INSURANCE INFORMATION INSTITUTE

TERRORISM RISK INSURANCE PROGRAM

Renewed and Restructured

APRIL 2015

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TERRORISM RISK INSURANCE PROGRAM REAUTHORIZED

Since its initial enactment in 2002 the terrorism risk insurance program has been revised and extended three times. The most recent extension—the Terrorism Risk Insurance Program Reauthorization Act of 2015 (TRIPRA)—ensures its continuation until December 31, 2020.

On January 8, 2015, the U.S. Senate voted to reauthorize the federal terrorism risk insurance program by a 93-4 majority. Just the day before, the House of Representatives had voted 416-5 in favor of renewing the Terrorism Risk Insurance Act (TRIA) for six years.

President Barack Obama signed the bill (H.R. 26) into law on January 12, 2015. Final passage of the bill by Congress came after the federal terrorism program was allowed to lapse on December 31, 2014.

By all measures the terrorism risk insurance program remains an unqualified success—a rarity among federal programs—that has continuously achieved all its goals.[1] The program not only succeeded in restoring stability to the country's vital insurance and reinsurance markets in the wake of the unprecedented market dislocations associated with the September 11, 2001, terrorist attack, but it continues to deliver substantive, direct benefits to businesses, workers, consumers and the economy overall—all at little or no cost to taxpayers.

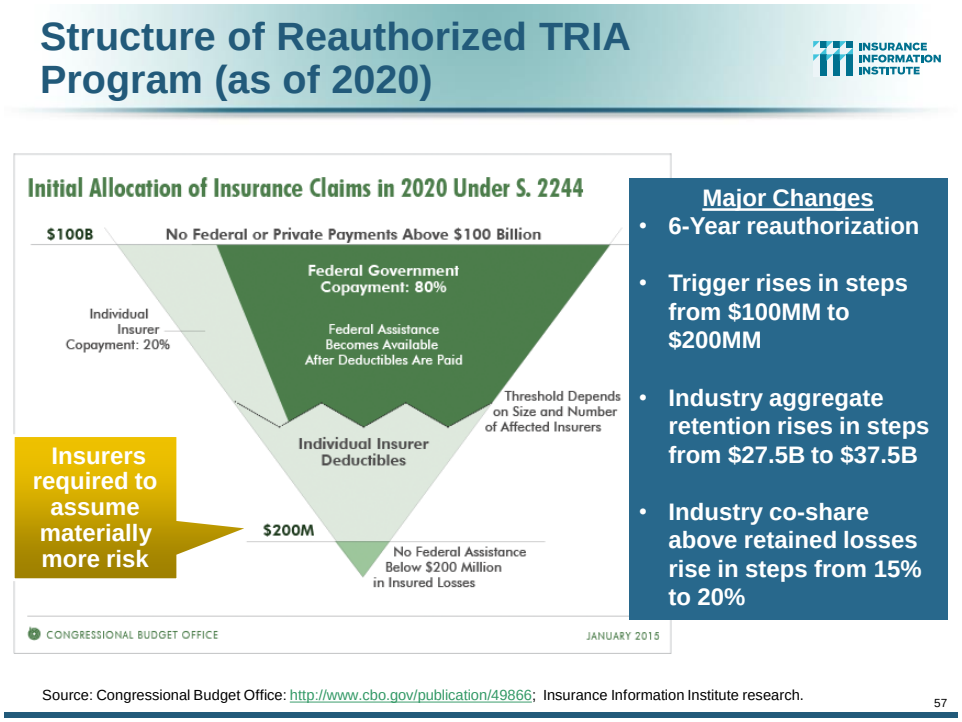
However, the share of the loss insurers would pay in the event of a terrorist attack has increased significantly over the years, a trend that was underscored by the 2015 reauthorization ***(Figure 1)***. Insurers are also solely responsible for terrorism losses that impact non-TRIA lines, such as private passenger auto and homeowners insurance and group life. Less than half of the property/casualty insurance premiums are written in lines of insurance backstopped by TRIPRA.[2]

A tabular comparison of the 2015 reauthorization TRIA program and the earlier 2007 reauthorization follows the end of this paper in **Appendix I**.

[1] TRIA at Ten Years: The Future of the Terrorism Risk Insurance Program, Testimony of Robert P. Hartwig, Insurance Information Institute (I.I.I.) before the House Financial Services Subcommittee on Insurance, Housing, and Community Opportunity, September 11, 2012.

[2] For additional information go to www.marketstance.com. Questions can be emailed to info@marketstance.com or call (888) 777-2587.

Figure 1



Source: Congressional Budget Office: http://www.cbo.gov/publication/49866; Insurance Information Institute research.

57

TAXPAYER PROTECTION FEATURES OF THE PROGRAM[3]

TRIA from its inception was designed as a terrorism risk sharing mechanism between the public and private sector—with an overwhelming share of the risk being borne by private insurers, a share which has increased steadily over time. Today, all but the very largest (and least likely) terrorist attacks would be financed entirely within the private sector. In the event of a truly catastrophic attack, TRIA provides the government with the ability to fully recoup any and all federal monies paid for losses up to $100 billion. In other words, there would be *no* cost to the taxpayer through the TRIA program for even extremely large magnitude events.

