, Texas and West Virginia and the Commonwealths of Massachusetts, Pennsylvania and Virginia, the Chief Financial Officer of the State of Florida and the Office of Insurance Regulation of the State of Florida, and into parallel settlement agreements with certain other departments of insurance, including (to date) the Departments of Insurance for the States of California, Oklahoma, Delaware, Nebraska, Iowa, Nevada, Arkansas, Missouri, Montana, Illinois, Connecticut, Indiana and Oregon and for the Commonwealths of Pennsylvania and Massachusetts (collectively, the “Multi-State Agreement”), Zurich agreed to a \$51,700,000 settlement fund (in conjunction with the \$100,000,000 discussed in the previous paragraph) that will be distributed through the Zurich Settlement. Zurich funded the \$51,700,000 amount into the Class Action Escrow Account at the time it funded the \$71,100,000 into that account as described above.

Thus, under the terms of the Zurich Settlement Agreement and the Multi-State Agreement, Zurich has already funded a total of \$121,800,000 into the Class Action Escrow Account – with the possibility of being required to fund up to an additional \$29,900,000 under the conditions described above.

The amount in the Class Action Escrow Account – after deductions for any limited expenses (if any) relating to tax liabilities or the maintenance of the escrow account – will be distributed to Settlement Class Members if the Court approves the Zurich Settlement and that approval becomes final. If Zurich is required to fund all or any portion of the additional \$29,900,000 amount under the conditions described above and if the Zurich Settlement is finally approved, that additional amount will also be available (after deduction of limited expenses (if any)) for distribution to Settlement Class Members.

The Zurich Settlement Agreement also requires that interest be paid on the amounts deposited into the Class Action Escrow Account according to an agreed-upon interest rate, with such interest to be calculated as if Zurich had been required to fund into the Class Action Escrow Account the entire \$100,000,000 under the conditions described above. In other words, interest will be calculated as if deposits of \$100,000,000 (under the Zurich Settlement Agreement) and \$51,700,000 (under the Multi-State Agreement) have already been made to the Class Action Escrow Account. This calculation will be made without regard to whether Zurich is ever required to fund the additional \$29,900,000 (or any portion of it) into the Class Action Escrow Account. If the interest generated on the Class Action Escrow Account is insufficient to cover this interest obligation, Zurich will be required to fund any deficiency.

Finally, as described below, Zurich must pay certain additional amounts – the amount awarded to cover attorneys’ fees and expenses for Plaintiffs’ counsel and the amount required to cover all administrative costs associated with administering the settlement (including the costs of providing this Notice to you) – *in addition to* the settlement relief described above. Thus, *these amounts will not be paid out of the settlement relief.*

**11. What costs or expenses will be deducted from the settlement relief provided under the Zurich Settlement Agreement?**

Notwithstanding the above, there might be limited expenses deducted from the settlement relief to cover any taxes due on the monies and any fees or expenses incurred to maintain the Class Action Escrow Account. The balance after deducting such expenses and calculating the interest due will be distributed to Settlement Class Members if the Court approves the Zurich Settlement and that approval becomes final.

**12. Who will pay the costs of implementing and administering the Zurich Settlement?**

Zurich has agreed to pay all costs of implementing and administering the Zurich Settlement, including the costs of printing and mailing the Notice, publishing a summary notice in agreed-upon newspapers, and setting up and maintaining the toll-free telephone number, website and e-mail address that is identified in this Notice for Settlement Class Members’ questions. Payment of these costs will be in addition to the amounts that Zurich must pay as settlement relief.

**13. What amount will you receive under the Zurich Settlement Agreement?**

Attached to this Notice as Appendix \_\_\_ is a proposed Plan of Allocation that, if finally approved by the Court, will be used to allocate settlement relief (which will include the amounts paid under both the Zurich Settlement Agreement and the Multi-State Agreement) to Settlement Class Members. This Plan of Allocation was prepared by Plaintiffs, working with the State Attorneys General who are parties to the Multi-State Agreement. The terms of the proposed Plan of Allocation might be modified in connection with, among other things, addressing an objection filed by a Settlement Class Member. The Plan of Allocation is subject to final Court approval. Neither the Plaintiffs nor Zurich can tell you exactly what amount you will receive under the Plan of Allocation – which amount may vary depending on, among other things, the number of eligible policyholders who participate in the settlement.

