

PENDING TRIPRA EXPIRATION IMPACTS WORKERS' COMPENSATION INDUSTRY

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Many organizations with large concentrations of employees are experiencing significant pressure on their workers' compensation programs as uncertainty mounts over the future of the Terrorism Risk Insurance Program Reauthorization Act (TRIPRA). Issues range from price increases to the possibility that their insurer will not renew their coverage.

The federal terrorism insurance backstop program — TRIPRA — is set to expire on December 31, 2014, without congressional action to extend it. A handful of bills have been introduced in the US House of Representatives to

extend TRIPRA (see **FIGURE 1**); however, to date, there has been little substantive action on the legislation in the House Financial Services Committee.

As insurers evaluate their business in light of the uncertainty, some have limited their underwriting of workers' compensation for companies with high concentrations of employees in major cities. Because insurers cannot exclude terrorism-related losses and employers are required to buy it, the options available to buyers have been reduced and rate increases have accelerated.

FIGURE 1 | SUMMARY OF PROPOSED TRIA REAUTHORIZATION LEGISLATION
 AS OF JANUARY 10, 2014

STIPULATIONS	TERRORISM RISK INSURANCE ACT OF 2002 REAUTHORIZATION ACT OF 2013 (H.R. 508)	TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT OF 2013 (H.R. 2146)	FOSTERING RESILIENCE TO TERRORISM ACT OF 2013 (H.R. 1945)
SPONSORSHIP	78 COSPONSORS: 43 DEMOCRATS AND 35 REPUBLICANS	43 COSPONSORS: 42 DEMOCRATS AND 1 REPUBLICAN	6 DEMOCRAT COSPONSORS
TERM (EXPIRATION)	DECEMBER 31, 2019	DECEMBER 31, 2024	DECEMBER 31, 2024
RECOUPMENT DEADLINE	SEPTEMBER 30, 2024	SEPTEMBER 30, 2027	SEPTEMBER 30, 2024
REPORTING REQUIREMENTS	NONE	2013, 2017, 2020, AND 2023 ON THE FINDINGS OF THE PRESIDENT'S WORKING GROUP ON FINANCIAL MARKETS TO DETERMINE LONG TERM AFFORDABILITY/AVAILABILITY OF TERRORISM INSURANCE.	2013, 2017, 2020, AND 2023 ON THE FINDINGS OF THE PRESIDENT'S WORKING GROUP ON FINANCIAL MARKETS TO DETERMINE LONG TERM AFFORDABILITY/AVAILABILITY OF TERRORISM INSURANCE.

■ EMPLOYEE CONCENTRATION

The issue of employee aggregation affects any employer with a large number of employees in a single location or campus, as is common in financial institutions, hospitals, defense contractors, higher education, hotels, professional services, and nuclear.

Traditionally, insurers monitored workers' compensation aggregations (an insurer's cumulative insured employee concentrations in a geographic area) to assess the potential impact that an earthquake would have on their book of business. However, after the September 11, 2001, attacks, workers' compensation insurers and reinsurers immediately focused on employee concentration in large cities that were deemed high-risk terrorism targets. They continue to do so, and modeling of this exposure has become more sophisticated.

Insurers that are writing multiple lines of business, such as workers' compensation and property, consider the impact of potential terrorism losses across all correlated lines. Some insurers will decline a risk outright because they are "over-lined" in a particular ZIP code or city and others may impose a premium surcharge for a particularly large workers' compensation risk. Underwriting scrutiny has increased with improved catastrophe modeling that can produce detailed worst-case loss scenarios, including some that generate losses so large that without TRIPRA insurers would not write the risk.

Because of their state-regulated, statutory nature, workers' compensation policies do not include policy limits similar to other commercial insurance policies, nor do they include limitations or exclusions for terrorism losses. Instead, insurers reduce their terrorism exposure by limiting the amount of capacity deployed in certain areas.

■ RENEWALS: WHAT TO EXPECT

Insurers in 2014 are underwriting workers' compensation policies that contemplate coverage without the potential financial protections of TRIPRA, presenting challenges for some workers' compensation buyers. Most insurers are less willing to underwrite the risks of employers in certain high-profile industries, with large employee concentrations, or in certain major cities. Such employers are likely to experience higher rates and premiums as the uncertainty over TRIPRA continues.

Often insurers will attach endorsements to a policy, such as NCCI endorsement WC000114, which states in part that:

"The premium charge for the coverage your policy provides for terrorism or war losses...may continue or change for new, renewal, and in-force policies in effect on or after December 31, 2014 in the event of TRIPRA's expiration, subject to regulatory review in accordance with applicable state law."

Taking it a step further, some insurers are setting the policy expiration dates to coincide with the anticipated expiration of TRIPRA, intending to push the challenges created by the uncertainty of the federal backstop onto the original insurance buyers.

Starting the renewal process early — 120 days (or more) prior to the policy or program effective date — can help better manage a potentially challenging renewal and one that may be impacted by this issue. The importance of providing a differentiated view of an organization's terrorism risk profile to insurers cannot be overemphasized. To achieve this, employers should work with their advisors to develop communication strategies and presentation tactics around all key risk exposures, including modeling and risk analytics in support of their renewal objectives.

DATA AND RISK PROFILE

Organizations should be prepared to offer underwriters accurate and detailed information regarding exposures and operations, including loss trends, safety programs, and risk management practices.

At renewals, insurers have significantly increased questions focused on the risks associated with a potential terrorist event. Employers facing aggregation issues should be prepared to provide insurers with detailed information, including:

- ▶ Employee marital/dependency status.
- ▶ Employee telecommuting/hospitality practices and impact on concentration.
- ▶ Physical security of the building, including guards, surveillance cameras, parking areas, and HVAC protections.
- ▶ How access to the building is controlled.
- ▶ Construction of the building and location of the offices.
- ▶ Management policies around workplace violence, weapons, and employment screening.
- ▶ Employee security procedures.
- ▶ Emergency response/crisis management plan and procedures.
- ▶ Fire/life safety program.
- ▶ Security staff.

With insurers and reinsurers focusing on catastrophe models, employers with multiple shifts or operating in a campus setting can also help ensure the risk is differentiated for underwriters by providing additional data that can better reflect an employer's actual exposure to catastrophic losses at a given time, such as:

- ▶ The total number of employees and the number working during peak shifts. The number of employees working during peak shifts is the actual exposure to a terrorist event, not the total number of employees.
- ▶ The actual buildings where the employees are located.
- ▶ The percentage of the workforce in the field or telecommuting, rather than in the office where payroll is assigned. Providing this information to insurers could significantly reduce the potential exposures associated with employee concentration.

As options about future real estate plans are considered — for example, the consolidation of employees from multiple locations in a city to a single location or the impact of closing or consolidating satellite locations and relocating employees in major metropolitan areas — it is important to review and consider the potential impact on workers' compensation pricing and capacity.

UNCERTAINTY REMAINS

Congress enacted TRIPRA to provide a financial backstop to the insurance industry that would cap losses in the event of another large-scale terrorist event subsequent to the September 11, 2001, terrorist attacks. Coupled with increasing claims costs, historical unprofitability, and a continued weak interest rate environment, the uncertainty around TRIPRA's future is leading to less availability of workers' compensation capacity and rate increases for risks located in major urban areas.

For more information about terrorism risks and the important role that TRIPRA plays in the insurance marketplace, explore Marsh's [Terrorism Risk Insurance Report](#) or contact:

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