

December 5, 2014

## **TRIA Negotiations Continue; McCarthy Promises a Deal Will Be Reached**

With the clock ticking down, Congressional negotiators continue to work on a deal to reauthorize the Terrorism Risk Insurance Act (TRIA), which would expire on December 31<sup>st</sup> without any action. While House Financial Services Committee Chairman Jeb Hensarling (R-TX) has hinted at a short-term extension if a deal cannot be reached, all indications in recent days point to the framework of a deal coming into sight. In particular, multiple media outlets have reported the following details:

- The compromise would reauthorize TRIA for six years (the Senate bill is seven, while the House is five);
- The threshold for aggregate insured losses would rise to \$200 million (currently \$100 million).
- Chairman Hensarling may be willing to back off of bifurcation (in the House bill, the threshold for nuclear, chemical, biological, and radiological attacks would remain at \$100 million, while the threshold for “conventional” terrorist attacks would rise to \$500 million).

Other details and/or sticking points related specifically to TRIA have not been leaked at this point. However, Chairman Hensarling appears to want to include two non-TRIA related Dodd-Frank Act “fixes” to the bill – the so-called Collins Amendment fix (which passed the Senate unanimously earlier this year, and has passed the House as part of a broader bill to tweak Dodd-Frank) and a provision to exempt manufacturers, energy companies and agricultural firms that use derivatives from having to post margin under Dodd-Frank rules. While both items enjoy bipartisan support, Senator Chuck Schumer (D-NY), the author of the Senate TRIA bill and the lead negotiator for the Senate, has been reluctant to include extraneous provisions in the bill.

House Majority Leader Kevin McCarthy (D-CA) joined Hensarling and Schumer in

the negotiations earlier this week, a sign that a deal was possibly coming to fruition, and he has said that legislation to reauthorize TRIA will be on the House floor next week. If a deal is reached, it could be included as part of the necessary spending bill to continue funding the government after December 11<sup>th</sup>.

In an e-mail this morning, Marty DePoy, the Steering Committee Coordinator for the Coalition to Insure Against Terrorism (CIAT), of which the New England Council is a member, said that he spoke with Leader McCarthy last night, who told him that “this will get done” but it might take until the weekend to wrap up. McCarthy insists Chairman Hensarling “is on the clock” as they plan to add it to the omnibus next week, and noted that House leadership will not allow Hensarling’s efforts on these extraneous matters to scuttle the bill.

So there is reason for optimism, and as soon as I learn any additional information, I will be sure to share it with you. Below is POLITICO Pro’s latest accounting of the status of negotiations, for your reading pleasure.

Have a great weekend.

All the best,

Chris.

**POLITICO PRO**

# Terrorism insurance deal takes shape

By ZACHARY WARMBRODT and JAKE SHERMAN

Congress is closing in on a deal to extend the government’s terrorism risk insurance program, a top priority for the business community during the lame-duck session that has been the subject of an intense lobbying campaign.

The preliminary outline of the deal, which sources stressed is not final, is coming together after a flurry of discussions on Wednesday involving House Financial Services Committee Chairman Jeb Hensarling (R-Texas), Sen. Chuck Schumer (D-N.Y.), House Majority Leader Kevin McCarthy and other House Republicans.

The program, which is set to expire Dec. 31, was enacted after the Sept. 11,

2001 attacks and allows the government to cover insurance industry losses resulting from the physical damage caused by a terrorist attack. Its supporters contend that without the government backstop, it would be more difficult and expensive to get funding for major commercial real estate projects, such as skyscrapers and sports stadiums.

Insurance groups and the U.S. Chamber of Commerce have been pressuring lawmakers to strike a deal.

But the program's fate has been uncertain in recent weeks as some Republicans led by Hensarling have pushed to scale back the government's role in this market.

The focus of negotiations between Hensarling and Schumer has been over how long the program should be extended, the threshold for when the government backstop should be triggered and whether the cost of the bill should be paid for to comply with House budget rules.

Sources said negotiators are now closing in on a six-year extension and the threshold would be somewhere in the \$200 million range.

Under the current program, known as the Terrorism Risk Insurance Act, the government would step in once the insurance industry's losses hit \$100 million following an attack.