If you wish to discuss how the Plan of Allocation will work, you may visit the website of the Court-approved Administrator of the Zurich Settlement at *www. \_\_\_\_\_ .com*, call the Administrator at 1-XXX-XXX-XXXX (Monday through Friday from 9:00 a.m. to 5:00 p.m. EDT) or e-mail the Administrator at \_\_\_\_\_.

**14. How and when will the settlement relief described above be distributed?**

If the Court approves the Zurich Settlement and that approval becomes final, the settlement relief will be allocated among all Settlement Class Members pursuant to the Court-approved Plan of Allocation. If you purchased or renewed a commercial policy

issued by Zurich, a check in the amount due to you will be mailed to the last-known address that Zurich has for you. If you purchased or renewed a commercial policy from an Insurer Defendant, you will have to submit a Claim Form – as discussed in more detail below (at \_\_\_).

A distribution under the Plan of Allocation will not occur until the Court approves both the Zurich Settlement Agreement and the Plan of Allocation, and that approval becomes final and no longer subject to appeal. Neither the Plaintiffs nor Zurich can predict when (or whether) the Court will approve the Zurich Settlement Agreement and the Plan of Allocation or when (or whether) such approval will become final.

**15. Will the settlement have tax consequences for you?**

Your receipt of monetary relief under the Zurich Settlement Agreement and the Multi-State Agreement might have tax consequences for you. Those tax consequences might vary, depending upon individual circumstances. Neither the Plaintiffs, Zurich nor any of the State Attorneys General or State Departments of Insurance who have executed the Multi-State Agreement can advise you about any tax consequences that might arise from your receipt of monetary settlement relief.

You might wish to consult a tax advisor to determine whether any potential federal, state, local, foreign or other tax consequences will arise from receipt of settlement relief in this Class Action.

### **III. RELATED SETTLEMENTS**

**16. Are there other settlements involving Zurich that relate to the claims made in the Class Action?**

The conduct that gave rise to the claims made in this Class Action was also the focus of investigations (the “Investigations”) by certain State Attorneys General and State Departments of Insurance. Zurich – along with brokers and other insurers – was the subject of such Investigations. Zurich already has agreed to settle a number of these Investigations and is in the process of finalizing settlements of others.

**17. Will any of the settlements of the Investigations affect your participation in the Zurich Settlement?**

There are two groups of settlements relating to Investigations that could affect your participation in the Zurich Settlement.

***The Multi-State Agreement***

As noted above, Zurich entered into the Multi-State Agreement, pursuant to which it agreed to distribute \$51,700,000 to Settlement Class Members in conjunction with the settlement relief that will be provided under the Zurich Settlement Agreement. Under the Multi-State Agreement, the distribution of the \$51,700,000 will be made through the Zurich Settlement.

### ***The Three-State Agreement***

As noted above, Zurich entered into the Three-State Agreement. Under the Three-State Agreement, Zurich agreed to create an \$88,000,000 settlement fund that will be distributed to policyholders that purchased or renewed excess casualty insurance policies issued by Zurich (other than excess workers' compensation policies) through Marsh & McLennan Companies, Inc. or Marsh Inc. during the period from January 1, 2000 through September 30, 2004 (the "Three-State Policyholders").

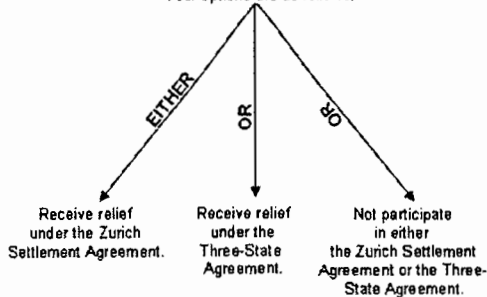
The Three-State Policyholders also fall within the definition (as set out at paragraph 4) of Settlement Class Members and thus will also be eligible to participate in the Zurich Settlement. However, Three-State Policyholders will *not* be able to receive settlement relief under *both* the Three-State Agreement and the Zurich Settlement Agreement for the policies covered by the Three-State Agreement – *i.e.*, excess casualty insurance policies (other than excess workers' compensation policies) purchased through Marsh between January 1, 2000 and September 30, 2004. Each Three-State Policyholder will have to determine in which – if any – settlement fund he, she or it will participate for those particular policies.

