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## **STATEMENT**

**OF**

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U.S. CHAMBER OF COMMERCE**

**ON BEHALF OF**

**THE COALITION TO INSURE AGAINST TERRORISM**

**BEFORE A HEARING OF**

**THE SUBCOMMITTEE ON INSURANCE, HOUSING AND COMMUNITY  
OPPORTUNITY OF THE HOUSE COMMITTEE ON FINANCIAL  
SERVICES**

**ENTITLED**

**"TRIA AT TEN YEARS: THE FUTURE OF THE  
TERRORISM RISK INSURANCE PROGRAM"**

**SEPTEMBER 11, 2012**



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Good morning, Chairwoman Biggert, Ranking Member Gutierrez, and members of the Subcommittee. I appreciate the opportunity to testify today regarding the important issue of terrorism risk insurance and its importance to the economy. My name is Rolf Lundberg, and I am the Senior Vice President for Congressional and Public Affairs at the U.S. Chamber of Commerce. The U.S. Chamber of Commerce is the world's largest business federation representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations.

I am appearing today on behalf of the Coalition to Insure Against Terrorism (CIAT), of which the U.S. Chamber is a member. CIAT is a broad coalition of commercial insurance consumers formed immediately after 9/11 to ensure that American businesses could obtain comprehensive and affordable terrorism insurance. CIAT's membership of 79 major trade and membership associations, representing virtually every sector of the economy, has remained resolute from the original proposal through the 2005 and 2007 reauthorizations and now, in recognizing, as did Congress and the Administration, that only the Federal government could provide the framework to make this coverage available to all those who required it to invest on new construction and to carry on commerce. The diverse CIAT membership represents commercial real estate, banking, energy, construction, hotel and hospitality, entertainment, manufacturing, transportation, the major league sports, as well as public sector buyers of insurance. CIAT is the true consumer voice on terrorism risk insurance, as we are comprised of the principal policyholders of commercial property and casualty lines of insurance in the United States.

I am pleased today to offer the policyholder perspective on terrorism risk insurance, and to highlight why the TRIA program continues to be vital to our economy. As we saw in the months following the 9/11 terrorist attacks, the lack of terrorism risk insurance contributed to a paralysis in the economy, especially in construction, tourism, business travel and real estate finance. Enactment of TRIA changed that by making terrorism risk coverage widely available to commercial policyholders, and delivering it through a private insurance mechanism that keeps the private industry's skin in the game through the insurer deductible and co-share layers. It also

protects taxpayers by providing recoupment -- from us the commercial policyholders -- of any federal share paid out in the wake of a large-scale terrorist event. While private insurance capacity apparently has grown slightly in the past decade, these years have also taught us that a continuing federal role in this unique risk remains vital. The terrorism peril is simply too intrinsically linked to government policy and intelligence to be solely handled by the private sector alone. TRIA needs to be reauthorized, and we therefore commend you, Chairwoman Biggert and the Subcommittee, for your leadership on this issue and for convening this important hearing.

The 26 foot tall banner that stretches across the front of the U.S. Chamber of Commerce headquarters in Washington, D.C., spells out our nation's biggest challenge and our highest priority in one word—J-O-B-S. That banner has served as a reminder to us and to all of Washington of where our focus must be.

The Chamber believes that stronger and faster economic growth is the best way to successfully put Americans back to work. We must not only affirmatively clear away impediments to job creation, but we must avoid taking steps that would create more uncertainty and strangle businesses, stifling our economy's ability to grow, and also negatively affect job creation.

At the same time as we seek to remove barriers that will allow businesses to invest and grow, we also have to recognize what policies work – policies that allow business to continue to invest and look ahead and have confidence in the future.

We know from previous experience following 9/11 that the impact on jobs of the absence of terrorism insurance was widespread and growing. Our economy today is more than 20% larger than it was a decade ago. There is every reason to expect that the jobs impact would be greater and more widespread today were the certainty of the terrorism insurance program to be pulled out from under our economy.

America has strong demographics, abundant natural resources, the world's most productive workers, and a long history of picking ourselves up when we are down. We should not self-inflict additional and unnecessary damage to our fragile economy, and possibly extinguish the prospect of economic recovery and new jobs for Americans.

With this in mind, I would like to focus my remarks today on three main areas: (1) the importance of terrorism risk insurance to the broader economy; (2) how and why the TRIA program continues to serve an important purpose; and (3) the current state of the terrorism risk insurance market.

### **The Importance of Terrorism Insurance to the Economy**

On today's solemn anniversary we remember the thousands of innocent lives lost on that tragic day eleven years ago, and offer our thoughts and prayers to the families and loved ones left behind. The terrorists who perpetrated that terrible attack intended to paralyze us with fear -- but the best of America shone through that day, and in the weeks and months that followed.

It is incumbent upon us to remember the lessons of 9/11. Among those lessons is the importance of maintaining safeguards to ensure that such catastrophic events do not cause lasting harm to our economy. As we saw in the months that followed 9/11, managing the risk of terrorism is an imperative. It was a critical situation: it was difficult, if not impossible, for commercial policyholders to secure coverage against terrorism risk, yet banks and other capital providers would not provide financing without it. In 14 months between the 9/11 attack and enactment of TRIA, over \$15 billion in real estate related transactions were stalled or even cancelled because of a lack of terrorism risk insurance, according to a Real Estate Roundtable study. Furthermore, the White House Council of Economic Advisors found that there was an immediate and direct loss of 300,000 jobs in that period from deferred construction investment.

