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TERRORISM INSURANCE ALERT

by Rob Cohen

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The Terrorism Risk Insurance Act of 2002 (“TRIA”) will expire at the end of the year, unless it is renewed by Congress. TRIA was enacted after the terrorist attacks of 9-11 as a federal terrorism insurance backstop to ensure that comprehensive terrorism insurance coverage would be available and affordable across the United States. While the business community (*e.g.*, Coalition to Insure Against Terrorism) and the insurance industry are working diligently for an extension of TRIA, there continues to be some opposition to an extension of TRIA within the Administration and Congress, including a negative study by the U.S. Department of Treasury. This opposition continues even though there is still no adequate private terrorism reinsurance market in the United States or abroad and none expected in the near future. If TRIA expires, it is likely that we will see a return of widespread terrorism exclusions in commercial policies.

We continue to urge Real Estate Investment Trusts and other companies to support the extension of TRIA by Congress. Nevertheless, companies should review their insurance policies now with their risk managers, brokers, and outside counsel to determine their level of exposure and to explore the available alternatives, including non-TRIA stand-alone coverage. In addition, from a good corporate governance perspective, it may be wise to review loan

documents to avoid potential defaults in case of material changes in the terrorism insurance market.

With limited capacity in the primary terrorism insurance market, companies need to take steps now to protect their shareholders. While the future of TRIA is unclear, the threat of terrorism remains.

If you have any questions about this client alert, please contact Rob Cohen at rcohen@wcsr.com or 202-857-4492 or your Womble Carlyle attorney.

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