From the date of TRIA's enactment in November 2002 through its January 2015 reauthorization, a span of more than 12 years, the federal government and therefore taxpayers have paid nothing (apart from negligible administrative expenses) under the program. The April 2013 Boston Marathon bombings provide an illustrative example. All of the 207 property/casualty claims filed in the wake of that event were

[3] Excerpt from *Reauthorizing TRIA: The State of the Terrorism Risk Insurance Market*, Testimony of Dr. Robert Hartwig, I.I.I. president & economist, before the United States Senate Committee on Banking, Housing and Urban Affairs, September 25, 2013.

handled by private insurers that have made payments to policyholders totaling at least $1.9 million.[4] Not one taxpayer dollar was used to pay any of these claims.

TRIA's renewed structure actually provides at least eight distinct layers of taxpayer protection. Each of those layers is discussed in turn below.

Summary of 8 Key Taxpayer Protection Features Under TRIA

1. **CERTIFICATION DEFINITION:** ***Criteria Must Be Met***[5]
   - **Definition of a Certified Act of Terrorism:** The 2015 extension of TRIA, like its predecessors, requires that a detailed set of criteria be met before an act of terror can be "certified." Specifically, the term "act of terrorism" refers only to an act that is certified by the [Treasury] Secretary, in consultation with the Secretary of Homeland Security and the Attorney General of the United States:
     i. To be an act of terrorism.
     ii. To be a violent act or an act that is dangerous to human life, property or infrastructure.
     iii. To have resulted in damage within the United States, or outside of the United States in the case of U.S. air carriers, vessels and/or missions.
     iv. To have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the U.S. government by coercion.

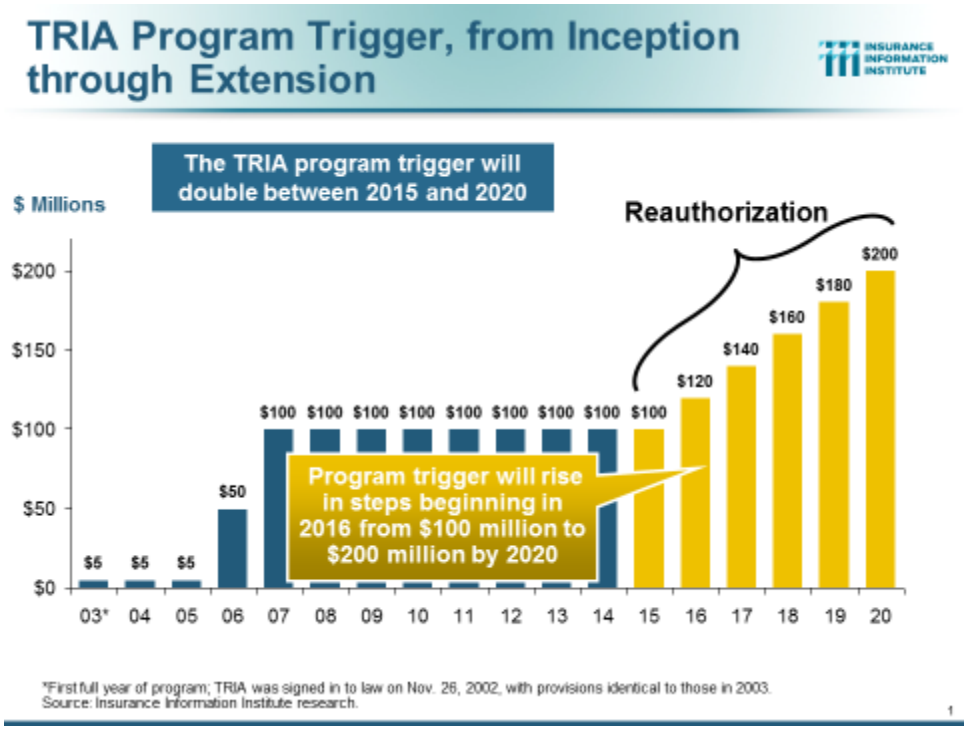
2. **CERTIFICATION THRESHOLD (TRIGGER):** ***$5 Million***
   - **$5 Million Minimum:** Under the 2007 reauthorization of TRIA, no act shall be certified by the Secretary as an act of terrorism if property and casualty losses, in the aggregate, do not exceed $5 million.
   - **Acts of War Exclusion:** TRIA further stipulates that no act may be certified as an act of terrorism if the act is committed as part of the course of a war declared by Congress (this provision does not apply to workers compensation).

[4] As of March 2014 P/C insurers had paid out $1.9 million in losses related to the incident, according to the Massachusetts Division of Insurance. Note: The Boston bombing did not meet the $5 million minimum threshold to be certified as an act of terrorism under TRIA.

[5] United States Treasury accessed as of 9/22/13 at http://www.treasury.gov/resource-center/fin-mkts/Documents/TRIAasamended-CompositeTextPost.pdf.

