CIPR Brunch:
Insurance for Acts of Terrorsim

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Material Packet

NAIC National Association of Insurance Commissioners & The Center for Insurance Policy and Research

Biography Information

Michael E. Angelina, ACAS, MAAA, CERA
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Mike Angelina joined Saint Joseph's University in April 2012 to lead the Risk Management and Insurance program within the Haub School of Business. Prior to joining Saint Joseph's, he was an executive officer with Bermuda based insurer and reinsurer, Endurance Specialty Holdings, Ltd. as its Chief Risk Officer & Chief Actuary. In this capacity he led the global pricing, reserving, and risk management functions with a particular emphasis on Enterprise Risk Management.

Mr. Angelina is an Associate of the Casualty Actuarial Society, a Chartered Enterprise Risk Analyst, and a Member of the American Academy of Actuaries, currently serving on the Academy Board of Directors as Vice President - Casualty. Mr. Angelina began his actuarial career with CIGNA and then joined Tillinghast (now Towers Watson) in 1988 where he participated in the development of Tillinghast's excess of loss pricing system and its Global Loss Distributions initiative, as well as numerous client assignments, with a focus on mergers & acquisitions, pricing and reserving for reinsurance companies and multi-line insurers. Mr. Angelina worked for one year for Reliance Reinsurance Corp. as a Vice President and Actuary prior to returning to Tillinghast in 2000 leading the Philadelphia office.

Mr. Angelina is the co-author of Tillinghast's industry-wide asbestos actuarial study and participated in the development of the 2003 FAIR Act (proposed Federal asbestos legislation). Mr. Angelina is a member of the American Academy of Actuaries' Committee on Property Liability Financial Reporting, and Chairperson of its Casualty Practice Council. He has also served as Chairperson of the Casualty Practice Council's Emerging Issues Task Force. He is a frequent speaker at industry conferences covering topics such as Enterprise Risk Management, Risk Governance, Loss Reserving, International Issues, Capital Allocation, Regulation, Market Conditions, and Pricing Trends.

Thomas M. Glassic
General Counsel
DC Dept. of Insurance, Securities and Banking/Office of the Attorney General

Thomas M. Glassic was sworn in as General Counsel of D.C. Department of Insurance, Securities and Banking in August 2011. Mr. Glassic studied colonial history at the College of William and Mary in Williamsburg, Virginia and returned to Washington where he attended George Washington University Law School, graduating in 1997. After a decade of private law practice focusing on insurance and reinsurance litigation, counseling and policy monitoring, Mr. Glassic left the LeBoeuf, Lamb, Greene & MacRae Insurance Regulatory Practice and in 2007 joined the majority staff of the Financial Services Committee of the U.S. House of Representatives where he was responsible for all insurance matters before the Committee. While on the Financial Services Committee, Mr. Glassic advised Committee Chairman Barney Frank on all insurance issues including those relating to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act).

Mr. Glassic actively assists and periodically represents Commissioner William White in his role as Vice Chair of the IAIS Governance Compliance Subcommittee (GCS). The NAIC recently named Mr. Glassic to as a U.S. representative on the IAIS Risk Governance Expert Team."

Robert Gordon
Senior Vice President, Policy Development and Research
Property Casualty Insurers Association of America

Robert Gordon is the senior vice president, policy development and research for PCI. He is responsible for working with PCI members to develop and frame public policy positions on the opportunities and challenges facing the property casualty insurance industry at the state, federal and international levels. Gordon also coordinates policy support for PCI's extensive state and federal advocacy efforts, media outreach and information products.

Prior to joining PCI in August 2008, Gordon was the parliamentarian, senior counsel and ethics compliance officer for the Committee on Financial Services in the U.S. House of Representatives. Through his work, Gordon provided strategic counsel on the Nonadmitted and Reinsurance Reform Act, the Terrorism Risk Insurance Act, the State Modernization and Regulatory Transparency Act and the Risk Retention Act. He also contributed to policy issues relevant to the property casualty insurance industry such as data security, privacy, liability reform and the Fair Credit Reporting Act amendments.

While with the Committee on Energy & Commerce, Gordon developed and negotiated legislation on issues ranging from banking to health care to consumer safety, including the Gramm-Leach-Bliley Act. He has a long history of influencing policy development and leading research initiatives from his early work as legal counsel for Representative David Dreier (R-CA) and as an associate with Wiley, Rein & Fielding.

Gordon has a Juris Doctorate, with honors, from the Georgetown University Law Center, an MBA from the Peter F. Drucker School of Management, and is a former Certified Financial Planner.

Erick R. Gustafson
Vice President
Director of Government Relations

Erick Gustafson is Vice President and Director of Government Relations at Marsh & McLennan Companies, Inc. He leads the Company's global government relations department, which he was hired to establish in 2008. Mr. Gustafson works closely with the Company's senior leadership on a broad range of public policy issues that impact Marsh, Mercer, Oliver Wyman and Guy Carpenter. Recent achievements include laws to preserve corporate pension programs, reform the nation's flood insurance program and streamline state tax administration for insurance policies. Under his direction, the Company created a process by which global business leaders come together to determine its public policy priorities. Mr. Gustafson also created a grassroots program through which colleagues engage policymakers in support of Company priorities, and he manages the Company's political action committee.

With nearly 20 years experience in Washington, Mr. Gustafson brings a unique set of advocacy skills to Marsh and McLennan. Prior to joining the Company, Mr. Gustafson was Senior Vice President of Legislative and Political Affairs at the Mortgage Bankers Association where he directed the association's federal and state lobbying, political action committee and grassroots program. During his tenure, he helped to lead the industry through the real estate finance crisis and pass landmark legislation to stabilize the housing market. In an earlier engagement, Mr. Gustafson was part of a small team at Citizens for a Sound Economy that pioneered the model for grassroots organizing, which fuels many of today's political and social media movements. Mr. Gustafson started his career on Capitol Hill where he held senior policy positions for lawmakers in the U.S. House of Representatives. In that capacity, he crafted legislation to identify life insurance policies lost during the Second World War and worked to root out corruption in the Department of Treasury's microcredit lending program.

Eric C. Nordman, CPCU, CIE
Director, Regulatory Services Division and Director, Center for Insurance Policy and Research (CIPR) National Association of Insurance Commissioners (NAIC)

Eric C. Nordman, CPCU, CIE is currently serving the needs of the state insurance regulatory community in his capacity as Director of the Regulatory Services Division, which includes two departments—the Research and Actuarial Department and the Market Regulation Department, with the NAIC. Collectively they are engaged in a wide range of insurance research and in support of NAIC initiatives, committees, task forces and working groups. Mr. Nordman also serves as the Director of the Center for Insurance Policy and Research (CIPR). The mission for the CIPR is to serve federal and state lawmakers, federal and state regulatory agencies, international regulatory agencies, and insurance consumers, by enhancing intergovernmental cooperation and awareness, improving consumer protection and promoting legitimate marketplace competition. He has been with the NAIC since 1991.

In his position Mr. Nordman supports the Property and Casualty Insurance (C) Committee. He provides expertise on loss costs, auto insurance, crop insurance, catastrophe issues, property insurance, workers' compensation, electronic commerce, speed to market, terrorism insurance, medical malpractice, risk retention groups and other regulatory issues. In the aftermath of the events of September 11, 2001, he was involved in the discussion and resolution regarding coverage issues related to acts of terrorism. Similarly, in the aftermath of the 2005 hurricane season and the recent 2012 Superstorm Sandy, he was involved in and continues to be involved in discussions with the states and with the federal government regarding insurance issues in the face of natural and human made catastrophes. He responds to questions by the various state insurance regulators, industry, trade and consumer representatives. He provides advice on various matters relating to property and casualty insurance, and financial and market regulation, filing of rates and forms by insurers in the states.

