

# REAUTHORIZE THE TERRORISM RISK INSURANCE ACT

## Congressional Action Needed:

Lawmakers need to act quickly to reauthorize the Terrorism Risk Insurance Act (TRIA) of 2002, before it expires at the end of 2014. Terrorism risk insurance is critical to securing financing in commercial real estate; without it property values may drop and construction and development may stall. The federal backstop set up by TRIA has, for the past twelve years, ensured that terrorism risk insurance is widely available and affordable at virtually no cost to taxpayers, and the reauthorization measure should not make big changes to a program which works.

## Congressional Actions to Date:

- Several hearings focused on the TRIA program and its future have been held by the House Financial Services Committee and the Senate Banking Committee during the 113th Congress.
- In April 2014, Senator Schumer (D-NY) introduced S. 2244, the Terrorism Risk Insurance Program Reauthorization Act of 2014, which would renew the program for seven years and raise the mandatory recoupment amount from \$27.5 to \$37.5 billion. The Senate Banking Committee held a markup hearing on the bill in June, and it was unanimously approved by Committee members.
- Several renewal measures have been introduced in the House, including Rep. Neugebauer's (R-TX) bill, H.R. 4871, the TRIA Reform Act of 2014, which would renew the program for five years. It makes several changes to TRIA, including raising the level of aggregate losses required before the federal government expends any money (the "trigger" amount at which point the TRIA program engages) from \$100 million to \$500 million, create a small-insurer opt-out provision, and bifurcate the treatment of "conventional" terrorism attacks and nuclear, biological, chemical and radiological (NBCR) attacks. H.R. 4871 was marked up by the House Financial Services Committee in June and was approved by a party-line vote of 32-27.
- In July, the Senate voted to approve S. 2244 by a vote of 93-4.

## What to Tell Your Representatives and Senators:

- TRIA is critical to commercial real estate. Terrorism insurance is an important factor in commercial financing, and is a key structural protection for commercial mortgage-backed securities (CMBS). Without TRIA, insurers may exclude terrorism from property coverage, and some firms may decline to rate or cap their ratings on CMBS transactions.

- TRIA keeps coverage available and affordable. By providing the backstop from the federal government, TRIA allows small and mid-size insurers throughout the country are able to offer coverage they otherwise would not have the capacity to provide. This will allow more insurers to continue to offer coverage, keeping insurance available and competitively priced.
- TRIA does not cost the taxpayers any money. The Senate bill has a CBO score of "zero." Only after a catastrophic terrorist event that exceeds the "trigger" amount of \$100 million in losses. The bill's mandatory recoupment provision requires that up to \$27.5 billion of that amount be repaid by insurers, and gives the Treasury discretion to require more.
- TRIA reauthorization should not be done at the last-minute. As the expiration date nears, uncertainty about the program's future negatively affects the market. Currently, many policies being renewed have "springing exclusions" written into them which state that if TRIA is not reauthorized, their terrorism risk insurance coverage ends on December 31, 2014.

## Issue Background:

Terrorism risk insurance is vital to commercial real estate and development throughout the country. Following the September 11, 2001 terrorist attacks, the challenges in underwriting the risks of claims resulting from acts of terrorism were magnified, and private insurers backed out of covering losses due to the difficulties with modeling for terrorist events, as they are manmade and specifically designed to be unpredictable and cause immense damage. This caused construction, development and commercial real estate deals across the country to stall while terrorism coverage was unavailable. The federal backstop program created by TRIA allows private insurers to continue to provide coverage throughout the country at affordable rates, and also provides security by creating a framework for immediately beginning the economic recovery following a catastrophic terrorist attack. All of this comes with no cost to taxpayers under the current system.

## Opposing Viewpoints

- Critics argue that the private insurance market can now adequately cover the demand for terrorism insurance due to improved modeling capabilities, and that the TRIA program is no longer necessary.
- The federal government should not be in the insurance business if adequate coverage is available in the private market.
- The recoupment provision will be waived in the face of a catastrophic event and TRIA will end up costing taxpayers money in the end.