3. **TRIGGERING EVENT THRESHOLD: *$200 Million by 2020***
   Under the 2015 reauthorization of TRIA the triggering event threshold will be gradually raised to $200 million from $100 million starting in 2016 ***(Figure 2)***. (The increase will be phased in as follows: 2015 - $100 million; 2016 - $120 million; 2017 - $140 million; 2018 - $160 million; 2019 - $180 million; 2020 and thereafter - $200 million.) Under the 2007 reauthorization of TRIA the triggering event threshold had been set at $100 million, up from $5 million in the original act and $50 million in 2006. This means that federal funds will be paid out *only* in the event of a terrorist act that produces total insurance industry losses above this threshold (even if the event is certified by the Treasury Secretary as a terrorist act).

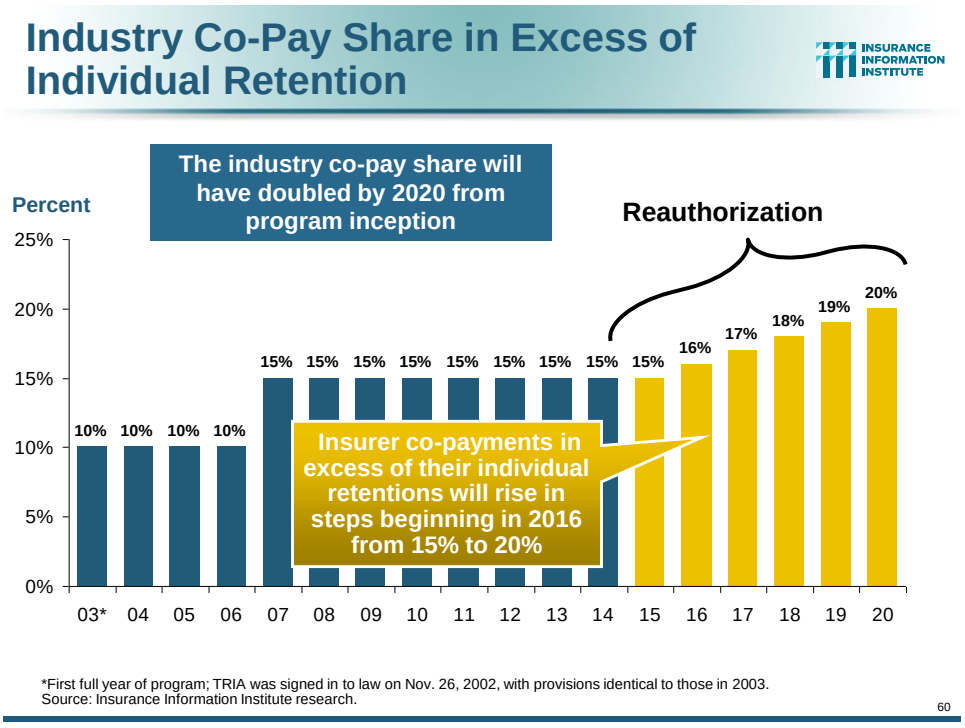
Figure 2



4. **INDIVIDUAL INSURER DEDUCTIBLES: *20 Percent of Premiums***
   - The amount of terrorism losses that an individual insurer must pay before federal assistance becomes available. The level rose to 20 percent of an insurer's direct earned premiums for commercial property/casualty insurance in 2007, where it currently remains (up from 17.5 percent in 2006, 15 percent in 2005, 10 percent in 2004 and 7 percent in 2003).

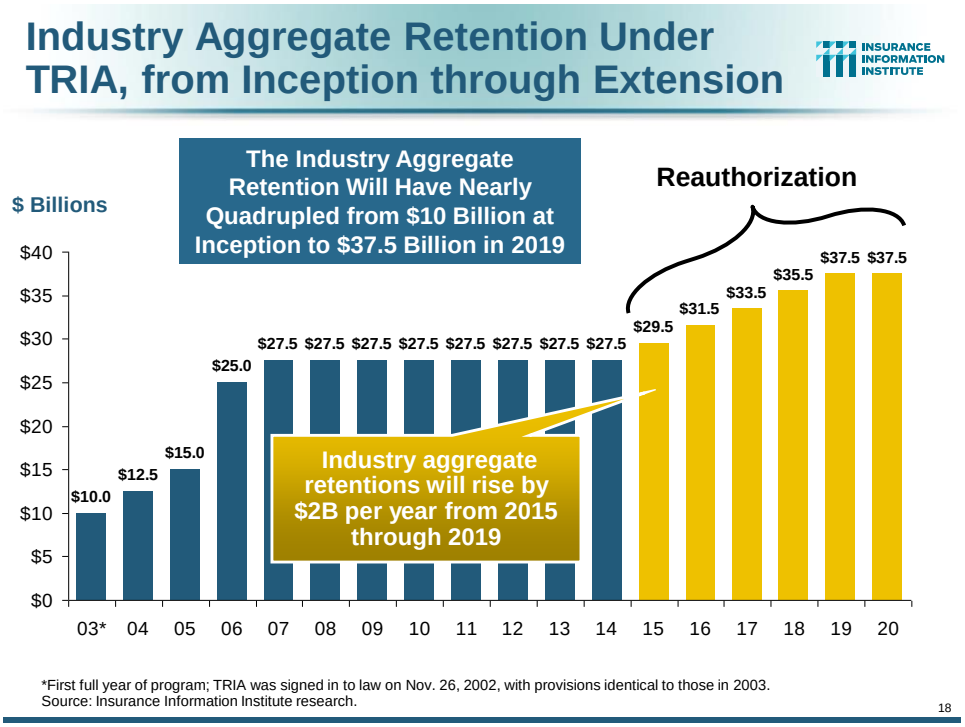
5. **INSURER CO-PAYMENT IN EXCESS OF RETENTION: *20 Percent of Loss***
   - The share of losses that insurers pay above their individual retentions will rise in 1 percent increments beginning in 2016 (up from 15 percent in 2015, to 16 percent in 2016, to 17 percent in 2017, to 18 percent in 2018, to 19 percent in 2019, to 20 percent in 2020).
   - The industry co-pay share will have doubled by 2020 from 10 percent in 2006 and prior years ***(Figure 3)***.