However, if you are a Three-State Policyholder and make a claim for relief under the Three-State Agreement, you might still be eligible to receive settlement relief under the Zurich Settlement Agreement to the extent you purchased or renewed an insurance policy that is not covered by the Three-State Agreement but is covered by the Zurich Settlement Agreement. Thus, if (for example), you have two policies (Policy A and Policy B) that both fall within the class definition in the Zurich Settlement Agreement, but only Policy A is covered by the Three-State Agreement, you may choose to receive relief under the Zurich Settlement Agreement for Policy B only and receive relief under the Three-State Agreement for Policy A. Alternatively, you may choose to receive relief under the Zurich Settlement Agreement for both Policy A and Policy B, and give up your right to receive relief under the Three-State Agreement as to Policy A. But, you may not receive settlement relief for Policy A under the Zurich Settlement Agreement if you make a claim for settlement relief for that policy under the Three-State Agreement.

The options available to you if you are a Three-State Policyholder are illustrated below:

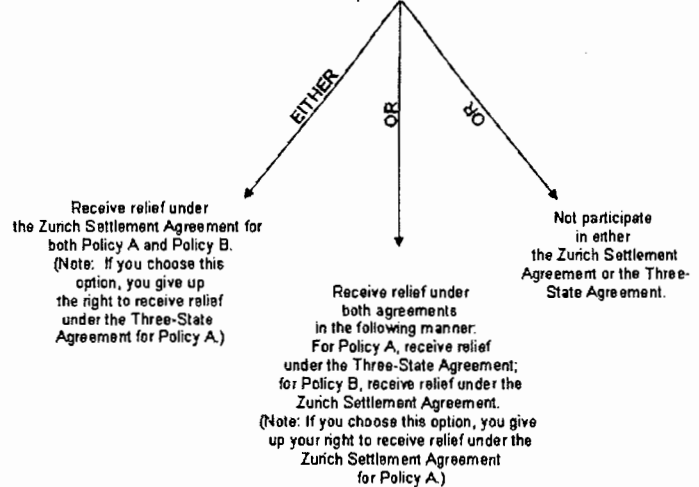
You purchased or renewed a policy that is covered both by the Three-State Agreement and by the Zurich Settlement Agreement.

Your options are as follows:



You purchased or renewed a policy that is covered both by the Three-State Agreement and by the Zurich Settlement Agreement (Policy A). You also purchased or renewed an additional policy that is covered only by the Zurich Settlement Agreement (Policy B).

Your options are as follows:



You will be able to receive settlement relief under the Zurich Settlement Agreement for any policies not covered by the Three-State Agreement even if you signed a release (the “Three-State Release”) for such policies under the Three-State Agreement because the Zurich Settlement Agreement requires Zurich not to enforce the Three-State Release in the context of providing settlement relief under the Zurich Settlement for policies not covered by the Three-State Agreement. Zurich has, however, reserved its rights to fully enforce the Three-State Release outside the context of the Zurich Settlement. Thus, if you receive settlement relief under the Three-State Agreement, but decide to request exclusion from the Zurich Settlement for any policies not covered by the Three-State Agreement, you will not be allowed to make claims based upon those non-covered policies to the extent the claims were made or could have been made in the Class Action. If you bring such a claim, Zurich will enforce the Three-State Release against you to the fullest extent allowed.

Participation in the settlement relief provided by the Three-State Agreement is described in a separate notice that has been sent to Three-State Policyholders. That notice specifically identifies the minimum amount of settlement relief you will receive under the Three-State Agreement. If you think you are a Three-State Policyholder and you have not received such a notice, you should call \_\_\_\_\_ to check upon your eligibility to receive settlement relief under the Three-State Agreement and to request a copy of the notice describing that settlement.

**18. If you are a Three-State Policyholder, will the Plaintiffs or Zurich be able to advise you as to which settlement you should participate in for the policies covered by the Three-State Agreement?**

Neither the Plaintiffs nor Zurich will be able to advise you as to which settlement (if any) you should participate in for policies covered by the Three-State Agreement. As noted

above, the notice that has been provided under the Three-State Agreement sets out the minimum amount of settlement relief that you will be eligible to receive under that agreement for the policies covered by that agreement. The amount that you will receive under the Zurich Settlement Agreement for such policies will be determined by the Plan of Allocation, which is subject to Court approval.

