

## **NAMIC STATEMENT OF PRINCIPLES ON TERRORISM RISK INSURANCE**

1. Terrorism is an ongoing threat to the people and government of the United States. Therefore, a long term insurance industry program coupled with a government backstop at an appropriate level of loss is essential to assuring an orderly economic recovery and reconstruction effort after any significant terrorist attack.
2. The Terrorism Risk Insurance Extension Act of 2005 (TRIEA) is a temporary measure. The nation's economic security requires a long-term private/public sector program.
3. The government backstop was established under the Terrorism Risk Insurance Act of 2002 (TRIA) and extended under TRIEA because there was, and still is, insufficient private sector terrorism insurance and reinsurance coverage to provide adequate coverage in the event of another large-scale terrorist attack.
4. A long-term private/public terrorism insurance program is necessary because terrorism is fundamentally an uninsurable risk, due to the inability of insurers to predict when events will occur and because of the potentially catastrophic costs of an attack.
5. To be effective, a permanent terrorism program must allocate the costs of terrorism events between the private and public sector in a way that maximizes private sector involvement while assuring that private insurers can continue to meet their obligations across all economic sectors and insurance product lines after a terrorism event.
6. The goal of public policymakers should be to allow the private sector to take on more of the risk over time by enacting a long-term terrorism insurance plan that will enable insurers and reinsurers to gradually develop additional capacity in order to provide coverage to businesses and property owners that need it.
7. We recommend adoption of a three-tier solution.
  1. The first layer would consist of private primary insurance and reinsurance, as exists under TRIEA, and would include the following elements:
    - Small and medium-sized insurance carriers form the backbone of the industry and support niches of terrorism coverage larger carriers have historically avoided.
    - A permanent event trigger should be set at a level that will continue to encourage participation by small and medium-sized insurers. Too high a trigger would drive them from the market because reinsurance costs would be too high, making primary coverage unaffordable.
    - Individual company deductibles and the industry retention level should be tied to premium income, but set at levels that would enable the industry to continue to meet its other claims obligations and perform its economic role after paying off its share of the losses from a terrorist attack.
    - State laws that (a) prohibit insurers from excluding terrorism and (b) prevent the free market from setting adequate rates for terrorism insurance should be preempted.
  2. The second layer would be an industry-sponsored reinsurance facility to encourage the development of new private sector capital for terrorism. It would act as a bridge between the purely private sector layer and the private/public sector liquidity backstop in the third layer.
    - Initially it might cover losses of about \$10 billion to determine how much private sector capacity can be developed from the capital markets.

- U.S. companies eligible to access recoveries from this facility would fund the initial and ongoing capitalization through a policyholder surcharge.
  - The facility should be authorized to purchase reinsurance protection.
  - The facility would collect premiums and provide Industry Loss Warranty (ILW) reinsurance to insurers and reinsurers.
3. The third layer would be a private/public partnership that would provide a liquidity backstop in the wake of catastrophic terrorist events.
- Outlays would be recovered, in part, by a fixed annual policyholder surcharge.
  - Aggregate annual financial protection would be provided for 90 percent of all eligible losses, losses beyond those covered by the first two tiers, up to \$100 billion.
8. In addition, we recommend a separate federal reinsurance program for losses arising from NBCR attacks.
- For losses covered by private reinsurance (e.g., worker's compensation, fire following), the program would provide first-dollar reinsurance.
  - For losses not covered, but that would be covered in the absence of an NBCR exclusion, a direct federal NBCR insurance rider should be created, to be administered by the insurer on a follow-form basis.
  - The first \$10 billion of insured losses paid for by the federal plan should be reimbursed by a post-loss assessment as a percentage of industry premiums in covered lines.
  - The NBCR program should apply to the commercial lines covered under TRIEA.
9. By encouraging the maximum private sector protection while recognizing the need for federal participation, a successful terrorism risk insurance program will reduce government exposure, increase the take-up rate for terrorism coverage among businesses and commercial property-owners, and thus reduce the costs the federal government would otherwise bear in the event of a catastrophic terrorist attack.