Figure 3



6. **INDUSTRY AGGREGATE RETENTION: *$37.5 Billion***
   - Under the 2015 reauthorization, the industry as a whole must ultimately cover a total of $37.5 billion of the losses through deductibles and co-payments (assuming an event of $37.5 billion or greater), up from $27.5 billion (via $2 billion annual increments starting in 2015). The new law also prescribes a formula for further revisions of the threshold for years after it reaches $37.5 billion. This amount increased to $27.5 billion in the 2007 reauthorization, up from $25 billion in 2006, $15 billion in 2005, $12.5 billion 2004 and $10 billion in 2003 ***(Figure 4)***. Government expenditure above this amount can be recouped.

Figure 4



7. **GOVERNMENT RECOUPMENT:** ***Full Taxpayer Protection***
   - **Mandatory Recoupment:** TRIA's 2015 reauthorization mandates that the government recoup 140 percent of the difference between the actual amount it has paid and the required retention, up from 133 percent.
   - **Discretionary Recoupment:** If the insured loss exceeds the $37.5 billion threshold, federal expenditures may be recouped for amounts in excess of the threshold at the discretion of the Secretary of the Treasury. This recoupment comes via a surcharge on commercial insurance policyholders, not to exceed 3 percent of premium for insurance coverages that fall under the program.

8. **HARD CAP:** ***$100 Billion***
   - **Program Limit:** Losses within a program year are capped at $100 billion, inclusive of both insurer and government participation. Neither the government nor insurers would be required to pay losses for certified acts beyond this amount.

Additional Taxpayer Protection Features of TRIA

Several other features of TRIA serve as additional protections to taxpayers.

Commercial Lines Only: Only claims occurring in certain property/casualty commercial lines of insurance are included in the calculations of insured losses under TRIA (auto and homeowners insurance, life insurance and health insurance have always been excluded). In addition, the number of lines covered under TRIA has been narrowed over time. At TRIA's inception in 2002 approximately 44 percent of property/casualty insurance industry premiums were covered under the Act. By 2012 that figure had dropped to approximately 35 percent. Excluded commercial lines of coverage under the Act today include: mortgage and title insurance, financial guaranty, medical malpractice, reinsurance, commercial auto, burglary and theft, surety, professional liability (except directors and officers coverage) and farmowners multiperil.

State Guaranty Funds: In the unlikely event that an insurer becomes severely impaired or insolvent as a consequence of a terrorist attack, state insurance regulators will take corrective action. If the insurer's assets are insufficient to meet its liabilities, the resources of the appropriate state guaranty fund(s) could be called upon to satisfy those liabilities. Guaranty associations obtain funds for their operations and payment of claims through assessments against the solvent insurance companies licensed to do business in the state and from the recovery of amounts paid on claims from the insolvent estate.[6] All guaranty fund resources are therefore ultimately derived from the industry itself. *No taxpayer dollars are ever involved.*

Make Available Requirement (Mandatory Offer of Coverage): Commercial insurers are required to offer coverage against terrorist acts and, by law, workers compensation must include coverage against such acts. These requirements have led to widespread participation in the program. In 2003, the first full year TRIA was in effect, the take-up rate was 27 percent, but has since increased steadily, remaining in the low 60 percent range since 2009, according to insurance broker Marsh. The take-up rate for workers compensation is effectively 100 percent, meaning that every worker in America is protected against injuries suffered as the result of a terrorist attack.

[6] National Conference of Insurance Guaranty Funds accessed September 22, 2013 at: http://www.ncigf.org/media/files/Primer-2012.pdf

Terrorism Risk Insurance Programs in Other Countries

A number of countries have established their own terrorism risk insurance programs, and these have operated successfully, often for many years. Australia, Austria, Belgium, France, Germany, the Netherlands, Spain, Switzerland and the United Kingdom have all created programs to cover terrorism in the event of an attack on their own soil ***(Figure 5)***.

