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Federal Terrorism Backstop Bills Would Place Greater Onus on Insurers

Congress signals bipartisan support on separate reauthorization measures.

With the introduction of two bills, substantial progress has been achieved toward extending the federal terrorism backstop. The two bills are: the Terrorism Risk Insurance Program Reauthorization Act of 2014 (S.2244), which was approved by the Senate in a 93-4 vote on July 17; and the TRIA Reform Act of 2014 (H.R. 4871), which was approved by the House Financial Services Committee but has yet to be voted on by the full chamber. These bills aim to extend the current federally sponsored terrorism coverage that is set to expire at the end of 2014. While their introduction signals bipartisan support to extend the federal backstop, both bills increase the insurance industry's liability. Further, neither provides a permanent solution of risk sharing between the private sector and the federal government for insuring terrorism risks. **Exhibit 1** summarizes the key terms of both bills along with the existing terms of the Terrorism Risk Insurance Program Reauthorization Act (TRIPRA).

Exhibit 1
Federal Terrorism Backstop

Terms	TRIPRA (current program)	Senate Bill (S.2244)	House Bill (HR.4871)
Extension	NA	7 years	5 years
Co-Participation	15%	Up to 20% from 15%	15% for NCBR, 20% for non-NCBR
Deductible	$27.5 billion	$37.5 billion (over 5 years)	Lesser of the sum of the insurer deductibles and the aggregate amount, for all insurers, of insured losses
Trigger	$100 million	$100 million	$100 million for NCBR, $500 million by 2019 for non-NCBR
Recoupment	133%	133%	150%
Timeline for Certification	Not Specified	Not Specified	90 days

Note: NCBR indicates nuclear, biological, chemical and radiological acts of terrorism.
Source: A.M. Best research

The Senate Bill, which extends TRIPRA for seven years, gradually increases aggregate insurer retention to $37.5 billion over five years. The House Bill seeks a five-year extension and increases the aggregate retention amount to equal the sum of insurer deductibles for the preceding program year for all participating insurers. Another key difference among the two bills is the program trigger. The Senate Bill would keep the program trigger at $100 million. The House Bill would increase the trigger from $100 million to $500 million over five years for terrorism events caused by conventional means, while leaving the trigger at $100 million for nuclear, biological, chemical and radiological (NBCR) acts of terrorism. Both bills seek to increase insurer co-participation to 20% from the current 15%; however, the House Bill would leave it at 15% for NBCR acts.

The current program does not bifurcate between conventional and NBCR acts of terrorism as proposed by the House Bill. Furthermore, the House Bill gives smaller insurers the option of not providing terrorism insurance if they can demonstrate to their respective state regulatory authority that offering coverage would cause financial hardship or that providing terrorism insurance is not financially feasible.

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Attached to both bills and unrelated to terrorism coverage is the creation of the National Association of Registered Agents & Brokers, an independent nonprofit body that would permit multi-state licensing for insurance producers.

The changes under the bills will impact the exposure for some insurers. If such an increase exceeds a company's risk tolerance and mitigation strategies are not available or affordable, it may result in non-renewal of concentrated risks. As stated in previous A.M. Best Briefings, a federal backstop reduces the impact terrorism losses have on a company's risk-adjusted capitalization, but over-reliance on such a mechanism is not a substitute for sound risk management. The increase in retention and co-participation could cause the net liability of risks previously insured to exceed a company's risk tolerance.

A.M. Best will continue to monitor the situation and potential changes to TRIPRA as the legislation debate moves forward. Since a permanent program extension has not been proposed, A.M. Best will continue to conduct stress tests on insurers to evaluate the effect terrorism exposures will have on the balance sheet without the benefit of TRIPRA (see Best's Briefing: *Future of TRIPRA Remains Uncertain, Rating Pressure Intensifies, Oct. 9, 2013*). Although A.M. Best's Dec. 19, 2013 press release stated that no immediate rating impact was expected if TRIPRA was not renewed, analytical teams will continue to discuss companies' mitigation initiatives based on current and expected market conditions.

For more information on how A.M. Best views terrorism risk, please see the criteria *The Treatment of Terrorism Risk in the Rating Evaluation.*

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