THE TERRORISM RISK INSURANCE ACT OF 2002

HEARING

BEFORE THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

SEPTEMBER 19, 2013

Printed for the use of the Committee on Financial Services

Serial No. 113–45

U.S. GOVERNMENT PRINTING OFFICE

86–680 PDF WASHINGTON : 2014

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

HOUSE COMMITTEE ON FINANCIAL SERVICES

JEB HENSARLING, Texas, *Chairman*

GARY G. MILLER, California, *Vice Chairman*
SPENCER BACHUS, Alabama, *Chairman Emeritus*
PETER T. KING, New York
EDWARD R. ROYCE, California
FRANK D. LUCAS, Oklahoma
SHELLEY MOORE CAPITO, West Virginia
SCOTT GARRETT, New Jersey
RANDY NEUGEBAUER, Texas
PATRICK T. McHENRY, North Carolina
JOHN CAMPBELL, California
MICHELE BACHMANN, Minnesota
KEVIN McCARTHY, California
STEVAN PEARCE, New Mexico
BILL POSEY, Florida
MICHAEL G. FITZPATRICK, Pennsylvania
LYNN A. WESTMORELAND, Georgia
BLAINE LUETKEMEYER, Missouri
BILL HUIZENGA, Michigan
SEAN P. DUFFY, Wisconsin
ROBERT HURT, Virginia
MICHAEL G. GRIMM, New York
STEVE STIVERS, Ohio
STEPHEN LEE FINCHER, Tennessee
MARLIN A. STUTZMAN, Indiana
MICK MULVANEY, South Carolina
RANDY HULTGREN, Illinois
DENNIS A. ROSS, Florida
ROBERT PITTENGER, North Carolina
ANN WAGNER, Missouri
ANDY BARR, Kentucky
TOM COTTON, Arkansas
KEITH J. ROTHFUS, Pennsylvania

MAXINE WATERS, California, *Ranking Member*
CAROLYN B. MALONEY, New York
NYDIA M. VELÁZQUEZ, New York
MELVIN L. WATT, North Carolina
BRAD SHERMAN, California
GREGORY W. MEEKS, New York
MICHAEL E. CAPUANO, Massachusetts
RUBÉN HINOJOSA, Texas
WM. LACY CLAY, Missouri
CAROLYN McCARTHY, New York
STEPHEN F. LYNCH, Massachusetts
DAVID SCOTT, Georgia
AL GREEN, Texas
EMANUEL CLEAVER, Missouri
GWEN MOORE, Wisconsin
KEITH ELLISON, Minnesota
ED PERLMUTTER, Colorado
JAMES A. HIMES, Connecticut
GARY C. PETERS, Michigan
JOHN C. CARNEY, JR., Delaware
TERRI A. SEWELL, Alabama
BILL FOSTER, Illinois
DANIEL T. KILDEE, Michigan
PATRICK MURPHY, Florida
JOHN K. DELANEY, Maryland
KYRSTEN SINEMA, Arizona
JOYCE BEATTY, Ohio
DENNY HECK, Washington

SHANNON McGAHN, *Staff Director*
JAMES H. CLINGER, *Chief Counsel*

CONTENTS

THE TERRORISM RISK INSURANCE ACT OF 2002

Thursday, September 19, 2013

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room 2128, Rayburn House Office Building, Hon. Jeb Hensarling [chairman of the committee] presiding.

Members present: Representatives Hensarling, King, Royce, Garrett, Neugebauer, McHenry, Campbell, Pearce, Posey, Fitzpatrick, Westmoreland, Luetkemeyer, Huizenga, Duffy, Hurt, Grimm, Stivers, Fincher, Stutzman, Mulvaney, Hultgren, Ross, Pittenger, Wagner, Barr, Cotton, Rothfus; Waters, Maloney, Velazquez, Watt, Sherman, Meeks, Capuano, Hinojosa, Scott, Green, Cleaver, Himes, Carney, Sewell, Foster, Kildee, Murphy, Delaney, Sinema, and Heck.

Chairman HENSARLING. The committee will come to order. Without objection, the Chair is authorized to declare a recess of the committee at any time.

Today's hearing is on the Terrorism Risk Insurance Act of 2002. I now recognize myself for 5 minutes to give an opening statement, but I wish to let all Members know that I will be a little softer on the gavel today, since I know Members wish to be heard on this subject.

Today, the Financial Services Committee meets to hold a hearing on the Terrorism Risk Insurance Act of 2002. This is the first full Financial Services Committee hearing on the subject since 2005. It is an important hearing for a number of reasons.

Number one, this is a program that is due to expire in 15 months, and there are many within our economy who rely on this program and need to know the will of Congress. I also note that roughly half of the members of our committee have never been in Congress when this subject was debated, so I hope that there will be multiple views presented today on the topic in this hearing.

I will admit that the timing of the hearing—I had originally thought I would have this hearing in December, but the gentleman from New York, Mr. Grimm, is very persistent; there have been days where he was patiently persistent and days where he was painfully persistent. And so, due to his persistence, we are having this hearing today, and I certainly know of no more vocal or outspoken advocate for the continuance of this program than the gentleman from New York, Mr. Grimm.

Obviously, the other gentleman on my side of the aisle from New York, Mr. King, has also been exceedingly vocal and active, as have, on the Democratic side, the gentlelady from New York, Mrs. Maloney, and the gentleman from Massachusetts, Mr. Capuano, who have also coauthored legislation to continue the program. Their voices are important, and we will hear from them soon, as part of a Member panel.

Although I was not personally here in 2002, I know that the original purpose of the TRIA bill, and the report that accompanied the bill that came out of committee was to "create a temporary industry risk-spreading program for foreign acts of terrorism and facilitate a transition to a viable market for private terrorism risk insurance."

Before I go on to what was debated as the purpose of the bill, I think it is important to say what the bill did not purport to do. I cannot find anything in bill text or legislative history to suggest that anyone thought that the passage of TRIA would somehow prevent future acts of terrorism. It could not take away 9/11.

So to some extent, we are debating today who should bear the cost of terrorism acts? Should it be insurance companies and property owners, or taxpayers? I think we all acknowledge a far more important debate is the prevention. Our committee has some part of that jurisdiction; other committees down the hall have a far greater part of it.

At the time, it was thought that originally the TRIA Act would give the insurance industry time to recapitalize and develop new models, that they could price for terrorism risk and increase industry capacity. Three years later, in 2005, Congress decided to make TRIA a little less temporary, and extended it for 2 years.

Then, in 2007, Congress was back again to stretch the boundaries of modern linguistics by extending TRIA "temporarily" for 7 additional years and expanding it to cover any acts of terrorism, foreign or domestic.

So we all must recognize that in just 5 years, TRIA has leapt in scope and quadrupled in length, neither of which I think could be mistaken for facilitating a transition to a viable market for private terrorism risk insurance.

I think this begs a number of questions that I hope will be addressed in our second panel. What does constitute a temporary program? And I am not sure how many of us actually have faith in an ex ante recovery scheme of funds, so it begs the question, if premiums are not gathered, is this truly an insurance program? Is it an insurance program? Is it temporary? I certainly don't want to get into any trouble with the Consumer Financial Protection Bureau (CFPB) for misleading advertising.

Has TRIA—have the 11 years allowed the insurance industry to successfully model and to provide products for terrorism coverage without taxpayer support? Or has TRIA prevented it?

And, in 2007, the Congressional Budget Office stated, "In the absence of a Federal mandate, insurers have a strong incentive to offer terrorism coverage to their commercial customers because to do otherwise risks their losing business on other property and casualty lines."

Hasn't the capacity in the stand-alone terrorism insurance program increased significantly since 9/11? We all agree the risks of terrorism are unique, but are they so unique as to be uniquely uninsurable?

There have been times in our Nation's past where other phenomena in American history were deemed unique—airline crashes, oil spills, power outages, criminal riots, data losses—and yet somehow the industry found the incentive and the ability to model and assess this risk. How is this done? How long did it take? Are some positing that all acts of terrorism cannot be modeled, or is it merely those nuclear, biological, and chemical acts that cannot be reserved against or cannot be sufficiently modeled?

It probably comes as no surprise to anyone that if we posit that private insurance companies are incapable of modeling this risk, how can we be convinced that the Federal Government is any better, as our National Flood Insurance Program is underwater, pun intended? PBGC, $34 billion deficit.

And as we look at the national debt clock, which I know is inconvenient to some, it principally turns because insurance programs, be it the social insurance programs of Social Security and Medicare, or others, the government has not done a particularly good job. That, ladies and gentlemen, represents a manmade disaster, and it will certainly color my opinion on this matter. I have an open mind. It is not an empty mind, but it remains a skeptical mind.

I now recognized the ranking member for 5 minutes.

Ms. WATERS. Thank you, Mr. Chairman.

I would like to thank Chairman Hensarling for holding this hearing, which is the first in a series focused on the reauthorization of the Terrorism Risk Insurance Act, known as TRIA.

For more than a decade, TRIA has been nothing short of a qualified success, supporting critical economic growth by ensuring access to terrorism coverage by our largest venues, businesses and employers. The terrorist attacks of September 11, 2001, forever changed the way we live and do business. In addition to the tragic loss of life and disruptions to our financial system, insurance losses totaled an estimated $40 billion in today's dollars. The enormity of the losses made it financially impossible for many insurers and reinsurers to offer terrorism coverage.

Consequently, most fled the market, and State insurance regulators allowed providers to exempt terrorism coverage from their policies. Those that did offer coverage did so at a cost that was prohibitively high. As a result, in 2002 Congress stepped in, enacting TRIA. The program makes terrorism insurance both available and affordable by requiring insurance companies to offer coverage to commercial entities in exchange for a Federal backstop, which is used to protect against only those terrorism-related losses that exceed $100 million.

By requiring private insurers to offer terrorism coverage, TRIA actually reduces taxpayer exposure, because it keeps most of the terrorism risk with the private sector. Without affordable terrorism insurance, many buildings, schools, and venues would remain uninsured against terrorist attacks, meaning that the government likely would pick up 100 percent of the tab for catastrophic losses.

The success of the TRIA program has been remarkable and has fostered continued economic and commercial real estate development across the United States. TRIA is strongly supported by a broad coalition of businesses and organizations representing a wide array of industries including construction, manufacturing, retail, transportation, real estate, sporting, and entertainment. Entities from the National Football League to the U.S. Chamber of Commerce to the National Association of REALTORS® have lauded the program's importance.

Support for TRIA is so strong and so widespread that it has been reauthorized twice by the House, both times without controversy and with overwhelming bipartisan support, but as we approach its expiration in 2014, opposition to the quick, clean and long-term renewal of this popular and noncontroversial program remains a mystery to me.

While opponents argue that the program inhibits private-sector participation, the private sector itself maintains that without TRIA in place, insurers would fall into the same practices that followed the attack of September 11th. This would mean the exclusion of terrorism coverage that would cushion the economic shock of a large terrorist attack or a series of attacks, something that remains essential for economic growth and job security.

Mr. Chairman, I support reauthorizing TRIA, and I am encouraged by the proposals on the table to do so, in addition to the bill by Representative Capuano, which I have co-sponsored. We have seen bipartisan legislation from Representatives Maloney and Grimm, as well as a bill from Representative Thompson. While each bill differs slightly in form, it is of the utmost importance that TRIA is reauthorized quickly, cleanly, and for the long term.

I thank you again for holding this hearing, and I look forward to the testimony of my colleagues and the other witnesses.

I yield back the remainder of my time.

Chairman HENSARLING. The Chair now recognizes the gentleman from Texas, Mr. Neugebauer, the chairman of the Housing and Insurance Subcommittee, for 3½ minutes.

Mr. NEUGEBAUER. I thank you, Mr. Chairman, and thank you for calling this important hearing. This, I think, is the first of what probably will be a number of hearings. We have planned some additional hearings in the subcommittee level, as well.

Last week, we remembered 9/11, which was an event that was unwanted, unplanned for, and unexpected in this country. It created quite a bit of economic havoc in our country, and as a result of that, there was economic uncertainty, and so TRIA was put in place to give some confidence to the marketplace so that people could continue to insure buildings and lives in what can be considered high-risk areas.

One of the things that I want to do when at some point in time I leave Congress is I want a temporary government contract, just like TRIA, one that lasts almost 11 years now. And one of the things that, as I said, was the purpose of this was to bring some stability to the marketplace.

And so, let's look at what has happened since 2002. The insurance industry was able to absorb the shock. It was a pretty big hit, but they absorbed it, and subsequent to that, the industry has re-capitalized almost twofold. The reinsurance market is very much up and running, and there is a lot of liquidity out there, a lot of capital, and a lot of interest in taking on some of these risks.

The insurance for TRIA for terrorism has gone down. The take-up rate is up. And so when you look back, if you ask people what would need to happen for us to begin to transition off of TRIA 11 years ago, they would have told you, well, the industry needs just a little bit of time to get back on its feet. And when you look at the industry today, it is back on its feet.

We have talked to a number of market participants, and we have talked to a number of people in the insurance business, and they are ready to take on these risks. Because really what is happening today—and it is a great business model if you are in that business—is that basically, the American taxpayers are furnishing free reinsurance for TRIA coverage in this country.

It seems to be, and we have reached a period in this country—and it is unfortunate—where we now have the American taxpayers backing everybody's mortgages, backing their insurance, backing their flood insurance, and what we know is the government is not really good at the insurance business. We look at FHA, it is in the insurance business, but yet they are undercapitalized.

And so, I think the debate needs to be not just about what we do with TRIA, but in the future, can we have economies where the American taxpayers don't have to take on risks that other people don't want to take on?

I look forward to the discussion that we will have today. I think it is an important discussion. And I thank the chairman for calling this hearing. I appreciate my colleagues who are going to testify in the first panel and I look forward to hearing their testimony, as well as the testimony of the other panel members. I think this is a good discussion beginning point, and one that I think will have additional opportunities in the future.

And with that, Mr. Chairman, I thank you.

Chairman HENSARLING. The Chair now recognizes the gentleman from Connecticut, Mr. Himes, for 2 minutes.

Mr. HIMES. Thank you, Mr. Chairman. I appreciate you calling this very important hearing, and I would like to thank my colleagues for appearing on this panel on this very important topic.

I will note that I am a co-sponsor of both Mr. Grimm's and Mr. Capuano's bills. I will note we have a wonderful opportunity here today, because Mr. Capuano finds himself on the other side of the witness table for this hearing. And I want to say that, Mr. Chairman, like it or not, the Terrorism Risk Insurance Program has become a critical element of the real estate industry in particular.

Some 60 percent of total U.S. commercial property—and that is an $11 trillion market—is backed by TRIA reinsurance. The National Multi Housing Council believes that about 85 percent of the firms that they surveyed purchase terrorism coverage as part of their property programs.

This is not just important to the industry; it is actually a really important debate. Mr. Chairman, I agree with you. We should be very, very cautious in how we proceed. We don't want to repeat the experience that we all just lived through with other insurance programs, in particular the GSEs. We want to be careful that this ends up being a well-underwritten program that does what it has always done, which is provide an insurance backstop without any cost to the Federal Government, and we do, I think, want to make sure that it is structured in a way that if the private market eventually can provide this insurance, it does so.

The logic, of course, for government intervention in this market is that the insurance industry relies on a couple of things that don't exist when you think about terrorism. The events are utterly unpredictable. They are not subject to any sort of actuarial analysis, and, of course, there is dramatic asymmetric risk. The government—and I say this as a member of the Intelligence Committee—knows a lot more than the market does about the nature of this risk.

So, Mr. Chairman, I hope that we will do something at this crossroads. We could do nothing, as we are wont to do. We could pass a bill that goes nowhere because it is so extreme. After the fashion of the day, we could pass TRIA reauthorization which relies on a repeal of Obamacare.

And if we do one of these three things, we will earn our low approval ratings, or we can make an important statement to the American people that we are willing to govern in an intelligent way, and, Mr. Chairman, I hope that is the path we follow.

I yield back the balance of my time.

Chairman HENSARLING. The Chair now recognizes the gentleman from Illinois, Mr. Hultgren, for 1½ minutes.

Mr. HULTGREN. Thank you, Mr. Chairman, and thank you, all of you have done so much work on this.

From the hearing today, and in the committee's discussions to come, I am not just interested in fully understanding the necessity of the Terrorism Risk Insurance Program, but also if it can be improved.

I can recognize that some Federal backstop may be required if our Nation's worst fears are realized, but how can we maximize taxpayer protection? How can we fully realize private insurance capacity? Are there emerging threats being covered?

Terrorism continues to evolve, and so must our response. Data centers and communication capacity are high-priority targets today, higher than when terrorism risk insurance was first conceived. Is TRIA meeting these challenges?

Today, I have more questions than answers, but I start with this acknowledgement: Terrorist attacks that destroy individual lives and private property were not ultimately directed at those specific entities. The attack is meant to harm a much wider audience and is directed at our Nation.

On 9/11, my friend from high school, Todd Beamer, was killed in the Flight 93 crash. He was not the terrorist target on that day, nor was United Airlines. We all were.

Like so many of my colleagues, I have not voted on TRIA before, and I thank the chairman for the chance to explore this issue, and I thank the witnesses for sharing their experience. Thank you, Mr. Chairman. I yield back.

Chairman HENSARLING. The Chair now recognizes the gentleman from Illinois, Mr. Foster, for 2 minutes.

Mr. FOSTER. Thank you, Mr. Chairman, for holding this important hearing.

While it is important to periodically re-evaluate the effectiveness of every Federal program, I am increasingly concerned by indications that TRIA may only be extended for a short time, or not at all. The importance of terrorism insurance to our economy was in full view during the 14-month period after the September 11th attacks.

In 2002, when terrorism insurance was largely unavailable, a survey from the Real Estate Roundtable found that $15.5 billion in real estate projects in 17 States were stalled or canceled because of the lack of available terrorism insurance from the private market.

In the midst of what is now a solidifying, but still fragile, economic recovery, congressional inaction on this issue could threaten the stability of our markets and delay progress in the real economy. Uncertainty alone may cause insurance premiums to spike and become unavailable in some markets.

We have seen various arguments of opponents of catastrophic Federal backstops before. I believe that it is intellectually dishonest to believe that the Federal Government would not and should not step in following another large-scale terrorist attack or, for that matter, a collapse in our Nation's housing market.

There will always be a range of disasters for which only the Federal Government has deep enough pockets to cover the losses. In the case of terrorism risk insurance, we should accept that reality and accurately price that risk.

After having spent over 20 years as a particle physicist, modeling the probabilistic outcomes of very rare events, I understand the difficulty in modeling a terrorist attack, given our inability to predict the future, and attacks with very low probabilities, a small dataset on which to project probabilities in the future, and the fact that the probabilities are both random and correlated.

But a failure to extend this program is unacceptable. Even sending signals to the market that we may not act rationally and decisively will raise the operational costs for businesses and jeopardize jobs, not just in Chicago, New York, and San Francisco, but across the banking, commercial, real estate, and construction industries of this country.

Thank you, and I yield back.

Chairman HENSARLING. The last colleague I will recognize before I recognize four more colleagues is the gentleman from Georgia, Mr. Scott, who is recognized for 2 minutes.

Mr. SCOTT. Thank you very much, Mr. Chairman.

A couple of points. First of all, terrorism risk does not resemble any other commercial risk. Unlike natural disasters, in which insurers have had significant experience and data to project the risk of damage, terrorism is highly difficult to model projections of risk assessment.

The Terrorism Risk Insurance Program provides a good risk-sharing model between insurers, policyholders, and the Federal Government that provides insurance market stability and security, particularly considering the unpredictability of the tragic nature and uniqueness of terrorism.

It is very important to point out that TRIA has provided a necessary service at nearly zero cost to the taxpayers. Numerous and diverse industries from insurance to real estate to travel and tourism have argued very hard for the necessity of extending TRIA, and we must do that.

And so it is with great pleasure that I am pleased to sign on with both Mr. Grimm and Mr. Capuano's bills and support them. And I would urge the committee to do so, as well.

With that, I yield back the balance of my time.

Chairman HENSARLING. The gentleman yields back.

Today, we will have two witness panels. Our first panel will be composed of our colleagues who have authored and co-authored this legislation. We certainly look forward to grilling them like well-done hamburgers.