In 1993, the British government formed a mutual reinsurance pool for terrorist coverage following acts of terrorism by the Irish Republican Army. Insurance companies pay premiums at rates set by the pool. The primary insurer pays the entire claim for terrorist damage but is reimbursed by the pool for losses in excess of a certain amount per event and per year. This amount is based on its share of the total market. The maximum industry retention increases annually per event and per year. Following 9/11, coverage was extended to cover all risks, except war, including nuclear and biological contamination, aircraft impact and flooding, if caused by terrorist attacks. The British government acts as the reinsurer of last resort, guaranteeing payments above the industry retention. However, in March 2015 Pool Re announced that it has purchased £1.8 billion of reinsurance in the commercial market for the first time in its history.[7] The three-year single layer program, led by Munich Re and brokered by Guy Carpenter, mirrors the cover currently provided to Pool Re members, including chemical, biological, radioactive and nuclear risks. The program provides the largest amount of reinsurance cover ever secured by a national terrorism program and will increase the resilience of the members' fund, diminishing the British government's exposure and distancing UK taxpayers from any potential liability.

[7] https://www.poolre.co.uk/pool-re-purchases-1-8-billion-in-reinsurance/

Figure 5

COUNTRIES OPERATING COMPULSORY OR OPTIONAL TERRORISM POOLS

Country	Compulsory Pool (Y/N)	Names of Terror Pool or Reinsurance Mechanism
Australia	N	Australian Reinsurance Pool Corporation (ARPC)
Austria	N	Österreichisher Versicherungspool zur Deckung von Terrorisiken (The Austrian Terrorpool)
Bahrain	N	The Arab War Risks Insurance Syndicate (AWRIS)
Belgium	N	Terrorism Reinsurance & Insurance Pool (TRIP)
Denmark	N	Danish Terrorism Insurance Scheme
Finland	N	Finnish Terrorism Pool
France	Y	Gestion de l'Assurance et de la Réassurance des Risques d'Attentats et Terrorisme (GAREAT)
Germany	N	EXTREMUS Versicherungs-AG
Hong Kong China	N	The Motor Insurance Bureau (MIB)
India	N	The General Insurance Corporation of India
Indonesia	N	Indonesian Terrorism Insurance Pool
Israel	Y	Terrorism (Intifada Risks) – The Victims of Hostile Actions (Pensions) Law and the Property Tax and Compensation Fund Law
Namibia	N	Namibia Special Risks Insurance Association (NASRIA)
Netherlands	N	Nederlandse Herverzekeringsmaatschappij voor Terrorismeschaden (NHT)
Northern Ireland	N	Criminal Damage Compensation Scheme Northern Ireland
Russia	N	Russian Anti-terrorism Insurance Pool (RATIP)
South Africa	N	South African Special Risks Insurance Association (SASRIA)
Spain	Y	Consorcio de Compensacion de Seguros (CCS)
Sri Lanka	N	SRCC/Terrorism Fund - Government
Switzerland	N	Terrorism Reinsurance Facility
Taiwan	N	Taiwan Terrorism Insurance Pool
United Kingdom	N	Pool Reinsurance Company Limited (Pool Re)
United States	N	Terrorism Risk Insurance Reauthorization Act of 2007 (TRIPRA)

Source: Guy Carpenter & Co, LLC

Fire Following

State law has also addressed the issue of terrorism cover. Before 9/11, 31 jurisdictions had laws that required that property policies be based on the 1943 New York Standard Fire Policy (SFP). The SFP does not exclude fire following terrorism and, prior to 2003, the SFP did not permit this exclusion, with the result that a policyholder who had rejected terrorism coverage under TRIA would still have coverage for fire following an act of terrorism.

Currently, this is still the case in just a handful of states. Since 2003, some states have revised their SFP statutes to permit exclusions of fire following terrorism under certain circumstances. Thus, for a policyholder who has rejected terrorism coverage under TRIA, in these states there might be no coverage or limited coverage for fire resulting from an act of terrorism. Many states do not have a standard fire policy statute or have SFPs that unconditionally exclude fire following terrorism. In these states there is no stipulated coverage for fire following terrorism.

CONCLUSION

Since its creation in 2002, the federal Terrorism Risk Insurance Act, and its successors, have been critical components of America's national economic security infrastructure. TRIA has cost taxpayers virtually nothing, yet the law continues to provide tangible benefits to the U.S. economy in the form of terrorism insurance market stability, affordability and availability.

On January 12, 2015, President Obama signed into law the Terrorism Risk Insurance Program Reauthorization Act of 2015. Key provisions of the new law (H.R. 26) are as follows:

- TRIA is extended for six years until December 31, 2020;
- An act of terrorism must be certified by the Treasury Secretary, in consultation with the Secretary of Homeland Security and the Attorney General of the United States;
- The trigger required to activate the program gradually increases to $200 million from the previous $100 million;
- The industrywide retention (the amount of losses covered by the industry through deductibles and co-payments) increases to $37.5 billion up from $27.5 billion (via $2 billion annual increments starting in 2015).

Enactment of the 2015 reauthorization legislation has brought clarity and stability to policyholders and the insurance marketplace once again. With the federal program restored, insurers must make available terrorism coverage to their commercial clients.