Mr. Nordman was employed by the Michigan Insurance Bureau for thirteen years. He received his bachelor's degree in mathematics from Michigan State University. He earned his CPCU from the American Institute for Property and Liability Underwriters, Inc. The Insurance Regulatory Examiners Society (IRES) has granted Mr. Nordman its highest designation, that of Certified Insurance Examiner. He has served on the National Advisory Committee for the Robert Wood Johnson Foundation's Workers' Compensation Health Initiative and was a member of the National Insurance Task Force of the Neighborhood Reinvestment Corporation. He currently serves as a national director on the CPCU Society Leadership Council and as a director for the Insurance Regulatory Examiners Society. He has served as newsletter editor of the CPCU Society's Regulatory and Legislative Interest Section. He serves on the Study Panel on National Data on Workers' Compensation with the National Academy of Social Insurance. Mr. Nordman was the 2011 recipient of the IRES Al Greer award. The award is presented annually to an insurance regulator and IRES member who not only embodies the dedication, knowledge and tenacity of a professional regulator, but who exceeds those standards.

Baird Webel
Specialist in Financial Economics
Congressional Research Service

Mr. Webel has worked in the Government and Finance Division of CRS for more than ten years. His focus is on financial institution policy, particularly non-health insurance issues. He coordinated the general CRS report on the Dodd-Frank Act and has written specific pieces on Dodd-Frank's insurance provisions as well as other issues including the Terrorism Risk Insurance Act. He has also addressed in detail the Troubled Asset Relief Program and other policies undertaken to address the recent financial crisis. Before joining CRS he worked as a congressional staffer for seven years handling a wide variety of issues. He holds two Masters degrees, in Foreign Service and in Economics, from Georgetown University; and a Bachelors degree in International Relations from Stanford University.

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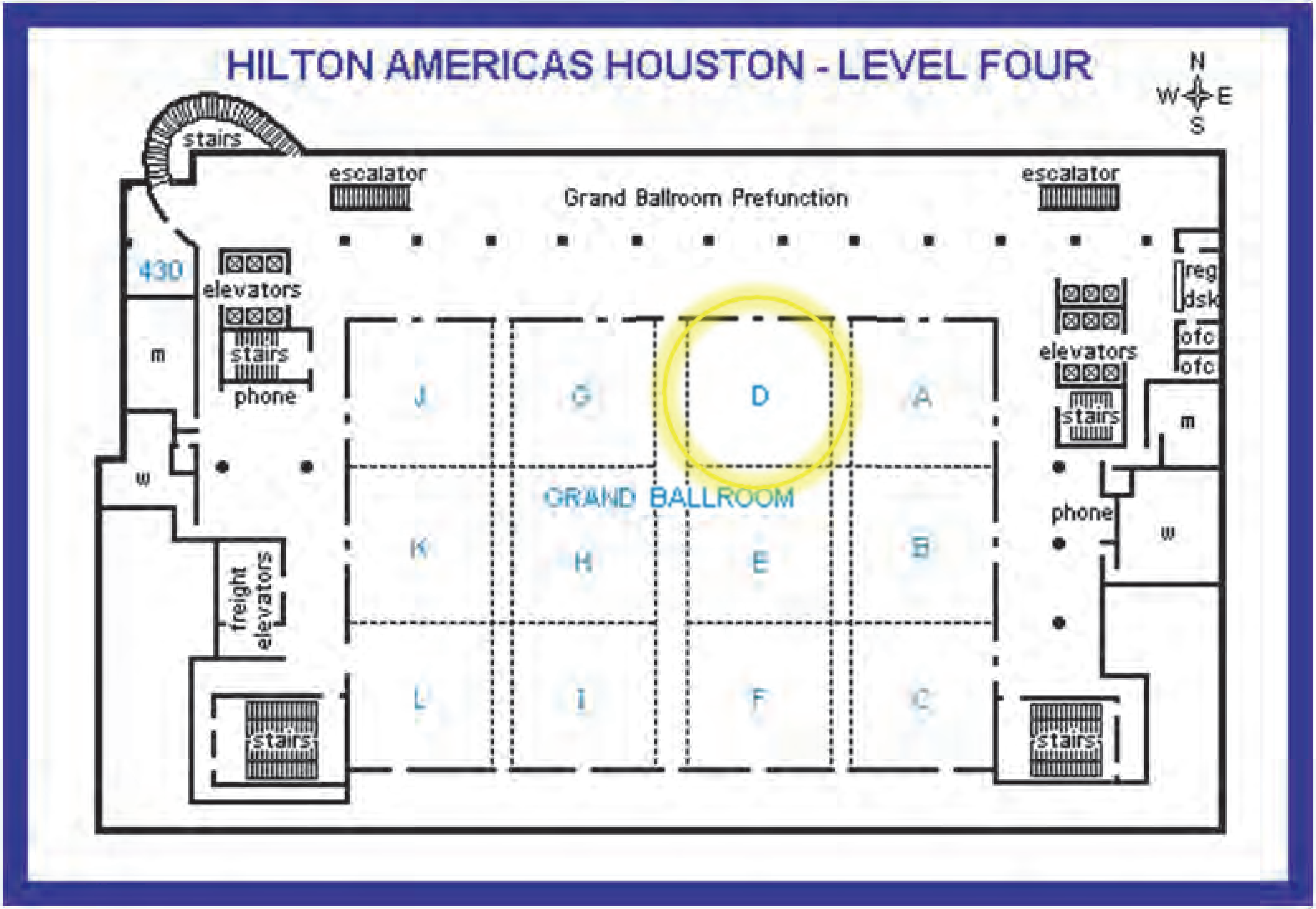
Hilton Americas-Houston - LEVEL FOUR



Terrorism Risk Insurance: Issue Analysis and Overview of Current Program

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Prepared for Members and Committees of Congress

Summary

Prior to the September 11, 2001, terrorist attacks, insurance coverage for losses from such attacks was normally included in general insurance policies without specific cost to the policyholders. Following the attacks, such coverage became very expensive if insurers offered it at all. Because insurance is required for a variety of economic transactions, it was feared that the absence of insurance against terrorism loss would have a wider economic impact. Private terrorism insurance was largely unavailable for most of 2002, and some have argued that this adversely affected parts of the economy.

Congress responded to the disruption in the terrorism insurance market by passing the Terrorism Risk Insurance Act of 2002 (TRIA; P.L. 107-297, 116 Stat. 2322). TRIA created a temporary three-year Terrorism Insurance Program in which the government would share some of the losses with private insurers should a foreign terrorist attack occur. This program was extended in 2005 (P.L. 109-144, 119 Stat. 2660) and 2007 (P.L. 110-160, 121 Stat. 1839). The amount of government loss sharing depends on the size of the insured loss. In general terms, for a relatively small loss, private industry covers the entire loss. For a medium-sized loss, the federal role is to spread the loss over time and over the entire insurance industry; the government assists insurers initially but then recoups the payments through a broad levy on insurers afterwards. For a large loss, the federal government would cover most of the losses, although recoupment is possible in these circumstances as well. Insurers are required to make terrorism coverage available to commercial policyholders, but TRIA does not require policyholders to purchase terrorism coverage. The prospective government share of losses has been reduced over time compared with the initial act, but the 2007 reauthorization expanded the program to cover losses stemming from acts of domestic terrorism. The TRIA program is currently slated to expire at the end of 2014.

The specifics of the current program are as follows: (1) a single terrorist act must cause $5 million in damage to be certified for TRIA coverage; (2) the aggregate insured loss from certified acts of terrorism must be $100 million in a year for the government coverage to begin; and (3) an individual company must meet a deductible of 20% of its annual premiums for the government coverage to begin. Once these thresholds are passed, the government covers 85% of insured losses due to terrorism. If aggregate insured losses due to terrorism do not exceed $27.5 billion, the Secretary of the Treasury is required to recoup 133% of the government coverage by the end of 2017 through surcharges on property/casualty insurance policies. If the losses exceed $27.5 billion, the Secretary has discretion to apply recoupment surcharges, but is not required to do so.

