

The Terrorism Risk Insurance Act (TRIA) was signed into law in November 2002 to create a federal “backstop” for insurance claims related to acts of terrorism. TRIA is set to expire on December 31, 2014. TRIA is critical for many industries, including the real estate industry, as lenders typically require terrorism insurance to be obtained by owners of large and/or iconic real estate projects, especially in large and gateway cities in the US.

Like many other federal programs that require the US government to take on financial risk, TRIA reauthorization faces a challenging political and economic climate in Congress this year. Further, with a few months left before Members of Congress shift their focus to the impending elections, time is of the essence to advance TRIA reauthorization before it expires in December. As such, on June 3, the Senate Committee on Banking, Housing, and Urban Affairs will begin advancing its TRIA reauthorization proposal through a markup on the bipartisan TRIA reauthorization proposal, S. 2244. Similarly, the House continues to work on finalizing its reauthorization proposal this month. This publication highlights these recent efforts and the steps ahead of TRIA reauthorization in the House and Senate this summer.

As the Congress debates TRIA reauthorization, there are some in Congress who debate whether there is a sufficient terrorist threat still at play that would require TRIA to exist, as well as a view that the private markets should just “step in” and fill the void. Leadership in Congress, the Administration and the private sector agree that the next major terrorist threat is most likely a cybersecurity attack. As in the case of the Stuxnet virus and others like it, cybersecurity attacks can cause a catastrophic physical impact that demonstrates a sufficient terrorist threat and continuing need for TRIA.

### **Senate Efforts Regarding TRIA Reauthorization**

Earlier this year, the Chair of the Senate Committee on Banking, Housing, and Urban Affairs, Tim Johnson (D-SD), called for bipartisan support to extend the federal terrorism insurance backstop “well before” it expires on December 31, 2014. Members of the Committee have specifically debated whether TRIA needs to be modified to also cover acts of terrorism as a result of a cybersecurity attack. On June 3, during its markup of S. 2244, the Committee will have an opportunity to focus more intently on TRIA reauthorization, particularly in light of the Committee’s recent work to favorably report out of Committee its legislative proposal to reform the Government-Sponsored Enterprises (GSEs).

### **House Efforts Regarding TRIA Reauthorization**

In the past, the Chairman of the House Committee on Financial Services and other Republicans expressed hesitancy in extending TRIA beyond 2014, given the exposure to taxpayers and concerns about the temporary program becoming permanent. Nonetheless, some House Republicans, including many who are considered to be politically vulnerable during the upcoming 2014 mid-term election, want TRIA to be extended as quickly as possible.

As a result, the process for considering TRIA reauthorization has begun. On May 1, Representative Randy Neugebauer (R-TX), Chair of the House Financial Services Subcommittee on Housing and Insurance, released an outline of his proposed TRIA reauthorization bill. More recently, during a House Financial Services Committee hearing on May 20, Representative Neugebauer noted that Republicans will work over the next two weeks to finalize a draft TRIA reauthorization bill with a markup expected in June. Representative Neugebauer also noted he would request feedback on the draft from the Subcommittee’s Ranking Member, Michael Capuano (D-MA), “with the hopes of working on a bipartisan basis.”

While negotiations are still ongoing, it is expected that Representative Neugebauer’s legislation would extend TRIA for three to five years and would create a bifurcated system of insurance for conventional or non-conventional terrorist attacks. In addition to Representative Neugebauer’s legislation, the following legislative proposals have also been introduced to reauthorize TRIA: H.R. 508 (to extend the terrorism risk insurance program for five years, expiring in 2019); H.R. 2146 (to extend the terrorism risk insurance program for ten years, expiring in 2024); and H.R. 1945 (to extend the terrorism risk insurance program for ten years, expiring in 2024, and require that Homeland Security and Best Practices information be provided to “insureds”). We do not expect movement on these bills in the near future. Instead, we expect House Republicans to approve Representative Neugebauer’s narrow renewal of TRIA with some modifications.

Of note, the House Financial Services Committee Chairman Jeb Hensarling (R-TX) will have to sign off on the final product that Representative Neugebauer proposes. Likely, Chairman Hensarling will favor having TRIA extension reported out of Committee by the end of June. Further, news sources have noted that House Majority Leader Eric Cantor (R-VA) is likely to support the TRIA legislation that is reported out of the House Financial Services Committee.

The Financial Services group at Squire Patton Boggs continues to advance clients’ interests in TRIA. For additional information regarding TRIA reauthorization efforts in Congress and how they impact your business, please contact one of the individuals listed in this publication.

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