



Captive Insurance Update: Terrorism Risk Insurance Act (Excess Workers' Compensation)

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Treasury has posted its long awaited interpretive letter regarding its treatment of a Vermont captive that "provides direct workers' compensation insurance coverage to other subsidiaries of its parent under a qualified self-insured workers' compensation plan." Treasury has concluded that it will disregard the provisions of 8 V.S.A. sec. 6011(d) (deeming insurance by a captive of any workers' compensation qualified self-insured plan of its parents and affiliates to be "reinsurance") and will treat such a coverage as direct insurance subject to TRIA.

In light of this development, we recommend compliance with TRIA's make available and disclosure requirements for any Vermont captive that is providing direct workers' compensation coverage to a qualified self-insured parent or affiliate. The interpretive letter also makes clear that the premiums paid for such coverage are to be treated as "direct earned premium" for the purpose of calculating the insurer deductible under TRIA. Presumably, the same would hold true for calculating potential recoupment surcharges.