The simple fact is that our recovery from 9/11 was slowed due to a lack of any realistic solution for the private sector to manage terrorism risk. Furthermore, our ability to recover from a further attack was also severely weakened by the situation. The months following 9/11 made clear that a strong, resilient economy requires a plan to deal with potentially devastating terrorism losses. Indeed, several other nations have terrorism insurance programs, including several that pre-date TRIA. Undoubtedly, we would face the same post-9/11 danger to our economy if Congress were to let the TRIA backstop expire without replacing it with a permanent solution.

### **The Terrorism Risk Insurance Act**

In recognition of the critical post-9/11 situation, Congress and the Bush Administration worked together in 2002 to enact TRIA -- a public-private partnership to deal with terrorism risk that has served our nation and its economy well for nearly 10 years. The TRIA program has a dual purpose: (1) to keep our economy functioning smoothly by requiring private insurers to make terrorism coverage available to commercial policyholders; and (2) to provide an efficient mechanism for managing terrorism losses in a way that maximizes private sector involvement and provides strong protection for taxpayers.

As commercial policyholders, we are well versed in the benefits of TRIA's first purpose, i.e., the "make available" provision. We have no interest in seeing a return to the standard terrorism exclusions became the norm in the months following 9/11. In fact, when TRIA was originally set to expire in 2005, and again in 2007, we saw policy renewals with "springing exclusions" that would have voided terrorism coverage upon expiration of the program. Having TRIA in place, quite simply, has been difference between being able to manage terrorism risk or holding one's breath.

Policyholders understand that the reason terrorism coverage is available is because of the TRIA backstop. However, to view the TRIA program as simply a federal backstop is to miss key components of the program. In truth, the TRIA program is a public-private partnership

where all parties participate in managing risk. Private insurers take a large share of losses through both the insurer deductible and through the 15% co-share of any losses exceeding the deductible. The federal government steps in only in certain, severe cases, where losses from the terrorist event exceed \$100 million, and only then if an insurer has losses that exceed its statutory deductible. We policyholders also bear substantial costs, in the form of the premiums we pay for terrorism coverage, and through the responsibility for paying post-event surcharges so that taxpayers may recoup federal assistance provided through the backstop.

The simple reality is that having TRIA in place actually saves the taxpayers money. As currently structured, the program is only likely to trigger federal compensation in truly massive, catastrophic terrorism events. In the absence of TRIA, such an event would likely cause Congress to appropriate millions, if not billions, in ad hoc disaster assistance, with no strings attached. Under TRIA, however, there is a pre-existing mechanism to ensure economic recovery -- a mechanism that maximizes private sector involvement, and protects taxpayers through the recoulement provision.

## **Current Market Conditions**

Because of TRIA, today terrorism risk insurance (with one exception) is generally available for commercial policyholders. It would not be available without TRIA. CIAT members have generally seen a decline in pricing for terrorism insurance, which we attribute not just to the normal ebb and flow of the insurance market, but rather to the continued availability of the TRIA backstop and the fact that there have been no certified acts of terrorism since the enactment of TRIA.

Even with TRIA, however, we note that coverage for nuclear, biological, chemical and radiological (“NBCR”) events remains extremely limited in terms of availability and affordability. Where insurers do offer such coverage, it may be limited in terms of geographic area (*i.e.*, coverage is harder to procure in perceived "target" cities such as New York or Washington), and it may also be limited to certain perils (*i.e.*, biological and chemical events

may be covered, but not nuclear or radiological). Coverage limits for NBCR insurance that is available tend to be relatively low and expensive.

We understand that the principal factor in insurers' decisions not to cover NBCR is their lack of sufficient data to properly model their exposure to such losses with any degree of certainty. On this point, we would point out that this Committee has previously considered measures intended to encourage greater availability and affordability of NBCR coverage, though they were not ultimately included in the TRIA reauthorization legislation. We believe that policymakers may need to revisit this issue given that the market for NBCR terrorism coverage has generally not improved.

## **Conclusion**

The TRIA program has worked extremely well over the past ten years -- albeit with no ultimate test on losses and claims -- by providing access for commercial policyholders to insurance against terrorism risk. It has done so through a meaningful public-private partnership that requires and arguably maximizes private sector involvement and unquestionably protects taxpayers in the event of any future act of terrorism. Fortunately, we have yet to see this pay-out and recoupment mechanism in practice, but it nevertheless remains clear that our economic recovery from any such event depends upon having such a plan in place. The terrorism peril is simply too intrinsically linked to government policy and intelligence to be solely handled by the private sector. We therefore commend this Subcommittee for its continued consideration of this important issue, and we urge you to consider a permanent solution that would extend beyond TRIA's current expiration date in 2014. Our CIAT coalition looks forward to working with the Subcommittee on reauthorization.

Thank you again for the opportunity to testify here today, and I am pleased to respond to any questions you may have.