In all seriousness, without objection, we will dispense with questioning of the witnesses on this panel. Clearly, our colleagues need no introduction, so I will now yield to the gentleman from New York, Mr. Grimm, for 5 minutes for your statement.

STATEMENT OF THE HONORABLE MICHAEL G. GRIMM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. GRIMM. Mr. Chairman, thank you. I appreciate very much your moving up this hearing, and I know I speak on behalf of all of my colleagues at the table.

I also want to thank Ranking Member Waters and my fellow colleagues on the Financial Services Committee for holding this hearing to examine the Terrorism Risk Insurance Act of 2002, which we all know as TRIA. And I want to thank you for providing me this opportunity to testify today on this important program.

As a 9/11 first responder, and a Member of Congress representing New York City, I am keenly aware of the devastation and destruction that a major terrorist attack can cause. I can also report that 12 years after that terrible day, we are finally seeing meaningful redevelopment of the World Trade Center site come to fruition, redevelopment that insurance proceeds helped make possible.

Prior to 9/11, insurance companies in the United States routinely provided coverage for losses caused by acts of terror. However, after the devastating losses suffered during the largest terrorist attack in our Nation's history, insurance carriers were forced to totally re-evaluate the risks associated with insuring against acts of terror.

This caused the availability of terrorism insurance to all but vanish. It created a situation in which many commercial property developments were either stalled or canceled, as developers and lenders were ultimately unwilling to move forward without terrorism insurance coverage.

This lack of coverage was the driving force behind Congress creating TRIA in 2002, and reauthorizing it in 2005 and 2007. TRIA will expire at the end of 2014 unless Congress takes action, and I would like to express to my colleagues today the importance of continuing this vital program.

Many of the reasons, if not all of the reasons that caused insurance to withdraw from the terrorism insurance market 12 years ago are still present today. The risks and possible costs associated with terrorist attacks are still impossible for insurance actuaries to model.

This is because, unlike natural disasters, which are random events, terrorist acts are manmade, malicious events. Such intentional acts do not easily fit into the standard principles of insurable risk.

In addition, giving insurers the information needed to better model such risks would put our national security in severe jeopardy. It would require turning over top-secret intelligence information on current terrorist threats and plots.

While I understand there is a perception that TRIA is only important to large cities, such as New York and Los Angeles, it is not. Our energy infrastructure, amusement parks, resorts, sports stadiums, universities, and major hospitals are some of the many at-risk targets across the entire country.

For example, on any given autumn Saturday, there are hundreds of football stadiums on college campuses filled with fans, in some cases more than 100,000 people at any one time. Such facilities are as vulnerable as skyscrapers in New York City to a terrorist plot to kill and harm innocent Americans.

Additionally, I feel it is extremely important to note that TRIA is not only vital to property insurance, it provides a key backstop to workers' compensation insurance across the entire country. State law prevents insurers from excluding risks, such as terrorism, from workers' compensation policies.

Without TRIA, many workers' compensation insurers could be left in financial ruin in the case of a large claim caused by a terrorist act. This would not only harm those directly injured in the attack, but everyone else who also relies on the important safety net that workers' compensation insurance provides.

To put this in perspective, workers' compensation was liable for $750 million for Cantor Fitzgerald alone. This was one financial company located in the Twin Towers on that fateful day.

Compare this with the liability that could be created by a terrorist act striking a large hospital or a university that has thousands of employees on any site, on any given day. I submit to you that with regard to workers' compensation insurance, not only is the risk impossible to model actuarially, but it is virtually unlimited.

It is important to note that workers' compensation insurers are mandated by State law to provide coverage for acts of terror. So, this is decidedly not a free market.

Finally, I would like to make clear that TRIA is not a taxpayer bailout. It is not a bailout of the insurance industry, but it is, in fact, the most taxpayer-friendly way to deal with the long-term costs associated with a terrorist attack.

TRIA, through a $100 million industry-wide co-payment, and its 20 percent of written-premium, individual-carrier co-payments, places significant private capital in front of any taxpayer assistance. Additionally, TRIA's repayment mechanism provides an important vehicle for compensating taxpayers over time for assistance provided in the immediate aftermath of a terrorist attack.

Again, I just want to thank all of my colleagues, and I want to thank my chairman again. This is an extremely important issue. And with that, I yield back.

Chairman HENSARLING. The Chair now recognizes the gentlelady from New York, Mrs. Maloney, for 5 minutes.

STATEMENT OF THE HONORABLE CAROLYN B. MALONEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mrs. MALONEY. Thank you, Mr. Chairman, and Ranking Member Waters, for calling this full Financial Services Committee hearing. And I also would like to thank my colleagues who have co-sponsored this bill. I hope others seriously consider co-sponsoring it, and I thank my colleagues who authorized this important program to begin with and reauthorized it.

I also would like to ask unanimous consent to place in the record an article that my colleague, Mr. Grimm, and I co-authored in the New York Post today entitled, "Congress must move on terror insurance."

Chairman HENSARLING. Without objection, it is so ordered.

Mrs. MALONEY. And extending TRIA really should be a no-brainer, because it works, it protects taxpayers, it creates jobs, and it costs absolutely nothing. We all know that major U.S. cities, like New York and Boston, remain top targets for terrorists. Everyone also knows that a major terrorist attack would be devastating, not just for our citizens in our country, but for our overall economy. That is why reauthorizing TRIA is essential to our country's continued economic well-being.

And the risk continues. Police Commissioner Kelly has reported that there have been 13 different attempts since 9/11 to attack New York, which have been thwarted and stopped.

After 9/11, businesses across this country, and especially in New York City, could not get terrorism insurance. This crippled the construction, real estate, and tourism industries. TRIA provided businesses and insurers with much needed certainty by establishing a stable, long-term Federal support system for terrorism insurance. This helped the economy bounce back after 9/11 and ensured that terrorists could not wreak havoc on our economy and our way of life.

After 9/11, all construction stopped. You couldn't even build a hot dog stand. It completely stopped. They could not get insurance anywhere in America. The only place they could get insurance was Lloyd's of London was insuring some places in America.

Over the long term, TRIA ensures that if, God forbid, another terrorist attack does occur, we will be able to keep our markets open, our cities vibrant, and our economy strong. As we all know, it is rare for Congress to pass a bill that ends up doing exactly what we intended it to do and at no cost to the Federal Government or to the taxpayer.

Yet, that is precisely what TRIA has done. It has ensured that businesses have access to terrorism risk insurance for over a decade and has not cost taxpayers a single dime. Why then would we even think about ending this program? Ending this program would harm the fragile economic recovery in the short term, and in the long term would leave our economy dangerously exposed in the event of a future terrorist attack.

Opponents sometimes question why we need TRIA at all, but it is important to remember that just because the Federal backstop in TRIA has never been used does not mean that it is unnecessary. On the contrary, as the terrorist attack at the Boston Marathon demonstrated just this year, TRIA remains as necessary as ever.

Opponents also argue that the private sector has the capacity to step in and provide terrorist insurance even without TRIA, but there is no evidence to support this.

To the contrary, we already know what will happen without a Federal backstop for terrorism insurance because we experienced it. During the 14-month period after 9/11, before Congress enacted TRIA, private insurers refused to offer any coverage, which resulted in stalled and stopped construction projects and thousands of lost jobs.

This is why there is widespread support in the business community for reauthorizing TRIA in its current form. Insurers, developers, banks, and even the major sports leagues, hospitals, and schools all believe that the presence of the Federal backstop that TRIA provides is the only reason that terrorism risk insurance is available at all.

This time, we can't just wait until the last minute to reauthorize TRIA like we do with everything else. Months before the last TRIA reauthorization was expiring, insurance companies were already notifying regulators of plans to drop their terrorism insurance, which started to stop and stall development and jobs in our country.

That is why my colleague Mr. Grimm and I introduced a bipartisan bill to extend the current TRIA program for another 5 years. Our bill currently has 76 co-sponsors on both sides of the aisle. And with such broad bipartisan support, I very much hope that the committee will schedule a markup without delay, please, Mr. Chairman, and Ms. Ranking Member.

Thank you very much for this privilege to testify before this important committee and before colleagues that I respect so much. Thank you so much.

Chairman HENSARLING. The Chair now recognizes the gentleman from Massachusetts, Mr. Capuano, for 5 minutes.

STATEMENT OF THE HONORABLE MICHAEL E. CAPUANO, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF MASSACHUSETTS

Mr. CAPUANO. Thank you, Mr. Chairman. And thank you for having this hearing, and allowing me to testify as representing what I consider to be 99 percent of America, which means those of us who do not root for the Yankees.

Mr. GRIMM. Objection.

[laughter]

Mr. CAPUANO. Mr. Chairman, let's be serious here.

Chairman HENSARLING. So much for bipartisanship.

[laughter]

Mr. CAPUANO. Always trying, Mr. Chairman. Always trying.

Mr. Chairman, let's be serious. We are going to reauthorize TRIA pretty much as it is. We may tinker around the edges, changing some of the triggers, or the amount of time we do it, but it is going to be done. And we all know this.

It is going to be done because of people like me. I don't like TRIA, either; I just don't have a better idea. I haven't heard anyone else suggest a better idea. The private market has not come back in, and they won't come back in. If there are better ideas, let's hear them.

To me, TRIA is a necessary item, because without it we will have no construction, you have heard my colleagues testify, and we all know that. Without some sort of terrorism insurance, there would not be a new Dallas Cowboys Stadium today. There would not be fans in the Dallas Cowboys Stadium next week. This is a national issue. This is an issue that especially for me, the most important thing we did the last time is we put in a repayment mechanism.

God forbid there is a need to use TRIA, but we now have it so that taxpayers will not lose a penny. They will put in the money upfront and get paid back over time. And, again, if others have better ideas, people like me want to hear them. This doesn't fit with my general philosophy, but, again, to me, it is necessary for the American economy to keep moving forward.

And as far as bipartisanship goes, I do want to point out there were 32 members of this committee who were in Congress the last time we reauthorized TRIA. All but two of the members on this committee voted for it. But with my luck, one of those two happens to be the chairman of the committee today.

[laughter]

A minor point of consternation, but something we have to live with.

Mr. Chairman, thank you for having this hearing. And with trueness in my heart, I look forward to your grilling, insightful questions.

[The prepared statement of Representative Capuano can be found on page 62 of the appendix.]

Chairman HENSARLING. Well, in the spirit of bipartisan friendship, I would just suggest to the Member that in the future, if he wishes to get the chairman's attention, Kyle Field at Texas A&M University is more persuasive than the Cowboys Stadium.

[laughter]

The Chair now recognizes the gentleman from New York, Mr. King, for 5 minutes.

STATEMENT OF THE HONORABLE PETER T. KING, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. KING. Thank you, Mr. Chairman.

And thank you, Ranking Member Waters. It is truly a privilege to follow Mr. Capuano.

Very seriously, most of the points have been made. I would ask unanimous consent to have my full statement inserted in the record. And I will just—

Chairman HENSARLING. Without objection, it is so ordered.

Mr. KING. There are several points I want to make at the outset, though. First, comments have been made that this was intended to be a temporary measure, and it is still around 12 years later. The reality is this was passed in the aftermath of 9/11, and we didn't fully realize at the time that the international terrorist threat would not be a temporary threat.

The fact is, 12 years later—I say this as a member of the Intelligence Committee and former chairman of the Homeland Security Committee—in many ways, the terrorist threats are as great if not greater than they were on 9/11. So the threat is still there, and that is why to me it is so essential that this program be continued and not be just looked upon as a temporary program.

Second, as has been said, TRIA has no debt. This is not like the Federal Flood Insurance Program. It has no debt. The Federal Government has never paid out one dime in claims. And I think it is important out there—because somehow there is this impression that this is a handout or people are making money off of this. The fact is, not one penny has been paid out in the 12 years.

Now, I think this is perhaps the most successful example of a public-private partnership, and it is provided economic certainty and stability to businesses across the country. It has brought private insurers back into the business of protecting against terrorism following the devastating effects of 9/11.

My district lost 150 friends, neighbors, and constituents. Thousands and thousands of constituents have worked in the area of the World Trade Center and continue to work there today. So, Mr. Grimm, Mrs. Maloney, and I certainly are very personally involved in this. Mr. Capuano, having gone through the Boston Marathon attack, knows the trauma that affects an area when a terrorist attack such as this occurs.

But as also been said, this is not just a New York or a Boston issue. TRIA has allowed, as Mr. Capuano mentioned with the Dallas Cowboys, the fact is the Super Bowl, the Olympics, amusement parks, universities, we can go on, Las Vegas, favorite major league sports teams in all sports, TRIA has had a hand in allowing all these events to come to pass.

So at this time, I would 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 other words—

Chairman HENSARLING. Without objection, it is so ordered.

Mr. KING. Thank you. Thank you, Mr. Chairman. In a post-9/11 world, we need the TRIA program more than ever. And also, this is a unique issue, because as we saw with 9/11, nothing the City of New York could have done, nothing the State of New York could have done could have prevented those attacks.

It is the responsibility of the Federal Government to ensure the security of its citizens. A terrorist attack occurs when there is a breakdown in our national security system. If that happens, the

Federal Government bears the responsibility to assist the victims of such an attack, which is akin to an act of war.

We cannot expect the private market to ensure 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.

Now, an attack—again, as I said before, not one dime has been paid out. As we go forward, an attack needs to cost over $100 million in claims, and an additional 20 percent insured deductibles before government cost-sharing even kicks in. And then, TRIA makes sure taxpayers are fully repaid, as Mr. Capuano pointed out, by assessing fees on the insurance industry to recoup any payouts.

So this is a program which has not cost us anything, and which has allowed billions of dollars in real estate development to go forward. We are talking about thousands and thousands of jobs. And I just see no rationale in this not being extended.

I strongly support a clean extension of the TRIA program. Mr. Capuano and I have one piece of legislation. I am proud to be a co-sponsor of the Grimm-Maloney legislation, and they have worked extensively hard on this.

But let's not just, as we somehow rely on buzzwords, to put ourselves in a situation where we are hampering the economic future of this country. This is something—yes, as Mike said, if there are any improvements, let's make them. No one wants to see one penny or one dollar be spent unnecessarily.

But until someone comes up with that, let's not stop one of the most effective programs we have ever had and which really goes to the heart of the main threat, one of the main threats, certainly the most life-threatening danger we face today, and that is a terrorist attack.

So, let's go forward. Again, if there are ways that this can be done in a more efficient way, more effective way, let us know. But until then, I strongly urge an extension of the program.

I yield back the balance of my time.

[The prepared statement of Representative King can be found on page 64 of the appendix.]

Chairman HENSARLING. I thank my colleagues for their clarity and passion and leadership on this issue. You are now dismissed to assume your usual seats.

We will take a moment to allow our second panel of witnesses to be seated at this time.

We will now turn to our second panel. I will introduce our witnesses. First, Peter Beshar is the executive vice president and general counsel to the Marsh & McLennan Companies. He previously was a litigation partner in a large law firm, and served as assistant attorney general in New York.

Eric Smith is the president and CEO of Swiss Re Americas, a position he has held since 2011. He leads the company's property, casualty, and life and health reinsurance businesses in North and Central America.

Janice Abraham is the president and CEO of United Educators Insurance, a position she has held since 1998, where she is responsible for developing and executing business strategy and operational plans for the risk management and insurance company.

Dr. Gordon Woo is a catastrophist for Risk Management Solutions, a Silicon Valley firm specializing in catastrophic risk modeling.

Last but not least, Mr. Steve Ellis is vice president of Taxpayers for Common Sense, and is no stranger to the congressional witness table, having testified on numerous topics such as flood insurance and congressional earmarks.

Each of you will be recognized for 5 minutes to give an oral presentation of your testimony. Without objection, each of your written statements will be made a part of the record.

Mr. Beshar, you are now recognized for 5 minutes.

STATEMENT OF PETER J. BESHAR, EXECUTIVE VICE PRESIDENT AND GENERAL COUNSEL, MARSH & McLENNAN COMPANIES

Mr. BESHAR. Chairman Hensarling, Ranking Member Waters, and all the members of the committee, thank you for the opportunity to be here.

Terrorism is a deeply personal issue for our company, Marsh & McLennan. On that fateful day, 9/11, our company lost 295 employees and scores of business associates.

We also feel that we have a unique vantage point on the terrorism insurance market. Through our company, Marsh & McLennan, and our subsidiary, Guy Carpenter, we provide analytics and brokering services to really all of the players in the insurance marketplace, the buyers of terrorism insurance, the sellers, and also key reinsurers.

We consider TRIA to be a model example of a public-private partnership. It provided crucial stability into the insurance marketplace at a vital time, and today it is instrumental in allowing the marketplace to function effectively. So, we strongly encourage its reauthorization and its modernization moving forward.

This morning, I would like to briefly cover four areas: the current state of the terrorism insurance market; the aggregate levels of capital in the industry; our recommendations for reforming TRIA; and lastly, a couple of cautionary notes in the event that a different decision is made.

This spring, our company, Marsh, released a sweeping survey of 2,500 clients across the country on the subject of terrorism insurance. And there were two big takeaways from the report.

First, buyers across the country want this coverage. In the South, in the Midwest, and interestingly, in the West, the take-up rates are increasing faster than anywhere else, so this is not simply a phenomenon in the Northeast.

And second, the take-up rates are really across all industries. We tracked 17 industries—real estate, health care services, nonprofits—really, at every level, the take-up rates have been consistent or increasing. So, policyholders want this protection.

Meanwhile, on the level of capital in the reinsurance industry, our subsidiary, Guy Carpenter, recently released a report indicating that the level of capital in the reinsurance industry has increased over the last 5 years to approximately $195 billion, up from about $160 billion 5 years ago.

Now, to be clear, not all of this capital is available for terrorism coverage in the United States. These numbers are the aggregate numbers for the reinsurance industry across the world.

Nonetheless, there is more capital in the reinsurance industry today than there was 5 years ago, and were these trends to continue, we believe that there is space for the private insurance industry to take up more and to thereby reduce the position of the Federal Government.

Against this backdrop, Mr. Chairman, we offer three specific recommendations.

First, we recommend that Congress specifically clarify that coverage is available under TRIA for all forms of terror, including NBCR, if the underlying policy makes those provisions available.

Second, TRIA should be modernized to reflect the fact that new terrorist risks have emerged, even since the last time that Congress reauthorized it in 2007. I think the most acute example is cyber terrorism, and we ask that Congress reflect on that and analyze how best to include cyber terrorism in a reauthorized TRIA.

And third, the certification process. There is a clearly laid-out process, but it doesn't have a timeline associated with it. And as the bombings in Boston have revealed, in the absence of a timeline, there is ambiguity that is brought into the marketplace and for policyholders.

So, a range of additional changes have been recommended from abolishing the program in its entirety to scaling back the deductible, and expanding the co-pay. We will leave that to you, Congress, to grapple with, but we would offer just a couple of thoughts about potential market disruption that can occur as you analyze those issues.

First, a critical component of TRIA is the make-available component. We take it for granted, but up until that point, unless that make-available is there, there is no guarantee whatsoever that property and casualty carriers will, in fact, make terrorism coverage available.

And our research suggests that, indeed, if TRIA is not there, there are many P&C carriers who will, in fact, choose not to underwrite the peril.

Similarly, on workers' compensation coverage, where carriers have to pay their claims without regard to fault, absent a Federal backstop, a number of carriers will likely decline to provide coverage.

So, in sum, we believe TRIA is the backbone to a healthy terrorism insurance market, and in our judgment, its existence actually serves to protect taxpayers from absorbing virtually all the loss associated with a significant terrorism event.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Beshar can be found on page 77 of the appendix.]

Chairman HENSARLING. Mr. Smith, you are now recognized for 5 minutes.

STATEMENT OF J. ERIC SMITH, PRESIDENT AND CHIEF EXECUTIVE OFFICER, SWISS RE AMERICAS

Mr. SMITH. Chairman Hensarling, Ranking Member Waters, and members of the committee, good morning. My name is Eric Smith, and I am the president and CEO of Swiss Re Americas, a U.S.-based corporation with thousands of employees in 30 offices around the United States. We began doing business here in 1893, and we have helped people rebuild their lives and businesses after every major catastrophe since the San Francisco earthquake of 1906.

