

2007 TRIA Extension and the Insurance Industry

Susan Kearney, CPCU, ARM, AAI
American Institute for CPCU and Insurance Institute of America

As 2007 neared its end, the insurance industry breathed an almost audible sigh of relief. On Wednesday, December 26, 2007, President Bush signed H.R. 2761, the Terrorism Risk Insurance Program Reauthorization and Extension Act (TRIPRA) of 2007, which reauthorizes the Terrorism Risk Insurance Act (TRIA) program through December 31, 2014.

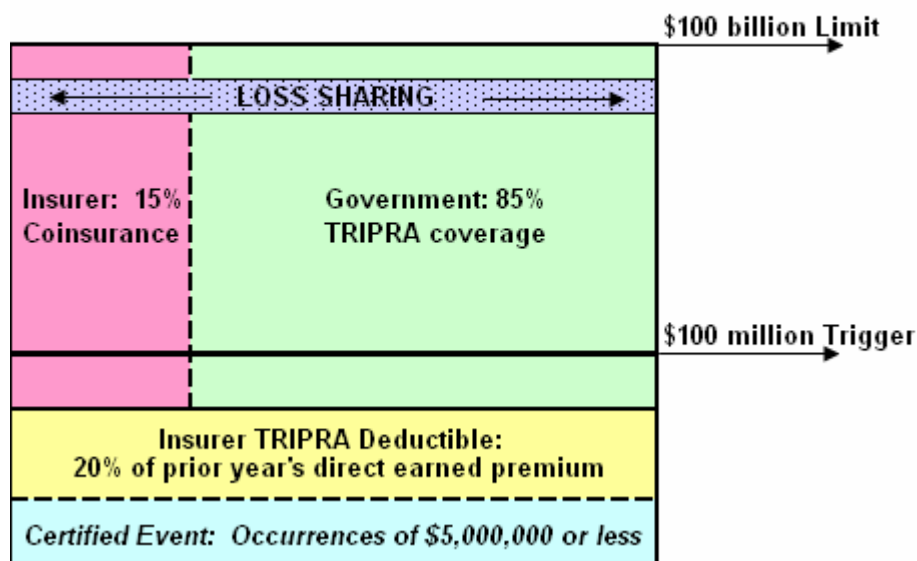
This was great news for our industry especially considering the TRIA Act remains mostly unchanged from the 2005 extension. This terrorism backstop will continue to benefit the insurance market with certainty and stability—for at least the next seven years -- even though the threat of terrorism remains.

According to the National Association of Insurance Commissioners (NAIC), some of the more significant statutory features of the 2007 TRIA extension include the following:

- Creates a seven-year federal backstop
- Includes “domestic” acts of terrorism by eliminating the distinction between foreign and domestic acts of terrorism in the definition of the TRIA term “certified act of terrorism”
- Contains a program trigger at \$100 million for all additional program years
- Upholds Insurer Deductible at 20% of an insurer’s prior year direct earned premium and the federal share of compensation set at 85% of insured losses that exceed insurer deductibles
- Maintains a \$100 billion cap with a requirement that the U.S. Treasury submit a report to Congress and issue final regulations for determining pro-rata shares of insured losses under the program when insured losses exceed \$100 billion
- Introduces disclosure requirement at time of offer, purchase, and renewal of a policy stipulating that insurers give “clear and conspicuous” notice to policyholders of the existence of the \$100 billion cap on liability (the compliance date for meeting this requirement is March 31, 2008)

- Sets up accelerated timing of the mandatory recoupment of the federal share through policyholders surcharges.

TRIPRA 2007 Retention Summary



While coverage was not granted for nuclear, biological, chemical, or radiological (NBCR) events in the final version, the Act does include a requirement for the study and recommendations by the General Accounting Office (GAO) on the expansion of the program to include NBCR terrorism, including an examination of the availability and affordability of insurance coverage for losses caused by NBCR materials, and an insurer's capacity to manage NBCR risk. This report is to be issued no later than one year after enactment of TRIPRA.

TRIPRA also calls for the study of the availability and affordability of terrorism insurance in specific markets in the United States where there are unique capacity constraints on the amount of terrorism insurance available. There will also be ongoing studies by the President's Working Group of the long-term availability and affordability of terrorism insurance.

The insurance marketplace seems to have reacted favorable to TRIPRA, especially considering the provisions remain relatively unchanged from 2005 and the fact that its provisions have fortunately not been tested. This has enabled insurers to continue to make terrorism solutions available and affordable.

The terrorism risk will not fade away. And while the debate continues over the insurability of terrorism in general and NBCR in particular, TRIPRA will provide some certainty and protection to our industry until the end of 2014. Most insurers and many public policymakers still agree that an affordable long-term solution to replace TRIA, with a permanent federal backstop included, is needed to protect those most vulnerable to terrorist attacks.

Susan Kearney, CPCU, ARM, AAI, is Sr. Director of Knowledge Resources at the American Institute for CPCU and Insurance Institute of America (the Institutes) in Malvern, Pennsylvania. She based this article in part on material published by the Institutes, independent, not-for-profit organizations offering educational programs, professional certification, and research to people who practice or have an interest in risk management and/or property-casualty insurance. The material in this article is covered in the Chartered Property Casualty Underwriter (CPCU®) designation program, which is among the Institutes' numerous educational offerings.

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