#### **IV. LEGAL EFFECT OF THE SETTLEMENT**

##### **19. What will be the legal effect of the Zurich Settlement if it is approved by the Court?**

If the Court approves the Zurich Settlement, the parties will seek the entry of an Order Approving Settlement and accompanying Judgment that, among other things, will:

- find that the settlement is fair, reasonable and adequate;
- finally certify the class for settlement purposes;
- dismiss the Class Action with prejudice as to Zurich, meaning that no Settlement Class Member – including you (unless you timely exclude yourself) – will be able to bring another lawsuit or proceeding against any of the Releasees (as that term is defined in the Zurich Settlement Agreement) based upon the claims that have been raised or that could have been raised in the Class Action;
- incorporate the Release as part of the Order Approving Settlement;
- permanently bar Settlement Class Members from filing or participating in any lawsuit or other legal action against any or all Releasees arising from or relating to any and all claims that have been raised or that could have been raised in this Class Action;
- enter a bar order that will:
  - prevent any person or entity from commencing, prosecuting or asserting any claim (including any claim for indemnification or contribution) against any Releasee where the alleged injury to the barred person or entity is based upon that person's or entity's alleged liability to the Settlement Class or a Settlement Class Member, and
  - prevent any Releasee from commencing, prosecuting or asserting any claim (including any claim for indemnification or contribution) against any person or entity where the Releasee's alleged injury is based upon the Releasee's alleged liability to the Settlement Class or a Settlement Class Member;
- award attorneys' fees and expenses to Plaintiffs' counsel; and



- retain jurisdiction over all matters relating to the administration, enforcement and interpretation of the settlement.

As noted, if the Court approves the Zurich Settlement, the Release will be incorporated into the Court's Order Approving Settlement. The Release describes the claims that Settlement Class Members will give up, as well as the identity of the Releasees – *i.e.*, the people and entities that will be released. The full text of the Release (as well as the text of relevant definitions) is attached as Appendix A to this Notice and can be found at [www.\\_\\_\\_\\_\\_.com](http://www._____.com). ***YOU ARE ENCOURAGED TO CAREFULLY REVIEW THE TERMS OF THE RELEASE AND THE DEFINITIONS.***

**20. Can the parties terminate the Zurich Settlement or change its terms?**

Either the Plaintiffs or Zurich (or both) may terminate the Zurich Settlement Agreement if (i) the Court (or any appellate court) rejects, modifies or denies approval of any portion of the Zurich Settlement that the party seeking to terminate the Zurich Settlement Agreement reasonably and in good faith determines is material or (ii) the Court (or any appellate court) does not enter or completely affirm, or alters or expands, any portion of any order or judgment requested by the parties and the party seeking to terminate the settlement reasonably and in good faith believes that the Court's (or appellate court's) action is material. However, Plaintiffs may not terminate the Zurich Settlement Agreement based on the amount of attorneys' fees and expenses awarded to Plaintiffs' counsel.

In addition, the Zurich Settlement Agreement may be terminated if the Plaintiffs and the State Attorneys General participating in the Multi-State Agreement are unable to agree on the Plan of Allocation. [This paragraph will be deleted if the plaintiffs and the Multi-States have reached an agreement regarding the Plan of Allocation.]

If the Zurich Settlement Agreement is terminated, each of the Plaintiffs, Settlement Class Members and Zurich will be in the same position as he, she or it was in before the Zurich Settlement Agreement was executed, the Zurich Settlement Agreement will have no legal effect, and Plaintiffs and Zurich will continue to litigate the case in the Court. If the Zurich Settlement Agreement is terminated, you will not receive any benefits under the Zurich Settlement Agreement or the Multi-State Agreement.

If the Zurich Settlement is approved, Plaintiffs and Zurich will not be able to change the terms of the Zurich Settlement Agreement without further Court approval unless (i) Plaintiffs and Zurich agree in writing to do so, (ii) the change is not materially inconsistent with the Order Approving Settlement and accompanying Judgment entered by the Court, and (iii) the change does not materially limit the rights of Settlement Class Members under the Zurich Settlement Agreement.