TRIA from its inception was designed as a terrorism risk sharing mechanism between the public and private sector—with an overwhelming share of the risk being borne by private insurers. This share has increased significantly over the years. Today, all but the very largest (and least likely) terrorist attacks would be financed entirely within the private sector.

Appendix I

COMPARISON OF TERRORISM REAUTHORIZATION LEGISLATION 2007 vs. 2015

Provision	Expiring Legislation	New Statute
Title	Terrorism Risk Insurance Program Reauthorization Act of 2007	Terrorism Risk Insurance Program Reauthorization Act of 2015
Termination Date	December 31, 2014	December 31, 2020
Covered Acts	Foreign and domestic terrorism in the United States and on U.S. interests abroad. Includes an act of war for workers compensation policies only.	No change.
Covered Lines	Commercial property/casualty insurance (including excess insurance, workers compensation, and directors and officers).	No change.
Certification of an Act of Terrorism	Terrorist act is to be certified by the Secretary of the Treasury (hereinafter the Secretary) in concurrence with the Attorney General and Secretary of State. Terrorist act must cause $5 million in insured losses to be certified. (§102(1)(A))	Removes the Secretary of State from certification process. Adds "consultation" with the Secretary of Homeland Security. (§105) Requires the Secretary to study and report on the certification process. After this study is completed, the Secretary is to issue rules governing the process, including a timeline as to whether an act is considered an act of terrorism. (§107)
Insurer Deductible	20% of direct earned premium.	No change.
Insured Loss/Shared Compensation	Federal share of losses will be 85% for insured losses that exceed the applicable insurer deductible. (§103(e))	Starting in 2016, the federal share of losses will decrease one percentage point per calendar year until it equals 80%. (§102)
Cap on Liability	$100 billion.	No change.
Program Trigger	No compensation shall be paid unless the aggregate industry insured losses resulting from a certified act of terrorism exceed $100 million. (§103(e)(1)(B))	Beginning in 2016, program trigger increases to $120 million and then $20 million per year until it reaches $200 million. Applies program trigger to the aggregate losses from multiple acts of terrorism in a calendar year. (§103)
Mandatory Availability	Insurers are required to make terrorism coverage available to insureds. (§103(c))	No change.

Provision	Expiring Legislation	New Statute
Aggregate Retention Amount	The aggregate retention amount is the lesser of (1) the total of all insured losses or (2) $27.5 billion. (§103(e)(6))	Beginning in the calendar year of enactment, the retention amount would be the lesser of (1) the total of all insured losses or (2) $29.5 billion, with this amount further increased by $2 billion per year until it reaches $37.5 billion. Once it reaches $37.5 billion, it shall be set by the Secretary to equal the annual average of the sum of insurer deductibles for the previous three years. (§104(1))
Mandatory Share of Federal Recoupment	If aggregate insured losses are less than the aggregate retention amount, a mandatory recoupment of 133% of the federal share of the loss will be imposed. If aggregate insured losses are greater than the aggregate retention amount but uncompensated insurer losses do not exceed the aggregate retention amount, the mandatory recoupment amount will be reduced by this amount. If uncompensated insurer losses are greater than the aggregate retention amount, there is no mandatory recoupment but the Secretary retains discretionary recoupment authority. (§103(e)(7))	The gradual increase in the aggregate retention (§104(1)) effectively increases the level of mandatory recoupment. Increases the mandatory recoupment to 140% of the federal share of losses. (§104(2))
Timing of Mandatory Recoupment	Requires expedited collection of recoupment amounts: (1) for a terrorist attack before 2011, all required recoupment amounts must be collected by September 30, 2012; (2) for a terrorist attack in 2011, 35% of required recoupment amounts must be collected by September 30, 2012, and the balance must be collected by September 30, 2017; and (3) for a terrorist attack after 2011, all required recoupment amounts must be collected by September 30, 2017. (§103(e)(7)(E)(i))	Requires expedited collection of recoupment amounts: (1) for a terrorist attack before 2018, all required recoupment amounts must be collected by September 30, 2019; (2) for a terrorist attack in 2018, 35% of required recoupment amounts must be collected by September 30, 2019, and the balance must be collected by September 30, 2024; and (3) for a terrorist attack after 2018, all required recoupment amounts must be collected by September 30, 2024. (§104(2))
Risk-Sharing Mechanisms	No similar provisions.	Establishes an advisory committee to encourage the creation and development of private risk-sharing mechanisms. (§110)

Provision	Expiring Legislation	New Statute
Reporting of Terrorism Insurance Data	Requires Secretary to annually compile information on terrorism insurance premiums. To the extent that such data are not otherwise available, the Secretary may require insurers to submit the information to the National Association of Insurance Commissioners (NAIC), which shall make it available to the Secretary. (§108€)	Beginning in 2016, requires Secretary to collect data from insurers on terrorism insurance coverage, including lines of insurance with terrorism exposure, premiums earned from terrorism coverage, location of exposure, pricing of coverage, take-up rates, and amount of private reinsurance purchased. If such data are available from the states or another source, the Secretary shall collect the data from this source. The Secretary shall issue a report to Congress based on these data. (§111)
Definition of Control	An entity is considered to have control over another entity if the first entity has the power to vote 25% of the voting securities; controls the election of the majority of the directors; or the Secretary determines that the entity exercises control after notice and hearing. (§102(3))	Adds the proviso that an entity is not considered to have control if, on the date of enactment, the entity is "acting as an attorney-in-fact ... for the other entity and such other entity is a reciprocal insurer." This proviso, however, does not apply if the entity is defined as having control for reasons other than the attorney-in-fact relationship. (§106(1))
Nuclear, Biological, Chemical and Radiological (NBCR) Terrorism	No separate treatment of NBCR terrorism.	No change.

