

Pandemic Risk Insurance

Introduction

A pandemic risk insurance bill, also known as the “Pandemic Risk Insurance Act of 2020,” would mandate that businesses who could demonstrate significant business interruption and sharp decline in present and future revenue would be insured in case of a possible pandemic or epidemic. The Act would create a federal “backstop” (much like the Terrorism Risk Insurance Act (TRIA), for insurance claims related to a pandemic or epidemic. The specific purpose of the “Pandemic Risk Insurance Act of 2020 would be to provide for a federal loss-sharing program for certain insured losses resulting from a certified pandemic/epidemic. The Secretary of Treasury in consultation with the Secretary of Health and Human Services, the Secretary of Homeland Security and the Attorney General would certify a particular health event or outbreak as a pandemic or epidemic. This will serve as a proactive and prospective program.

Host cities, events organizers, trade associations and other non-profit organizations rely on income from conferences, shows, and conventions for a large portion of annual revenue. While these organizations and cities may have insurance to cover event cancellation and business interruption, an insurer is not apt to cover pandemic-caused losses across industries worth in excess of hundreds of millions of dollars, due to the widespread nature of these losses. The purpose of this Act is for insurers and reinsurers to partner with the Federal government to cover a significant loss an organization or city may incur due to a contagious disease outbreak or a health pandemic event.

At this point, very few insurers and reinsurers will be able to cover significant losses that organizations might sustain in case of a contagion outbreak/pandemic. In fact, insurers have begun to state that they will not write policies to insure covid 19-related losses; we expect that insurers will also begin to decline to issue contagious disease riders altogether. Therefore, we are proposing the “Pandemic Risk Insurance Act of 2020.” (PRIA).

- This Act will create the Pandemic Risk Insurance Program (PRIP) a three-year program to provide a government reinsurance backstop in the case of pandemic health epidemic/pandemic.

- For purposes of this Act, an epidemic is defined as the occurrence in a community or region of cases of an illness, specific health-related behavior, or health-related events clearly in excess of normal expectancy. A pandemic is defined as an epidemic occurring worldwide, or over a very wide area, crossing international boundaries and usually affecting a large number of people.
- When the Secretary of Treasury in consultation with the Secretary of Health and Human Services, the Secretary of Homeland Security and the Attorney General certify that an “epidemic” or “pandemic” event has occurred within the confines of the United States, then this Act will immediately take effect.

Goals and specifics of the PRIA Program would be to (1) create a temporary federal program of shared public and private compensation for insured losses as a result of pandemic losses, which would allow the private market to stabilize; (2) protect consumers by ensuring the availability and affordability of insurance for pandemic risks; (3) protect thousands of businesses (restaurants, hotels, conventions centers, event venues, transportation services, caterers) and municipalities who depend on public events for their livelihoods; and (3) preserve state regulation of insurance.

To meet these goals, the PRIA program creates a mechanism through which the federal government could share insured losses for large event cancellations and significant revenue losses with the private insurance market.

- The role of federal loss sharing depends on the size of the insured loss. For a relatively small loss, there is no federal sharing. For a medium-sized loss, the federal role is to spread the loss over time and over the entire insurance industry.
- The federal government provides assistance up front, but then recoups the payments it made through a broad levy on insurance policies afterwards. For a large loss, the federal government is to pay most of the losses. Recoupment is possible (but not mandatory) in these circumstances as well.
- All insured entities would pay monthly or annual premiums and when the Secretary of Treasury has certified an “epidemic” or “pandemic” then these entities would equally contribute to a loss fund.

The precise dollar values where losses cross these small, medium, and large thresholds are uncertain and will depend on how the losses are distributed among insurers. For example, for loss sharing to occur, the health epidemic or pandemic must meet a certain aggregate dollar value and each insurer must pay out a certain amount in claims—known as its deductible. For some large insurers, this individual deductible might be higher than the aggregate threshold set in statute, meaning that loss sharing might not actually occur until a higher level than the figure set in statute.

1. The federal government shares in an insurer's losses due to a certified health pandemic only if the aggregate industry insured losses resulting from such certified event exceed \$100 million (increasing to \$150 million in 2021).
2. Each insurer is responsible for paying a deductible before receiving federal coverage. An insurer's deductible is proportionate to its size, equaling 10% of an insurer's annual direct earned premiums for the commercial property and casualty lines of insurance specified in PRIA.
3. Once the \$100 million aggregate loss threshold and 10% deductible are met, the federal government would cover 81% of each insurer's losses above its deductible until the amount of losses totals _____
4. After \$10 billion in aggregate losses, there is no federal government coverage and no requirement that insurers provide coverage.

Program Administration

The administration of the PRIA program would be the responsibility of the Secretary of Treasury.

PRIA Consumer Protections

PRIA addresses the second goal—to protect consumers—by requiring insurers that offer PRIA covered lines of insurance to make pandemic insurance available prospectively to their commercial policyholders. This coverage may not differ materially from coverage for other types of losses. Each pandemic insurance offer must reveal both the premium charged for pandemic insurance and the possible federal share of compensation. Policyholders are not, however, required to purchase coverage under PRIA.

If a policyholder declines to purchase pandemic coverage, the insurer may exclude pandemic losses. Federal law would not limit what insurers can charge for pandemic risk insurance, although state regulators typically have the authority under state law to modify excessive, inadequate, or unfairly discriminatory rates. Preservation of State Insurance Regulation would be to preserve state regulation of insurance— federal statute preempts any state definition of a “pandemic event in favor of the federal definition.