Since TRIA's passage, the private industry's willingness and ability to cover terrorism risk have increased. Prices for terrorism coverage have generally trended downward, and approximately 60% of commercial policyholders have purchased coverage over the past few years. This relative market calm has been under the umbrella of TRIA coverage, and it is unclear how the insurance market would react to the expiration of the federal program.

In the 113th Congress, Representative Michael Grimm has introduced H.R. 508 to extend the TRIA program's expiration date five years until the end of 2019. The bill has been referred to the House Committee on Financial Services, who has yet to take further action in this Congress. The committee's Subcommittee on Insurance, Housing, and Community Opportunity held a hearing on TRIA during the 112th Congress.

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Introduction

Prior to the September 2001, terrorist attacks on the United States, insurers generally did not exclude or separately charge for coverage of terrorism risks. The events of September 11, 2001, changed this as insurers realized the extent of possible terrorism losses. Estimates of insured losses from the 9/11 attacks are around $40 billion in current dollars, the largest insured losses from a non-natural disaster on record. These losses were concentrated in business interruption insurance (33% of the losses), property insurance (30%), and liability insurance (23%).[1]

Although primary insurance companies, those who actually sell and service the insurance policies bought by consumers, suffered losses from the terrorist attacks, the heaviest insured losses were absorbed by foreign and domestic reinsurers—the insurers of insurance companies. Because of the lack of public data on, or modeling of, the scope and nature of the terrorism risk, reinsurers felt unable to accurately price for such risks and largely withdrew from the market for terrorism risk insurance in the months following September 11, 2001. Once reinsurers stopped offering coverage for terrorism risk, primary insurers, suffering equally from a lack of public data and models, also withdrew, or tried to withdraw, from the market. In most states, state regulators must approve policy form changes. Most state regulators agreed to insurer requests to exclude terrorism risks from commercial policies, just as these policies had long excluded war risks. Terrorism risk insurance was soon unavailable or extremely expensive, and many businesses were no longer able to purchase insurance that would protect them in future terrorist attacks. Although the evidence is largely anecdotal, some were concerned that the lack of coverage posed a threat of serious harm to the real estate, transportation, construction, energy, and utility sectors, in turn threatening the broader economy.

In November 2002, Congress responded to the fears of economic damage due to the absence of commercially available coverage for terrorism with passage of the Terrorism Risk Insurance Act[2] (TRIA). TRIA created a three-year Terrorism Risk Insurance Program to provide a government reinsurance backstop in the case of terrorist attack. The TRIA program was amended and extended in 2005[3] and 2007.[4] Following the 2007 amendments, the TRIA program is set to expire at the end of 2014. (A side-by-side of the original law and the two reauthorization acts can be found below in **Table 1**.)

Although the expiration date is not until the end of the 113th Congress, the 112th Congress took notice of the issue. Senator Roger Wicker filed an amendment to change the expiration date of TRIA from 2014 to 2013 during a Senate markup, although he ultimately did not offer this amendment. The House Financial Services Subcommittee on Insurance, Housing, and

[1] Robert P. Hartwig and Claire Wilkinson, "Terrorism Risk: A Reemergent Threat," April 2011, available on the Insurance Information Institute website at http://www.insureagainstterrorism.org/TerrorismRisk-ReemergentThreat.pdf.

[2] P.L. 107-297, 116 Stat. 2322, codified at 15 U.S.C. 6701 note. For more information, see CRS Report RS21444, *The Terrorism Risk Insurance Act of 2002: A Summary of Provisions*, by Baird Webel.

[3] P.L. 109-144, 119 Stat. 2660. For more information, see CRS Report RL33177, *Terrorism Risk Insurance Legislation in 2005: Issue Summary and Side-by-Side*, by Baird Webel.

[4] P.L. 110-160, 121 Stat 1839. For more information, see CRS Report RL34219, *Terrorism Risk Insurance Legislation in 2007: Issue Summary and Side-by-Side*, by Baird Webel.

Community Opportunity held a hearing on September 11, 2012, entitled "TRIA at Ten Years: The Future of the Terrorism Risk Insurance Program."[5]

The executive branch has been skeptical about the TRIA program in the past. Bills to expand TRIA were resisted by then-President George W. Bush's Administration,[6] and previous presidential budgets under President Obama called for changes in the program that would have had the effect of scaling back the coverage for terrorist attacks. Congress declined to act on these budgetary proposals at the time and no such legislative proposals were contained in the President's FY2013 budget proposal. The insurance industry largely continues to support TRIA,[7] as do the real estate and other industries that have formed a "Coalition to Insure Against Terrorism" (CIAT).[8]

The Terrorism Risk Insurance Act of 2002 Reauthorization Act of 2013 (H.R. 508)

Representative Michael Grimm along with nine cosponsors introduced H.R. 508 on February 5, 2013. The bill is a reauthorization of the existing TRIA program that would extend the program five years until the end of 2019. It would also extend the time period for mandatory recoupment seven years until September 30, 2024. The bill has been referred to the House Committee on Financial Services.

Specifics of the Current TRIA Program

The original TRIA legislation's stated goals were to (1) create a temporary federal program of shared public and private compensation for insured terrorism losses to allow the private market to stabilize; (2) protect consumers by ensuring the availability and affordability of insurance for terrorism risks; and (3) preserve state regulation of insurance. Although Congress has amended specific aspects of the original act, the general operation of the program largely follows the original statute. The changes to the program have largely reduced the government coverage for terrorism losses, except that the 2007 amendments expanded coverage to losses due to domestic terrorism, rather than limiting the program to foreign terrorism.

To meet the *first* goal, the TRIA program creates a mechanism through which the federal government could share insured commercial property/casualty[9] losses with the private insurance

[5] U.S. Congress, House Committee on Financial Services, Subcommittee on Insurance, Housing and Community Opportunity, *TRIA at Ten Years: The Future of the Terrorism Risk Insurance Program,* 112th Cong., 2nd sess., September 11, 2012. Hearing testimony can be found at http://financialservices.house.gov/calendar/eventsingle.aspx?EventID=307443.

[6] See, for example, the Statement of Administration Policy on H.R. 2761 dated December 11, 2007, available at http://www.whitehouse.gov/sites/default/files/omb/legislative/sap/110-1/hr2761sap-h.pdf.

[7] See, for example, American Insurance Association, "Aia Statement On Introduction Of TRIA Legislation," press release, February 5, 2013, http://www.aiadc.org/aiadotnet/docHandler.aspx?DocID=355930.

[8] See the CIAT website at http://www.insureagainstterrorism.org.

[9] Commercial insurance is generally insurance purchased by businesses in contrast to personal lines of insurance, which is purchased by individuals. This means damage to individual homes and autos would not be covered under the TRIA program. Property/casualty insurance includes most lines of insurance except for life insurance and health insurance.

market. The role of federal loss sharing depends on the size of the insured loss. For a relatively small loss, there is no federal sharing. For a medium-sized loss, the federal role is to spread the loss over time and over the entire insurance industry, providing assistance up front but then recouping the payments through a broad levy on insurance policies afterwards. For a large loss, the federal government is to pay most of the losses, although recoupment is possible in these circumstances as well.