Provision	Expiring Legislation	New Statute
Studies and Reports	The Secretary shall conduct an expedited study of the availability and affordability of group life insurance coverage. (§103(h)) The Secretary shall conduct a study and issue a report on the potential effect of terrorism on life insurance and other personal lines by October 2003. (§103(i)) The Secretary shall conduct a study and issue a report no later than June 30, 2005, on the effectiveness of the program and the capacity of private insurers to offer terrorism coverage after the expiration of the program. (§104(d)) The President's Working Group on Financial Markets is to report on the market conditions for terrorism risk insurance in 2006, 2010, and 2013. (§104(e)) The Government Accountability Office (GAO) shall conduct a study and issue a report on the availability and affordability of Nuclear, Biological, Chemical, or Radiological (NBCR) coverage and the outlook for future coverage by December 2008. (§104(f)) GAO shall conduct a study and issue a report on the availability and affordability of terrorism insurance in specific markets by June 2008. (§104(g))	GAO shall conduct a study and issue a report on the viability of (1) the government collecting up-front terrorism insurance premiums on insurers, including international practices, and (2) the creation of a mandatory capital reserve fund to dedicate capital for terrorism losses before such losses occur within two years from the date of enactment. (§108) The Secretary shall issue a report to Congress based on the terrorism insurance data collected under Section 11 to be completed by June 30, 2017, and annually thereafter. (§111) The Secretary shall conduct an annual study of small-insurer competitiveness and issue an annual report on this study, with the first report not later than June 30, 2016. (§112)
Sources: Congressional Research Service, GC Capital Ideas.		

Appendix II

FAQ: TERRORISM INSURANCE—WHAT IT IS AND WHAT IT COVERS

Terrorism insurance provides coverage to individuals and businesses for potential losses due to acts of terrorism.

Businesses

Prior to 9/11, standard commercial insurance policies included terrorism coverage as part of the package, effectively free of charge. Today, terrorism coverage is generally offered separately at a price that more adequately reflects the current risk.

Insurance losses attributable to terrorist acts under these commercial policies are insured by private insurers and reinsured or "backstopped" by the federal government pursuant to the Terrorism Risk and Insurance Act of 2002 (TRIA). TRIA has been renewed three times, and the current law, known as the Terrorism Risk Insurance Program Reauthorization Act of 2015 (TRIPRA) runs until December 2020. Under the program, owners of commercial property, such as office buildings, factories, shopping malls and apartment buildings, must be offered the opportunity to purchase terrorism coverage.

Individuals

Standard homeowners insurance policies include coverage for damage to property and personal possessions resulting from acts of terrorism. Terrorism is not specifically referenced in homeowners policies. However, the policy does cover the homeowner for damage due to explosion, fire and smoke—the likely causes of damage in a terrorist attack.

Condominium or co-op owner policies also provide coverage for damage to personal possessions resulting from acts of terrorism. Damage to the common areas of a building like the roof, basement, elevator, boiler and walkways would only be covered if the condo/co-op board has purchased terrorism coverage.

Standard renters policies include coverage for damage to personal possessions due to a terrorist attack. Again, coverage for the apartment complex itself must be purchased by the property owner or landlord.

Auto insurance policies will cover a car that is damaged or destroyed in a terrorist attack only if the policyholder has purchased "comprehensive" coverage. Most people who have loans on their cars or lease are required by lenders and leasing companies to carry this optional form of coverage. People who buy liability coverage only are not covered in the event their vehicle is damaged or destroyed as the result of a terrorist attack.

Life insurance policies do not contain terrorism exclusions. Proceeds will be paid to the beneficiary as designated on the policy.

Under What Circumstances Is There Coverage?

For the terrorism coverage to be triggered under TRIPRA for commercial policies, a terrorist attack has to be declared a "certified act" by the Secretary of the Treasury.

No such declaration is needed to trigger coverage under homeowners and auto policies because there are no exclusions for terrorism.

In some states a doctrine known as "fire following" applies. This means that in the event of a terrorist-caused explosion followed by fire, insurers could be liable to pay out losses attributable to the fire (but not the explosion) even if a commercial property owner had not purchased terrorism coverage. Insurers have sought to limit fire coverage resulting from a terrorist attack, because commercial policyholders that choose to reject TRIPRA or other terrorism coverage are effectively paying no premium for the protection offered by fire-following coverage. Currently, there is coverage for fire following an act of terrorism in just a handful of states.

What Is Not Covered?

