TERRORISM RISK INSURANCE

NMHC/NAA Viewpoint

Given lender requirements for apartment owners to purchase terrorism insurance and the limited availability of such insurance in the private market, a federal backstop for this insurance continues to be a necessity. This program fills a critical insurance need and provides stability in the marketplace.

The Terrorism Risk Insurance Act (TRIA) is set to expire in December 2020. Reauthorization of this critical program is a high priority for the apartment industry. Many apartment owners, operators and developers are required by their lenders to secure terrorism risk coverage to aid in protecting the underlying loan. Yet, in most cases, apartment firms are unable to secure that coverage exclusively through the private sector.

Prior to the September 11 terrorist attacks, property owners that were required to carry terrorism insurance could secure coverage with little problem, as most general insurance programs included it. After the attacks, however, private carriers began dropping terrorism coverage from their policies. Within a short time, terrorism risk insurance coverage was simply unavailable or excessively priced, but nonetheless still mandatory for most property owners due to the terms of their loans.

In an effort to fill this void, Congress passed the Terrorism Risk Insurance Act (TRIA) in 2002. The law provides a federal backstop for insured losses resulting from acts of terrorism and after certain loss thresholds are reached. Administered by the Treasury Department, the program has been successful in ensuring widespread availability and affordability of terrorism risk insurance and bringing stability back into the private insurance market.

THE NUMBER OF US COMPANIES PURCHASING TERRORISM COVERAGE EMBEDDED IN PROPERTY POLICIES UNDER TRIA REMAINED CONSISTENT AT 62 PERCENT IN 2018.

While the program was intended to be a short-term solution, the private insurance market has yet to demonstrate the ability to meet the widespread demand for terrorism risk coverage, necessitating the continued federal role. The program was extended several times, most recently in 2015. During each of the reauthorizations, and in an effort to lessen taxpayer exposure and bolster the private market, Congress has implemented programmatic reforms.

The 2015 reauthorization incrementally raised the program trigger – where the government would step in – to $200 million from $100 million and reducing the federal loss share from 85 to 80 percent. It also increased the level of federal recoupment by $10 billion. It is possible that Congress will attempt to include similar reforms in this area throughout this next reauthorization process.

NMHC and NAA continue to press Congress to quickly reauthorize TRIA, well in advance of its expiration, and avoid disruption in the real estate marketplace. Moreover, it is crucial that any reforms to the program not negatively impact terrorism insurance affordability for apartment firms.