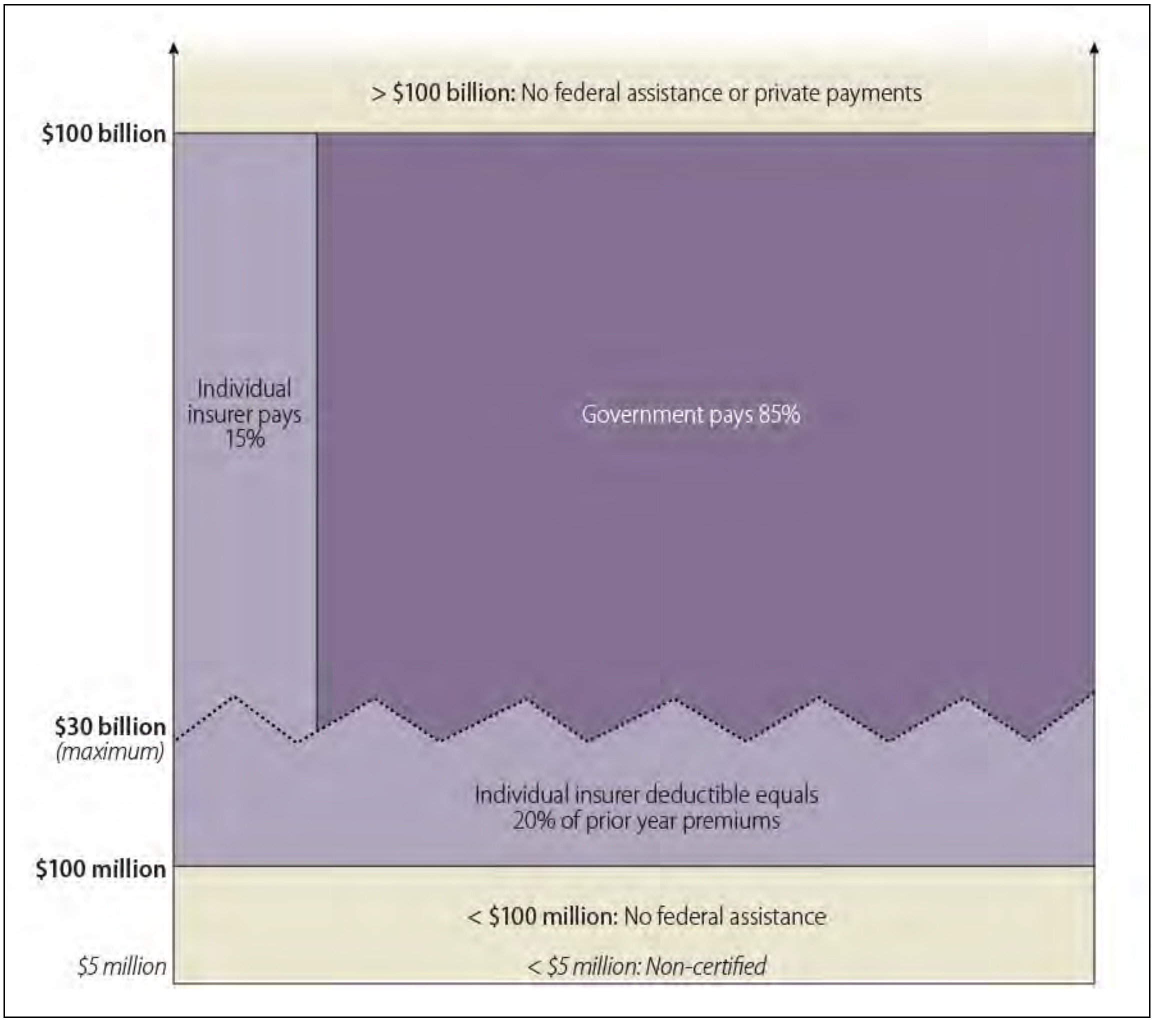
The precise criteria under the current TRIA program are as follows:

1. An individual act of terrorism must be certified jointly by the Secretary of the Treasury, Secretary of State, and Attorney General; losses must exceed $5 million in the United States or to U.S. air carriers or sea vessels for an act of terrorism to be certified.
2. The federal government shares in an insurer's losses only if the insurance industry's aggregate insured losses from certified acts of terrorism exceed $100 million.
3. The federal program covers only commercial property and casualty insurance, and excludes by statute several specific lines of insurance.[10]
4. Each insurer is responsible for paying out a certain amount in claims—known as its deductible—before receiving federal coverage. An insurer's deductible is proportionate to its size, equaling 20% of an insurer's annual direct earned premiums the commercial property/casualty lines of insurance specified in TRIA.
5. Once the $100 million aggregate loss threshold and 20% deductible are passed, the federal government is to cover 85% of each insurer's losses above its deductible until the amount of losses totals $100 billion.
6. After $100 billion in aggregate losses, there is no federal government coverage and no requirement that insurers provide coverage.
7. In the years following the federal sharing of insurer losses, but prior to September 30, 2017, the Secretary of the Treasury is required to establish surcharges on property/casualty insurers to recoup 133% of the outlays to insurers under the program. This mandatory recoupment will not apply, if the insurance industry's aggregate uncompensated loss exceeds $27.5 billion; in this case, however, the Treasury Secretary retains discretionary authority to apply recoupment surcharges.

The initial loss sharing under TRIA can be seen in **Figure 1** below, adapted from a report by the Congressional Budget Office (CBO). The exact amount of the 20% deductible at which TRIA coverage would begin depends on how the losses are distributed among insurance companies. In the aggregate, 20% of the direct-earned premiums for all of the property/casualty lines specified in TRIA totaled approximately $34 billion according to 2011 data supplied by the National Association of Insurance Commissioners (NAIC). TRIA coverage is likely, however, to begin under this amount as the losses from an attack are unlikely to be equally distributed among insurance companies.

[10] Named lines of insurance that are not covered are federal crop insurance, private crop or livestock insurance, private mortgage insurance, title insurance, financial guaranty insurance of single-line guaranty insurers, medical malpractice, flood insurance, reinsurance, and all life insurance products.

Figure 1. Initial Loss Sharing Under Current TRIA Program



Source: Congressional Research Service, adapted from Congressional Budget Office, *Federal Reinsurance for Terrorism Risks: Issues in Reauthorization,* August 1, 2007, p. 12.

Note: Aggregate of all individual insurer deductibles totaled approximately $34 billion in 2011, according to the NAIC.

TRIA addresses the *second* goal, to protect consumers, by requiring those insurers that offer the lines of insurance covered by TRIA to make terrorism insurance available prospectively to their commercial policyholders. This coverage may not differ materially from coverage for other types of losses. Each terrorism insurance offer must reveal both the premium charged for terrorism insurance and the possible federal share of compensation. Policyholders are not, however, required to purchase coverage. If the policyholder declines to purchase terrorism coverage, its insurer can exclude terrorism losses. The law itself does not limit what insurers can charge for terrorism risk insurance, though state regulators typically have the authority under state law to modify excessive, inadequate, or unfairly discriminatory rates.

TRIA's *third* goal, to preserve state regulation of insurance, is expressly accomplished in Section 106(a), which provides "Nothing in this title shall affect the jurisdiction or regulatory authority of the insurance commissioner [of a state]." The Section 106(a) provision has two exceptions: (1) the federal statute preempts any state definition of an "act of terrorism" in favor of the federal definition and (2) state rate and form approval laws for terrorism insurance were preempted from enactment to the end of 2003. In addition to these exceptions, Section 105 of the law also preempts state laws with respect to insurance policy exclusions for acts of terrorism.

The administration of the TRIA program was originally left generally to the Secretary of the Treasury. This was changed somewhat in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.[11] This act created a new Federal Insurance Office (FIO) to be located in the Department of the Treasury. Among the duties specified for the FIO in the legislation was to assist the Secretary in the administration of the Terrorism Insurance Program.[12]

No acts of terrorism meeting the requirements for coverage under the program have occurred since the passage of TRIA.

