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Client Advisory
Congress Approves TRIPRA Legislation, Reinstates Federal Terrorism Insurance Backstop for 6 Years
January 8, 2015

On January 8th, the Senate voted to pass the **Terrorism Risk Insurance Program Reauthorization Act** (TRIPRA or TRIA) **of 2015** which reinstates the federal terrorism insurance backstop for an additional six years until 2020. This follows a bi-partisan vote of 416-5 in the House of Representatives, on Wednesday, Jan 7th. The legislation had been allowed to expire on December 31, 2014, causing widespread disruption in the insurance marketplace.

Insurers and insureds alike had been surprised by an early adjournment of Congress in December without a final resolution to this important legislation, raising the potential for widespread cancellation of critical property and casualty terrorism insurance coverage. This inaction also led to widespread anticipation of possible action by lenders which could result in defaults and have serious impact to the national economy on the whole. The passage of this legislation is considered crucial in providing long term stability in the insurance, financial and real estate markets.

In summary, the legislation will:

- Extend the program by six years, until December 31st, 2020.
- Decrease by 1% per year the current level of federal compensation and insurer co-pay, from the current 85% - 15% to 80%-20%, beginning on January 1, 2016.
- Increase the current industry aggregate Trigger from the current $100 million to $200 million, by increments of $20 million per annum, beginning on January 1, 2016.
- Amend the aggregate insurer retention by $2 million per annum, from the current $27.5 million to $37.5 million. Once reaching $37.5 million, that amount will be revised to an amount equal to the annual average of insurer deductibles for all participating carriers.
- Seek to improve the certification process by ultimately setting a reasonable timeline for determination of an event as an act of terrorism.
- Requiring studies by the Government Accountability Office (GAO) which (in comparison with other international terrorism pools) will:
  - Explore the viability of collecting upfront premiums from insurers participating in TRIPRA;
  - Create a capital reserve fund requiring insurers to establish dedicated reserve funds for terrorism losses.
- Encourage the development of alternative risk-sharing mechanism through the appointment of an “Advisory Committee on Risk –Sharing Mechanisms”
- Starting no later than June, 30, 2016, require insurers participating in the Program to submit information regarding:

- Line of insurance covered;
- Premiums earned;
- Geographical locations of exposures:
- Pricing of coverage;
- Take up rate for coverage;
- Amount of reinsurance purchased

- Study competitive challenges smaller insurers face in the terrorism risk insurance market.

The delay in passing the Bill resulted in part due to unrelated riders which had been tacked on to the TRIPRA legislation. Despite opposition by Senate Democrats, these riders were nonetheless included in the final Senate vote and provided for the following:

- The creation of a National Association of Registered Agents and Brokers (NARAB) to allow for licensing of insurance brokers and agents on a multi-state basis;
- An amendment to the Dodd Frank Wall Street Reform and Consumer Protection Act which, simply put, exempts "end-users" such as energy firms, manufacturers and agricultural companies from posting collateral when trading derivatives.

The bill now will go to the President for signature.

TRIA and Captive Utilization

One of the sectors hardest hit by the uncertainty surrounding the extension of the legislation has been those supported by TRIPRA-backed captive insurance companies. While the focus of this legislation has always been to provide a source of reinsurance support to mainstream insurance markets, TRIPRA has had significant impact on the development of the alternative risk transfer marketplace, particularly in the utilization of captive insurance companies. The program pertains to any US Property or Casualty insurer licensed to engage in the business of providing primary or excess insurance and receive direct earned premiums. Captives will continue to provide an effective mechanism for providing adequate insurance in highly concentrated regions and for providing coverage for perils not readily available, such as acts of nuclear, biological, chemical and radiological terrorism.

With the government's long term commitment to the legislation, we expect to see the continued expansion of captive formation in 2015.

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