Thank you for allowing me to appear before the committee today to discuss the Terrorism Risk Insurance Act. TRIA protects the American economy and provides certainty in the insurance marketplace.

Swiss Re supports this important partnership between the government and the private sector as a means of managing the terrorism risk that our country faces. We urge you to reauthorize the program.

Swiss Re offers insurance and reinsurance coverage for terrorism risk in the United States. We believe this gives us a unique perspective on two critical issues: first, why the risk of terrorism continues to be uninsurable; and second, how traditional and nontraditional reinsurance markets view the risk of terrorism.

We are celebrating our 150th anniversary as an enterprise, and the risk of terrorism and natural catastrophes has existed since our company began operations. Today, insurance for natural catastrophes is much more available and affordable than it is for terrorism.

Why is this the case? Because even though natural catastrophes like hurricanes and tornadoes can be just as devastating as acts of terrorism, we can model them with accuracy. Terrorism risk can't be modelled. Terrorism risk remains largely uninsurable today because terrorists are unpredictable.

Terrorists actively work against being detected so they can inflict as much damage as possible. The same isn't true for hurricanes or other natural catastrophes. And until we have a means of modeling the human element of terrorism risk, we don't believe the risk can be underwritten or priced with accuracy.

Because Swiss Re is the leading global reinsurance company in the United States, I would like to comment on the U.S. market capacity and the potential for growth in terrorism reinsurance.

Reinsurers face the same basic challenges as primary insurers in underwriting and pricing coverage for terrorism risk. And this uncertainty affects our business appetite for taking on the risk.

The fact is, we earmark very limited capital to terrorism reinsurance, and the capacity we do offer goes to support our clients in their TRIA mandates. The reason Swiss Re offers capacity for terrorism risk in the United States is because TRIA is in place.

Reinsurance capacity for terrorism risk in the United States is generally limited to conventional terrorism losses. There is virtually no capacity available for unconventional terrorism losses from nuclear, biological, chemical, or radiological attacks. And even for conventional terrorism, reinsurance capacity is limited in large metro areas because of the risk concentration challenges.

There have been recent reports about capital flowing into the reinsurance market from hedge funds and large pension funds and some have made the assumption that this capital will be deployed for terrorism risk. Our experience does not lead us to believe that this will be the case. Investors have not shown an appetite for terrorism risk, whether the investment is made in insurance-linked securities or in a more traditional manner.

There are two reasons for this: first, the unknowable characteristics of the underlying risk; and second, the correlation of risk. Pension funds and hedge funds are usually heavily involved in financial markets. After a terrorist act causing large-scale destruction, they would face the prospect of losses from their reinsurance investments and possible losses from a downturn in financial markets. This contrasts with investments geared solely toward natural catastrophe risks, where market downturns are less likely after an event.

Such dual uncertainty is not attractive to investors. This brings me back to the central problem with terrorism risk. Until it can be reliably modeled by insurers and reinsurers in the financial markets, U.S. businesses will face challenges getting the commercial insurance coverage they need to protect their operations and meet financing requirements. And without TRIA, U.S. taxpayers would be at greater risk.

We have worked hard at building the TRIA public-private partnership. We are very thankful that the program hasn't been tested. It is the elusive nature of terrorism that underscores the continuing need for the partnership. TRIA has proven effective in balancing the challenges of terrorism risk, national security, and economic stability. It provides an important foundation for orderly economic recovery following a catastrophic terrorist attack on U.S. soil.

Mr. Chairman, thank you for allowing me to appear today. I look forward to answering your questions.

[The prepared statement of Mr. Smith can be found on page 126 of the appendix.]

Chairman HENSARLING. Ms. Abraham, you are now recognized for 5 minutes.

STATEMENT OF JANICE M. ABRAHAM, PRESIDENT AND CHIEF EXECUTIVE OFFICER, UNITED EDUCATORS INSURANCE

Ms. ABRAHAM. Thank you.

Mr. Chairman, Ranking Member Waters, and members of the committee, thank you for this opportunity to testify today. I am Janice Abraham, president and CEO of United Educators, speaking today on the concerns of schools, colleges, and universities.

United Educators is an A-rated risk retention group, a liability insurance company owned by more than 1,200 schools, colleges, and universities throughout this country. Our goal is singular and focused on this issue, to help schools and colleges recover as quickly as possible after a terrorist event, if a terrorist event occurs.

Although United Educators insures institutions in Boston, Los Angeles, and throughout the country, we are mindful that the terrorists found Oklahoma City as a target. And close to 92,000 fans will gather in Lincoln, Nebraska, to watch a football game this fall.

This is not a rural or urban issue; this is an issue about having a plan to recover in the event of a natural catastrophe.

Our policyholders fit the profile of potential targets. They are icons of America, with open campuses and cultural landmarks, a high concentration of people, and a strong role in their community as economic engines.

Schools are potential targets for their Saturday afternoon football games, and their research labs, not just the labs at major research universities, are targets, especially of terrorists who would seek to harm the Nation's national security apparatus. And schools are targets when they host major speeches or Presidential debates.

United Educators views TRIA as a national terrorism risk management plan that enables our schools to manage their risks responsibly through a four-way collaboration.

First, the policyholders, the schools through their insurance deductibles have the first level of risk. They are also obligated to have well-documented and tested crisis response plans that ensure the security of research labs and safe evacuation plans for large gatherings.

Second, United Educators, as the primary insurer, underwrites this terrorism risk considering the schools location, its vulnerabilities, and its crisis response and recovery plans. We take on considerable risk of loss ourselves as a company; 100 percent of our general liability insureds hold the terrorism insurance endorsement now, 100 percent.

Third, U.E.'s reinsurers support our high limits of coverage, particularly in the case of multiple catastrophic events, such as a coordinated terrorist event across the country. Our reinsurers have advised us that this broad coverage will disappear if the Federal program is not renewed.

So that leaves the Federal Government, a fourth and critical collaborator, by capping the liability and providing stable and predictable limits on terrorism insurance allows insurers and reinsurers to offer the sufficient capacity, even for multiple events.

If the Federal Government steps away from its current role in terrorism risk management, I think two things will happen.

Number one, the policyholders will not be adequately protected. U.E. could not responsibly provide coverage knowing that our balance sheet could be hit by coordinated terrorist attacks on multiple campuses. This would leave colleges and schools with few options, and none of them are good. They may be unable to purchase terrorism coverage, relying on government aid and private gifts to slowly recover after a catastrophic event, or they may obtain some form of limited coverage with exclusions and uncompetitive rates and pass this cost on to students through tuition.

Second, insurance companies' insurance capacity would be reduced and market competition would suffer. Like United Educators, small and midsized insurers—and that is the majority of companies and the insurance companies in this country—many of which are mutual companies—would not be able to provide this coverage. This would result in less capacity to support terrorism risk and a much less competitive insurance market. If caps on catastrophic terrorism losses expire, only the large insurers will be left to offer coverage, and they may have limited appetite to fill this gap.

The U.S. insurance industry thrives through diversity and competitiveness, and it may be counterintuitive, but capping the limits on private sector liability for catastrophic terrorism losses encourages more competition and more options for policyholders.

No one here wants, after a catastrophic terrorist event, for the government to hand out recovery money based on political pressures. What we want is an orderly recovery, and TRIA supports this.

Thank you, again, Mr. Chairman. I would be pleased to answer any questions.

[The prepared statement of Ms. Abraham can be found on page 72 of the appendix.]

Chairman HENSARLING. Dr. Woo, you are now recognized for 5 minutes.

STATEMENT OF GORDON WOO, CATASTROPHIST, RISK MANAGEMENT SOLUTIONS INC.

Mr. WOO. Chairman Hensarling, Ranking Member Waters, and members of the Financial Services Committee, I am very pleased and honored to be here today to give my testimony on terrorism insurance risk modeling.

Terrorism has become and will remain a catastrophe insurance risk. The possibility of a malicious aircraft impact in a central business district of a major U.S. city will exist as long as there is air travel.

The private sector market for any catastrophe insurance peril requires risks to be quantified. To meet this need, catastrophe insurance modeling has progressed in covering earthquakes and hurricanes in the 1990s to terrorism after 9/11.

In 2002, when TRIA was introduced, and subsequently reauthorized in 2005 and 2007, some attention was given to insurance risk models, but experience was still too limited for them to be accorded much weight.

Now, in September 2013, with a doubling of experience since 2001, terrorism risk insurance risk modeling has attained a level of capability, validation, and maturity to make a more notable contribution to the discussion of the future of TRIA.

What has become clear since 2007 is this: Terrorism risk is as much about counterterrorism action as about terrorists themselves. U.S. terrorism insurance is essentially insurance against the failure of counterterrorism. This is true not just in America, but across the Western alliance, Canada, Western Europe, and Australia.

Numerous terrorist plots are developed, but the vast majority are interdicted through the diligence of Western intelligence and law enforcement agencies. Mass surveillance of communication links, and intrusion of intelligence models elevates the likelihood of plot interdiction with plot size. The ambitious plots that might have a potential to cause massive insurance loss would tend to involve a significant number of operatives and thus be very prone to interdiction.

Too many terrorists spoil the plot. Attacks by a lone wolf or a pair of operatives such as the Boston bombers may be horrific acts of murder and destruction, but they are unlikely to cause large catastrophe insurance payouts.

Now, an earthquake is a deadly and destructive force of nature, but an earthquake is not a crime. After the Japanese tsunami of March 2011, a Japanese boy asked his father why the earthquake that caused the tsunami could not be arrested.

Terrorism is a crime. Criminals can be arrested in a way that earthquakes and hurricanes cannot. With every terrorist brought to justice, the evidence of counterterrorism control of loss volatility is accumulating across the Western alliance. Progressively, the courtroom record of terrorism convictions, combined with low terrorism insurance losses and risk modeling of terrorist social networks, should encourage cautious expansion of the U.S. terrorism insurance market. However, terrorism is not geographically diversifiable. The terrorists predominantly choose iconic targets with a recognition in populous urban centers.

The lack of geographical diversification inherently limits the insurance market capacity for covering terrorism risk in the central business districts of Manhattan and other main metropolitan areas. An ongoing challenge for future terrorism insurance market development is lack of capacity in some prominent ZIP Codes.

I want to make this point, that the Federal Government has a permanent, implicit involvement in terrorism insurance, in that it provides extensive—and massive, even—counterterrorism resources to stop terrorists before they move to their targets. And these resources have been deployed very effectively since 9/11.

Now, the greater these resources, the less the insurance loss burden. So the billions which have been spent on counterterrorism, quite rightly, to protect citizens from terrorist assaults, have helped to reduce the insurance loss burden.

And to minimize the cost to the American taxpayer of TRIA, continued development, continued proficiency of counterterrorism action provides a solid security platform for future development of the terrorism insurance market, provided that a government backstop is in place for the most extreme losses.

Thank you very much for your attention.

[The prepared statement of Dr. Woo can be found on page 142 of the appendix.]

Chairman HENSARLING. Last but not least, the Chair now recognizes Mr. Ellis for 5 minutes.

STATEMENT OF STEVE ELLIS, VICE PRESIDENT, TAXPAYERS FOR COMMON SENSE

Mr. ELLIS. Thank you. Good morning, Chairman Hensarling, Ranking Member Waters, and members of the committee. I am Steve Ellis, vice president of Taxpayers for Common Sense, a national nonpartisan budget watchdog. Thank you for inviting me here today to testify on the Terrorism Risk Insurance Act and the Terrorism Risk Insurance Program.

Congress enacted TRIA to "establish a temporary Federal program that would allow for a transitional period for the market to stabilize, resume pricing of such insurance, and build capacity to absorb any future losses."

Taxpayers for Common Sense, to be clear, opposed the creation and the extensions of the temporary program and believe that nearly a dozen years after the tragic events of 9/11, the terrorism marketplace has settled to the extent that it is past time for the government to step aside and let the private sector handle the portfolio.

Much of our concern with the terrorism reinsurance program comes from the experience with the National Flood Insurance Program, where the availability of subsidized Federal insurance has largely prevented the development of a private market, forcing taxpayers to pick up the tab for approximately $25 billion in losses to date.

In addition, below-market rates serve as a disincentive to mitigate for risks, something which is concerning in both the flood and terrorism context. President Reagan once observed that Federal programs and agencies are “the nearest thing to eternal life we will ever see on this Earth.”

And so, you have this 3-year, explicitly temporary terrorism reinsurance program extended for 2 years, then extended for 7 years. And legislation, as we have heard about today, has been introduced to extend the program for another 5 to 10 years. That will result in a temporary program that is just about old enough to vote.

I know that insurance companies and insureds would like to see the program extended as is. No wonder; it is a good deal. But as then-CBO Director Douglas Holtz-Eakin has observed in the 2005 reauthorization debate, it is not such a good deal for taxpayers: “It is easy to exaggerate the overall cost to the economy of reducing the Federal subsidy for terrorism insurance.”

In fact, those costs are likely to be small. One reason is that TRIA does not lower total costs of terrorist attacks, but rather shifts them from property owners to taxpayers. Indeed, total cost might be lower without TRIA, because efforts to mitigate risk could pay off in smaller losses from a terrorist attack.

For more than a decade, insurance companies have been pocketing terrorism insurance premiums with nary a payout. Thankfully, I admit. For the insureds, the take-up rate for terrorism insurance is roughly steady at a little over 60 percent since 2009.

Terrorism insurance premiums as a percent of total property insurance premiums is fairly consistent, as well, from 4 percent to 5 percent. Reinsurance and insurance response to disastrous events is to initially pull back, only to return with greater capacity, like pruning a tree, even after 9/11.

A Journal article describes an airport director’s testimony to this committee on obtaining insurance in 2001: “The significance of the testimony is apparent. The insurance industry has learned sufficiently about terrorism risk insurance that, while on September 20th, insurance was unavailable, a short while later, it was available at a price, and by the third week of October, available at a lower price, all without Federal support.”

As has been mentioned by my colleague here at the table from Marsh, in their report from the spring, they noted that capacity in the standalone terrorism insurance market has increased significantly over the years. In the report, they estimate that terrorism insurance market capacity is $4.3 billion, and there is up to $2 billion per risk in standalone capacity.

It is important to note that in the United States, the reinsurance market is servicing a very small slice of the reinsurable pie. Some insurance companies are purchasing reinsurance to cover a portion of their deductible. This market would clearly grow if the Federal Government was not providing reinsurance for free.

We believe TRIA should expire at the end of 2014. However, it is important that this be an affirmative decision by Congress and the Administration that can lead to an orderly transition in the market.

If Congress should decide to continue TRIA in some form, we have several recommendations, short term. A long-term extension was done in 2007—a long-term extension, like what was done in 2007, lends itself to more permanence in transition. A 2- or 3-year extension should be the maximum. Further, the law should explicitly state that this is the last extension.

Skin in the game: The 2007 extension did nothing to shift more responsibility onto the private sector, like was done in 2005. Any new extension should increase the trigger for Federal involvement significantly, to as much as $50 billion or more. In addition, the deductible should be increased throughout the extension, and companies should pay a premium to the Federal Government for reinsurance coverage.

TRIA was created in a much different time, with extensive uncertainty about future risks in the marketplace for terrorism insurance and reinsurance. The program doesn't reduce any of the risks to people or property from terrorist attacks, nor does it encourage companies to minimize and mitigate those risks through security measures.

It simply shifts much of the fiscal risks off of property owners and insurance companies and puts it on the backs of taxpayers. It is time for that to end. Thank you very much.

[The prepared statement of Mr. Ellis can be found on page 121 of the appendix.]

Chairman HENSARLING. I thank all the members of the panel for their testimony. The Chair now recognizes himself for 5 minutes for questions.

There have been a number of references to 9/11, and the tragedy of the Boston terrorist massacre. In fact, I have made some of those allusions in my own opening statement.

But I want to ensure, I guess following up somewhat on Dr. Woo's testimony about counterterrorism, does anybody on the panel believe that TRIA has anything to do with lowering the risk of terrorism?

If not, I believe Mr. Ellis referred to the Congressional Budget Office, the nonpartisan Congressional Budget Office, that concluded in an earlier report, "TRIA does not lower the total cost of terrorism risk, but rather shifts more of the burden from commercial property owners and their tenants to taxpayers." Is there anyone on the panel who wishes to take issue with the Congressional Budget Office?

If not, we are trying to isolate the debate here. In fact, Mr. Ellis, I think—

Ms. ABRAHAM. I actually do have a comment.

Chairman HENSARLING. Please.

Ms. ABRAHAM. Mr. Chairman, I think TRIA will support an orderly, speedy recovery. That is what TRIA is for our members at our schools, colleges, and universities. It provides surety that we can provide the primary insurance, our reinsurers will be—

Chairman HENSARLING. But does that lessen the cost of an incident of terrorism to our society, or does it shift the cost?

Ms. ABRAHAM. If you look at the total cost, it would reduce the cost, because the economy would recover faster. Schools would open their doors faster. Businesses would be moving faster.

Chairman HENSARLING. I understand the argument.

Ms. ABRAHAM. You look at a total cost of risk, yes, I think—

Chairman HENSARLING. I understand. Now, for something completely different, Mr. Ellis, I think in your testimony, you actually are making the case that TRIA can potentially increase the cost of incidents of terrorism. Is that what I read in your testimony?

Mr. ELLIS. Yes, Mr. Chairman. One of the social benefits of insurance is that it serves to encourage, through the price mechanisms, to mitigate your risk, to essentially take measures that are going to reduce your risk. If you don't smoke, you have lower health insurance costs.

And so it is a similar sort of thing, that if it is priced appropriately, the companies, the entities are going to be required to take more security measures. I am not saying that it is going to—that not having TRIA is going to eliminate terrorism or the impacts of terrorism, but the price signals try to mitigate the risk and diversify the risk.

Chairman HENSARLING. Dr. Woo, yes, go ahead?

Mr. WOO. I wonder if I could just—

Chairman HENSARLING. Again, if you could pull your microphone closer, please.

Mr. WOO. I'm sorry. What is very interesting, to make a comparison between the amount of money spent on risk mitigation against natural hazards as opposed to terrorism. What is remarkable is that a far greater amount is spent on mitigating terrorism risk than on natural hazards, because terrorism is something that people are especially fearful about.

So with regard to the comments of Mr. Ellis here, I would say that if you just compare how much money is spent on counterterrorism nationwide, it is a massive figure which far outweighs the amount spent on natural hazards. If I could just make a comment about the U.S. Geological Survey's budget, annual budget of about, I think, $1 billion a year, that is completely dwarfed by the budget for counterterrorism. So, I think this is a very interesting comparison between natural hazards and counterterrorism.

And it is one of the reasons the terrorism insurance losses have been low since 9/11, because there has been this massive expenditure on terrorism risk mitigation.

Chairman HENSARLING. If I could, Dr. Woo, unfortunately, my time is running out here, but I will give you another chance to comment. Clearly, you believe there have been great advances in the ability to model for terrorism attacks. I suspect it is one reason why you are employed as a catastrophist, that you actually believe this can be done.

And you talk about, every time a terrorist is brought to justice, greater evidence, counterterrorism control, courtroom record, low terrorism insurance losses, “should encourage cautious expansion of the U.S. terrorism insurance market.”

I think you go on to say that a plot involving as many as 10 operatives has only a slim 5 percent chance of avoiding interdiction, as opposed to lone wolf attacks, which can be very deadly to human life, but not necessarily economically catastrophic.

But in the few seconds I have left—and I hope that other members of the panel will answer this—you say, Dr. Woo, that a future challenge is that lack of capacity in prominent ZIP Codes. Ms. Abraham talked about, I think, 1,200 universities and colleges that are members.

So I am trying to get a feeling, again, is this limited, this risk to certain large, metropolitan areas, where the risk cannot be effectively spread throughout the Nation? Because I seem to be getting contrary testimony from others that there are many soft targets that also have an incentive to be insured.

But I have long since gone over my time. Perhaps others will pursue that.

I now yield 5 minutes to the ranking member.

Ms. WATERS. Mr. Chairman, I have listened with great interest, of course, to all of the testimony. And I perhaps have 101 questions for Mr. Woo to the degree risk mitigation can reduce the cost of insurance or create models that could be handled by the private sector.

But let me, before I ask any questions, just say this: I am thinking very much about patriotism. And I am thinking a lot about the fact that—I am thinking about 9/11, and I am thinking about the fact that companies, both public and private, were attacked. Jobs were lost. Lives were lost, on and on and on.