The Senate bill left that level unchanged, while the original House bill would have raised it to \$500 million for so-called conventional attacks that did not involve nuclear, biological, chemical or radiological attacks. Congressional sources said Thursday that Hensarling is willing to abandon this bifurcated approach.

Early industry reaction to the information leaking on the deal indicates that the duration and the increase in the threshold would be within the comfort zone of insurers and their customers who would prefer little change to the current program.

It's unclear how the dispute over whether to offset the bill's cost will be resolved. Though the government has never paid for losses under the program, the Congressional Budget Office projected the Senate bill would cost \$3.5 billion over 10 years and Hensarling early in negotiations wanted it offset with spending cuts elsewhere in the budget.

Another issue being worked out is whether the bill will include unrelated changes to the 2010 Dodd-Frank law, which overhauled regulation of the financial system. Hensarling has pushed to include amendments to the law in the face of opposition from Senate leadership that has long been wary of re-

opening Dodd-Frank.

A lobbyist following the negotiations said Thursday that people close to Hensarling are encouraging the industry to reach out to Senate leaders in support of attaching the financial regulatory proposals to the terrorism insurance bill.

Congressional sources said that negotiators were discussing whether to include two bipartisan provisions. One, which is another top priority for the insurance industry, would clarify that the Federal Reserve can write capital rules customized for the insurance industry rather than imposing bank-like requirements. A second proposal would exempt manufacturers, energy companies and agricultural firms that use derivatives from having to post margin under Dodd-Frank rules.

The Senate in June passed the insurance capital rules bill in a unanimous vote. The House passed it as well as the derivatives language as part of a package with other Dodd-Frank changes that Senate leaders rejected. The Senate has not taken up the derivatives bill but the policy has bipartisan support.

Late Thursday it appeared Senate leaders were holding the line against revisiting issues outside insurance.

“Republicans are still insisting on unrelated changes to Dodd-Frank which could derail a deal,” a senior Senate Democratic aide said.

The TRIA negotiations between Hensarling and Schumer began late last month with both sides accusing the other of not making a serious effort to negotiate.

As late as Tuesday afternoon, Schumer charged that Hensarling’s demands were “just out of the pale” while Hensarling said the Senate was taking a “my way or the highway” approach.

The negotiations, however, began to gain traction after the war of words, according to sources, and on Wednesday McCarthy met with Hensarling and Schumer.

“After that meeting there was a commitment to keep trying, we’re not done yet,” a congressional source said.

McCarthy over the past several days has publicly supported Hensarling and repeated the threat of doing a short-term deal if changes couldn’t be made to the program. This marked a change in tone for the new majority leader who in April won applause from a meeting of insurance brokers by pledging, “We will

get TRIA done hell or high water.”

Schumer and Hensarling made more progress in a follow-up discussion Wednesday that led to the move toward a six-year deal with a higher threshold, according to sources. They spoke again Thursday afternoon and exchanged home phone numbers.

A bill to extend the program will be on the House floor next week, McCarthy said Thursday.

Rep. Maxine Waters of California, the top Democrat on the Financial Services panel, urged caution that a deal is almost done.

“One thing that I do know is I work with Mr. Hensarling and he is unpredictable,” she told reporters. “And so, you may hear one thing this hour, and another thing the next hour. So I would not, if I were you, consider that — any rumors that you are hearing — concrete at all.”

The debate over the program has exposed tensions among House Republicans over whether they should back government programs that are supported by the business community but that some, like Hensarling, say amount to corporate welfare.

Earlier this week, 45 House Republicans signed a letter to House leaders, asking that they work to pass a multi-year reauthorization of TRIA rather than resort to a short-term extension.

“Terrorism remains an unpredictable threat with potentially catastrophic losses, and while private market capacity for terrorism insurance has grown, there is little evidence that the private market can completely absorb the astronomical costs of an act of terrorism,” they wrote.

Senate Democrats, meanwhile, initially said there was little reason for them to bend much in Hensarling’s direction because they came to the negotiating table with a bill that passed the Senate on a 93-4 vote in July with the support of conservatives such as Sens. Rand Paul (R-Ky.) and Ted Cruz (R-Texas).

With negotiations now moving forward, a final deal could be attached to the omnibus spending bill Congress must enact soon to avoid a government shutdown, according to sources.

*MJ Lee contributed to this story.*