## V. LEGAL RIGHTS AND OPTIONS

### 21. What are your options as to the Zurich Settlement?

If you are within the definition of Settlement Class Member (see paragraphs 4 and 5 above), you may either (i) participate in the Zurich Settlement (and receive settlement relief if the Court approves the Zurich Settlement and such approval becomes final) or (ii) request exclusion from the Zurich Settlement.

If you want to participate in the Zurich Settlement, but you object to any term of the Zurich Settlement, you may submit an objection to the Court. The procedures for requesting exclusion from the Zurich Settlement or for objecting to it are described in detail below at paragraph 25 (requesting exclusion) and at paragraph 24 (objecting).

If you want to participate in the Zurich Settlement and have no objection to any of its terms, you need not do anything at this time. If you are within the definition of Settlement Class Member, you will be entitled to receive settlement relief under the terms of the Zurich Settlement Agreement and the Multi-State Agreement if the Zurich Settlement is finally approved.

### 22. If the Zurich Settlement Agreement is finally approved, what must Settlement Class Members do to collect settlement relief?

Settlement Class Members who purchased or renewed insurance policies issued by Zurich will *not* have to do anything to receive the benefits under the Zurich Settlement Agreement regarding their Zurich policies. Relief will be mailed to you at your last-known address. If your address has changed since you purchased or renewed your Zurich policy, please notify the Administrator by calling 1-XXX-XXX-XXXX, e-mailing \_\_\_\_\_ or visiting [www.\\_\\_\\_\\_\\_.com](http://www._____.com).

### 23. Who must complete and submit a Claim Form?

Settlement Class Members who purchased or renewed insurance policies issued by an Insurer Defendant will have to fill out the enclosed Claim Form and submit it to the Administrator at \_\_\_\_\_ by no later than \_\_\_\_\_, 200\_. Claim Forms may also be downloaded at [www.\\_\\_\\_\\_\\_.com](http://www._____.com) or obtained by calling 1-XXX-XXX-XXXX.

### 24. What if you want to object to the proposed settlement?

If you are a Settlement Class Member (described above, at paragraphs 4 and 5) and do *not* exclude yourself from the Settlement Class, you may object to the Zurich Settlement, any term of the Zurich Settlement Agreement, the Plan of Allocation or Plaintiffs' application for attorneys' fees and expenses. Such objection must be in writing and must provide evidence of your membership in the Settlement Class. The written objection also should state the specific reason(s), if any, for the objection, including any legal support you wish to bring to the Court's attention and any evidence you wish to introduce in

support of the objection. ***A written objection (and any support for it) must be received by the Court and the following counsel by no later than [DATE]:***

***For Defendants:***

Ralph C. Ferrara, Esq.  
Ann M. Ashton, Esq.  
LeBoeuf, Lamb, Greene & MacRae L.L.P.  
1875 Connecticut Avenue, N.W.  
Suite 1200  
Washington, D.C. 20009

***For Plaintiffs and the Settlement Class:***

Edith M. Kallas, Esq.  
Joseph Guglielmo, Esq.  
Whatley, Drake & Kallas, LLC  
75 Rockefeller Plaza, 19th Floor  
New York, New York 10019

*and*

Bryan L. Clobes, Esq.  
Miller Faucher and Cafferty LLP  
One Logan Square, Suite 1700  
18th and Cherry Streets  
Philadelphia, Pennsylvania 19103

***For the State Attorneys General who are parties to the Multi-State Agreement:***

Mark Tobey, Esq.  
Kim Van Winkle, Esq.  
Chief, Antitrust and Civil Medicaid Fraud Division  
Office of the Attorney General – State of Texas  
300 W. 15th Street, 9th Floor  
Austin, Texas 78701

If you hire an attorney in connection with making an objection, that attorney must file with the Court and serve on the counsel identified above a notice of appearance. ***The notice of appearance must be received by the Court and the counsel identified above by no later than [DATE].*** If you hire an attorney in connection with making an objection (or for any other purpose relating to the Zurich Settlement), you will be responsible for all fees and expenses that the attorney incurs on your behalf.

