

Federal Government Proposes “Reinsurance Backstop” to Cover Insurance Industry Losses Due to Pandemic-Related Claims

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As the insurance industry faces the repercussions of the coronavirus pandemic, the federal government has proposed a draft bill, identified as the “Pandemic Risk Insurance Act of 2020,” that would establish a federal “reinsurance backstop” for pandemic insurance industry losses in excess of \$250 million. The intent of the Act would be to provide support to the insurance industry for pandemic risk. The proposed bill seeks to create a federal program that would provide for a system of shared public and private compensation for business interruption losses resulting from a pandemic or outbreak of communicable disease. The proposed Act is said to mirror the Terrorism Risk Insurance Act, which was enacted in 2002 in response to the attacks of 9/11.

The proposed legislation, led by House Financial Services Committee Chairwoman Maxine Waters (D-CA) would be administered by the Department of the Treasury and act as a reinsurer for commercial property/casualty insurers. The program would be triggered when industry losses exceed the \$250 million threshold and aggregate losses would be capped at \$500 billion in a calendar year for both insurers and the government. Insurers that participate in the program will be charged an annual premium for reinsurance coverage, purportedly based on the actuarial cost of providing such reinsurance coverage, including costs of administering the program.

In return for a federal backstop on pandemic losses, insurers would agree to make available business interruption insurance coverage for insured losses that do not differ materially from the terms, amounts and other coverage limitations applicable to losses arising from events other than public health emergencies. The government would pay 95 percent of the losses in excess of an individual insurer’s deductible with the rest to be paid by the individual insurer.

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