Coverage for Nuclear, Chemical, Biological, and Radiological Terrorism

A terrorist attack with some form of nuclear, chemical, biological, or radiological (NCBR)[13] weapon would often be considered the most likely type of attack causing large scale losses. The current TRIA statute does not specifically include or exclude NCBR events; thus, the TRIA program in general would cover insured losses from terrorist actions due to NCBR as it would for an attack by conventional means. The term *insured losses,* however, is a meaningful distinction. Most insurance policies that would fall under the TRIA umbrella include exclusions that would likely limit insurer coverage of an NCBR event, whether it was due to terrorism or to some sort of accident, although these exclusions have never been legally tested in the United States after a terrorist event.[14] If these exclusions are invoked and do indeed limit the insurer losses due to NCBR terrorism, they would also limit the TRIA coverage of such losses. Language that would have specifically extended TRIA coverage to NCBR events was offered in the past,[15] but was not included in legislation as enacted. In 2007, the Government Accountability Office (GAO) was directed to study the issue and a GAO report was issued in 2008.[16]

[11] P.L. 111-203, 124 Stat. 1376.

[12] Section 502 of P.L. 111-203, codified at 31 U.S.C. 313(c)(1)(D).

[13] There is some variance in the acronym used for such attacks. The U.S. Department of Defense, for example, uses "CBRN," rather than NCBR, in its *Dictionary of Military and Associated Terms*; see p. 86 at http://www.scribd.com/doc/25603718/The-DOD-Lexicon-JP1-02.

[14] It should be noted that insurers might have attempted to exclude the September 11, 2001, losses under existing war risk exclusions, but did not generally attempt to do so.

[15] See, for example, H.R. 2761 (110th Congress) as passed by the House on September 19, 2007, and H.Rept. 110-318, available at http://www.gpo.gov/fdsys/pkg/CRPT-110hrpt318/pdf/CRPT-110hrpt318.pdf.

[16] U.S. Government Accountability Office, *TERRORISM INSURANCE: Status of Coverage Availability for Attacks Involving Nuclear, Biological, Chemical, or Radiological Weapons*, GAO-09-39, December 12, 2008, at http://gao.gov/products/GAO-09-39.

Background on Terrorism Insurance

Insurability of Terrorism Risk

Stripped to its most basic elements, insurance is a fairly straightforward operation. An insurer agrees to assume an indefinite future risk in exchange for a definite current premium from a consumer. The insurer pools a large number of risks such that at any given point in time, the ongoing losses will not be larger than the current premiums being paid, plus the residual amount of past premiums that the insurer retains and invests, plus, in a last resort, any borrowing against future profits if this is possible. For the insurer to operate successfully and avoid bankruptcy, it is critical to accurately estimate the probability of a loss and the severity of that loss so that a sufficient premium can be charged. Insurers generally depend upon huge databases of past loss information in setting these rates. Everyday occurrences, such as automobile accidents or natural deaths, can be estimated with great accuracy. Extraordinary events, such as large hurricanes, are more difficult, but insurers have many years of weather data, coupled with sophisticated computer models, with which to make predictions.

Terrorism risk is seen by many to be so fundamentally different from other risks, making it essentially uninsurable by the private insurance market; thus, requiring a government solution. The argument that terrorism risk is uninsurable typically focuses on lack of public data about both the probability and severity of terrorist acts. The reason for the lack of historical data would generally be seen as a good thing—very few terrorist attacks are attempted and fewer have succeeded. This, however, does not assuage the fiduciary duty of an insurance company president not to put a company at risk by insuring against an event that could bankrupt the firm. As a replacement for large amounts of historical data, insurers turn to various forms of models similar to those used to assess future hurricane losses. Even the best model, however, can only partly replace good data, and terrorism models are still relatively new compared with hurricane models.

One prominent insurance textbook identifies four ideal elements of an insurable risk: (1) a sufficiently large number of insureds to make losses reasonably predictable; (2) losses must be definite and measurable; (3) losses must be fortuitous or accidental; and (4) losses must not be catastrophic (i.e., it must be unlikely to produce losses to a large percentage of the risks at the same time).[17] Terrorism risk in the United States would appear to fail the first criterion. It also likely fails the third due to the malevolent human actors behind terrorist attacks, whose motives, means, and targets of attack are constantly in flux. Whether it fails the fourth criterion is largely decided by the underwriting actions of insurers themselves (i.e., whether the insurers insure a large number of risks in a single geographic area that would be affected by a terrorist strike). Unsurprisingly, insurers generally have sought to limit their exposures in particular geographic locations with a conceptually higher risk for terrorist attacks, making terrorism insurance more difficult to find in those areas.

[17] Emmett J. Vaughan and Therese Vaughan, *Fundamentals of Risk and Insurance* (Hoboken, NJ: John Wiley & Sons, 2003), p. 41.

International Experience with Terrorism Risk Insurance

Although the U.S. experience with terrorism is relatively limited, other countries have dealt with the issue more extensively and have developed their own responses to the challenges presented by terrorism risk. Spain, which has seen significant terrorist activity by Basque separatist movements, insures against acts of terrorism via a broader government-owned reinsurer that has provided coverage for catastrophes since 1954. The United Kingdom, responding the Irish Republican Army attacks in the 1980s, created Pool Re, a privately owned mutual insurance company with government backing, specifically to insure terrorism risk. In the aftermath of the September 11, 2001, attacks, many foreign countries reassessed their terrorism risk and created a variety of approaches to deal with the risk. The UK greatly expanded Pool Re, whereas Germany created a private insurer with government backing to offer terrorism insurance policies. Germany's plan, like TRIA in the United States, was created as a temporary measure. It has been extended since its inception and it is now set to expire at the end of 2013.[18] Not all countries, however, concluded that some sort of government backing for terrorism insurance was necessary. Canada specifically considered, and rejected, creating a government program following September 11, 2001.

Previous U.S. Experience with "Uninsurable" Risks

Terrorism risk post-2001 is not the first time the United States has faced a risk perceived as uninsurable in private markets that Congress chooses to address through government action. During World War II, for example, Congress created a "war damage" insurance program, and there are current programs insuring against aviation war risk[19] and flood losses,[20] respectively.

The closest previous analog to the situation with terrorism risk may be the federal riot reinsurance program created in the late 1960s. Following large scale riots in American cities in the late 1960s, insurers generally pulled back from insuring in those markets, either adding policy exclusions to limit their exposure to damage from riots or ceasing to sell property damage insurance altogether. In response, Congress created a riot reinsurance program as part of the Housing and Urban Development Act of 1968.[21] The federal riot reinsurance program offered reinsurance contracts similar to commercial excess reinsurance. The government agreed to cover some percentage of an insurance company's losses above a certain deductible in exchange for a premium paid by that insurance company. Private reinsurers eventually returned to the market and the federal riot reinsurance program was terminated in 1985.

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[18] More information on foreign countries' programs can be found in pages 8-11 of the testimony of Erwann O. Michel-Kerjan at the previously mentioned September 11, 2012, House Financial Subcommittee hearing available at http://financialservices.house.gov/uploadedfiles/hhrg-112-ba04-wstate-emichelkerjan-20120911.pdf.

[19] For more information, see http://www.faa.gov/about/office_org/headquarters_offices/apl/aviation_insurance/.

[20] For more information, see CRS Report R40650, *National Flood Insurance Program: Background, Challenges, and Financial Status*, by Rawle O. King.

[21] P.L. 90-448, 82 Stat. 476. The act also created state "Fair Access to Insurance Requirements" (FAIR) plans and a Federal Crime Insurance Program.

