Government Set to Continue Backing Terrorism Insurance

A post-9/11 program meant to be temporary is likely to be renewed until at least 2019.

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In the wake of the September 11, 2001, terrorist attacks, after paying out a record $32 billion in claims, many private insurers decided that terrorism was too costly and unpredictable a risk to cover. So lawmakers stepped in with a temporary solution: The government would share the burden with private insurers for the largest losses after major terrorism events.

Now, after 12 years and no additional attacks, the Terrorism Risk Insurance Act, or TRIA, is on the cusp of its third renewal, raising questions about whether it will ever expire.

TRIA was intended as a short-term solution and carrot to keep private insurers writing policies. In contrast, many other countries went with permanent government programs that collect premiums from private insurers in exchange for a promise that taxpayers will pick up the tab for claims in excess of a fixed amount.

"There is a benefit overall in somebody collecting premiums and banking those premiums for future use to pay for losses or potential future purchases of reinsurance," said Emil Metropoulos, a senior vice president at Guy Carpenter & Co., the reinsurance subsidiary of insurance giant Marsh & McLennan Cos.

In the event of another major terrorist attack in the United States, private insurers would pay the first $100 million before the federal government steps in.

Many Republicans would like to see the program end or at least be dramatically scaled back. House Financial Services Committee Chairman Jeb Hensarling (R-Texas) grudgingly conceded last week that it's "a needed-but-yet-still-temporary program."

Countries from Sri Lanka to Finland have launched national terrorism insurance programs of one sort or another. Germany, France, and Belgium have schemes that share risk among private insurers, creating a communal pool to draw on for big losses. The U.K.'s insurance pool, Pool Reinsurance Company Ltd., uses the government as an insurer of last resort. Pool Re, as it's known, has paid out more than 600 million pounds for 13 different terrorism incidents since it was started in 1993 in response to attacks by the Irish Republican Army. After the two-day attack in Mumbai in 2008 that killed more than 160 people, the Indian Market Terrorism Risk Insurance Pool, which was started in 2002, paid out 3.77 billion Indian rupees (about $63 million today).

Begun in 2002, the United States' Terrorism Risk Insurance Program has never had to pay out a claim. The $32 billion private insurers shelled out after 9/11 still makes those attacks the most expensive globally, according to data collected by Guy Carpenter & Co.

Congress is about to renew TRIA, the law that authorizes the Terrorism Risk Insurance Program and expires at year's end, for the third time. Program supporters argue that when disaster strikes, whether it's a hurricane or a man-made disaster, the government often ends up paying for most of the damage anyhow. And private insurance companies say the market is not yet ready to stand on its own.

"Terrorism is inherently political," said Janice Ochenkowski, managing director at Jones Lang LaSalle, a firm that advises companies on buying insurance. "Terrorism events occur directly because of government action, inaction, positions, or standards. It's not totally unreasonable that the government would be involved in the solution."

Howard Kunreuther, a professor at the University of Pennsylvania's Wharton School of Business and co-director of the Wharton Risk Center, said the government usually has to step in anyway.

"If you have a major terrorist attack that causes a lot of losses, will the federal government come to the rescue and bail these companies out?" he asked. "It's an open question, but we know in the past there has been a tendency for that to happen."

Insurance companies warn that the market would contract if government support ends, which would mean hotels, stadiums, ports, and other businesses would face increased premiums and restricted policies in high-risk areas. Workers' compensation insurance, which is mandatory in most states, could also become more expensive if the program is not renewed, according to a report issued last month by the Rand Corp., a think tank.

Chip Rodgers, vice president of the Real Estate Roundtable, a trade group, warns that if TRIA expires, real estate development will freeze up the way it did after 9/11 because developers won't be able to get the insurance they need to secure loans.

"Our 2002 survey revealed that during the months after 9/11 and before TRIA was enacted, over $15.5 billion of projects in 17 states stalled as a result of a lack of coverage," Rodgers said.

Critics argue that insurers have collected billions of dollars in premiums since then and that the program was never intended to be permanent. Housing and Insurance Subcommittee Chairman Randy Neugebauer (R-Texas) introduced a bill last week that would renew TRIA but put it on a "glide path" toward phasing out government support, he said. The House Financial Services Committee passed his bill Friday, clearing the way for a full House vote later this summer.

The bill would raise the trigger for government support in conventional terrorist attacks from $100 million to $500 million in industry-wide losses. Coverage for nuclear, biological, chemical, or radiological attacks would still kick in after losses of $100 million. The Senate Banking Committee passed a bill earlier this month with a few key differences. The Senate version would extend the program for seven years, for instance, while the House version would only give it five.

With each renewal, Congress has raised the amount insurers must pay out before federal assistance kicks in. It started at $5 million in industry-wide losses, which was raised to $50 million in 2006 and then $100 million in 2007. Lawmakers have also increased the amount that individual insurance companies have to first pay. In 2003, each company had to pay out 7 percent of the previous year's premiums before the government paid anything. That percentage has been rising incrementally and now stands at 20 percent. TRIA also requires insurers repay the government, if there's an event, by collecting additional premiums from future policyholders.

J. Robert Hunter, director of insurance for the Consumer Federation of America, has opposed the program from the beginning. He says it should collect premiums.

"It doesn't charge the people that are actually facing the risk, it charges the people that need it later," said Hunter, who has run other government insurance programs such as the National Flood Insurance Program and the Federal Riot Reinsurance Program, which was created in 1968 to cover urban areas after riots caused many companies to drop out of the market. "The whole thing is put together by Rube Goldberg."

Mark Calabria, a former Republican aide on the Senate Banking Committee who is now at the Cato Institute, said the House bill "is a sign that reform will move quickly and that ultimate passage is essentially guaranteed before the end of the year." Neugebauer said he hopes Congress can reconcile the two versions and pass a renewal before the August recess.