



## Terrorism Risk Insurance Program Reauthorization Act (TRIPRA) Expires December 31, 2014

### WHAT HAPPENED?

The Terrorism Risk Insurance Program Reauthorization Act (TRIPRA) will expire on December 31, 2014. The House of Representatives had approved legislation amending the program through 2020 and creating the National Association of Insurance Agents and Brokers (NARAB). On Tuesday, December 16th the Senate failed to follow suit to reauthorize the government's terrorism risk insurance backstop before adjourning for the year.

### INSURANCE COMPANY PROPOSED SOLUTIONS:

Losing the program is a shock to insurers and their customers who have relied on the untapped government promise of potential financial assistance after a devastating terrorist attack so as to keep the economy stable and funds flowing.

Insurers are currently evaluating next steps and a variety of options, including the following:

- Insurers continue to offer terrorism coverage
  - Same terms and conditions may be offered (some insurers renewed their reinsurance treaties for next year)
  - Certain sublimits for terrorism protection may apply
  - Exclusions (particularly nuclear, biological, chemical, and radiological) are likely to be added
  - Pricing may be increased due to higher demand and finite supply
  - Coverage provided by the insurer with more expensive premiums or limitations in so-called Tier 1 cities (New York City, Chicago, Washington D.C., San Francisco, etc.)
- Specialized insurers offer separate terrorism only coverage (often referred to as stand-alone sabotage & terrorism coverage)
- Insurers invoke sunset clauses - this clause on a policy typically excludes or amends coverage due to the expiration of TRIPRA (each insurer has a differently worded clause so coverage varies)
- Insurers no longer provide options for terrorism going forward

### FURTHER ISSUES

**Captive Programs** – When TRIPRA was passed, companies with terrorism risks looked to develop and create optimal alternative risk financing options including a captive insurance company. Due to the law's expiration, many captives will no longer have the government back stop or the same coverage extensions should a terrorism loss occur and therefore will need to look elsewhere for coverage.

**Financial Ratings** – At this point, both A.M. Best and S&P have indicated no rating action changes with insurers.

**State & Admitted Carrier Requirements** – There are certain carrier requirements that change depending on state. For example, if an insured is domiciled in Florida and New York, admitted carriers must offer terrorism coverage. In those jurisdictions, terrorism coverage is included but may be afforded on reduced or limited terms (i.e. actual cash value protection in lieu of full replacement cost).

**Workers' Compensation** – It is not mandatory for insureds to procure terrorism coverage except for workers' compensation. Employers may find it more difficult and expensive to obtain workers' compensation as insurers will more closely evaluate their aggregate exposure on a national basis and in some cases elect to discontinue writing some policies in Tier 1 cities.

### WHAT HAPPENS NEXT?

The 114th Congress reconvenes on January 6 - the best case scenario is the House and Senate quickly passes the same reauthorization legislation with the two-third vote requirement. It will not be the identical bill that failed on Tuesday but is expected to have potential tweaks including trigger increases (currently at \$200M), co-insurance adjustments (currently at 85%), and Dodd-Frank fixes. As we saw this week, the momentum behind the bill can be stalled by unrelated factors – but swift action is anticipated and “no significant lapse” has been promised.

### WOODRUFF IS HERE TO HELP

The exact impact of the failure of the Senate to extend the federal terrorism insurance program is hard to determine or quantify – TRIPRA was intended to provide stability and certainty to the marketplace. Now, the industry is spending the holiday season dealing with this market disruption, scrambling to get notices out to policyholders and re-evaluating their and their client's terrorism risk profiles.

Please contact Steve Gaitley (415) 402 -6512 or Jordan McCarthy at (415) 399 – 6452 if you have any questions or would like to discuss further.

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