The enactment of the Terrorism Risk Insurance Program Reauthorization Act (TRIPRA) of 2015 set into motion a flurry of activity related to its implementation. Provisions included in the Act ensure that terrorism insurance and the efficacy of the federal government backstop will continue to be examined for the duration of the terrorism insurance program’s reauthorization. But this time, there is also some additional work to be performed.

In the successful reauthorization efforts from 2004 and 2007, stakeholders such as public policymakers, policyholders, carriers, and brokers were able to put terrorism insurance renewal on the back burner until its expiration began to loom. That is not the case in 2016. During the most recent reauthorization debate, Congress took note that there appeared to be a lack of information regarding the impact of TRIPRA on insurance markets. As a result, reporting provisions were included in last year’s legislation.

TRIPRA—IMPLEMENTATION MOVES FORWARD

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By Tim Tucker
NCCI Washington Affairs Executive

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In the successful reauthorization efforts from 2004 and 2007, stakeholders such as public policymakers, policyholders, carriers, and brokers were able to put terrorism insurance renewal on the back burner until its expiration began to loom. That is not the case in 2016. Shortly after the enactment of TRIPRA, FIO began to engage stakeholders impacted by the Section 111 requirement—including carriers, brokers, reinsurers, and statistical agents. FIO’s objective was to determine the most effective and efficient manner to meet its statutory obligation. It became clear over the course of three formal stakeholder consultations that several significant hurdles had to be overcome.

The first hurdle was interpreting the Section 111 data elements that FIO is required to collect. The section contains six elements related to terrorism insurance that must be collected from carriers impacted by the backstop:

- Lines of insurance with exposure to terrorism losses
- Premiums earned on such coverage
- Geographical location of exposures
- Pricing of such coverage
- Take-up rate for such coverage
- The amount of private reinsurance for acts of terrorism purchased

In many cases, the manner in which data is collected varies significantly by line of insurance and is often driven by applicability and business needs.

That fact, coupled with variations by carrier, presented FIO with short- and long-term challenges. In the near term, FIO needed to determine how much more carrier
data was readily available (and from what sources) for use in the 2016 congressional report. FIO then needed to determine the practicality and industry impacts (e.g., standardization of data elements, carrier system modifications, etc.) of collecting additional data for subsequent annual terrorism insurance reports.

State Regulatory Impacts of TRIPRA

With the newest enactment of TRIPRA came additional shifting of exposure away from the federal government to the insurance industry for losses from large-scale terrorist attacks.

That additional industry exposure led state regulators, through the National Association of Insurance Commissioners (NAIC), to begin examining what terrorism insurance data is needed to carry out their responsibilities of monitoring carrier solvency regulation and market oversight. Since the inception of the federal backstop in 2002, state regulators had not required carriers to report data on terrorism insurance coverage.

State regulators initiated a dialogue on the best mechanism that could be leveraged to collect terrorism data. Initially, the NAIC pursued the implementation of a Supplement to the Annual Statement Blank. Stakeholders suggested that a data call would likely be a more effective approach to collect information to perform regulatory oversight.

Eleven state insurance departments (CA, CT, DC, FL, IL, LA, MO, NY, PA, RI, and TX) agreed to participate in the NAIC’s initial phase of the 2016 data call for terrorism insurance coverage, with additional states anticipated to join in subsequent phases. It was determined that for reasons of data confidentiality, the New York department would coordinate the data call. The NAIC and the participating states have requested that NCCI provide the terrorism coverage data required in the data call. NCCI’s ability to fulfill this role ensures that the industry is not required to take any direct action to meet the requirements of the NAIC data call.

To the extent possible, state regulators and FIO coordinated to limit the duplication of information collected and reduce the burden on the industry. However, given the different mandate of each and the attendant timelines, there were some limitations to the degree of coordination achieved.

Workers Compensation: A Step Ahead

As noted above, shortly after TRIPRA’s enactment, FIO began examining existing sources of readily available terrorism insurance data. It quickly realized that, for the most part, on covered TRIPRA lines of insurance there generally is no requirement for carriers to report—resulting in the absence of a central repository for terrorism insurance information.

The lone exception is workers compensation insurance. NCCI, other independent rating bureaus, and monopolistic states have been collecting much of the terrorism insurance information FIO is required to collect under Section 111 of TRIPRA of 2015.

The Act further requires FIO to endeavor to collect terrorism insurance data from publicly available sources before requiring individual carriers to provide such information. The workers compensation industry is well-positioned to assist FIO in obtaining this data should FIO determine to leverage the industry’s ability. This is given to the uniqueness of workers compensation and current data reporting protocols.

Theory and Implementation

Earlier this year FIO published guidance requesting, not requiring, carriers to report the terrorism insurance data elements in Section 111 of TRIPRA. The FIO request contains a level of terrorism data granularity that may not be currently available and for time periods that may not encompass complete data sets, industry infrastructure realities, and long-standing data reporting protocols. NCCI and the industry continue to work with FIO to provide information that is credible and that provides an accurate characterization of the impact of TRIPRA on insurance markets.

Looking Ahead

There is no question that the data collection and reporting provisions Congress included in TRIPRA 2015 have required an ongoing focus by all stakeholders on terrorism risk insurance. Gone are the days when these issues could be set aside until the next statutory expiration of TRIPRA approached.

Instead, the data collection efforts being put forth today by industry stakeholders will provide enhanced transparency to ensure that public policymakers continue to put forward sound approaches to the terrorism risk. And that reality is certain to accrue to the benefit of insurance consumers, carriers, and American taxpayers.

Please note: The country's regulatory, legislative, and legal environments can change quickly. This article provides a snapshot at the time of publication.

Tim Tucker is NCCI’s Washington affairs executive and is charged with engaging members of Congress and key agencies on issues impacting workers compensation. NCCI’s role in Washington is to serve as an information resource to public policymakers.