

Rep. Pete King – Testimony

FSC Hearing on “The Terrorism Risk Insurance Act of 2002”

September 19, 2013

The Terrorism Risk Insurance Program is perhaps the most successful example of a public-private partnership to date. Since its enactment 11 years ago, TRIA has provided economic certainty and stability for businesses across the country. It brought private insurers back into the business of protecting against terrorism following the devastating effects of 9/11, with only minimal federal administrative costs. It addressed a market failure. TRIA brought New York back to life. But it has also been pivotal in allowing celebrated American events like the Superbowl and the Olympics to continue, fully insured. It lets amusement parks keep their doors open and helps universities continue groundbreaking research. Construction of new enterprises can continue in our urban centers without delayed financial transactions. And every American can still try their luck at a casino in Vegas, or go to a stadium to watch their favorite major league sports team. You may not realize it, but TRIA has a hand in all these events coming to pass.

I'd like to ask unanimous consent to enter into the record letters in support of TRIA's extension from: Major League Baseball, the NFL, the NHL, the NBA, NASCAR, the NCAA, the U.S. Olympic Committee,

the U.S. Chamber of Commerce, the National Association of Realtors, the Real Estate Board of New York, the American Gaming Association, New Mexico Mutual, and the Utah Workers Compensation Fund.

In a post-9/11 world, we need the TRIA program more than ever. The reasons are threefold.

First and foremost, the job of the federal government is to ensure the security of our citizens. A terrorist attack occurs when there is a breakdown in our national security system. If that happens, the federal government bears responsibility to help the victims of such an attack, which is akin to an act of war. We cannot expect the private market to insure against failures in U.S. counterterrorism without the government taking on some responsibility for the failure. Americans are relying on us to keep them safe.

TRIA is a testament to Congress's ability to plan ahead for such instances. It allows for a private solution to cover the majority of commercial losses in an orderly manner. TRIA has cost taxpayers next to nothing, and places private insurers in the first loss position. **TRIA has no debt, and the federal government has never paid out a dime in claims.** An attack needs to cost over \$100 million in claims and an additional 20 percent in insurer deductibles before government cost-sharing kicks in. Even then, TRIA makes sure taxpayers are fully repaid by assessing fees on the insurance industry to recoup any pay-outs.

There is a lot of misinformation claiming TRIA leaves taxpayers on the hook. It does not. The Treasury is required to recoup any federal payments from the insurance industry by assessing fees for losses up to \$27.5 billion, and is authorized to assess fees beyond that if federal spending exceeds that threshold. The private market covers the cost of all but the most catastrophic terrorist incidents.

Second, the characteristics of terrorist attacks – infrequent, nonrandom, highly correlated – all work against traditional insurer models. Insurers do not have the actuarial data to calculate terrorism risk. They are not privy to classified information on the frequency of attempted attacks or thwarted terrorist plots, and thus only have – luckily – a few events to base their predictions off. As former Chairman of the Homeland Security Committee and a member of the Permanent Select Committee on Intelligence, I have seen that data and I can attest that the threat of terrorism is very real. Our defenses are stronger since 9/11, but we are no less a target. Some may assume the threat of terrorism is only a problem for the Northeast. In fact, there have been 60 terror attacks and plots in the United States occurring in multiple states with New York being the most high risk but including Boston, Washington, DC, Little Rock, Chicago, Dallas, Portland and others. While over 50 of these plots were uncovered and disrupted before the public was in danger, this demonstrates that the enemy is committed and the threat of terrorism

against the United States continues. Perpetrators of terrorism want to be anything but predictable. Al Qaeda and its affiliates are exploring new methods of warfare, including cyberterrorism. As lawmakers, it is our duty to not only provide the defenses necessary to detect and stop an attack, but to provide the contingency plan to help our nation recover and rebuild in the event that an attack does occur. TRIA is a vital part of that contingency plan.

I strongly support a clean extension of the TRIA program, and I encourage my colleagues on this Committee to do the same. I have introduced bipartisan legislation with Congressman Capuano to reauthorize TRIA for an additional 10 years. I'm also an original cosponsor of the Grimm-Maloney bill to provide a five-year extension. Let me be clear – if we let TRIA expire or significantly alter the program, a number of negative ramifications could come to pass which would actually increase taxpayer risk instead of reduce it.

If the trigger threshold for government cost-sharing is increased, some smaller insurers may find they can't afford to shoulder that risk and will move out of the market. This could mean fewer insurers in the business of providing terrorism insurance – which drives up costs for consumers due to reduced capacity and availability. If costs rise, some businesses may choose not to purchase terrorism insurance. This means in the

event of an attack, a higher rate of uninsured could result in pressure for a larger taxpayer-funded aid package. TRIA mitigates this possibility.

One particular area of the market private insurers may exit is workers compensation, which requires terrorism coverage. This may mean more state governments will have to take on the role of insurer – increasing the government footprint in the insurance market rather than reducing it. It could also increase costs for employers, who must provide workers compensation insurance.

Furthermore, we could see ratings agencies downgrading commercial mortgage backed securities – like they did after 9/11 – if owners of high profile buildings have difficulty finding terrorism insurance.

Despite numerous studies showing that terrorism is an uninsurable risk, you may hear testimony today that says the private market can figure out how to price it and the federal government is crowding out private industry.

You may hear that there is significant capital moving into the insurance and reinsurance markets as pension and hedge funds look to find alternative investments since they have not been getting desired returns from the market. Do not be fooled by those who say those monies could be invested in terrorism insurance. Investors are looking for risk that isn't correlated with the financial markets since they don't want to

double their exposure. But terrorism is correlated with the markets – because if an attack occurs on U.S. soil, stocks decline and insurers pay out – meaning a double loss for investors. This makes it much harder to attract private capital.

And insurers and reinsurers cap the amount of exposure they are willing to take on in terrorism insurance after 9/11, which would leave businesses in dense population centers with a shortage of affordable coverage.

TRIA is not a program to ensure the insurance industry a guaranteed profit or solvency. This is a program to ensure that if a terrorist attack of extreme magnitude occurs, the businesses, the employers and their employees, and the local economies are not left devastated without coverage, or with an insolvent insurer.

The April 15th bombings of the Boston Marathon clearly demonstrate the risk of terrorism is ever present. As tensions in the Middle East rise and we see increases incidences of civil unrest, we must do all we can to preemptively protect both our homeland security and our economic security.