The Terrorism Insurance Market

Post-9/11 and Pre-TRIA

The September 2001 terrorist attacks, and the resulting billions of dollars in insured losses, caused significant upheaval in the insurance market. Even before the attacks, the insurance market was showing signs of a cyclical "hardening" of the market in which prices typically rise and availability is somewhat limited. The unexpectedly large losses caused by terrorist acts exacerbated this trend, especially with respect to the commercial lines of insurance most at risk for terrorism losses. Post-September 11, insurers and reinsurers started including substantial surcharges for terrorism risk, or, more commonly, they excluded coverage for terrorist attacks altogether. Reinsurers could take these steps rapidly because reinsurance contracts and rates are generally unregulated. Primary insurance contracts and rates are more closely regulated by the individual states and the exclusion of terrorism coverage for the individual purchaser of insurance required regulatory approval at the state level in most cases. States acted fairly quickly, and, by early 2002, 45 states had approved insurance policy language prepared by the Insurance Services Office, Inc. (ISO, an insurance consulting firm), excluding terrorism damage in standard commercial policies.[22]

The lack of readily available terrorism insurance caused fears of a larger economic impact, particularly on the real estate market. In most cases, lenders prefer or require that a borrower maintain insurance coverage on a property. Lack of terrorism insurance coverage could lead to defaults on existing loans and a downturn in future lending, causing economic ripple effects as buildings are not built and construction workers remain idle. The 14-month period after the September 2001 terrorist attacks and before the November 2002 passage of TRIA provides some insight into the effects of a lack of terrorism insurance. Some examples in September 2002 include the Real Estate Round Table releasing a survey finding that "$15.5 billion of real estate projects in 17 states were stalled or cancelled because of a continuing scarcity of terrorism insurance"[23] and Moody's Investors Service downgrading $4.5 billion in commercial mortgage-backed securities.[24] This picture, however, was not uniform. For example, in July 2002, the *Wall Street Journal* reported that "despite concerns over landlords' ability to get terrorism insurance, trophy properties were in demand."[25] Aside from such anecdotes, there is little hard data to form judgments about what effect the lack of terrorism coverage had on the economy in this time period.

After TRIA

The "make available" provisions of TRIA addressed the availability problem in the terrorism insurance market, as insurers were required by law to offer commercial terrorism coverage. There

[22] Jeff Woodward, "The ISO Terrorism Exclusions: Background and Analysis," *IRMI Insights*, February 2002, available at http://www.irmi.com/expert/articles/2002/woodward02.aspx.

[23] "Terror Insurance Drag on Real Estate Still Climbing," Real Estate Roundtable, September 19, 2003, available at http://www.rer.org/media/newsreleases/TRIA_Survey_15billion_Sept19_2002.cfm.

[24] "Moody's Downgrades Securities on Lack of Terrorism Insurance," *Wall Street Journal*, September 30, 2002, p. C14.

[25] "Office-Building Demand Rises Despite Vacancies," *Wall Street Journal*, July 24, 2002, p. B6.

was significant uncertainty, however, as to how businesses would react, because there was no general requirement to purchase terrorism coverage[26] and the pricing of terrorism coverage was initially high. Initial consumer reaction to the terrorism coverage offers was relatively subdued. Marsh, Inc., a large insurance broker, reports that only 27% of their clients bought terrorism insurance in 2003. This take-up rate, however, climbed relatively quickly to 49% in 2004 and 58% in 2005. Since 2005, the take-up rate has stayed near 60%, with Marsh reporting 65% in 2011.[27]

The price for terrorism insurance has appeared to decline over the past decade, although available pricing data is based on surveys; thus, the level of pricing may not always be comparable between sources. The 2006 and 2010 reports by the President's Working Group on Financial Markets show a high of above 7% for the median terrorism premium as a percentage of the total property premium in 2003, with a generally downward trend, and the latest values between 3% and 4%.[28] These values were reported by Aon, another major insurance broker. While the trend may be downward, there has been significant variability, with a rate above 6% reported in the 4th quarter of 2006. There is also significant variability across industries. For example, Marsh reported rates in 2009 as high as 24% of the property premium for financial institutions and as low as 2% in the food and beverage industry.[29]

The willingness of insurers to cover terrorism risk, as well as their financial capability to do so, has increased over the past decade. From the late 2001 and 2002 marketplace, where terrorism coverage was essentially unavailable, the latest estimates from the insurance broker Guy Carpenter are that between $6 billion and $8 billion in terrorism reinsurance capacity is available in the U.S. market. The combined policyholder surplus among all U.S. property/casualty insurers was $551.8 billion at the start of 2012, up from $293.5 billion at the start of 2002.[30] This amount, however, backs all policies in the United States and is subject to depletion in a wide variety of events. Extreme weather losses could particularly draw capital away from the terrorism insurance market, as such weather events share some risk characteristics with large terrorist attacks.

Evolution of Terrorism Risk Insurance Laws

Table 1 presents a side-by-side comparison of the original TRIA law, along with the reauthorizing laws from 2005 and 2007.

[26] Although there is no requirement in federal law to purchase terrorism coverage, businesses may be required by state law to purchase the coverage. This is particularly the case in workers compensation insurance. Market forces, such as requirements for commercial loans, may also compel purchase of terrorism coverage.

[27] Marsh, Inc., *The Marsh Report Terrorism Risk Insurance 2010*, p. 10, and *U.S. Insurance Market Report 2012, Property*, available at http://usa.marsh.com/NewsInsights/GlobalIMR/IMRContent/ID/19468/US-Insurance-Market-Report-2012-Property.aspx.

[28] President's Working Group on Financial Markets, *Terrorism Risk Insurance*, September 2006, p. 37, and *Market Conditions for Terrorism Risk Insurance*, 2010, p. 30.

[29] Marsh, Inc., *The Marsh Report Terrorism Risk Insurance 2010*, p. 14.

[30] AM Best, *Best's Aggregates & Averages, Property-Casualty*, 2002 Edition, p. 2 and AM Best Statistical Study, "U.S. Property/Casualty—2011 Financial Results," March 26, 2012, p. 1.

Table 1. Side-by-Side of Terrorism Risk Insurance Laws

Provision	15 U.S.C. 6701 Note (P.L. 107-297)	P.L. 109-144	P.L. 110-160
Title	Terrorism Risk Insurance Act of 2002	Terrorism Risk Insurance Extension Act of 2005	Terrorism Risk Insurance Program Reauthorization Act of 2007
Expiration Date	December 31, 2005 (Sec. 108(a))	December 31, 2007 (Sec. 2)	December 31, 2014 (Sec. 3(a))
"Act of Terrorism" Definition	For an act of terrorism to be covered under TRIA, it must be a violent act committed on behalf of a foreign person or interest as part of an effort to coerce the U.S. civilian population or influence U.S. government policy. It must have resulted in damage within the United States or to a U.S. airliner or mission abroad. Terrorist act is to be certified by the Secretary of the Treasury in concurrence with the Attorney General and Secretary of State. (Sec. 102(1)(A))	No Change	Removed requirement that a covered act of terrorism be committed on behalf of a foreign person or interest. (Sec. 2)
Limitation on Act of Terrorism Certification in Case of War	Terrorist act would not be covered in the event of a war, except for workers compensation insurance. (Sec. 102(1)(B)(I))	No Change	No Change
Minimum Damage To Be Certified	Terrorist act must cause more than $5 million in property and casualty insurance losses to be covered. (Sec. 102(1)(B)(ii))	No Change	No Change
Aggregate Industry Loss Requirement/Program Trigger	No Provision	Created a "program trigger" that would prevent coverage under the program unless aggregate industry losses exceed $50 million in 2006 and $100 million for 2007. (Sec. 6)	No Change. Program trigger remains at $100 million until 2014. (Sec. 3 (c))
Insurer Deductible	7% of earned premium for 2003, 10% of earned premium for 2004, 15% of earned premium for 2005. (Sec. 102(7))	Raised deductible to 17.5% for 2006 and 20% for 2007. (Sec. 3)	No Change. Deductible remains at 20% until 2014. (Sec. 3(c))