And it seems to me that we would be thinking about everything that we can do to make sure that the government plays a role to reduce the losses, to get the private and the public sectors back up and operating as quickly as possible and all of that, and recognize that at this time we have not experienced any losses, but we have a safety net for public and private.

It seems to me that even with the thought of cost that would be incurred by the citizens, that is just something we should assume is what we should do and what we must do.

And so having said that, Ms. Abraham, in your testimony, you indicated support not just for TRIA reauthorization, but specifically for TRIA reauthorization in substantially the same form as TRIA exists today. Can you explain briefly why reauthorization with substantially similarly insured deductibles is as important as TRIA reauthorization generally?

Ms. ABRAHAM. Yes, thank you very much for the opportunity. I think there are reasons for some improvement, and I would agree with Marsh & McLennan’s recommendations, but I mentioned in my testimony the importance of making sure small to mid-sized insurance companies are in the market providing capacity.

And if these deductibles are significantly raised above the current 20 percent, then many of us will be forced to exit the market. We wouldn't be able to take that kind of loss from multiple events. Currently, the 20 percent is 10 percent of United Educators' capital. That is a lot of money. That is a risk that most businesses wouldn't put at loss. And so, if you make the deductibles or the co-pay significantly different from what it is, you will run small to mid-sized insurance companies out of the market, reducing capacity.

So I really understand that it is counterintuitive, but the Federal Government having a role in this encourages competition, encourages more companies to play a role in providing capacity and having opportunities for, in my case, colleges and schools. Whether you are insuring a mutual in New York or a mutual in Texas, you need to be able to have more capacity entering the market.

So if it significantly changed, raising the deductibles, a lot of our small and mid-sized companies will not be able to absorb those kinds of hits to our balance sheets in the case of a catastrophic event.

Ms. WATERS. Thank you very much. I want to move to Mr. Peter Beshar from Marsh.

Earlier this year, Marsh released a report that included among other findings a section on standalone market capacity. Can you please discuss these findings? In your opinion, is there a willingness by the private sector to offer terrorism coverage, absent a mandate such as TRIA?

Mr. BESHAR. It is an excellent question, Congresswoman. Clearly, the make-available provision is critical in inducing property and casualty carriers to provide terrorism insurance. And were that not to exist, our belief is that there are many carriers that would not, in fact, be willing to provide terrorism insurance.

Ms. WATERS. Mr. Smith, reinsurance is a vital component of terrorism insurance coverage. In the aftermath of September 11th, the reinsurance industry essentially fled the market. Can you discuss the extent to which the reinsurance industry has re-entered the market, if at all? How limited is current reinsurance capacity?

Mr. SMITH. The reinsurance market is very active in the terrorism risk space. We believe that balance occurs today with insurers. Whether you are individuals or businesses, you have to take steps to fortify and to do what they can.

The primary insurance companies are taking a great load, and they serve a wonderful purpose, but there is significant capital from the reinsurers that are in the marketplace. And when we had the attacks of 9/11, it was the reinsurers that provided the majority of the funds to help rebuild our country.

So, we are there. With TRIA, we will stay there.

Chairman HENSARLING. The time of the gentlelady has expired.

The Chair now recognizes the chairman of our Housing and Insurance Subcommittee, the gentleman from Texas, Mr. Neugebauer, for 5 minutes.

Mr. NEUGEBAUER. Thank you, Mr. Chairman.

Dr. Woo, you heard a number of our panelists say that one of the problems with terrorism insurance is that it can't be modeled. Do you believe that terrorism insurance can be modeled?

Mr. WOO. Thank you very much, Congressman. Since 2007, one of the major developments in terrorism risk modeling has been the study of terrorist social networks, in particular to assess the likelihood of a plot being interdicted as a function of the size of the plot.

And, in fact, I have submitted with my testimony a PowerPoint presentation which includes a table showing how the chance of a plot being interdicted increases with the number of operatives involved in it. This is work that I did in 2009, 2010, so it wasn't available at the time that TRIA was last being discussed.

So this, to my mind, is a major development, because what we are all interested to know is, what is the severity, the likelihood of a given attack? If you just consider vehicle bombs, there are bombs of all different sizes, from a car bomb to a small truck bomb to a large truck bomb to a 5-ton or 10-ton truck bomb.

The key point here is that there is no way that a 10-ton truck bomb can be implemented as a terrorist attack without having a substantial number of operatives involved. And if you have a large number of guys involved in a plot, the plot most likely is going to be interdicted.

If I can just make a point about the Federal Government's involvement, any major successful terrorist attack almost certainly would involve a substantial number of operatives. And in any inquiry as to how this plot was allowed to get through the security net, there is going to be a question of government responsibility, liability, negligence around it. I live in London. Just in May, we—

Mr. NEUGEBAUER. Dr. Woo, I'm going to take that as a yes.

Mr. WOO. Yes. Yes. I'm sorry.

[laughter]

Mr. NEUGEBAUER. And I appreciate that. One of the things, when we talk about TRIA—and I want to go to Mr. Beshar, Guy Carpenter, which is one of Marsh & McClennan's subsidiaries, put out a report in 2010 which stated more than 80 percent of the reinsurers are actively seeking new or expanded terror insurance business. And two-thirds of the global insurers now offer coverage for nuclear, biological, chemical, and radiological events, a substantial shift in underwriting appetite from the period immediately following 9/11.

This seems to make a strong case that there is an appetite out there for TRIA, for terrorism insurance without necessarily a Federal backstop, because in other markets there is not a Federal backstop. So do you agree that there is an increasing appetite for terrorism insurance out there?

Mr. BESHAR. Congressman Neugebauer, I think the critical fact is there is an increasing appetite in the presence of TRIA. And the concern is that if you take that backstop away, this is not a peril that most property and casualty carriers are eager to underwrite.

And so, when we speak about some of the capital levels that exist in the overall industry, I referenced a figure earlier of $195 billion. That is for all lines across the world. And when you shift to just the United States and then just to the United States for terrorism insurance, the issue is much smaller, the amount of capital.

Mr. NEUGEBAUER. So what do buildings that are insured in London and Paris and Hong Kong that don't have TRIA, what is the appetite for insuring those buildings?

Mr. BESHAR. It is part of the same public-private partnership. So in the United Kingdom, there is a pool reinsurance facility that the government has helped establish that is similar to the case in Germany and France, for example.

Mr. NEUGEBAUER. What if you separate the NBCR component from that and you had a backstop for that, but the rest of the risks were separated from that? Is there an appetite to assume those risks?

Mr. BESHAR. I think it is a gradual process, Congressman. Right now, if you can validate that if there is underlying coverage for NBCR, then TRIA will backstop that. That process will encourage the P&C market to begin to expand its willingness to go into broader NBCR. Again, in the absence of TRIA there is not the appetite, just given the immensity of the potential exposure to a catastrophe.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentlelady from New York, Mrs. Maloney, for 5 minutes.

Mrs. MALONEY. I would like to ask Peter Beshar from Marsh & McClennan—and note that Marsh & McClennan was located in one of the two towers. So we appreciate all of the panelists' testimony today on this incredibly important issue.

I would like to ask you, in the last 5 years, how much have property and casualty firms received in premium payments for terrorism coverage in the United States?

Mr. BESHAR. Congresswoman Maloney, I don't know that specific answer, but I would be happy to have some of the experts within Marsh and Guy Carpenter work with members of your team.

Mrs. MALONEY. Okay. And in the last 5 years, how much have those firms paid in claims for terrorism events in the United States?

Mr. BESHAR. Thankfully, the response to that is very little.

Mrs. MALONEY. Now, when you look at the alternatives that may be out there for TRIA that would result, are there any alternatives, and if so, what are they, that would result in the level of availability and terrorism risk insurance sufficient to protect the broader economy? Are there any alternatives that you can think of that could—

Mr. BESHAR. We think that the existing framework that the Congress developed first in 2002, and then reformed and modernized, is probably the best available structure that can exist, this public-private partnership, where particularly, the Federal Government is trying to backstop the true catastrophe.

Mrs. MALONEY. And as I mentioned in my own testimony, during the days after 9/11, everyone halted their insurance. No one could get any insurance. I don't think anyone was supplying insurance in the United States.

The only place some companies could get insurance was Lloyd's of London. Why was Lloyd's of London able, in very limited ways, to provide insurance, yet no insurance company in America was providing insurance to anyone, to any business in New York?

Mr. BESHAR. It was actually—aviation insurance was one of the first issues that really came up and crystallized, because, you will remember, essentially no planes were flying for a period of time.

And so, that was the first issue that the insurance industry had to grapple with.

Marsh & McLennan actually worked with Lloyd's and other brokers and carriers in the marketplace to first try to stabilize the aviation so that the planes could begin to fly and then worked beyond that into property and other areas.

Mrs. MALONEY. Your work reminds me of the great resiliency of our country. The fact that we bounded back after that catastrophe in such an extraordinary way is a credit to every public-private effort. If TRIA is not reauthorized, what do you expect the impacts will be on the availability and pricing of terrorism insurance or terrorism coverage?

Mr. BESHAR. There are two principal concerns that we have, Congresswoman Maloney: first, that P&C carriers will pull back; and second, that in the workers' comp area, in particular, where carriers have to make the coverage available, that if there is not the backstop, they will simply decline to underwrite the insurance.

Mrs. MALONEY. And what do you think would be the material changes or the economic impact if we were not able to continue to current TRIA program, in terms of job creation, the overall economy? What would be the effect on development?

Mr. BESHAR. It is very difficult to estimate it, Congresswoman. In the workers' comp area, if the coverage is mandatory, in order to employ people, and there is very limited coverage that exists in the marketplace, clearly, under that scenario, that could be an inhibitor on job creation.

Mrs. MALONEY. Some have attacked the program as "corporate welfare" and a potential liability to the hardworking taxpayers of America. Can you discuss the level of responsibility private insurers continue to face under TRIA? And can you more fully explain the relationship between the public insurers, the private insurers, and the public, the government, in paying claims which result from a terrorist attack?

Mr. BESHAR. Sure. I will focus just on one provision that was implemented in 2007, the recoupment provision, so that if there was to be a significant terrorist attack and the Federal Government did have to, in fact, advance funds to carriers, both on the reinsurance and insurance side, then the Federal Government has the right to recoup those outlays over time through increases in premium.

Mrs. MALONEY. My time has expired. I just want to thank all of you for your testimony. It is important. Just seeing you reminds me of visiting with your survivors shortly afterwards. And thank you for the leadership your company has had in this area. Thank you.

I yield back.

Chairman HENSARLING. The Chair now recognizes the gentleman from New Jersey, the chairman of our Capital Markets Subcommittee, Mr. Garrett, for 5 minutes.

Mr. GARRETT. I thank the chairman.

So, let's begin. First, let's just take a look to see how well the system is working right now. Someone on the panel, I forget who, made reference to the trigger mechanism in the current law and I believed referenced also the Boston bombing situation. If my recollection is correct, the mayor of Boston said, "This is not a terrorist event." And I guess—Mr. Beshar is shaking his head. Is that—

Mr. BESHAR. I don't know that specifically, Congressman.

Mr. GARRETT. Okay, yes. But you will confirm that has not been, as of yet, officially declared a terrorist event. Is that correct?

Mr. BESHAR. That is correct.

Mr. GARRETT. Right. Many months ago. And so, I can understand why a mayor or governor or actually the Federal Government would want to say that it is not a terrorism event, because if you declare it a terrorism event, all of those businesses which did not secure coverage would then be basically ineligible to seek their normal coverage on their policy. I will look to—Mr. Beshar, is that your understanding?

Mr. BESHAR. That is part of the complexity of it, is that some businesses will have terrorism protection, and some will not. And so, if there hasn't been a formal declaration, it makes it harder for the marketplace to respond.

Mr. GARRETT. Right. And so that is going to—it has been apparent, from that incident, since it is many months later and we still don't have a determination on it, I guess that is one of the issues that is brought to my attention as a flaw in the system, because you can imagine the political pressure for, unfortunately, if there is another event, political pressure not to declare that a terrorist event, because then there will be a lot of people who will be basically uninsured.

Mr. Ellis, do you have a comment on that?

Mr. ELLIS. No. No comments. I think it is a very valid point.

Mr. GARRETT. So as long as you are—I am talking to you, let me just reference a report that Chairman Hensarling raised. It was a 2007 report by the CBO, and as it said, "TRIA legislation raises difficult questions about economic deficiencies. For instance, some analysts and policymakers maintain that TRIA does not lower the cost but simply shifts the cost."

As you are all aware, TRIA has a trigger set at $100 million. I believe, in your testimony, you said you had thought we could lower the thresholds, lower the deductibles. I think you probably also heard from the colleague just to the right of you, figuratively speaking, Ms. Abraham said that the threshold at 20 percent is problematic.

I will look to you first, Mr. Ellis. Is there potential that those numbers will be changed, if there was reform to this legislation?

Mr. ELLIS. Certainly we would advocate that if we are going to extend the program, we would be trying to lay off more risk onto the private sector and allow the reinsurance market to grow. And so certainly, what some insurers have done is to lay off some of that 20 percent deductible.

We heard about how the terrorism reinsurance market is growing. That is the place where it can actually grow, is in that 20 percent. So if we actually increase the deductible, then we would be able to lay off more risk to the private sector and not have the taxpayer on the hook.

Mr. GARRETT. Right. Although this law has been here in place longer than what was intended, the numbers have changed over time. Originally, I guess it was at 15 percent, and then it went to 17.5 percent, and now we are at 20 percent.

And memory doesn't serve me too well, whether there were statements at those times, as well, that the industry was not able to absorb it. So, I assume that is the case today.

Mr. Smith, there is a Swiss Re publication that came out after September 11th, which was entitled, "Terrorism Risk in Property Insurance and their Insurability after September 11th." And it said, "Swiss Re basically agrees that property and business interruption losses resulting from terrorism are insurable, even in the aftermath of September 11th."

Do you all still stand by this?

Mr. SMITH. Congressman, we are actively involved in insuring terrorism risk today, so—

Mr. GARRETT. Right.

Mr. SMITH. I think you have—the full report talks about the presence, or the hopeful presence of a government backstop. Being a global reinsurer, we have to deal with terrorism risks all over the globe, and, unfortunately, our country in the United States, we are the main target. So, we are very concerned about TRIA—

Mr. GARRETT. I understand.

Mr. SMITH. That it is with the presence of a backstop, that it has to be there.

Mr. GARRETT. Was that part of that report?

Mr. SMITH. I believe so.

Mr. GARRETT. Okay. I see my time is—I yield back.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentlelady from New York, Ms. Velazquez, for 5 minutes.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

Mr. Smith, historically, smaller firms have much lower take-up rate of terrorism insurance when compared to larger companies. Some reports show as few as 10 percent of small businesses have such coverage. In your opinion, what is the reason for this lower take-up rate?

Mr. SMITH. That is part of the dynamics of the marketplace. So terrorism risk is something that is—for smaller businesses that tend to work on thinner margins and in a more straightforward business approach, it is one of those optional coverages that oftentimes they don't feel that they can afford.

It is not just terrorism risk. There would be other optional coverages that small businesses oftentimes will exclude, that a larger, more sophisticated business, perhaps a publicly traded company with a board and a risk management apparatus in place, would not be able to avoid.

Ms. VELAZQUEZ. Mr. Beshar, do you have any stats on terrorism insurance coverage by small businesses pre-9/11 and post-9/11?

Mr. BESHAR. I don't believe we have data pre-9/11, because, really, the coverage was embedded in property and there was so much less focus on it. In this Marsh report that we released earlier in the spring, there is a lot of analysis about the pricing, based on the size of companies. So, larger companies generally are paying a smaller rate online, in terms of percentage of premium, than smaller companies.

Ms. VELAZQUEZ. And do you have any opinion as to any mechanism that we should explore to make terrorism insurance more affordable for small businesses?

Mr. BESHAR. I think the continuity of the program—if there is less uncertainty about whether the program is going to continue, I think the market will naturally evolve so that there are higher take-up rates, particularly in some of the small businesses that you have referenced.

Ms. VELAZQUEZ. Thank you.

Thank you, Mr. Chairman.

Chairman HENSARLING. The gentlelady yields back.

The Chair now recognizes the gentleman from New Mexico, Mr. Pearce, for 5 minutes.

Mr. PEARCE. Thank you, Mr. Chairman. Thanks to each one of you for your testimony today. I generally am concerned about businesses and the ability of businesses to work through the problems they face. I would like to ask questions kind of from the other direction this morning, though.

The idea that safe and orderly speedy recovery of an industry would result by having this coverage, I wonder if any of you are familiar with Sri Lanka? In 2001, they lost 5 or 6 of their 12 aircraft. And do they employ some sort of a process to rebuild the industry? Or what was their aftermath? I will just ask that as an open question to anyone who might want to take it on.

Mr. SMITH. Let me go with that. When you look across the globe at developed nations versus developing nations, you are going to find much lower participation in insurance programs. Whether we are talking about Sri Lanka, or whether we are talking about the tsunamis, there tends to be a slower recovery, so the resilience that we enjoy in the United States unfortunately just doesn't exist in many parts of the world. So, the recoveries are very slow. They tend to be much more community-based. They tend to involve a very different mindset of the population.

Mr. PEARCE. I would note that Sri Lanka, at that point, had 12 aircraft. Now they have 22 in about 10 years, and so it looks like the industry has not suffered and it didn't just stall out.

I also am kind of drawn to the situation with the two successive hurricanes. Hurricane Katrina, of course, came in and off-course out of the Gulf. Then, I think it was the next year or the next hurricane sat out there and jammed around on Cancun. We had been to Cancun a year or two before, and were scheduled to go back, but we didn't bother.

But I asked the travel agent about a year later, did they ever get fixed? Yes, they were fixed in a matter of weeks. They understood that if they didn't fix Cancun, nobody was going to come, and yet it took years, with $100 billion more or less sent to Louisiana.

And so, again, I am sympathetic to the argument. I tend to feel a little bit like Mr. Capuano described, that I might not like it, but I am not sure what else to do with it, and I am still processing this idea of, is it essential?

One of you mentioned—I am not sure which one—that many of the underwriters simply wouldn't tolerate the risk, they wouldn't carry the insurance. What would companies do, for instance, if they lost an airliner, let's say, or a building? I am not willing to discount the human loss, but let's say that a major facility was damaged and a business did not have risk insurance, did not have terror insurance.

Mr. Beshar, I really appreciated your testimony. It was clear and precise, and I appreciated that. How do businesses react when they don't have that coverage?

Mr. BESHAR. It is not a great scenario, because if you have, obviously, a substantial loss and there is really no third party, not a private insurer, not the government that you can turn to, you have to absorb that loss.

One other brief point, Congressman, in Mexico—you cited the example—they have recently issued, together with Swiss Re, catastrophe bonds to try to protect against certain risks, earthquake risk, for example, and it has been quite successful. It is a very unusual program of the Federal Government trying to essentially market something like that. And over the years ahead, hopefully there are those types of alternative instruments that might play an increasing role in the marketplace.

Mr. PEARCE. Let me crowd one last question in here, if you don't mind.

A couple of you have mentioned the risk of lawsuits downstream. If what we are doing is to give trial lawyers access into unlimited pools of taxpayer money, then I become greatly more resistant, and so probably you will have to answer in writing, but if any of you could address how we could limit the frivolous lawsuits downstream, I would be a lot more interested in the program.

But, Mr. Chairman, I see my time has expired. I appreciate the opportunity, and I yield back.

Chairman HENSARLING. The Chair now recognizes the gentleman from New York, Mr. Meeks, for 5 minutes.

Mr. MEEKS. Thank you, Mr. Chairman.

And I want to thank all of the panelists for their testimony today on this very important issue. I think it is important to all of us, given the day and time in which we live.

Let me first ask Ms. Abraham the question about terrorism insurance being an uninsurable risk, but the capacity of the private sector to—if they had to insure on their own, do you think that they would be able to have the capacity without the public-private partnership to cover?

Some have said because of their financial capacity, it could be meaningless if they issued insurance and they didn't have the capacity. So, I wonder if you could just give me your thoughts?