If (and only if) you make a written objection to the Zurich Settlement as set out above, you may choose to speak – either in person or through an attorney hired at your own expense – at the hearing (described below at paragraph 24) the Court has set to consider whether to approve the Zurich Settlement. You are not required to attend the hearing. Lack of attendance at the hearing will not prevent the Court from considering your objection. If you (or your attorney) intend to speak at the hearing, you must file with the Court and serve on the counsel identified above a notice of intention to appear. ***The notice of intention to appear must be received by the Court and by the identified counsel by no later than [DATE].***

If you wish to review the discovery materials produced by the Zurich Defendants in this Class Action for the purpose of assessing the Zurich Settlement (and for that purpose only), you may do so under the terms of the Zurich Settlement Agreement and a Stipulation and Order of Confidentiality that has been entered by the Court. Upon your (or your attorney's) execution of the Stipulation and Order of Confidentiality, you (or the attorney) will be allowed access to the discovery materials by appointment during regular business hours at the office of Whatley, Drake & Kallas, LLC, 75 Rockefeller Plaza, 19th Floor, New York, New York 10019.

**25. What must you do if you wish to exclude yourself from the Settlement Class?**

If you are included within the definition of Settlement Class Member, you may ask to be excluded from the Settlement Class. ***A request for exclusion must be sent to the Clerk of the Court at the following address and must be postmarked by no later than \_\_\_\_\_:***

The Clerk of the Court  
[Administrator' address]

The request for exclusion must include the following information: (i) the policyholder's name, (ii) the policyholder's address, (iii) the policyholder's telephone number, and (iv) information about each policy for which the policyholder seeks exclusion, including the following: (a) the insurer that issued each policy, (b) the policy number for each policy, (c) the broker used, (d) the face amount of each policy, (e) the annual premium associated with each policy and (f) the effective date and expiration date for each policy.

If you are included within the definition of Settlement Class Member and do *not* file a timely written request for exclusion as provided by this paragraph 25, and the Zurich Settlement is finally approved, you will be bound by the Release in the Zurich Settlement Agreement and by all proceedings, orders and judgments relating to the Court's approval of the Zurich Settlement, even if you now have pending, or later file, any litigation, arbitration or any other action regarding the claims that have been made or that could have been made in this Class Action. You will not be able to pursue such claims in any forum, and your only relief as to these claims will be the settlement relief provided by this Zurich Settlement.

Your participation in this Zurich Settlement will not affect your ability to pursue claims (either through this Class Action or through any other action) against any of the Broker Defendants or the Insurer Defendants.

## VI. THE COURT'S FAIRNESS HEARING

### 26. Will there be a Court hearing about the Zurich Settlement?

In its \_\_\_\_\_ order, the Court set a hearing for [DATE] at [TIME] a.m., when the Court will consider whether to approve the Zurich Settlement. The hearing will take place in Courtroom \_\_\_\_\_, in the United States Courthouse located at U.S. Post Office and Courthouse Building, Federal Square, Newark, New Jersey 07101. The Court may choose to change the date and/or time of the hearing without further notice of any kind. If you intend to attend the hearing, you should confirm the date and time by calling the toll-free number set out in this Notice.

In ruling on the Zurich Settlement, the Court will consider, among other things, whether to approve the proposed settlement as fair, reasonable and adequate, whether to approve the proposed Plan of Allocation and whether (and in what amount) to grant Plaintiffs' request for attorneys' fees and expenses. The Court will consider any objections that have been made by Settlement Class Members. If the Court finds the settlement to be fair, reasonable and adequate, it will enter an Order Approving Settlement and accompanying Judgment.

You may choose to attend the hearing, either in person or through an attorney hired at your own expense, but attendance is *not* required. If you have made a written objection, either you (or your attorney) may appear at the hearing to present the objection, but you are not required to do so. If you choose to attend the hearing and intend to make a presentation to the Court, you – or your attorney – must file a notice of your intention to appear. *A notice of intention to appear must be received by the Court and the counsel identified above (at paragraph 24) by [DATE].*

## VII. COUNSEL REPRESENTING SETTLEMENT CLASS MEMBERS

### 27. Who is the counsel representing Settlement Class Members?

The Court has appointed the law firms of Whatley, Drake & Kallas, LLC and Miller Faucher and Cafferty LLP (collectively, "Plaintiffs' Co-Lead Counsel") to represent Settlement Class Members, along with several other firms. None of these counsel (collectively "Class Counsel") will charge any fees or expenses to Settlement Class Members. If you want to be represented by your own counsel, you may hire an attorney at your own expense.

