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To: Richard Smith
Vermont Captive Insurance Association (VCIA)

From: Jim McIntyre

Re: Federal Legislative Report

Date: June 6, 2014

The following is a status report on federal issues of interest to VCIA.

Reinsurance Taxation (Neal Bill)

There has been no action on Representative Richard Neal's (D-MA) bill, H.R. 2054, AND Senator Robert Menendez's (D-NJ) companion bill, S. 991, which would deny the deduction of premiums paid for reinsurance by domestic insurers to their foreign affiliated reinsurers. The president's budget proposal to treat the taxation of affiliated offshore reinsurance similar to the Neal bill also has not been accepted. The Coalition for Competitive Insurance Rates, of which VCIA is a participant, continues to meet with members of Congress to educate them on the negative effects of the Neal-Menendez legislation. The greatest threat to adoption of the Neal bill is that the revenue that the Joint Committee on Taxation estimates that this legislation would raise makes it attractive as a pay-for to offset tax reductions or spending increases. We continue to actively oppose this legislation.

Reauthorization of TRIA

The Senate Banking Committee passed legislation (S. 2244) reauthorizing TRIA out of committee unanimously on Tuesday, June 3, 2014. This bill extends TRIA for seven years and makes some changes to the deductibles and insurer retention amounts. The trigger for TRIA remains at \$100 million. The full Senate should take up this legislation in the next few weeks. On the House side, staff have been talking about major changes to the current terrorism reinsurance legislation which would reduce the federal government's obligations. A House discussion draft was leaked a few weeks ago, which has caused major negative reaction from the insurance and business communities. House committee staff have been holding meetings with stakeholders to discuss the leaked proposal. The House Financial Services Committee hopes to have legislation ready for consideration by mid-June; however, it is more likely that the legislation will not be

ready until the end of June or sometime in July. If the reauthorization legislation has not passed both Houses by the end of July, Congress probably will not pass the reauthorization until after the elections in November. I have continued to encourage House staff to not pursue a proposal to eliminate single-line captives providing terrorism insurance from the program. A comparison of current law, S. 2244, and the House-leaked proposal is attached.

Amendments to the Liability Risk Retention Act

Efforts are being made to reintroduce legislation in Congress that would authorize risk retention groups (RRGs) to offer commercial property insurance in addition to general liability insurance. Rep. Dennis Ross (R-FL) has been approached about introducing legislation that would authorize RRGs to offer other lines of commercial insurance (in addition to liability insurance) except for group life, health and disability, or workers' compensation. There continues to be opposition in some quarters to this legislation; however, some of the more contentious requirements, such as the dispute resolution provision and the corporate governance requirements, have been dropped from the latest draft that Rep Ross is considering. Congressman Welch (D-VT) has agreed to cosponsor the legislation again. The Housing and Insurance Subcommittee of the House Financial Services Committee held a hearing on May 20, 2014 on general insurance issues at which Joe Carter of United Educators testified in support of the draft RRG legislation. VCIA was named in the testimony as a supporter of the draft legislation to amend the Liability Risk Retention Act.

Dodd-Frank/RRRA

We continue to work with the Vermont delegation to seek a congressional solution to the RRRA language in the Dodd-Frank bill that has created confusion with respect to the treatment of captives under the RRRA. Senator Leahy's staff is looking at potential vehicles for an amendment to clarify that the RRRA does not apply to captive insurers.

NAIC Update

As a follow-up to my April 4, 2014 report on the NAIC 2014 Spring National Meeting, VCIA has submitted a comment letter to the NAIC opposing the proposed definition of multistate reinsurer. In addition, VCIA has submitted a comment letter to NAIC supporting a proposal to clarify the grandfather provisions for reinsurance under the reinsurance guidelines for RRGs. This proposal, currently before the Financial Regulation Standards and Accreditation (F) Committee, will clarify that the reinsurance guidelines for risk retention groups apply to new reinsurers and not to control renewals.

JTM:tm
Attachment

Terrorism Risk Insurance Program Reauthorization - Comparison of Current Law to the Schumer bill (S.2244) and the House Republican Draft Outline

	Current Law (P.L. 110-160)	Senator Schumer's bill (S.2244)	House Republican Draft Outline (TBA)
Title	Terrorism Risk Insurance Program Reauthorization Act of 2007	Terrorism Risk Insurance Program Reauthorization Act of 2014	The Terrorism Risk Insurance Modernization Act of 2014
Length of Reauthorization	7 years through Dec. 31, 2014	7 years through Dec. 31, 2021	3 years through Dec. 31, 2017
Mandatory Recoupment Rate	133 percent	No change from current law	Increases to 150 percent
Recoupment Time Period	3 years until Sept. 30, 2017	7 years until Sept. 30, 2024	Not addressed
Insured Loss Shared Compensation	85 percent-15 percent split with the federal government	Insurers' share increases to 80-20 percent (an increase of one percent per year over 5 years from the current level)	NBCR 85-15; Non-NBCR 80-20 (starting in 2016) and 75-25 (starting in 2017)
Program Trigger	\$100 million per year	No change from current law	NBCR events \$100 million; Non-NBCR \$250 million (2016); and \$500 million (2017)
Annual Cap on Assistance	\$100 billion per year	No change from current law	\$75 billion beginning 1/1/2017
Aggregate Retention Amount	\$27.5 billion through 2014	Increases amount by \$2 billion each year until it reaches \$37.5 billion	Beginning in 2016, the insurance marketplace retention amount to equal the sum of the insurer deductibles for the preceding program year for all participating insurers
"Act of Terrorism" Definition	For an act of terrorism to be covered under TRIA, it must be a violent act committed in an effort to coerce the U.S. civilian population or influence	No change from current law	Adds back previous language requiring that a covered act of terrorism be committed on behalf of a foreign person or foreign

	U.S. government policy. It must have resulted in damage within the United States or to a U.S. airliner or mission abroad. To qualify as a covered "terrorist act", it must be certified by the Secretary of the Treasury in concurrence with the Attorney General and Secretary of State.		interest.
Certification	An individual act of terrorism must be certified by the Secretary of the Treasury in concurrence with the Attorney General and Secretary of State.	No change from current law	To certify an "act of terrorism," the Treasury Secretary must consult with the Attorney General and the Secretary of Homeland Security (replacing the Secretary of State under the current law). Removes the current \$5 million threshold for certifying acts of terror. Establishes a fixed, 90-day timeline for which the Treasury Secretary is to determine whether to certify an event as an act of terrorism.
Other Changes or Additions			<ol style="list-style-type: none"> 1. Separate treatment of conventional terrorism from NBCR terrorism 2. Voluntary small insurer opt-out of TRIA coverage 3. Establishes a Capital Reserve Fund (CRF)

*Chart from "House Republicans Propose Three Year TRIA Reauthorization and Reduced Federal Role," by Dentons. May 5, 2014