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Terrorism Risk Insurance Program Re-Authorization Act of 2007

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On December 26, 2007, President Bush signed the Terrorism Risk Insurance Program Re-Authorization Act of 2007("Re-Authorization Act) which extends the present TRIEA(Extension Act) from December 31, 2007 to December 31, 2014. The original TRIA act provided a shared private insurer and government mechanism for insured property casualty losses which resulted from an act of Sabotage and Terrorism in the United States.

"It is important that each insured...get advice from their risk management advisor."

There are some changes to the provisions of the current Act which are important to highlight as follows:

- The definition of the "Act of Terrorism" has been changed; the Act does not differentiate now between "Certified and Non-Certified" Acts of Sabotage and Terrorism as before. Under the Re-Authorization Act, acts of Sabotage and Terrorism committed by anyone in the United States are covered for purposes of the Act .
- The "Insurer Deductible" is the value of 20% of the insurer's direct earned premium for commercial Property and Casualty lines of business for the year directly preceeding the Sabotage and Terrorism event. This is a change over Extension Act's 15% deductible.
- The Act is triggered when a Sabotage and Terrorism event generates an insurance market Property and Casualty lines loss of USD$100,000,000. This is a change over the Extension Act's trigger of USD$50,000,000.
- The insurance marketplace annual aggregate retention limit is the lesser of USD $27,500,000,000 and the aggregate amount. USD $27,500,000,000 is the maximum retention in any one calendar year that the insurance marketplace will hold. The US Government will provide the financial backdrop from USD$27,500,000,000 to USD100,000,000,000 which is the US Goverments' financial cap for losses in any one calendar year. The Re-Authorization Act has provisions in it to allow the US Government to recoup the amount it spends above the insurance marketplace annual retention via policyholder surcharges.

Each insurance company is required to make available this coverage for all applicable Property and Casualty lines of business subject to a clear and conspicuous Disclosure Statement to the policyholder which outlines the Act, premium charged for the Act coverages, and the Federal share of compensation for insured losses under the program. The only line of coverage which the Act is automatically included is Workers' Compensation.

Acts of Sabotage and Terrorism from Nuclear, Biological and Chemical means continue not to be covered under the Act. The Act does require the Comptroller General Monitor and issue reports on the affordability, capacity, and availability of this type of insurance and the future outlook for such coverage. This provision of the Act seems To indicate that this type of coverage will be evaluated on a more periodic basis and changes may be made at a later date.

The Secretary of Treasury is still the ultimate determining authority on whether the provisions of the Act have been sufficiently triggered to put the full government Mechanism in place.

Insurer pricing for Sabotage and Terrorism coverage under the Act remains solely up to each individual insurer. We do not know what changes to pricing will result from The Acts' higher insurer deductible, however, with no covered events since the inception of TRIA in 2002, pricing is unlikely to go up.

It is important that each insured analyse their exposure to loss and get advice from their risk management advisor.

Source: Department of the Treasury Interim Guidance

This article is intended as an overview and should not be viewed as legal advice. Please consult with your attorney if you have any questions.

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