

COVERAGE FOR ACTS OF TERRORISM

New "Wartime" Tools for P/C Insurers

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As the United States moves further in its war against terrorism, Property/Casualty insurers face a unique dilemma: how best to provide coverage against terrorist attacks and other acts of war. While agents have long used natural catastrophe insurance as a model for preparing terrorism risk policies, the two types of coverage are inherently different:

- Natural catastrophes generally occur in locations that can be zoned for underwriting purposes; terrorists are unzonable, preventing insurers from measuring and limiting aggregate exposure to risk.
- Natural catastrophes do not attempt to engender the maximum amount of damage to their targets; nor do they have any motive. Terrorists act to secure a specific outcome that causes maximum damage to their target.
- Natural catastrophes do not use technology to leverage the damage they cause; terrorists make use of technology and learn from their mistakes, ensuring each subsequent attack is more effective and damaging than the last.

Potential losses from terrorism dwarf even the most damaging natural catastrophes; workers' compensation losses alone from the September 11 attack are estimated to exceed \$3.5 billion. Some sort of effective risk coverage must be put in place.

Congress has attempted to respond to the needs of the P/C industry with the Terrorism Risk Insurance Act of 2002 (TRIA), which creates a short-term federal backstop program for the insurance industry in the event of a major terrorism event in the United States. Upon enactment, the terrorism exclusions in existing policies are suspended to the extent the policies exclude losses resulting from acts of terrorism.

TRIA defines an "Act of Terrorism" as any occurrence certified by the Secretary of the Treasury, the Secretary of State and the Attorney General of the United States to be an act of terrorism, a violent act dangerous to human life, property or infrastructure which results in damage within the United States (or outside the United States in the case of an air carrier, a US flag vessel or the premises of a United States mission) and was "committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion."

This all seems very good, until you look at the fine print, which states that "no act will be certified by the Secretary as an act of terrorism if the act is committed as part of the

course of a war declared by Congress or if property and casualty insurance losses resulting from the act *do not exceed* \$5 million in aggregate losses.” In other words, if Congress declares war or if the damage from the next terrorist attack is less than \$5 million, P/C coverage will not exist under TRIA, rendering the Act useless to a large segment of P/C prospects and clients.

Furthermore, while the law requires commercial insurers to offer terrorism coverage, it does not regulate pricing, which all but guarantees coverage will be unaffordable, even if universally available. Also, insurers must be particularly careful to meet the disclosure standards or else risk a lawsuit by a policyholder who claims not to have been aware of their terrorism coverage options. Agents and brokers must ensure insurers are forthcoming about terrorism coverage or face errors and omissions exposures.

The bottom line is that TRIA is a tricky, somewhat incomplete act that, despite its good intentions, falls short of being a total success. Fortunately, the P/C industry is responding to the needs of its agents and brokers and creating tools to simplify risk assessment and provide better coverage against terrorist-related acts.

Oxford's Vulnerability Index (www.risk-mkt-data.com), powered by a proprietary geocoded database of 28 million businesses and 17 million locations nationwide, can help identify and evaluate terrorist risks for individual and business policies. The tool takes into account what businesses or locations might be potential targets of nearly a dozen different types of terrorism, quantifying with a tested degree of accuracy potential property losses at pre-scored locations, contents losses and business interruption exposures.

In addition to identifying threats for high-risk businesses and facilities, Oxford (www.oxfordinfo.com) can determine exposures for businesses that otherwise might have lower risk, but are located near higher-risk sites, power plants, communication centers or other “target” facilities, ensuring even smaller businesses find coverage under TRIA.

The Vulnerability Index looks at international and domestic political, religious, economic and cyber terrorism, among others. In addition to standard demographic and vulnerability scores available for each business, the Index provides financial, contact and detailed risk data, making Oxford's new tool extremely useful in calculating a prospect's risk for terrorist attack.

Venture Programs, Inc. (www.ventureprograms.com) has also responded to the current insurance climate, launching a new product that provides the hospitality industry with business disruption coverage in case of terrorist-related Anthrax attack and other airborne diseases. Venture's Airborne Disease Coverage supplements actual loss of income sustained as a result of closure of an insured hospitality business by order of the State Health Authority or the Center for Disease Control due to Anthrax, Legionnaire's Disease or Radon Gas dispersal. Coverage is available on a non-admitted basis in all states, except in Illinois, where coverage is written on an admitted basis.

While Congress works the kinks out of TRIA, P/C brokers and agents will continue to find implementing terrorism risk policies difficult, yet increasingly necessary. Hopefully, other insurance providers will follow Oxxford and Venture Programs' lead, creating new, useful products to help agents better serve their clients.

Sources

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