Ms. ABRAHAM. No, I do not believe, Congressman—thank you for the question—that there is capacity to insure the type of losses that we have all read about that could come either in major gatherings—I noted, as others, a football gathering or a major city or anywhere around the country.

So, no, I do not believe there is an—although there is a lot of capital in the world now supporting insurance companies, that capital is both for natural catastrophes, it is for global risks, as well as domestic risks. I do not believe there is enough capital to support the type of losses and multiple losses that could occur in this country from a major terrorist event. This is about catastrophic losses.

Mr. MEEKS. Thank you.

And, Mr. Smith, every time that Congress has extended TRIA, we have passed additional risk retention to the private sector. What has been the impact on terrorism insurance pricing and coverage? Have the private insurers, for example, bolstered their capacity to be able to cover up to $40 billion in losses should another tragic event like 9/11 happen again, that we hope never does happen?

Mr. SMITH. There are a couple of elements there.

The first is that, as time has gone on and as businesses especially have learned more about terrorism risk and have chosen to take on the coverages, with the partnerships that are in place between primary insurers and reinsurers and TRIA, the market has been stable, the coverages have been, we think, affordable, and there has been a greater uptake.

But it is kind of two steps. First, businesses have to better recognize the risk they have, but then they are able to turn to primary insurers with the backing of reinsurers and TRIA and fulfill upon what their desires are.

Mr. MEEKS. It seems as though we are making progress, as the longer we go without a major incident, et cetera. So as we debate—we have several bills that are before us. Could you tell us what you think? Some say 5 years extension, some says 10 years, some say even longer. What do you think would be the appropriate extension of TRIA?

Mr. SMITH. I think this is an exceptional program. There is great balance to it. The majority of the costs are going to be borne by the primary insurers and the reinsurers. But terrorism risk is just in a league of its own, and it cannot be modeled. The extreme events will be devastating to our industry. So, therefore, without the backing of TRIA or a similar-type program anywhere in the world, you won't see the presence of insurers and reinsurers being able to participate.

We would say that the program we have today is in great balance. It does allow smaller and mid-sized companies to participate and to provide important coverage. If we start to go higher, we are going to start to lose some of those smaller and mid-sized players. So we would urge, keep it as is, and let's stop going through this over and over again every so many years. We would urge a 5-year minimum, and we would prefer 10 years.

Mr. MEEKS. Ms. Abraham, would you agree?

Ms. ABRAHAM. Absolutely. I hope we are all alive when terrorism is not a risk. Dr. Woo said it has existed for a millennium. But it exists. The partnership works; the collaboration works. If we can rule out terrorism, this law can have a sunset. It works. It is not broken. It is effective. It allows us to provide capacity. I strongly encourage extension, as long as you feel comfortable.

Mr. MEEKS. And in the 35 seconds that I have left, Mr. Beshar, would you agree that it is important for Congress to send a message now that we are going to extend TRIA insurance? Would that be an important stability factor as we move forward?

Mr. BESHAR. The more certainty that you can have in the marketplace, the better.

Mr. MEEKS. Thank you.

I yield back.

Chairman HENSARLING. The Chair now recognizes the gentleman from California, Mr. Royce, for 5 minutes.

Mr. ROYCE. Thank you very much, Mr. Chairman.

I know it has been said that you never really know if an event is insurable until after that event happens. We can, however, attempt to put parameters around what is insurable and what is uninsurable based on the industry's ability to price risk, to reserve for risk, to pay claims. And we know, for example, that the very tragic attack on 9/11 on the World Trade Center, at that time, was insurable at a cost of approximately $32 billion in dollars then and $42 billion in today's dollars.

Also, in a 2003 publication from one of the companies testifying today, we read that Swiss Re basically agrees that property and business interruption losses resulting from terrorism are insurable, even in the aftermath of September 11th. We had that exchange, but I just re-read that document, and that is the attestation in the document.

So we have read in testimony that the TRIA program trigger could increase substantially to $1 billion from $100 million, in the case of Mr. Beshar, and to as much as $50 billion in the words of Mr. Ellis. And this, of course, assumes that the private sector could insure the losses up to the program trigger.

So let me ask the panel specifically, what are the most important factors when discussing where to draw the line on insurability of terrorism insurance? Clearly, size and frequency of events is important. The type of attack, whether it is a conventional attack or something beyond that, has to be a factor. The lines of insurance covered, as we discussed, also weigh in on this calculation.

Mr. Smith, if I could start with you, do you agree that certain lines of coverage—property and business interruption, for example—are easier to price when looking at terrorism risk? Are these insurable without a government backdrop, as is implied in the study cited earlier by Mr. Garrett?

Mr. SMITH. My recollection of the study, Congressman, is that it is a broad study. It talks about different types of perils that can be covered and different types of covers that we can put in place.

But it does make reference to government programs. It may not mention TRIA specifically, given the timing of it, but it does talk about government programs and the ability to backstop.

So the element of terrorism that I would encourage us to stay keenly focused on is that, unlike natural catastrophes and other large catastrophic events, the top end on these types of attacks are phenomenal. They are just beyond what—

Mr. ROYCE. We understand that. But I am looking at this report. As we have seen so far, it says that business and interruption losses resulting from terrorism are insurable, even in the aftermath of September 2001, provided certain criteria are met. The liability for losses caused by terrorism must be limited in normal property and business interruption policies.

I think it strongly implies that in these cases, the market could have sufficient capital. But go ahead with your observations.

Mr. SMITH. Congressman, I believe that we are in the market. We are actively in the market. We deploy tremendous capital against terrorism risk in the United States. And so to our investors, to people across the globe who rely upon us to make responsible decisions, I think that is the context that it is and are in the market.

Mr. ROYCE. Okay. Let me go to Mr. Beshar. You put the program trigger at $1 billion. My question is, why draw the line there? Couldn't the private sector cover a conventional attack at $10 billion, or $20 billion, or even $30 billion?

Mr. BESHAR. Congressman Royce, just as a point of clarification, in our written testimony we referenced a number of different views that exist in the marketplace, from abolishing the program in its entirety to raising the trigger to $1 billion. That is not the position of Marsh & McLennan.

Mr. ROYCE. Yes, I understand. But I am asking you right now to comment on a question. Wouldn't there be $10 billion, $20 billion in the market? Anyway, I think my time is up. But I would like to follow up with some questions to the panel. And I appreciate the opportunity, Mr. Chairman.

Chairman HENSARLING. The Chair now recognizes the gentleman from Massachusetts, the ranking member of the Housing and Insurance Subcommittee, Mr. Capuano, for 5 minutes.

Mr. CAPUANO. Thank you, Mr. Chairman. I want to thank the panel for being here today. You are the second-best panel of the day.

[laughter]

Mr. Chairman, I would also like to ask unanimous consent to submit a group of 28 different communications all in support of extending TRIA.

Chairman HENSARLING. Without objection, although I don't know if the Member's earlier opinion is universally held.

Mr. CAPUANO. Thank you, Mr. Chairman.

Mr. Ellis and Mr. Woo, I just want to—I respect your testimony. I will accept the fact that we just disagree on certain things. That is fine. It is not a big deal. I could be wrong, I guess. That is possible.

But I would like to just probe for a minute exactly where our differences lie. And I would just ask you, if tomorrow—we are in hurricane season—a hurricane rolled up on Galveston, Texas, a Category 5, and wreaked $100 billion worth of damage, and killed 700 people, would you suggest that the United States Government should not participate in that response, that we should just sit on our hands because it was a local disaster?

Mr. Ellis?

Mr. ELLIS. No, sir. Not at all.

Mr. CAPUANO. I didn't expect that you would, but I just wanted to hear it. Mr. Woo, do you suggest that we would sit on our hands or we should sit on our hands?

Mr. WOO. If I can make a modeler's comment, which is—

Mr. CAPUANO. It is a simple question. Do you think the United States Government should sit on its hands if a Category 5 hurricane hit Galveston tomorrow?

Mr. WOO. Well, no.

Mr. CAPUANO. I appreciate that. So the answer is, even you believe that there is some role for the Federal Government in natural disasters. And I respect that. Now, we are arguing where the line should be. And that is a fair argument. That is always a fair argument.

I just wanted to see what kind of purists—and I am glad I am not dealing with a purist, because that is really not fun. But, look, we are going to have differences of opinion. I accept them, and I respect them.

And I just—I also want to know, did any of the panel, did you see a CBS News report today which said that Al Qaida has just been found to be trying to get chemical weapons in a Somali lab? Did anybody read that report?

I presume it is true, it came from a reputable news source, and it is based on a court case in New York City. On the presumption that is true, and the presumption—let's presume for a minute that Al Qaeda does succeed in getting itself chemical weapons somewhere around the world, either developing them or getting them from somebody else, let's presume for the moment that they still hate us, and they still want to wreak damage on us.

And let's presume that, God forbid, they actually can get them to the United States and set them off. Does anybody on the panel think that the United States Government should not respond if Al Qaeda were to set off a chemical device in the United States of America? Do you think we should sit on our hands and do nothing, because—let the private market deal with it?

Mr. Beshar, do you think that?

Mr. BESHAR. No.

Mr. CAPUANO. I didn't—Mr. Smith?

Mr. SMITH. Absolutely not.

Mr. CAPUANO. Ms. Abraham?

Mr. Woo, do you think?

Mr. WOO. No.

Mr. CAPUANO. Mr. Ellis?

Mr. ELLIS. No.

Mr. CAPUANO. So we clearly understand that there is a role for the Federal Government in dealing with both natural disasters and terrorism when things get so bad that no one else can deal with this. And now we are arguing about detail, which is a fair point. Details are important, and where the line is, is a fair point.

I guess for the three people who are professionals in this market, if I were to tell you I want to build a huge structure that is going to cost $450 million, and I want to put $300 million out to bond to pay for that humongous structure, a big icon in the middle of my community, but I said, you know what, I don't really want to have terrorism insurance on that facility, or for the people going to that facility when it is done, what would you do if I said, "Please, buy my bonds?" Would you say yes? And if you said yes, would you say, "okay, and I want to pay you the lowest possible rate?" Or would you charge a premium if I said I don't want to have terrorism insurance?

Mr. Beshar, I know that some of you do buy, some of you don't buy, but I also know that all of you know the market. If you can't—I wouldn't ask you to answer on behalf of your companies. That would be wrong. But you are professionals. On your own personal experience, what would you say to somebody who wanted to do that?

Mr. BESHAR. I think a lot of bank lenders and bondholders would require the existence of terrorism coverage, for example. And in the absence of that, there probably would be some pricing ramifications to it.

Mr. CAPUANO. Mr. Smith?

Mr. SMITH. It would be irresponsible as an investor.

Mr. CAPUANO. Ms. Abraham?

Ms. ABRAHAM. I would agree with Mr. Smith.

Mr. CAPUANO. So if I were to build a humongous icon of a football stadium, and if I would have named it Kyle Field, I would then be—the market would want me to have terrorism insurance or ask my taxpayers to pay more, probably a lot more, to pay off those bonds.

I just wanted to get the facts straight. And I appreciate your input. Thank you all. My time has run out.

Chairman HENSARLING. We are glad the gentleman from Massachusetts has learned his Texas geography lesson.

[laughter]

The Chair now recognizes the gentleman from Missouri, Mr. Luetkemeyer, for 5 minutes.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

Just following up a little bit on that last comment with regards to the regulators, I think it is important to note that there may not be the ability to build big structures if we don't have this backstop, if the regulators require that there be a terrorism policy in place in order for them—for the lending institution to have their i's dotted and t's crossed. It may prohibit the ability of these large projects. Has anybody studied that effect at all? Mr. Smith, have you seen that at all anywhere?

Mr. SMITH. I can't cite a specific study, Congressman. But our experience has been that a large global corporation, if they are going to make an investment somewhere, they will take into account what is the extent of terror coverage, wherever they are going, and what is the likelihood of terrorist attacks. So we have a particular challenge in our country to keep those global investments coming here.

Mr. LUETKEMEYER. So there may be the possibility of somebody not coming here with investment if we didn't have this in place. Is that what you are saying?

Mr. SMITH. Absolutely. That would happen.

Mr. LUETKEMEYER. Okay.

Ms. Abraham, you made the comment, and it kind of spurred a question from me with regards to activities that sometimes occur on college campuses. Do you, with your company, cover political speeches, or band concerts, or some other sort of art shows, or anything there that could spur an attack of anything? Are those things that you cover?

Ms. ABRAHAM. Absolutely. Colleges and schools and universities are often magnets of controversy. And whether or not it is—I think all of the debates were held on college campuses, as controversial as the Presidential debates, as controversial as those were. But concerts, and speakers, college campuses are the first format, the first forum for controversial exercise of First Amendment rights.

Mr. LUETKEMEYER. So if terrorism insurance—

Ms. ABRAHAM. And we absolutely cover any liability that would come to the university from events occurring from that.

Mr. LUETKEMEYER. If your company would not be available to the universities, if that coverage would not be available to the universities, what would happen?

Ms. ABRAHAM. We currently do provide that coverage. And after January 2, 2014, policies written after that point would not have this coverage. If TRIA goes away, our reinsurers have told us that the unlimited, the broad capacity that we have now would disappear, and they would not have, as members of United Educators, the broad liability coverage for terrorism that they currently have.

Mr. LUETKEMEYER. So the inference would be there, the normal assumption of how this would all play out then would be probably, at the very least, a restriction of those types of activities on the campus, if not a lot of it going away all together?

Ms. ABRAHAM. I am a trustee of a college in Washington State. I think there would be very hard thinking about attracting elements to a campus and holding events that would cause more of a magnet or more of a potential—and emphasize the iconic nature that they already have within the country. So, yes, I think that is true.

Mr. LUETKEMEYER. Mr. Smith, if TRIA goes away and the markets—the Wild, Wild West, everything opens up, how much additional cost do you think the average policy would go up to be able, again, like I say, build that big building or sponsor that concert? How much of more an increase do you anticipate would happen if TRIA went away?

Mr. SMITH. It is hard to have an exact number, but the market would become extremely disrupted. Some people would not be able to get terrorism coverage. Others would have to acquire it at an extremely high price. So, it would be an enormous disruption to the market.

Mr. LUETKEMEYER. I would think, though, that after a while the market would settle down. There would be a period of disruption, but eventually it would settle down. Now it is going to be disrupted forever and ever?

Mr. SMITH. Not in the United States.

Mr. LUETKEMEYER. Okay.

Mr. SMITH. And I'm sorry, I wish I had a better answer, but not here in our country.

Mr. LUETKEMEYER. It is interesting, from the standpoint that we are talking about something here that is really a backstop for all the activities or these terrorist activities that could occur, have occurred in the past. When we look at other catastrophic losses, a lot of those have been—the tab for them has been picked up by the government eventually as a backstop anyway. And what we are trying to do here really kind of, in my thinking, is quantify our limit or somehow the government's exposure to the loss by having the private sector take part of it and being able to price that accordingly. It is kind of an interesting situation, kind of backwards.

But, very quickly, I just have one quick question for Mr. Ellis. You made the comment that TRIA can actually cause insurers to take on more risk. I have a hard time believing that somebody would want to lessen their security so they could actually have the opportunity to have more of an attack, but that is like one of your comments a while ago. Does that—

Mr. ELLIS. I am not sure I am following what you are referring to, Congressman. I indicated—

Chairman HENSARLING. If you could be brief, the Congressman's time has expired. Can you summarize your answer quickly?

Mr. ELLIS. Sure, yes, Mr. Chairman.

No, I am saying that if you don't price it appropriately, then you don't take the efforts to mitigate your risk, and it may be not knowledgeable, but you would do more to reduce your price.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Georgia, Mr. Scott, for 5 minutes.

Mr. SCOTT. Yes. We don't know what or we don't know when, we don't know who. But one thing is for certain: We know that, as we are sitting in this room, there are people all over this world who are plotting terrorist attacks against the United States.

And before I get to that, I must respond to something that Chairman Hensarling—whom I respect so greatly—said regarding the taxpayers' expense, but the budget office said to me these words, that the TRIA has provided a necessary service at nearly zero cost to the taxpayer. So, I want to make sure that is out there.

Now, back to my point, we don't know where, we don't know when, but we are targets. We are here. And Mr. Woo and Mr. Ellis, you all have made some interesting points, but we know—you can count the times in New York City alone, as Mrs. Maloney pointed out, that attacks have been prevented. And, Mr. Woo, in your calculations of this, the regularity of attacks.

I am out of Atlanta, Georgia, where we had the Olympics attacks, where we have constant surveillance. We have our intelligence sources that I cannot tell you in public how many, when, where, how, but we have to be serious about this. This ought to be in place right now. It ought to be at least 10 years so we can plan appropriately.

And let's get off of this nonsense that we can play around with this. We owe it to the American people who are themselves the targets, not knowing when, not knowing where, not knowing who, but knowing they are on their way.

Now, Mr. Ellis, it is amazing to me how you and others who are opposing TRIA can be certain that a market could exist without TRIA, especially given that insurance companies and reinsurance companies all say that they would have to leave that market without the certainty of TRIA. How do you respond to that? How can you—

Mr. ELLIS. Congressman Scott, especially among the insurance companies, there is absolutely—they are getting reinsurance for free. Of course they are going to say that they are not going to—why would they negotiate with themselves right now?

And as far as—I just point out, I completely agree with you that there are people all around the world who are scheming to hurt us.

I absolutely agree. TRIA doesn't stop that. TRIA doesn't prevent terrorism. TRIA doesn't—it is a way to respond for—to recover from terrorism—

Mr. SCOTT. Yes, I know it doesn't do that.

Mr. ELLIS. —doesn't do any prevention.

Mr. SCOTT. I know it doesn't do that, but TRIA prepares for the storm before the hurricane is raging. It is there to give protection awareness. The point is, we are not being realistic about the continuity. When you say, okay, sure, maybe short term, what is short term? When we know that we are in a serious situation. There is no country on this planet that is a target of terrorists like the United States of America.

But I only have 55 seconds, and I wanted to get to you, Ms. Abraham. Tell me, in your opinion—and, Mr. Smith, if you could—what happens if we in Congress wait until the last minute to authorize TRIA? And what would be the real-world effects if this Financial Services Committee drags its feet on moving this legislation forward?

Ms. ABRAHAM. That is a great question. I will take a first stab at it very quickly.

Our reinsurance treaty is under negotiation now for January 1st, and that would begin covering policies that we underwrite that would expire over the course after TRIA expires. And so, we are in a position, on January 1st of this year, of having a reinsurance treaty that will not cover, if there is not certainty with TRIA.

So it is disruption, and it is confusion, and I am in a real quandary as to what we should tell our colleges and universities, because we are in this as of January 1, 2014, not December 31st.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman responsible for bringing us together today. The gentleman from New York, Mr. Grimm, is recognized for 5 minutes.

Mr. GRIMM. Thank you, Mr. Chairman, and you can thank me later for all the fun we are having. Seriously, thank you, Mr. Chairman.

Excellent discussion. But I just want to tidy it up a little bit, because I think some of the questions are misleading. And most of all, let's remember, no one is saying that TRIA prevents terrorism. This is all about recovery from a terrorist act. That is first of all.

And the underlying premise that every Member I have ever spoken to, if there is a catastrophic event, regardless whether it is terrorism or not, if a community is devastated, that mayor is going to come out, that governor is going to come out, most likely the president of the United States is going to come and they are going to say we are going to rebuild it better and stronger and the taxpayer is going to be on the hook. If anyone doesn't believe that, then they don't know the history of this Congress, and Hurricane Sandy is a good reminder.

So this is about protecting the taxpayer as much as we can. This is the fiscally conservative, prudent way to do so.

We have also heard about why not changing the numbers—$10 billion or $10 million or $100 billion, $1 billion—$100 million is only the trigger that says now it is a TRIA event if it was an act of terrorism. But if there was an act, and all the insurance companies were collectively responsible, the 20 percent deductible would equal $34 billion. So the event would have to be more than $34 billion in losses before the cost-sharing even kicks in.

Now, before that, there is 15 percent shared first by the insurance companies. So, there is $34 billion in the 20 percent deductibles possibly, then there is 15 percent in front of that, then the taxpayer. I think that is fiscally responsible and prudent.

But I want to go to Mr. Smith for a second. If an insurance company takes on too much risk, because we have heard about raising these numbers, the problem with raising these numbers is the smaller insurance companies drop out, they just can't—they can't take that risk. They are not big enough. So then you are left with just a few large insurance companies, which will have concentration risk in major cities so that doesn't work, either. That is why this is well-thought-out, and you have to really understand insurance to completely understand that.