Provision	15 U.S.C. 6701 Note (P.L. 107-297)	P.L. 109-144	P.L. 110-160
Covered Lines of Insurance	Commercial property/ casualty insurance, including excess insurance, workers' compensation, and surety but excluding crop insurance, private mortgage insurance, title insurance, financial guaranty insurance, medical malpractice insurance, health or life insurance, flood insurance, or reinsurance. (Sec. 102(12))	Excluded commercial auto, burglary and theft, professional liability (except for directors and officers liability), and farm owners multiple peril from coverage. (Sec. 3)	No change from P.L. 109-144
Mandatory Availability	Every insurer must make terrorism coverage that does not differ materially from coverage applicable to losses other than terrorism. (Sec. 103(c))	No Change. Mandatory availability extended through 2007. (Sec. 2(b))	No Change. Mandatory availability extended through 2014. (Sec. 3(c))
Insured Shared Loss Compensation	Federal share of losses will be 90% for insured losses that exceed the applicable insurer deductible. (Sec. 103(e))	Reduced federal share of losses to 85% for 2007. (Sec. 4)	No Change. Federal share remains at 85% through 2014.
Cap on Annual Liability	Federal share of compensation paid under the program will not exceed $100 million and insurers are not liable for any portion of losses that exceed $100 million unless Congress acts otherwise to cover these losses. (Sec. 103(e))	No Change	Removed the possibility that a future Congress could require insurers to cover some share of losses above $100,000,000,000 if the insurer has met its individual deductible. Requires insurers to clearly disclose this to policy holders. (Sec. 4(a) and Sec. 4(d))
Payment Procedures if Losses Exceed $100,000,000,000	After notice by the Secretary of the Treasury, Congress determines the procedures for payments if losses exceed $100 billion. (Sec. 103(e)(3))	No Change	Required Secretary of the Treasury to publish regulations within 240 days of passage regarding payments if losses exceed $100 billion. (Sec. 4(c))
Aggregate Retention Amount Maximum	$10 billion for 2002-2003, $12.5 billion for 2004, $15 billion for 2005 (Sec. 103(6))	Raises amount to $25 billion for 2006 and $27.5 billion for 2007. (Sec. 5)	No Change. Aggregate retention remains at $27.5 billion through 2014.

Provision	15 U.S.C. 6701 Note (P.L. 107-297)	P.L. 109-144	P.L. 110-160
Mandatory Recoupment of Federal Share	If insurer losses are under the aggregate retention amount, a mandatory recoupment of the federal share of the loss will be imposed. If insurer losses are over the aggregate retention amount, such recoupment is at the discretion of the Secretary of the Treasury. (Sec. 103(e)(7))	No Change	Increases total recoupment amount to be collected by the premium surcharges to 133% of the previously defined mandatory recoupment amount. (Sec. 4(e)(1)(A))
Recoupment Surcharge	Surcharge is limited to 3% of property-casualty insurance premium and may be adjusted by the Secretary to take into account the economic impact of the surcharge on urban commercial centers, the differential risk factors related to rural areas and smaller commercial centers, and the various exposures to terrorism risk across lines of insurance. (Sec. 103(8))	No Change	Removes 3% limit for mandatory surcharge. (Sec. 4(e)(2)(A))

Source: Congressional Research Service, using Public Laws obtained from the Government Printing Office through http://www.congress.gov.

Notes: Section numbers for the initial TRIA law are as codified in 15 U.S.C 6701 note. Section numbers for P.L. 109-144 and P.L. 110-160 are from the legislation as enacted.

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NAIC's Center for Insurance Policy and Research Brunch: Insurance for Acts of Terrorism

An Actuarial Perspective on the Future of Terrorism Risk Insurance

Michael E. Angelina, ACAS, MAAA
Vice President, Casualty Practice Council

April 9, 2013

AMERICAN ACADEMY of ACTUARIES

About the American Academy of Actuaries

The American Academy of Actuaries is a 17,000-member professional association whose mission is to serve the public and the U.S. actuarial profession. The Academy assists public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualifications, practice, and professionalism standards for actuaries in the United States.

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Overview of Remarks

- The Insurability of Terrorism Risk
  - Frequency is small, but exposure is significant
  - Annual cost of current program varies greatly depending on whether an attack occurs; scenarios with and without future triggering events should be considered
- The Current and Prospective Private Market for Terrorism Coverage
  - Market has been stable because of federal backstop
- How the Terrorism Risk Insurance Program (last authorized in 2007, expires in 2014) Works
- The Importance of Timely Terrorism Risk Insurance Program (TRIP) Renewal
  - Impact of non-renewal on industry capacity is significant

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The Insurability of Terrorism Risk

- Terrorism risk unlike most insurable risks
  - Difficult to measure frequency (possible/probable number of events) or severity (maximum size/cost)
  - Difficulty in measuring risk → difficulty pricing for it
  - Randomness of losses: most insurable risks occur at random times in random locations and are of random magnitudes; terrorism losses are anything but random
  - Rarity of terrorist attacks results in lack of available data on which to base estimates of frequency or severity of future losses
  - Terrorist attacks are intrinsically focused on maximizing financial/psychological impact, so unlikely to be geographically dispersed, which can cause adverse selection

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The Insurability of Terrorism Risk

- Tendency to think threat of terrorist attacks on U.S. soil has abated, but risk persists
- Magnitude of potential losses:
  - $778.1 billion in estimated insured losses from a large chemical, nuclear, biological, or radiological (CNBR) attack on New York City[1]
  - While this figure is six years old, it would likely only be higher in 2013 as a result of increased concentration of risks and property values

[1]Above figure taken from stochastic modeling found in Academy's 2006 Report to President's Working Group on Financial Markets

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The Insurability of Terrorism Risk

- Extent/breadth of exposure:[2]
  - Between May 2009 and Aug. 2012, there were 16 attempted terrorist attacks on U.S. cities[3]
  - Unrest in Middle East/"Arab Spring"
  - July 2012 RMS briefing: increasing "homegrown" terrorist threat of conventional attacks by individual operatives
  - Transit system threats
  - Maritime piracy/terrorism

[2]See Robert P. Hartwig, "Terrorism Risk: A Continuing Threat—Impacts for Property/Casualty Insurers," available at http://www.iii.org/assets/docs/pdf/paper_Terrorism_090612.pdf

[3]See Robert P. Hartwig, Testimony Before House Financial Services Subcommittee on Insurance, Housing and Community Opportunity, "TRIA at Ten Years: The Future of the Terrorism Risk Insurance Program," available at http://financialservices.house.gov/uploadedfiles/hhrg-112-ba04-wstate-rhartwig-20120911.pdf

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The Current and Prospective Private Market for Terrorism Coverage

Current Conditions of Private Market for Terrorism Coverage:

- Market has been stable over the past several years
- According to 2008 report, "Terrorism Insurance: Status of Efforts by Policyholders to Obtain Coverage," by Government Accountability Office (GAO):
  - Terrorism risk insurance generally available nationwide, reasonably-priced, and affordable, except for owners of large, high-value properties in densely-built cities
  - Some of those owners bought coverage from a large number of insurers or via a separate policy (rather than as part of a property insurance package), or self-insured

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The Current and Prospective Private Market for Terrorism Coverage

- According to 2010 Report by the President's Working Group (PWG) on Financial Markets on Market Conditions for Terrorism Risk Insurance:
  - Availability & affordability have improved since 2006 because insurers built capital and increased market capacity
  - Capacity is still constrained in high-risk geographic locations and properties
  - Market improvements (between 2006 and 2010) may be due to:
    - improvements in modeling and managing aggregate loss exposure
    - new market entrants and increased competition
    - better understanding of aggregate risk
    - increased capacity and competition, resulting in lower prices
  - Take-up rates among commercial policyholders reached approx. 60 percent in 2006 but have remained flat since then
  - Market participants are still uncertain about models' ability to predict frequency and severity

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The Current and Prospective Private Market for Terrorism Coverage

Factors Influencing Prospective Private Market:

- Uncertainty influences policyholder perception of risk and purchase decisions, as well as insurer and reinsurer capacity allocations
- Key factors include:
  - Capacity
  - Ability to estimate potential exposure to loss resulting from terrorism events
  - Ability to obtain reasonable pricing of insurance to cover those events
  - Level of insurer/reinsurer capital
  - Availability of federal backstop
- Capacity will continue to limit private market expansion
  - CNBR attacks widely perceived to be uninsurable because of inability to quantify exposures; contractual exclusions of such attacks permitted under TRIP
  - Even for non-CNBR attacks, capacity is insufficient in private reinsurance market and would need to increase significantly for private reinsurance market to absorb risks currently covered by TRIP

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How TRIP Works

- Triggered by domestic or foreign terrorist acts likely to produce total insurance industry losses above $100 million
- Individual company deductibles (before TRIP kicks in) set at 20 percent of commercial P&C insurance earned premiums from prior calendar year
- Copays (above deductibles/retentions) covered by federal government at 85 percent and by insurer at 15 percent
- Industry altogether must cover a certain amount of losses through deductibles and copays (“aggregate retention”). Required aggregate retention amount is currently $27.5 billion. If retention is ultimately found to be below required aggregate retention amount, federal government can recoup the difference; payment would come from surcharge on commercial insurance policies, not to exceed 3 percent of premium for coverages to which TRIP applies.