There are long-standing restrictions regarding war coverage and nuclear, biological, chemical and radiological (NBCR) events in both personal and commercial insurance policies.

War-risk exclusions reflect the realization that damage from acts of war is fundamentally uninsurable. No formal declaration of war by Congress is required for the war risk exclusion to apply. Nuclear, biological, chemical and radiological attacks are other examples of catastrophic events that are fundamentally uninsurable due to the nature of the risk.

Under the terrorism risk insurance program, if some NBCR exclusions are permitted by a state, an insurer does not have to make available the excluded coverage.

Business Interruption Insurance

Property damage to commercial buildings from a terrorist attack also may include claims for business interruption. Business interruption insurance (sometimes referred to as business income coverage) covers financial losses that occur when a firm is forced to suspend business operations either due to direct damage to its premises or because civil authorities limit access to an area after the attack and those actions prevent entry to the business premises. Coverage depends on the individual

policy, but typically begins after a waiting period or "time deductible" of two to three days and lasts for a period of two weeks to several months.

Business interruption losses associated with acts of civil authority (e.g., closure of certain area around the disaster) can only be triggered when there is physical loss or damage arising from a covered peril (e.g., explosion, fire, smoke, etc.) within the area affected by the declaration. The loss/damage need not occur to the insured premises specifically. Reductions in business income associated with fear of traveling to a location, in addition to closure of areas by authorities because of a heightened state of alert, would not be covered by business interruption policies.

Workers Compensation and Other Coverages

Workers compensation—a compulsory line of insurance for all businesses—covers employees injured or killed on the job and therefore automatically includes coverage for acts of terrorism. Workers compensation is also the only line of insurance that does not exclude coverage for acts of war. Coverage for terrorist acts cannot be excluded from workers compensation policies in any state.

There are essentially three types of workers compensation benefits. The first reimburses workers for lost wages while they recover from their injuries. The second covers workers for all medical expenses incurred as a result of the injuries they sustain. The third type of benefit provides payments to the families of workers killed on the job.

Life/health and disability insurance policies may provide coverage for loss of life, injury or sickness to individuals in the event of a terrorist attack.

What Is the Terrorism Risk Insurance Act (TRIA)/Terrorism Risk Insurance Program Reauthorization Act (TRIPRA)?

TRIA is a public/private risk-sharing partnership between the federal government and the insurance industry. The program is designed to ensure that adequate resources are available for businesses to recover and rebuild if they become the victims of a terrorist attack.

TRIA was extended for another two years in December 2005, for another seven years to 2014 in December 2007 and in January 2015 for another six years to December 2020. The new law is known as the Terrorism Risk Insurance Program Reauthorization Act (TRIPRA) of 2015.

Specific provisions of the legislation are:

- An event must cause at least $100 million to $200 million in aggregate property and casualty insurance losses to be certified by the Secretary of the Treasury as an act of terrorism.

- The definition of a certified act of terrorism has been expanded to cover both domestic and foreign acts of terrorism.

- Each participating insurer is responsible for paying out a certain amount in claims (a deductible) before federal assistance becomes available.

- For losses above a company's deductible, the federal government will cover 80 percent, while the insurer contributes 20 percent.

- The aggregate insurance industry retention is increased to $37.5 billion, up from $27.5 billion in 2007, up from $25 billion in 2006 and $15 billion in 2005.

- Losses covered by the program are capped at $100 billion.

- Lines originally excluded from the program are: personal lines (auto and home), reinsurance, federal crop, mortgage guaranty, financial guaranty, medical malpractice, flood insurance provided under the NFIP and life and health. Additional lines now excluded are: commercial auto, professional liability except for directors and officers liability, surety, burglary and theft, and farmowners multi-peril insurance.

- The Terrorism Risk Insurance Program Reauthorization Act (TRIPRA) of 2015 is due to sunset on December 31, 2020.

Does the Terrorism Risk Insurance Program Affect the Availability and Price of Coverage?

Yes, by sharing potential losses from terrorist attacks between private insurers and the government, the terrorism risk insurance program has brought much needed additional capacity to the terrorism market. Before the program existed, businesses were left with little or no terrorism coverage, but since it came into effect they are able to purchase the cover they need.

Terrorism coverage is very difficult to price because the frequency and severity of an attack is so unpredictable. Pricing of terrorism coverage varies according to the individual risk (based on factors such as location and industry, for example), but it

is clear that the terrorism risk insurance program has had a stabilizing influence on the market.

Does an Insurer Have to Make Terrorism Coverage Available?

Yes. Under TRIPRA, all property/casualty insurers in the U.S. are required to make terrorism coverage available. The "make available" provision applies to commercial lines of P/C insurance. Insurers are required to make an offer of coverage for "certified acts" to policyholders. If the insured rejects an offer, the insurer may then reinstate a terrorism exclusion.

What if Terrorism Coverage Is Not Purchased and a Loss Occurs?

A business that has not purchased TRIPRA or other terrorism coverage will not be covered for damage caused to their property by a terrorist attack. An individual who has homeowners or renters coverage may be covered, according to the individual terms of their policy.