But if an insurance company did take on too much risk, wouldn't they lose their rating by the rating industry, especially if they are AAA or AA?

Mr. SMITH. Very possible, correct.

Mr. GRIMM. Ms. Abraham, you mentioned it is counterintuitive by capping the liability, can you explain that? Because I understand that if you increase—if you capped the liability, the mid-sized companies can then enter the market. If there is no cap, they cannot, the small insurance companies without a doubt. Can you just elaborate on that?

Ms. ABRAHAM. That is absolutely right, Congressman, and it allows the reinsurers, as they are pricing their risk, to reinsure a small insurance company, to understand and charge for the appropriate level of risk. It is extremely difficult to price an unlimited, unknown risk that we have no control in preventing.

But by capping the liability, the reinsurers and insurers understand this is what I have to price for, this is what I have to charge for, this is what I have to reserve for. So it provides a level of certainty which allows us in a very unknown environment to put capital at risk. So we are able to go and actually understand how much we could lose—

Mr. GRIMM. But, again, if the losses are—knowing what you can lose also means that if I am a smaller company and there is too much at risk there, I simply can't participate.

Ms. ABRAHAM. Absolutely, sir.

Mr. GRIMM. And if the smaller companies can't participate, you are left with just the larger companies.

Ms. ABRAHAM. And a lot of capacity exits the market. We bring, as small as we are, a lot of capacity to the market, and you want all of those small and mid-sized companies—many are mutuals—in the market, providing capacity. So, we are part of that flow.

Mr. GRIMM. Thank you. I would posit—and I mentioned in my remarks, that when it comes to the workers' comp portion, you don't know how many employees could be—a massive hospital could have 2,000 to 3,000 employees at any time, and the same with a university.

So, Mr. Ellis, I would ask you, with the workers' comp portion being somewhat of an unlimited risk, because of the number of employees, and also, employees could be maimed—an employee, not only could they be killed, but they could be on disability for the rest of the lives, it is almost impossible to calculate for that many employees what the risk would be. And it is mandated by the State to have that insurance.

What CEO, what president of any company, whether an insurance company or any financial company, would take on an unlimited risk if they were prudent? Can you name even one that would take on an unlimited risk if they were prudent, executive, president or CEO?

Mr. ELLIS. I can't name anybody who would take on unlimited risk if they were prudent, but I don't believe that is exactly how that would end up being in the workers' comp, and they would be able to lay off some of the risk in other markets. And that is part of the whole thing that—where I think we just disagree, Congressman.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Texas, Mr. Green, for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman. I thank the witnesses for appearing. I thank the ranking member, as well, for her statements, and I would like to associate myself with the statements of the ranking member.

While I have really paid close attention to all of the testimony, and I appreciate what all of you have said, I do want to ask a few questions of just a few of you, and I hope that the others won't feel that somehow I am slighting you in any way, because, candidly speaking, I assume that all of you can give us additional credible testimony.

But, Mr. Ellis, you have indicated that you believe a short extension would be in our best interest, if it must be extended at all. Is this correct?

Mr. ELLIS. Yes, Congressman.

Mr. GREEN. And what I would like for your colleagues on the panel to do is explain why they perceive a short extension to be something that is antithetical to our best interests, so let's start with Mr. Smith. Mr. Smith, why would you oppose a short extension?

Mr. SMITH. Because it is an unnecessary disruption to the marketplace. This is a wonderfully well-thought-out program. It is functioning extremely well. The longer we can renew it, the less disruption we have to the marketplace.

Mr. GREEN. And let's go to—all right, Mr. Woo?

Mr. WOO. My opening statement, in my testimony, was that terrorism has become and will remain a catastrophe insurance risk, so I personally would recommend not just an extension for a finite period of time, but one without a specific time limit, simply because this issue is not one which will ever go away. Okay?

So, I do consider that some thought should be given to the whole issue, not just in the short or medium term, but in the long term, as Mr. Smith said, that the market's ability is important, that this whole issue of the backstop be addressed.

And I am speaking as someone who lives in England, where we have a terrorism insurance pool which has no finite term or limitation. That is because the terrorism risk in London is permanent. It doesn't go away; there will be terrorism risk in London for as long as one can consider.

So my personal response to your question, Congressman, is that there should be serious consideration given for a long-term reauthorization of TRIA, and that is something which to my mind should be discussed.

Mr. GREEN. I see that Ms. Abraham wants to respond, and I have another question.

Ms. ABRAHAM. We are in the business of taking risks. We understand that. But uncertainty in this is disruptive. It is difficult to plan a major construction project, it is difficult to plan a major program when you don't know whether these risks will be there and covered in the foreseeable future.

Mr. GREEN. Do we find that we have some companies—let's call them megacompanies—that would have serious concerns about locating in a country that does not provide this kind of insurance? Does this help us to attract business, Mr. Smith?

Mr. SMITH. Absolutely. Given the corporate governance that is in place today and all the enterprise risk management that is occurring at all these large corporations, they have a very sophisticated decision tree they go through as to where they are going to make their investments.

We have a challenge here in our country, because of our risk of terrorism. Without great coverage, it is going to be very difficult for us.

Mr. GREEN. All right. Let me do this with the remainder of my time—and, Mr. Chairman, if you find that I go beyond the time that I have left, would you just kindly sound the gavel and I will cease and desist.

But what I would like to do is read the list of entities that are supportive of extending TRIA. And the list is rather long, but I think it is important to not only place these in the record, but for the American people to know what is actually in the record.

So, here is the list: The National Association of REALTORS®, the U.S. Chamber of Commerce, the American Gaming Association, the International Association of Amusement Parks and Attractions, the Jewish Federations of North America, the National Association of Insurance Commissioners.

We have a joint letter from the national sports leagues and organizations, the National Conference of Insurance Legislators, the National Conference of State Legislatures, New Mexico Mutual, the American Public Transportation Association, the U.S. Conference of Mayors, the workers' compensation Fund, the National Association of Mutual Insurance Companies, the National Association of Real Estate Investment Trust, the Commercial Real Estate Development Association, the International Council of Shopping Centers, Inc., the Building Owners and Managers Association International, the Real Estate Roundtable, the CRE Financial Council, and the Real Estate Board of New York.

I yield back the balance of my time.

Mr. NEUGEBAUER [presiding]. I thank the gentleman. Is he requesting that those be made part of the record, as well?

Mr. GREEN. Yes, sir. Thank you, Mr. Chairman.

Mr. NEUGEBAUER. Without objection, it is so ordered.

Now the gentleman from Ohio, Mr. Stivers, is recognized for 5 minutes.

Mr. STIVERS. Thank you, Mr. Chairman. I appreciate it.

I am going to try to get to four questions, so I am going to ask some yes-or-no questions. The first question is for Mr. Beshar, Mr. Smith, and Ms. Abraham.

Insurance is the business of pricing risk. And because the information related to both the likelihood and intensity of terrorism events is classified information—this is the yes-or-no part of the question—do private insurers have access to classified information with which they could price the risk associated with both the likelihood and the intensity of terrorism acts?

Ms. ABRAHAM. No.

Mr. STIVERS. We can just go down the—

Mr. SMITH. No.

Mr. STIVERS. Okay.

Ms. ABRAHAM. No.

Mr. STIVERS. Verbal responses would be best.

Mr. SMITH. Okay.

Mr. STIVERS. No, no, no. I got three noes, right? One of them was a shaking of a head. This question is also for the same three folks. Are acts of war insurable or uninsurable risks, if you could give me verbal responses?

Mr. BESHAR. Generally excluded.

Mr. SMITH. Same, generally excluded.

Ms. ABRAHAM. Generally excluded.

Mr. STIVERS. Generally uninsurable, because governments have historically taken on that role.

Ms. ABRAHAM. Correct.

Mr. STIVERS. So acts of terrorism are merely acts of war by non-state actors, and this is more a statement, because I want to get to my last couple of questions—because they are the same things of acts of war by non-state actors, they should be treated the same way, in my opinion. So, thank you for your answering that question.

Mr. Grimm did a good job of talking about the private money that comes in front of any government money that would be associated with TRIA, but I think it is important to talk about how the government money would work, and how it would work with TRIA and without TRIA.

So—and this is one that may take a little longer—but because there is 133 percent recoupment of any taxpayer-related costs of events over time, do you believe—and, again, for the three insurance professionals—that the system under TRIA would result in higher or lower total cost for the taxpayers than a non-TRIA system?

Ms. ABRAHAM. I believe it would be lower. TRIA would have a lower recovery than without it.

Mr. STIVERS. It would cost the taxpayers less, right?

Ms. ABRAHAM. It would cost the taxpayers less, correct.

Mr. STIVERS. Because there is private money in front and there is an incentive with the recoupment—

Ms. ABRAHAM. Correct.

Mr. STIVERS. —to make sure that is the difference between the TRIA system and, say, the flood insurance system. Our flood insurance system has no recoupment, and the only people who buy it are people who are guaranteed to file claims.

So, you wouldn't make those policies in the private insurance world because there is that moral hazard that only people who are going to file a claim are going to take it out.

For the other two insurance professionals, do you believe the total cost of the government would be higher or lower because of the recoupment mechanisms in TRIA?

Mr. SMITH. We believe it would be lower.

Mr. BESHAR. We agree.

Mr. STIVERS. Great. Thank you for that.

The last thing that I want to ask everybody on the panel relates to the term of a TRIA bill. There has been some disagreement on the term of the TRIA bill. I came to Congress to reduce uncertainty for businesses, and I believe a longer-term TRIA bill reduces uncertainty more than a shorter-term TRIA bill.

For everyone on the panel, do you believe a longer-term TRIA bill will reduce uncertainty? And you can give me a few seconds of why, because we have a minute and 30 seconds.

Mr. BESHAR. Yes. Yes, it absolutely will.

Mr. SMITH. Yes.

Ms. ABRAHAM. Absolutely.

Mr. WOO. Absolutely.

Mr. ELLIS. It reduces uncertainty, but it also doesn't allow Congress to actually reform and change the program, because we know the only time they look at it is when it comes up for reauthorization. It was supposed to be a temporary transition.

Mr. STIVERS. I understand it was intended to be a temporary transition, and I appreciate that, but it does reduce uncertainty, which I think is really important as we try to get our economy back on track.

And so for those reasons, I think the TRIA bill is pretty well thought out; I think it will result in lower cost to the taxpayers, and I think it will actually work well.

I am going to yield the balance of my time—45 seconds to the gentleman from New York, the sponsor of the bill.

Mr. GRIMM. Thank you very much. I appreciate the gentleman yielding.

I just wanted to know two things. One, the correlation of flood insurance has been brought up before; it doesn't work well. We all know that. I would say that what we should be doing is looking at TRIA to use as a model for flood insurance. So, TRIA really works; it is doing well, and that could be the fix for flood insurance. That is number one. So, I like the argument, I just think it is being used in reverse.

The other idea, that this was because the legislation was originally temporary, that is a big argument on why we need to sunset it. It shouldn't be temporary. It should be permanent. It is a program that works; it works well, and it protects taxpayers, which makes it fiscally responsible. So, when something is working well, we should keep it.

Those are my only comments, and I yield back.

Mr. NEUGEBAUER. I thank the gentleman.

And now, the gentlewoman from Alabama, Ms. Sewell, is recognized for 5 minutes.

Ms. SEWELL. Thank you, Mr. Chairman. First, I want to thank all of our witnesses for your testimony today and the time that you are taking to both educate us as well as to make sure that we are making the right kinds of legislative decisions.

I especially want to thank Mr. Beshar and his colleagues at Marsh & McClennan for your continued use of your expertise in helping younger Members like myself understand the importance of TRIA and answering the questions that we may have. And I want to thank you for personally doing that.

My question to you is we have talked a lot about the time, the sunset, whether it should be 5 years or 10 years. Mr. Beshar, I was wondering if you could elaborate on other fine-tuning that we can do in TRIA and the reauthorization of other provisions related to TRIA, workers' compensation or trying to reduce their ambiguity in other areas of this Act since we are taking up the totality of the act.

Mr. BESHAR. Congresswoman Sewell, thank you for your gracious comments. Two suggestions. First, we spoke about NBCR, so that if coverage is provided on the underlying policy to validate that concern, TRIA would backstop that. And then second, cyber terrorism. What does it mean? What is the best way to try to address that new emerging risk?

Ms. SEWELL. Mr. Smith, would you have any additions as to what other things we can be looking at?

Mr. SMITH. Our aspiration is it renews the way it is for a long period of time. We are more than willing to engage in debate on specifics as far as modeling how this might work out, but we would hope to just renew as is.

Ms. SEWELL. Okay. Are there any ambiguities with respect to workers' compensation or others that—

Ms. ABRAHAM. Mr. Beshar mentioned earlier his third point for improvement on the bill, and that is clarity on the certification process. I think that would help. Again, uncertainty is never good when you are running a business or running a university, and clarity around that would help.

Ms. SEWELL. Can either one of you explain to me sort of the relationship between the private insurer and the government in paying claims as a result of a terrorist attack, how that works now, and whether that is a good thing or a bad thing?

Mr. SMITH. Let me make sure I understand your question. As far as the mechanisms as to if there is an act of terrorism—

Ms. SEWELL. Yes. The levels of payment, how the payment structure would work as between private insurer and government. Basically, I want to know how much money are the taxpayer is on the hook for.

Mr. SMITH. Right. To Congressman Grimm's earlier point, you can think of $34 billion as kind of the starting point. Most acts of terrorism that are likely to occur are going to be in what we call the lower layers. The first layer is the primary insurers, the second layer is the reinsurers, and the third layer is the TRIA program, the government backstop.

So, it is going to take a substantial event to get to that third layer. Most things that we would see are going to be in those lower layers.

Ms. SEWELL. Great.

I yield back the rest of my time. Thanks.

Mr. NEUGEBAUER. I thank the gentlewoman. Now, the gentleman from South Carolina, Mr. Mulvaney, is recognized for 5 minutes.

Mr. MULVANEY. Thank you, Mr. Chairman.

A couple of different questions all across-the-board.

Dr. Woo, I will start with you. Help me understand. Is this modelable or not? I hear that maybe it is. I hear that maybe it isn't. Maybe it might become more modelable over time as we have more experience. Help me understand where we are on that.

Mr. WOO. Thank you, Congressman. Can I just answer the question about the need for classified information? There is information which is in the public domain which is the outcome of terrorist trials. In every democratic country, someone who has been arrested on terrorist charges has the right to have his day in court. If he is convicted, that counts as a plot. If he is acquitted, it is not a plot.

And on the basis of terrorist courtroom outcomes across the Western alliance, not just in America but in Britain, France, Germany, and so on, we can calculate how many terrorist convictions there have been and we can figure out what proportion of those have not been interdicted.

Typically, what happens is you have 10 guys who have been convicted in court. You have 10 plots, and maybe one out of those 10 is a plot which the intelligence staff did not know about. This does not require classified information because it is all public domain information.

Again, it is known that obviously there are rumors of plots and so on, but that is fine. But in a democracy, a plot—

Mr. MULVANEY. Is it fair to say we are getting more information as we move forward?

Mr. WOO. The point I would like to make is that—I would not be making these comments in 2007. It is just that there is a time lag of about 2 to 3 years for people who have been indicted on terrorism charges to have their day in court.

And here I am speaking in 2013, and I have done analysis of all the terrorist convictions in court in the Western alliance. And it is on that basis that our estimate of frequency is calculated. It does not require any intelligence information.

Mr. MULVANEY. Thank you very much.

Mr. Ellis, I very rarely agree with Mr. Capuano, although when I do, I like to celebrate that fact. One of the things he said was that he didn't like the program very much but he couldn't think of anything else. Help me think of something else. Give me ideas of things we should be looking at that possibly could replace this or act as substitutes.

Mr. ELLIS. Congressman, certainly—

Mr. MULVANEY. Other than just having the government write a check at the end, which is not acceptable to me. It probably is to him, but that is where we would disagree.

Mr. ELLIS. Yes, Congressman. I did lay out a few ideas in my testimony. I think it really is about increasing the skin in the game for the insurers and allowing the industry to continue to develop. Because right now, the reinsurance industry is really only playing in that 20 percent deductible.

So if you can change the deductible, you can change the threshold of what is an event, then that is going to eventually move the government out of the role of being the reinsurer. And you can see that in the—

Mr. MULVANEY. It would involve moving the deductible down, correct, not up?

Mr. ELLIS. Right. The deductible—yes. Yes. Increasing the amount that is retained by the insurance companies that they then have is what I am saying.

Mr. MULVANEY. Mr. Beshar, I guess that will lead to this question, a follow up on—excuse me, Mr. Smith.

Mr. Grimm asked about the triggers. There is some discussion about whether we should increase the triggers. And my understanding is that if we do that, it actually might weaken the program and make less capital available to fewer participants in the program. Am I understanding that correctly?

Mr. SMITH. We believe very strongly that is what will happen. The small and mid-sized insurers are numerous and they provide tremendous capital into this space. As you lift up the limits, you are going to squeeze out the small and the mid-sized insurers, and that is not a good outcome.

Mr. MULVANEY. With that, I will yield the balance of my time back to the Chair.

Mr. NEUGEBAUER. I thank the gentleman.

And now the gentleman from Washington, Mr. Heck, is recognized for 5 minutes.

Mr. HECK. Thank you, Mr. Chairman, and Ranking Member Waters.

I want to add my expression of gratitude to the five of you for spending so much time with us this afternoon. And even though they have departed, I would like to acknowledge Congressmen Grimm and Capuano for their advocacy and leadership in this area.

Mr. Smith, you drew the short straw. This program's opponents have suggested that you are being crowded out of profitable opportunities by TRIA and yet you say you are not. I am tempted, tongue-in-cheek, to ask you what is it that they know about your business that you don't know.

But instead I would rather ask you, beyond the oft-repeated premise that by their very nature acts of terrorism do not lend themselves to actuarial projections, what more can you say to give color or depth to why it is you can't or won't enter this market in a more robust fashion in the absence of TRIA?

Mr. SMITH. Sure. The dynamic that is in place is that the nature of the terrorism risks are the serious events that are so large and the prospects for frequency are so unpredictable.

We have legions of Ph.D.s who work with Swiss Re across the globe. We have been building models for 150 years. We know the flood business inside and out. So, we would love to engage around the NFIP. We could bring much value to that.

But when it comes to terrorism, it mathematically doesn't work. The upward occurrence limits are too high and the unpredictability of frequency, it is just not there. And so we are playing, we are contributing, we are committing capital because we are comfortable in the layer that we are in.

And we know that we can pay billions of dollars of claims in the years ahead in that layer. We know that. We are comfortable with that. But if that upper limit goes away, if the backstop goes away—and we do not believe that is in any way, shape, or form subsidized reinsurance.

If it was subsidized reinsurance, the dynamic goes away, and then we are more comfortable going up and taking more risk. If that goes away, we go away. We will not play in terrorism risk if the backstop goes away.

We can't. It would not be financially prudent to our shareholders and to all of our policyholders across the globe, all the governments, and all the insurance companies that we back. We wouldn't be able—we just can't do it.

Mr. HECK. Thank you.

I would interject that I thought the gentleman from Ohio had this exactly right. There is a material effect on our economy and economic growth if we don't do this correctly, and it is one of the very good reasons to be supportive of some continued direction here.

Mr. Beshar, in your addendum you had the following statement I would like to briefly follow up on: "Notably, as the severity and frequency of cyber attacks have grown more prominent, several proposals have been made to clarify that TRIA could apply as reinsurance in the event of a massive cyber attack. Were that clarification realized, TRIA could spur additional capacity in the cyber market."

My question is, do you have any suggestions about exactly how we might clarify in this regard? If so, please provide them.

Mr. BESHAR. It is something that I think really warrants further study. It is clearly something that wasn't envisioned as recently as 2007. So as people speak about cyber 9/11 and cyber Pearl Harbor and speak about it with a degree of emphasis in terms of the potential for catastrophe, we have to figure out what is the best way of incorporating that into TRIA.

There is an increasing cyber liability market that is developing right now. It tends to be at more modest levels. People buying coverages for $10 million, $20 million. And so, this is something really very different. Where is the right flex point between the private market and what the government might do?