### 28. How will counsel for Settlement Class Members be paid?

Class Counsel will file an application with the Court for attorneys' fees and expenses in connection with their representation of Settlement Class Members in this Class Action.

The Court will consider this application at the hearing described above (at paragraph 26), and the Court will decide the amount of fees and expenses to be awarded to counsel.

After Plaintiffs and Zurich agreed on all other terms of the Zurich Settlement Agreement, Class Counsel and Zurich negotiated the amount of attorneys' fees and expenses that Zurich will, subject to Court approval, pay to Class Counsel.

Class Counsel have agreed that they will not apply for more than \$29,950,000 in fees and expenses. Zurich has agreed that it will not object to paying fees and expenses up to that amount. Class Counsel intends to apply to the Court for permission to pay up to ten thousand (\$10,000) to each class representative Plaintiff from the amount of attorneys' fees and expenses awarded by the Court based upon the effort that each class representative Plaintiff has devoted to this litigation.

As set out above (at paragraph 10), Zurich will pay the attorneys' fees and expenses in addition to the settlement relief that Zurich has agreed to pay. Thus, *the attorneys' fees and expenses awarded to Class Counsel will not reduce the settlement relief available to Settlement Class Members.*

**29. Do you need to hire your own attorney in connection with the Zurich Settlement?**

A Settlement Class Member does *not* need to hire his, her or its own attorney, but may choose to do so. If you decide to hire your own attorney, you will be responsible for paying any fees and expenses that he or she incurs. If you do not hire your own attorney, you will be represented by Class Counsel. As described in paragraph 27 above, if you choose to be represented by Class Counsel, you will not incur any fees and expenses in connection with that representation.

## VIII. GETTING MORE INFORMATION

**30. Where can you get additional information?**

You may obtain a copy of the Zurich Settlement Agreement, the Multi-State Agreement, and information about the Zurich Settlement by visiting the website of the Court-approved Administrator of the Zurich Settlement at www.\_\_\_\_\_.com, by calling 1-XXX-XXX-XXXX, Monday through Friday from 9:00 a.m. to 5:00 p.m. EDT, by writing to \_\_\_\_\_, or by sending an e-mail to \_\_\_\_\_.

You may also visit the following websites of Class Counsel: [list websites only] and Zurich's website, *www.zurichna.com*.

If you wish to communicate with or obtain information directly from Plaintiffs' Co-Lead Counsel or from the State Attorneys General who are parties to the Multi-State Agreement, you may do so by contacting the attorneys listed below:

Edith M. Kallas, Esq.  
Joseph Guglielmo, Esq.  
Whatley, Drake & Kallas, LLC  
75 Rockefeller Plaza, 19th Floor  
New York, New York 10019  
Telephone: (212) 447-7070  
Facsimile: (212) 447-7077  
E-mail: [EKallas@whatleydrake.com](mailto:EKallas@whatleydrake.com)

Bryan L. Clobes, Esq.  
Miller Faucher and Cafferty LLP  
One Logan Square, Suite 1700  
18th and Cherry Streets  
Philadelphia, Pennsylvania 19103  
Telephone: (215) 864-2800  
Facsimile: (215) 864-2810  
E-mail: [bclobes@millerfaucher.com](mailto:bclobes@millerfaucher.com)

Mark Tobey, Esq.  
Chief, Antitrust and Civil Medicaid Fraud Division  
Office of the Attorney General – State of Texas  
300 W. 15th Street, 9th Floor  
Austin, Texas 78701  
Telephone: (512) 463-1262  
Facsimile: (512) 320-0975  
E-mail: [Mark.Tobey@oag.state.tx.us](mailto:Mark.Tobey@oag.state.tx.us)

You may also examine the Zurich Settlement Agreement, Court orders, and the other papers filed in the Class Action at the Office of the Clerk, United States District Court for the District of New Jersey, Martin Luther King Building and U.S. Courthouse, 50 Walnut Street, Room 4015, Newark, New Jersey 07101 from 9:00 a.m. to 4:00 p.m. EDT.

**PLEASE DO NOT CONTACT THE COURT  
OR THE CLERK'S OFFICE FOR INFORMATION**

**BY ORDER OF THE UNITED STATES  
DISTRICT COURT FOR THE DISTRICT  
OF NEW JERSEY**

\_\_\_\_\_, 2006