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How TRIP Works

- Currently no make-available provision for CNBR coverage
- Eligible business lines: commercial lines, workers' comp pools, state-licensed captives, risk retention groups. Personal lines (auto, home, etc.), group life, and reinsurers not covered.
- In exchange for federal government backstop, commercial insurers must make coverage available and on same terms as they offer in rest of their coverage
- Assuming zero triggering events and TRIP's continued existence, President Obama's FY2013 budget contemplated net spending of $584 million from 2013–2017 (roughly $116 million annually)[3] on TRIP
  - Current incarnation of TRIP expires at end of 2014, and budgetary assumptions for 2013-2017 assume continuation of current funding levels

[3]See White House Fiscal Year 2013 Budget Appendix, available at http://www.whitehouse.gov/sites/default/files/omb/budget/fy2013/assets/appendix.pdf

Importance of Timely TRIP Renewal

Without TRIP or similar federal backstop for terrorism risk insurance:

- Persistent uncertainties regarding potential attacks make it likely that premiums for terrorism risk insurance will become expensive and volatile
- Availability will be greatly reduced, particularly after next event
- If/when next event occurs, federal government is likely to cover commercial losses
  - It is appropriate that federal government provides backstop to losses caused by terrorist attacks as part of cost of national security defense

Importance of Timely TRIP Renewal

Without TRIP or similar federal backstop, we expect the following:

- Some coverage types (e.g., workers' compensation) are required to apply to claims made by those who suffer losses in terrorist attacks; such coverages will become much riskier for insurers
  - required coverage will become more expensive and/or less available over time
  - insurers needing to limit terrorism risk exposure would have no choice but to avoid underlying exposure (i.e., number of insureds in which the insurer provides any coverage at all will be necessarily reduced to control exposure to most expensive events)
  - if no exclusions for riskiest coverage (e.g., coverage for CNBR losses) are permitted by state law, states could expose insurers to very large losses and could ultimately reduce availability of non-terrorism coverage and financial solvency of affected insurers

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Importance of Timely TRIP Renewal

- Estimated cost to insurers if terrorist attack occurs after TRIP expires:
  - Conventional attack: insured losses would be substantially similar to insured losses from Sept. 11 ($32.5 billion in 2001 dollars)
  - CNBR attack: insured losses could range from $27.3 to $778.1 billion
- Private primary/reinsurance market capacity is likely to be insufficient to fill the gap that would be created by TRIP's expiration
- Existing market could be disrupted should TRIP be permitted to expire, even if it is eventually reauthorized; experience with National Flood Insurance Program's repeated expirations and reauthorizations is instructive

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Importance of Timely TRIP Renewal

- Some federal backstop for terrorism risk insurance necessary for terrorism coverage to be widely and readily available
- Assuming lack of federal backstop, we should not expect any significant reduction in uncertainty associated with estimating terrorism risk exposure or any increase in amount of private capital invested in terrorism risk reinsurers
- Absence of federal backstop will reduce availability of coverage and potentially result in insufficient capital to support insurance of a variety of plausible terrorism events

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Conclusion

- To the extent that coverage for conventional terrorism risk is available and affordable, it is attributable to existence of TRIP
- Structure of program has encouraged development of reinsurance for layers of risk that insurers must bear themselves (deductible amounts and copays), which allows primary insurers to provide coverage
- Without TRIP, insurers would be far less likely to offer terrorism risk insurance

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An Actuarial Perspective on the Future of Terrorism Risk Insurance

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The Center for Insurance Policy and Research

Terrorism Risk Insurance Act

April 9, 2013

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TRIA Politics (2001-2007)

2001

- Rs created; one time backstop

2004

- Rs split; House seeks LT phase-out
- Senate/Admin = one time ST extension

2007

- Terrorism recognized as ongoing threat, largely uninsurable in the private markets
- Long term extension; minimal opposition

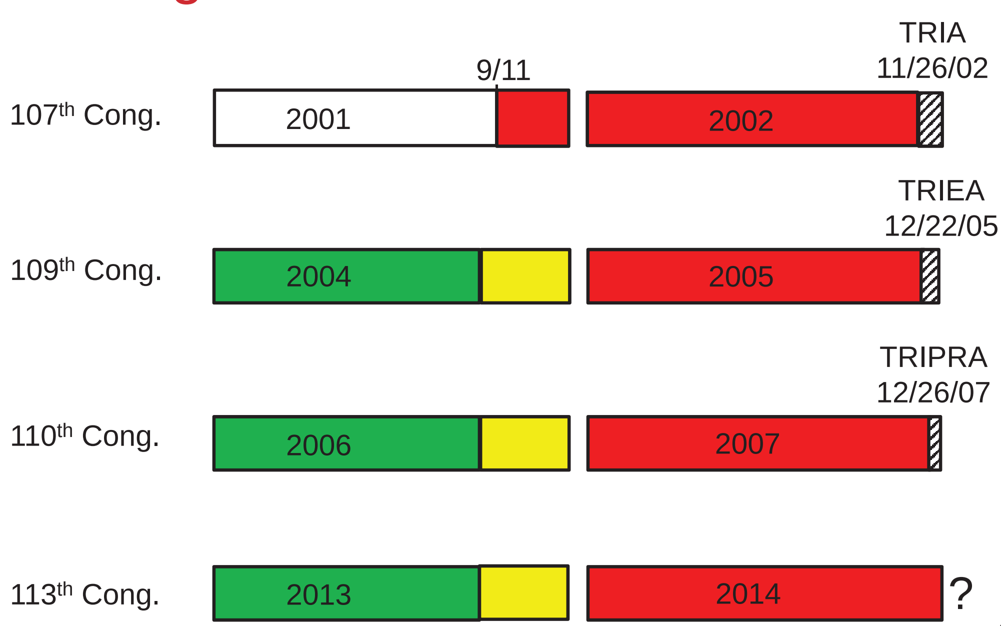
2

TRIA Politics (2013)

- General/broad support but pockets of opposition
  - Conservative skepticism of government
- New factors
  - New members/less TRIA expertise
  - Bailout fatigue
  - Obama Administration
  - Federal Insurance Office (FIO)
  - Cyber-security concerns

3

Timing



4

Policy

- If it ain't broke, don't fix it
- Previous tweaks
  - Covered lines
  - Deductibles, triggers, co-share
    Definition of terrorism
  - Recoupment
- Additional issues: Pooling, NBCR, Cyber

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Advocacy

- Consumers first
  - Policyholders coordinating advocacy efforts
- Targeted messaging
- Hard data
  - Hubbard Study
  - Reports: PWG, GAO, Marsh, etc.
  - PCI analysis

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Fiscal Responsibility

- Hasn't cost taxpayers a penny in loss costs
- TRIA keeps private capital in the game
- Federal backstop triggered only in largest catastrophic losses
- Recoupment minimizes taxpayer exposure
- Minimize post-event government expenditures

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TERRORISM EVENTS AND PLOTS IN THE U.S. SINCE SEPTEMBER 2001

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Notes