Mr. HECK. Okay. I get that you are not yet ready with the specific recommendations. But I, for one, feel that the threat here is so real, and has the potential to have such a magnitude of impact that if you are right, and we are not yet ready, we ought to at least get started on the process.

So at a minimum, I would request that anybody listening who has any skin in this game suggest language about how we might undertake that process. Because the threat of cyber attacks is very real.

Thank you, Mr. Chairman, for your indulgence. I yield back the balance of my time that I don't have anymore.

Mr. NEUGEBAUER. I thank the gentleman.

The gentleman from Illinois, Mr. Hultgren, is recognized for 5 minutes.

Mr. HULTGREN. Thank you very much, Mr. Chairman.

Thank you all for being here.

First of all, Mr. Beshar, if I could address this first question to you. I am just really trying to understand triggers here, and wonder if you could describe how a terrorism event is certified to trigger TRIA coverage if necessary?

What agencies or departments are responsible for gathering information? What determinations are required? And do we think it works? Is that the right way for the triggers to happen?

Mr. BESHAR. I am dealing with this from memory, but my understanding is that it is the Attorney General, the Secretary of State, and the Secretary of the Treasury, that all three of them have to agree to certify an event as a TRIA-covered event.

And so our recommendation was that may well be the sound process, the right people involved in making the determination. But to just try to put some sort of a time focus, there are obviously circumstances where it may not be immediately clear whether it is a terrorist event or not.

So the idea that it takes some time is perfectly appropriate. We were just suggesting that there be some sort of a limit on that time.

Mr. HULTGREN. Remind me again of your suggestion of what would make a common-sense limit. My guess is there would be needs immediately, or very quickly, to respond if something like this happened.

As you also said, we may find out more information as time goes on. So I wonder, too, if there is a possibility to have a response, but maybe a follow up, or a look back after 60 days or something like that.

But is there some thought of what a reasonable amount of time would be, our current process, how long it would take: what you would recommend as a reasonable length?

Mr. BESHAR. We would suggest 90 days, with some sort of provision that if there is not clarity, then it can obviously be extended.

Mr. HULTGREN. Okay.

Dr. Woo, if I can address this to you and get your thoughts, first of all—and maybe somebody has already said this—but I definitely think we need a catastrophist here in Congress watching over everything that is going to happen over the next couple of weeks. What a great title.

Dr. Woo, I wonder, the World Trade Center attack totaled about $42 billion in today's dollars and insured losses, but the majority of that was property.

Modeling for a terrorist attack, can you talk a little bit about how you model the potential losses from workers' compensation claims, and for a wider-area event, how you model that? And also maybe how State mandates and State-based regulations might make it more difficult to model some of this specifically to workers' compensation?

Mr. WOO. Thank you very much, Congressman. Of course, workers' compensation applies to natural hazards, as well as for terrorism. And so at RMS, we have a model, a workers' compensation, say for earthquakes, as well as for terrorism.

Now, as far as the claims consequences of an event are concerned, there are similar ambiguities between earthquakes and terrorism. We don't exactly know how many people would be affected in a given event.

And so what I have tried to focus on is on the threat dimension of terrorism. And the key point I would like to emphasize is simply that terrorism is a control process. We can't control earthquakes. We can't control hurricanes.

But there are people out there, the FBI and the CIA, who are trying to control these. And if I can just quote from Robert Mueller, when he left office he said that through the hard work of his staff, dedication, and adaptability, the FBI is better able to predict and prevent terrorism and crime.

It is not my job to predict the next terrorist event, but it is their job. It is the FBI's job, okay. My job is to figure out what the net result is of the terrorists trying to cause loss. And what the FBI's job is, is to stop it, okay, these key points. Can I just make this point, that the need for TRIA is based on what Donald Rumsfeld would have called the "known knowns," which are: (A) that the terrorists are trying to cause a maximum loss; (B) they target high-value properties in big cities; and (C) that responsibility for stopping these losses rests with the Federal Government.

So it is the "known knowns" which make the renewal of TRIA essential. And again, I come back—I know that there is a lot of controversy about the modelability of terrorism risk.

And in fact, if I can just say that in less than 2 weeks' time, I should be giving a keynote address at the Casualty Actuarial Society in Chicago at the major catastrophe insurance conference. And as they have very kindly given me 75 minutes to explain myself in terms of the modelability of terrorism risk. Anyone who is skeptical about it, please send their staff along to Chicago.

Mr. HULTGREN. It is a little hard in 5 minutes to get much, but I appreciate it.

And again, thank you all. We will follow up with questions that we have as well, if that is all right. So thank you for being here.

I yield back.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from California, Mr. Sherman, for 5 minutes.

Mr. SHERMAN. Thank you, Mr. Chairman.

We have a system for providing insurance for the property, we have workers' comp for the personal losses suffered by individuals who are working. Under our current system, if somebody is not working and happens to be the victim of a great terrorist attack, do they have any coverage? Somebody just happens to be visiting the World Trade Center, because they want to see what the building looks like.

Ms. ABRAHAM. I would think there is a liability component potentially associated with it; not just a visitor, but if there is something where the evacuation plans weren't as efficiently developed, there is a potential for liability associated with it, but generally speaking, I would say no.

Mr. SHERMAN. Okay.

Do any of you favor collecting monies in advance by the U.S. Government, rather than just a post-event, ex ante approach?

Mr. Ellis?

Mr. ELLIS. Yes, Congressman. We do support the idea of a premium and having that approach.

Mr. SHERMAN. Anyone else?

Mr. ELLIS. We believe the program is constructed in the most efficient manner possible. So, we do not.

Mr. SHERMAN. Okay.

Watching this hearing has been—there is so little disagreement. We have two major proposals that are pretty similar. It seems odd that we have a lot of anonymity.

Who on the panel would argue for a major change in the two pieces of legislation, other than the gentleman, Mr. Ellis, who is of a different view than the rest of the panel?

Mr. Ellis, the floor is yours.

Mr. ELLIS. Thank you, Congressman. As I said in my testimony, we just think that if Congress decides to extend the program, that we need to, just as we did in 2005, continue to move it more onto the shoulders of the private sector, and to protect the taxpayer.

And so that is what we are looking at, as far as any kind of reauthorization.

Mr. SHERMAN. So it is not that you like what we did in 2005, it is just you thought that was a step better than the previous legislation. You want to go one step further beyond that; is that correct?

Mr. ELLIS. Sir, in my dozen years of being an advocate for taxpayers, I have learned that a lot of times I have to swallow incremental progress. And so, that is what we are looking at.

Mr. SHERMAN. I would point out that for those who want to protect the Treasury, not only do you have to look at what risks do we have of under TRIA, but every time there is a disaster of the magnitude of a major hurricane, we end up writing checks for far more than we are technically liable for.

And I know Citizens for Common Sense might argue for us to be more stingy, but I don't think that is what my future colleagues will do.

Mr. Ellis, does it make sense to be fighting to limit the legal liability of taxpayers if, when we have the major publicized instance, we are going to write checks far and in excess of that?

Mr. ELLIS. No matter what, even with TRIA, we are going to be writing checks. There is going to be the public infrastructure, there is the rebuilding. There are roads. That has always been the case. And that is not insured.

So essentially, we recognize that. And Mr. Capuano asked me about that earlier, do I think that there will be a Federal role after a major disaster, whether it is a hurricane, or whether it is a terrorist attack. And, yes, and I think it is appropriate.

But it needs to be—I want to see that the checks are as small and are reasonable and appropriate to help these communities recover and become more resilient in the future. And my concern about not actually pricing this terrorism risk appropriately is, again, it doesn't prevent the terrorist event, but it will help companies mitigate the risk more effectively, or encourage them to.

Mr. SHERMAN. For the first time ever, I am going to yield back my time when I still have time. Thank you.

Chairman HENSARLING. The Chair takes note.

The gentleman from Florida, Mr. Ross, is now recognized for 5 minutes.

Mr. ROSS. Thank you, Mr. Chairman.

I would like to begin by first explaining why I, as a capital purist and one who believes in free markets as the best regulator of all, who also served in the Florida legislature, and chaired a committee that oversaw the efforts to bring back the private market and our property insurance, and who, quite frankly, was one of two votes against the expansion of a government-run insurance company in the State of Florida that cost me my chairmanship.

But I still believe that in this particular situation, a TRIA bill is necessary. And I go back to the fundamental principles of insurance that not only do we need to have prefunding of events in an actuarially adequate fashion, but also that we have adequate capital set aside, and that those who are responsible for maintaining and administering that risk have the ability to do risk management.

And unfortunately, when it comes to terrorism, risk management is predominantly a function of homeland security.

So, Mr. Woo, I agree with you that there may be a way to assess or predict or forecast terrorist events, but until such time as we learn how to mitigate against these, I foresee maybe State Farm sponsoring gas masks, Farmers Insurance sponsoring flak jackets, and maybe AIG sponsoring F-16s in order to mitigate against attack, which of course is an absurdity.

But I bring that out as saying that if we are going to say that we want a private market backed, then we need to allow them to have what traditionally private markets have in providing insurance. I think adequate capital is necessary.

Mr. Ellis, you talked about in your opening that in 1992 after Hurricane Andrew, the markets dried up, but then the reinsurance came back. It came back as a result of a legislative change that created a Florida Hurricane Catastrophe Fund not unlike TRIA. It came back because they allowed pup-companies which were subsidies of major insurance companies to be based in Florida and limit their liability. They came back because they had joint underwriting associations for homeowners and also the wind storm pool.

What I am getting at is that as much of a purist as I am, practically speaking from a political perspective, government is going to be involved, and to that end, how do we minimize government exposure.

Mr. Ellis, I agree with you on pre-funding. I think that is absolutely important that if we are going to look at transitioning over into a market to come back, we have to have some sense of prefunding.

Mr. Woo, based on your assessment, let me ask you, can you actuarially, adequately price terrorism insurance?

Mr. WOO. I think the question has to be put in the context of other catastrophe perils like the natural hazards. If you take Hurricane Irene, on its path towards New York City at one stage, RMS did a review, an analysis to show that when it was a Category III in the Atlantic, the loss potential was $200 billion.

Mr. ROSS. I agree with you, Mr. Woo, but we also have a cone—we know 5 days in advance pretty much where it is going to go. We have ways to mitigate and prepare once we know that the event is about ready to occur. We don't have that luxury in terrorism.

So my question to you is, can you actuarially, adequately price terrorism insurance?

Mr. WOO. Well, what—

Mr. ROSS. You can't, can you? And that is the key here because if you could actuarially, adequately price terrorism insurance, would it be less than, equal to, or greater than what people are paying now?

Mr. WOO. The key part to actual pricing is allowing for a factor for uncertainty.

Mr. ROSS. Right.

Mr. WOO. And uncertainty has an element of perception to it. I am the first to admit, sir, that obviously the perception of the uncertainty is very high within the insurance community. But if I can just make this point, which is that over time, again, with the kind of process I have mentioned, namely people tracking courtroom convictions, people tracking plots through social network analysis, and so over time, I think there will be a gradual better understanding of the nature of terrorism risk.

Mr. ROSS. But the pricing is what concerns me, because right now, we have a government backstop and my history in government backstops, as you look at the National Flood Insurance Program, and as you look at citizens' property and causality insurance program in the State of Florida, is it leads to bad behavior.

It leads to building a high-risk area. It leads to rebuilding in high-risk areas. And so what I am saying is if we are going to bring back a market, we are going to have private capital at risk, we have to give them some opportunity.

In my State, people say well, give us adequate actuarial pricing. I don't know if we can do that in TRIA. I don't think we can, and until we can answer that question, we have to have a government backstop. But I think we also have to look at Mr. Ellis' points where we have to be able to pre-fund it.

Because in the workers' compensation—you don't have exclusions in workers' comp other than fraud and—basically other than fraud because it is a strict liability. How are you going to be able to fund workers' compensation other than have a regulator who says, we don't have much of a market so we are going to lower our standards, then you have thinly capitalized companies out there that are going to go to a guarantee fund?

Any comments on that? I have 14 seconds.

Mr. WOO. I don't know if there is a distinction between modelability and insurability. As I said, TRIA is needed for the absolutely known knowns. Terrorists, unlike natural hazards, target high-value properties in central business districts.

Mr. ROSS. I am not disagreeing with you, I think—yes, TRIA is needed.

Mr. WOO. Okay, but—

Mr. ROSS. But we have to transition it over time.

I yield back.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Wisconsin, Mr. Duffy, for 5 minutes.

Mr. DUFFY. Thank you, Mr. Chairman, and I appreciate again the panel staying here so long today.

Mr. Smith, I just want to understand what you do at Swiss Re, you guys offer primary insurance and reinsurance, is that correct, both products?

Mr. SMITH. We are about 85 percent a reinsurance company, so mostly what we do is reinsurance. We have a small commercial insurance presence.

Mr. DUFFY. Okay.

Ms. Abraham?

Ms. ABRAHAM. We are exclusively a primary insurance company.

Mr. DUFFY. Do you buy reinsurance?

Ms. ABRAHAM. Yes.

Mr. DUFFY. Okay.

Ms. ABRAHAM. We buy extensive reinsurance, and without TRIA, our reinsurers have said they would not provide the kind of protection that we want to provide.

Mr. DUFFY. Mr. Smith, if at Swiss Re, you were trying to price your reinsurance with the terrorism component as part of your product without a government backstop, could you actually do that and would it be pretty expensive?

Mr. SMITH. We believe that mathematically, that is not possible. So we feel, Congressman, that we cannot do that.

Mr. DUFFY. Would it be expensive if you did try to price that?

Mr. SMITH. It would be extremely expensive.

Mr. DUFFY. Okay.

On your primary products, the 15 percent that you offer the primary products on, for the terrorism reinsurance, through TRIA, what do you pay the Federal Government as a premium?

Mr. SMITH. The only mechanism for payment to the government through TRIA is at the backend of a loss. There is no upfront.

Mr. DUFFY. There is no premium that is paid to the Federal Government for taking on this risk, right? It is paid at the back end.

In your business, at Swiss Re, you don't say to your customers, we will take on the risk if you have losses, we will come back to you and re-collect for the payments that we have paid out, right? You have to collect the premium up front. And then if there are claims, you pay them out of the money that you collected. But that is not how this system is working with TRIA in the Federal Government, is it?

Mr. SMITH. That is correct.

Mr. DUFFY. Do you think it is a good deal for the American taxpayer—

Mr. SMITH. Absolutely.

Mr. DUFFY. —to try to collect on the back end?

Mr. SMITH. Absolutely.

Mr. DUFFY. Okay. So you would say that it is a bad idea to have some premium—we could debate how much that should be. We would probably agree that you can't price the full risk, but there probably should be some payment made to build up some fund so that if there is an attack, we can draw upon that fund. But your position would be there should be no pre-funding, we should come at the back end and try to collect it. Is that your position?

Mr. SMITH. You can argue it either way.

Mr. DUFFY. I am asking—

Mr. SMITH. Our perspective is that the way it works today is extremely efficient because the—

Mr. DUFFY. Because you don't have to pay for it, right? It is free.

Mr. SMITH. Well, we would—

Mr. DUFFY. Of course—

Mr. SMITH. —disagree with that. We cover what we cover.

Mr. DUFFY. You don't pay a premium. There is no premium for the American taxpayer taken on the risk.

Mr. SMITH. Except they are not covering what I cover. We are at different layers. I pay what I pay, that is what I cover, that is what I charge for, and that is what I am on the hook for.

Mr. DUFFY. Right, the Federal Government is on the hook for the terrorism component and—

Mr. SMITH. The extreme upper layer.

Mr. DUFFY. —there is no premium charge for that, right?

Mr. SMITH. Right.

Mr. DUFFY. And you don't take on risk without charging a premium, right?

Mr. SMITH. That is correct.

Mr. DUFFY. How come it is a good deal for you to collect a premium, but it is a good deal for the American people to not collect a premium? Why is it a great standard for you at Swiss Re and bad for America and the American taxpayer to collect some form of a premium to build some form of a fund to actually draw upon if there is an attack?

Mr. SMITH. Again, Congressman, you can argue it either way, and you are asking—and our point of view is that the efficiency of how it is done today we think is rather brilliant because the odds of the U.S. Government of it getting it up into that layer are so small that to pre-fund it, how are you going to do that? You are going to have make—

Mr. DUFFY. With a premium.

Mr. SMITH. —you don't have a model so you can't model it.

Mr. DUFFY. So the model is, "don't collect anything?"

Mr. SMITH. You have a model that—you have a—

Mr. DUFFY. We could place some premium—

Mr. SMITH. —mechanism in place to try to build a—

Mr. DUFFY. [Off mike.]

Mr. SMITH. —only if there is a claim paid.

Mr. DUFFY. I am sure Ms. Abraham would love to say, "You will reinsure us for free, and we will pay you on the back end."

I support TRIA. I want you guys to be aware of that. I think we have to have some action here, but to say that we are not going to try to collect some form of a premium that may not correlate with the risk that the taxpayer is taking on, but some premium, to have a fund set up that we can draw upon if there is an attack.

Mr. Ellis, do you agree that we should have some form of prefunding?

Mr. ELLIS. Absolutely, Congressman.

Mr. DUFFY. Some premium should be paid, you would agree?

Mr. ELLIS. Absolutely. Right now, there have been insurance companies that have been collecting terrorism insurance premiums from their clients for a decade, and haven't paid anything for the Federal backstop that they have.

Mr. DUFFY. I would just make a note to the panel, I think you could get better buy-in if there was some premium paid to the American taxpayer to offset the risk. They are not going to get a full premium, as you mentioned, Mr. Smith. You can't assess it, but if we are paying some form of a premium for the American taxpayer risk, we will get a far better buy-in. I yield back.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Kentucky, Mr. Barr, for 5 minutes.

Mr. BARR. Thank you, Mr. Chairman.

Thanks for your testimony today. I have a question for Mr. Smith, and a question for Dr. Woo, and I would like for both of you to respond to some testimony of each other.

For Mr. Smith, Dr. Woo testified earlier that TRIA is insurance against counterterrorism failure. And I thought that was very interesting testimony. He said that—you heard his testimony, but what occurs to me, the takeaway from what he is saying is that perhaps as the Federal Government invests more aggressively in counterterrorism measures through the intelligence community and other assets, perhaps the need for the Federal backstop in TRIA might, as a percentage, decrease as the Federal Government maybe increases its efforts on the counterterrorism side.

I would be interested in your reaction to that potential takeaway from his testimony.

For Dr. Woo, I would be interested to hear you respond to Mr. Smith's point, that while you say there may be some actuarial certainty, or some experience that you are gleaning from, since 9/11, based on convictions, that what seems to be pretty compelling from Mr. Smith is that the gravity and the seriousness, or the level of the catastrophe is so great, that it is very difficult to quantify.

Even if you can quantify some experience based on convictions on declassified instances of terrorism, what seems pretty compelling from Mr. Smith is that it is very hard to quantify on an actuarial basis the severity of the losses that could occur. And that is why the risk is difficult to quantify. So, if both of you could respond to those two items.

Mr. SMITH. I will go first. It is an interesting concept, but when you build mathematical models around such catastrophes, there are many elements to it. So he has an interesting theory about one element, but there is just not enough real data.

There is no model that has been tested yet, and so for those of us who actually deploy capital, we just don't feel comfortable that it is something that you can model.

Mr. WOO. I would just like to make a comment about the massive amounts of investments the U.S. Government makes in counterterrorism. Precisely because of this huge investment, the effective cost of the TRIA backstop is really tiny compared with the investment in counterterrorism. Okay, talking about many billions spent, tens of billions spent on counterterrorism.

And the effective cost of the TRIA programs, notional cost is actually just a tiny fraction of that. Also, I would like to make the point that if there were to be a catastrophic terrorist attack involving a good number of operatives, almost certainly, this would be a consequence of some degree of negligence on the part of the security agencies.

If I just mention what happened in Britain recently, there is a case of a soldier being killed on the streets of London, and people wanted to sue MI5 over it.

Okay, so if I can just make the point, which is that as far as the taxpayer is concerned, the value of TRIA is that without it: (A) you wouldn't have much private participation in the market, but also the potential liability of the Federal Government in the event of a massive attack would dwarf the backstop in TRIA.

Mr. BARR. Let me quickly move on to a point that Mr. Beshar made earlier. In your testimony, your original testimony, you indicated that there is more capital in reinsurance now than before. Does this suggest that there is cause for reform to increase the thresholds?

And for everyone on the panel, or for Mr. Beshar, Mr. Smith, and Ms. Abraham, if there are to be changes, obviously there are some skeptics or advocates for reforming TRIA. If this committee were to reform TRIA, what level of changes in the thresholds would be appropriate, and would not be disruptive to the marketplace?

Mr. BESHAR. Clearly, there is additional capital and capacity in the insurance marketplace. The key question, Congressman Barr, is how much of that capital would actually be interested in writing terrorism risk? And that is a very hard thing to try to estimate.

You have heard from Mr. Smith that it is not much, that essentially what is being underwritten right now is essentially the appetite that exists in the market. And so, I think that is a process that has to be analyzed further.

Mr. BARR. Ms. Abraham, really quick, I am running out of time, but obviously a terrorist attack against one American is a terrorist attack against everyone. You talk about rural stadiums. And I come from a relatively rural district, the University of Kentucky is in my district. But in terms of—

Ms. ABRAHAM. And we insure it.

Mr. BARR. I am sure you do. And thank you for that. But in terms of shifting risk, what would you have to say about rural taxpayers bearing risk for large urban areas, which have a higher actuarial potential of bearing the—

Chairman HENSARLING. A very brief answer, please.

Ms. ABRAHAM. Some of that is done in the underwriting process. There is a credit and debit process. And vulnerabilities, location, preparedness, that is already factored into our underwriting process. So not every—the University of Kentucky does not pay the same price as the University of Nebraska. They are different based on their planning, and their location. So, it is different, and is factored into the pricing already.

Chairman HENSARLING. The time of the gentleman has expired.

I would ask for unanimous consent that letters from the Financial Services Roundtable and the American Insurance Association be entered into the record. Without objection, it is so ordered.

I would like to thank our witnesses again for their endurance, their patience, and their testimony today.

The Chair notes that some Members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to these witnesses and to place their responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

This hearing stands adjourned.

[Whereupon, at 1:15 p.m., the hearing was adjourned.]

A P P E N D I X

September 19, 2013

TESTIMONY OF HONORABLE MICHAEL E. CAPUANO,
HOUSE OF REPRESENTATIVES

BEFORE THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON FINANCIAL SERVICES

HEARING ON "THE TERRORISM RISK INSURANCE ACT
OF 2002"

WASHINGTON, D.C.

SEPTEMBER 19, 2013

I am not a fan of TRIA. I wish we didn't have to do it. However, no one in the past 12 years has shown me how the private industry can predict terrorism or handle these kinds of risks by itself. Insurers don't know for sure where they will hit. They don't know when. They don't know how severe it will be or how often. They can't answer these questions. I would love for them to do this. I would love to end TRIA and call it a day. But until that happens, I see TRIA as necessary.

The attacks this spring at the Boston Marathon were a stark reminder that terrorism in this country remains very real and very difficult to predict, even though it's 12 years after 9/11. As the horrific scenes on Boylston Street unfolded, many of us realized that an attack can happen anywhere, at any time, changing and disrupting our daily lives in the blink of an eye.

I introduced the "Terrorism Risk Insurance Program Reauthorization Act of 2013" (TRIPRA) with my Republican colleague Rep. Peter King to extend the Terrorism Risk Insurance Act (TRIA) for 10 years. TRIA is not perfect. It is not ideal. But it is the best solution we have.

In the aftermath of the 9/11 terrorist attacks, many insurance companies stopped offering terrorism coverage altogether after sustaining more than $40 billion in losses. As a result, Congress passed TRIA in 2002. The law created a federal backstop to make terrorism insurance available and to protect against terrorism related losses in the event of another attack. The measure has twice been extended and is set to expire at the end of 2014.

TRIA currently requires private insurance companies to offer terrorism coverage to commercial policyholders and cover losses up to $100 million. After that point, the federal government would be available as a backstop for the private sector. Since its enactment, TRIA has ensured that terrorism risk insurance is available and affordable.

TRIA also established a mechanism for the government to recoup funds that are paid out. Outside of minor administrative costs, TRIA has not spent a dime of taxpayer money to date.

Immediately after 9/11, billions of dollars worth of development projects were stalled or delayed, and hundreds of thousands of construction jobs were lost. Since its enactment and with each extension, TRIA has fostered continued economic and real estate development.

This is a program with bipartisan support. There are different ideas for how long we should extend TRIA. But nearly 60% of this Committee thinks we should extend TRIA in its current form and have put their names on one of the bills to accomplish that goal. We have plenty of important legislation to debate. Extending TRIA is something that most of us agree on so we don't need a lengthy debate. Let's decide the length of the extension and move onto more pressing issues.

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.

Statement
of
Representative Gwen Moore
The Terrorism Risk Insurance Act of 2002
House Financial Services Committee

Sept 19, 2013

I'm glad that we're having this hearing.

I want to thank the witness for appearing before this committee to share their expertise. I want to especially recognize my colleagues on the committee for their testimony.

The reauthorization of this program is important for all of our districts. There is a misconception that TRIA is just a New York City, Chicago, or LA issue. I know that businesses in Milwaukee rely on the program and I know that Milwaukee could be the target for terrorist.

The fact is that the TRIA reauthorization is important for all our districts.

I think that when all the facts come out, Congress will overwhelmingly support a straight, long-term extension of the program.

I supported the original passage of TRIA and I am a proud original cosponsor, along with Ms. McCarthy, of the long-term reauthorization introduced by my friend Mr. Capuano.

During World War II, the United States took the position of insurer and reinsurer of last resort. Why would we treat the acts of war by terrorist differently?

It is an unfortunate necessity in today's world. Failure to reauthorize TRIA, or imprudent changes that make the program unworkable or undesirable, will harm commerce.

While we may be in a polarizing political climate, TRIA is the one of the small number of programs that is receiving bipartisan support.
]
I believe that it is a critical tool towards mitigating the devastation caused a large-scale terrorist attack and that for that reason this committee and Congress can come together to pass a bill without delay.

I hope these hearings results a collaborative effort towards the swift reauthorization of TRIA.

Again, thank you and I look forward to hearing from our witnesses.

United Educators

Testimony of Janice M. Abraham

President and CEO, United Educators Insurance

The Committee on Financial Services

United States House of Representatives

Hearing: "The Terrorism Risk Insurance Act of 2002 and Terrorism Risk Insurance Program"

September 19, 2013

Introduction

Mr. Chairman, Ranking Member Waters, and Members of the Committee, thank you for the opportunity to testify today on the importance to our nation's education institutions of having a terrorism risk insurance plan in place under The Terrorism Risk Insurance Act (TRIA). My name is Janice Abraham and I am the President and CEO of United Educators (UE), speaking today on the concerns of schools, colleges, and universities.

United Educators is an A rated risk retention group, a liability insurance company, owned by more than 1,200 schools, colleges, and universities throughout the United States. Our goal is singular and focused: to help schools and colleges recover as quickly as possible if a terrorist event occurs. The certainty of a terrorism insurance plan in place to support their rapid recovery is crucial. Although United Educators insures institutions in Los Angeles, Boston, and other major cities, we are mindful that terrorists found Oklahoma City a target, and close to 92,000 fans will gather in Lincoln, Nebraska to watch a football game this month. In our view, this is not a rural or urban issue, this is a having a plan to recover in the event of a catastrophic loss.

United Educators

Collaborating to Protect Educational Institutions

United Educators has a particular interest in providing terrorism insurance because our policyholders fit the profile of potential targets: icons of America, soft targets – they have open campuses, a high concentration of people in a location, and they often serve as substantial economic engines in their community. Colleges and universities are potential targets at every Saturday afternoon football game. Their research labs are targets, especially of terrorists who would seek to harm the nation's national security apparatus. And they are targets whenever they host major speeches or presidential debates.

United Educators views the Terrorism Risk Insurance Program as a national terrorism risk management plan that enables our colleges and universities to manage their risk responsibly through a four-way collaboration between:

1. The policyholders: our 1,200 schools, colleges, and universities
2. United Educators, their primary insurance company
3. Our reinsurers
4. The Federal government

Without any of these partners, the terrorism risk management plan falls apart due to the inter-dependency of these partners as part of the supply chain of terrorism coverage. Let me briefly explain the roles of each.

Policyholders

Policyholders, through their insurance deductibles, have the first level of risk. They are also obligated to have well-documented and tested crisis response plans that ensure the security of research labs and safe evacuation plans for large gatherings such as an athletic event or concert.

United Educators

Second, United Educators, as their primary insurer, underwrites the terrorism risk, taking into consideration the schools' vulnerabilities and its crisis response and recovery plans. And we take on considerable risk of loss. For UE and our reinsurers this could be in excess of $30 million plus the co-pay, based on the current legislation. One hundred percent of our general liability policy holders have the terrorism insurance endorsement now. As of January 2, 2014, that number will decline as policies are underwritten extending beyond the TRIA effective date. Many institutions will be left without protection for terrorism unless the program gets extended.

Reinsurers

Third, UE's reinsurers support our high limits of coverage, particularly in the case of multiple catastrophic events, such as a coordinated terrorist event that occurs on multiple campuses throughout the country. Currently, while United Educators has a per event policy limit, we do not have an aggregate annual limit, meaning that we know we are covered regardless of how many events occur in a given year. But that is only possible because TRIA caps the liability of the private sector for catastrophic terrorist events. We have been told by our reinsurers that this broad, no aggregate coverage, essential for UE to protect the multiple universities we cover, will disappear if the federal program is not extended.

Federal

So that makes the federal government a fourth and critical collaborator, by capping the liability and providing stable and predictable limits on terrorism losses, allowing all insurers and reinsurers to offer sufficient capacity to protect our colleges and universities, even for multiple events in a year.

The Impact of TRIA on Education and Insurance

If the Federal government steps away from being a partner in this terrorism risk management plan, I think the following will happen:

Many of the colleges and universities we insure will be shut out of the terrorism insurance market because reinsurers will not be willing to provide reinsurance without the capping of liability provided by the federal plan. UE could not responsibly provide coverage knowing that our balance sheet could be hit by a coordinated terrorist attack at multiple schools resulting in claims from multiple policyholders.

The same would happen to many other small and mid-sized insurers – many of which are mutual companies that, like us, focus on a particular segment of business or geographic area. The vast majority of insurers are, like United Educators, under $1 billion in revenue and would be crippled by a catastrophic terrorism loss of over $100 million without the TRIA program. The irony is that this would result in less insurance capacity in the market to support terrorism risks, less affordable coverage, inadequate coverage, and a much less competitive market for businesses. If the government allows the caps on catastrophic terrorism losses to expire, only a few larger insurance companies will be left to offer coverage, and even they may have limited appetite to fill the gap left by TRIA. And even to the extent they remain in the market, they will operate without the healthy pressure of competition from small and mid-sized companies.

You may hear that there is plenty of capital now in the insurance industry right now, and it's true—there is. But that capital has to support all of the risks in the market—not just terrorism. If history is any judge, the capital that is present today won't always be there. We can't predict if and when catastrophic terrorist and natural disasters will occur.

One of the best things about the US insurance industry is its diversity and competitiveness. It may be counter-intuitive, but by capping the limits on private sector liability for catastrophic terrorism losses, the terrorism insurance plan actually encourages more competition and more options for policy holders. And it enables our nation's colleges and universities to have that effective four-way partnership to responsibly manage the risks that are inherent in being the highly visible targets that so many of them are.

For this country's educational institutions, the results of failing to extend TRIA would be either not purchasing terrorism coverage, relying on government grants or private gifts to recover after a catastrophic event, or purchasing the cover, with the exclusions and uncompetitive pricing I described earlier and passing the cost on to students.

If the purpose of terrorism insurance is recovery, getting the economy going as quickly as possible after a catastrophic terrorist event, the stability and assuredness of a continuing terrorism insurance program—continuing our four-way partnership, collaboration, and inter-dependency—is essential to ensure a speedy recovery for businesses and schools and a functional insurance marketplace after an event. I don't think anyone here wants, after a catastrophic terrorist event, for the government to hand out recovery money based on political pressures.

United Educators

What we want is an orderly recovery with insurance companies paying claims and supporting a speedy recovery. The terrorism insurance plan would allow us to do this.

Thank you again Mr. Chairman, and I would be pleased to answer any questions the Committee may have.

MARSH & McLENNAN COMPANIES

Marsh & McLennan Companies, Inc.
1166 Avenue of the Americas
New York, NY 10036
+1 212 345 5000
Fax +1 212 345 4808

Testimony of

Peter J. Beshar

Executive Vice President and General Counsel

Marsh & McLennan Companies

Before the United States House of Representatives
Committee on Financial Services

Hearing on the "Terrorism Risk Insurance Act of 2002"

September 19, 2013

Washington, DC

Introduction

Good morning Chairman Hensarling, Ranking Member Waters and members of the Committee. My name is Peter Beshar, and I serve as Executive Vice President and General Counsel of Marsh & McLennan Companies. I would like to thank you for affording us an opportunity to share our perspective on the Terrorism Risk Insurance Act.

Terrorism is a deeply personal topic for Marsh & McLennan Companies. In the September 2001 attack on the World Trade Centers in New York, our Company lost 295 employees and scores of other business associates. Indeed, together with the NYC Port Authority and Cantor Fitzgerald, we lost more employees than any other institution in New York.

Our Company also has a unique perspective on the terrorism insurance market. Through our market-leading brands — Marsh, Guy Carpenter, Mercer, and Oliver Wyman — our 54,000 colleagues in more than 100 countries advise clients on the key issues of risk, strategy, and human capital. While Marsh & McLennan Companies is not an insurer, the Company, through Marsh and Guy Carpenter, supplies analytics and provides intermediary services to all the parties involved in the placement of terrorism coverage, from the buyers and sellers of terrorism insurance to the key reinsurers in the market.

Broadly stated, we consider TRIA to be a model of a public-private partnership. TRIA restored insurance capacity at a critical time after 9-11 and has been important in fostering a well-functioning terrorism insurance market since that time. In 2005 and again in 2007, Congress adopted sensible reforms that appropriately expanded the role of the private insurance market and reduced the exposure of the federal government.

As the market has continued to develop and new terrorist threats have emerged, including cyber attacks, we strongly endorse the reauthorization and modernization of the TRIA program.

There are four core points that I would like to make:

First, I will summarize key highlights from Marsh's "2013 Terrorism Risk Insurance Report," which was released in April on Capitol Hill (Appendix A). It will help you gain a sense of the current state of the US market for terrorism insurance coverage, including pricing, availability, and the private sector's capacity to offer coverage absent a federal backstop.

Second, I will describe the current levels of surplus capital in the insurance and reinsurance markets to help you assess the areas (1) where the private market can play a greater role and (2) where TRIA remains a critical necessity.

Third, I present Marsh & McLennan Companies' recommendations for reform related to nuclear, biological, chemical and radiological (NBCR) attacks, cyber terrorism, and the TRIA certification process.

Fourth and finally, I frame the debate over additional reforms that third-party groups have suggested and identify two important risks that may occur if TRIA is not renewed.

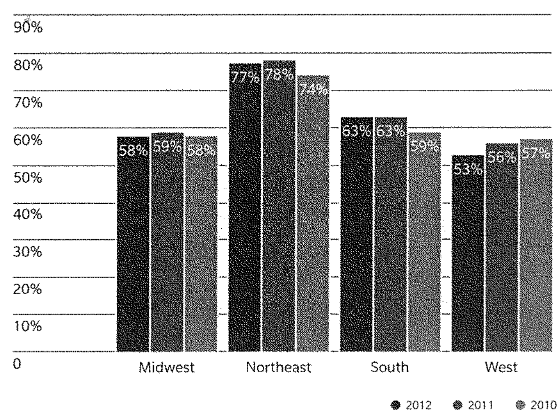
1. Highlights of the Marsh Terrorism Risk Insurance Report

The Company's April 2013 report, the only survey of its kind, sampled nearly 2,600 Marsh clients across the US. The report examined purchasing patterns for 17 industry sectors by region and examined take up and premium rates. It confirms that TRIA's "make available" provision has helped foster a robust private terrorism insurance market. The top-line findings from Marsh's report include:

Take Up Rates by Region

- The percentage of companies buying property terrorism insurance has been in the high 50% to low 60% range since 2009. The Northeast has the highest take up rates, in the mid 70% range, and, interestingly, rates are increasing in the West.

Figure 1: Region Take Up Rates



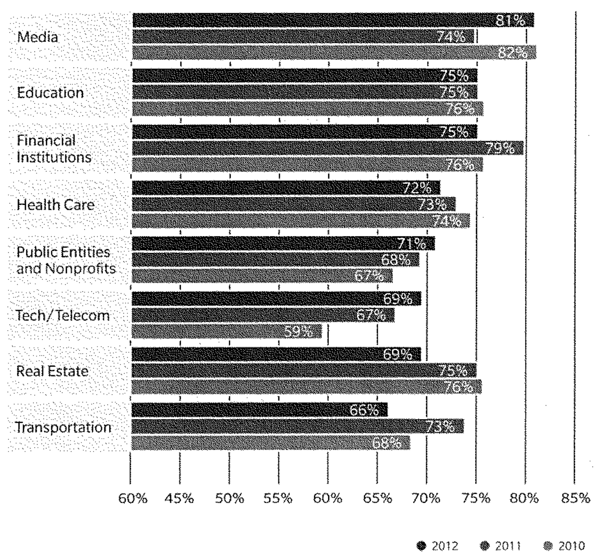
Take Up Rates by Industry Sector

- Among industry sectors, media companies were the most likely to purchase property terrorism insurance, followed by educational, financial, and health care institutions.

- Public entities and non-profits increased their purchase of terrorism insurance each year from 2010–2012.

- Larger companies are more likely to purchase property terrorism insurance and receive lower rates on line as a percentage of overall property premiums.

Figure 2: Industry Take Up Rates



Other Findings

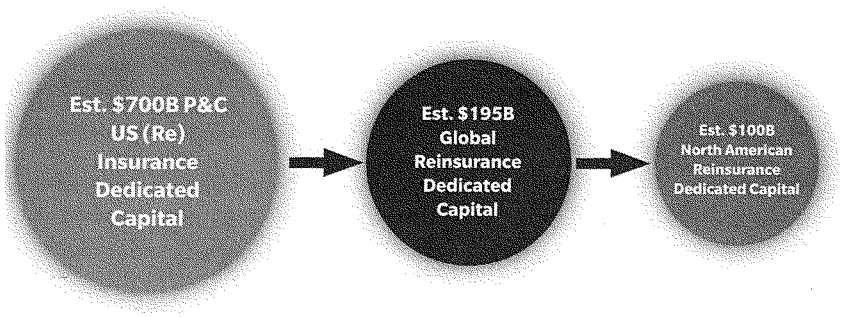
- Among US captive insurers managed by Marsh, 25% underwrite at least one TRIA-specific program. Additionally, hundreds of owners of captives provide some element of terrorism coverage.

- TRIA's expiration or substantial modification in the future will almost certainly affect existing TRIA coverage, standalone terrorism pricing, and TRIA captive programs. Terrorism insurance capacity may be difficult to acquire for insureds with significant exposures in a central business district of a major city. In addition, the absence of, or a serious modification to TRIA, could severely impact the workers' compensation market.

2. The Current Capital Position of the Insurance and Reinsurance Markets

Guy Carpenter, our leading reinsurance intermediary, recently presented its mid-year report on the reinsurance market and found that global deployed reinsurance capital[1] grew from $178B at the end of 2011 to $195B at the end of the second quarter of 2013.[2] By comparison, this figure was less than $160B in 2007.

Figure 3: Guy Carpenter Analysis of Dedicated Insurance and Reinsurance Capital



Leading industry research publications have commented on the industry's improving financial position. For instance, according to SNL Financial, the total amount of industry capital for primary insurance companies writing TRIA applicable lines of business, including

[1]Insurance capital is equity of shareholders of a stock insurance company. The company's capital and surplus are measured by the difference between its assets minus its liabilities.
[2]"Capital Stewardship: Charting the Course to Profitable Growth": http://www.guycarp.com/content/dam/guycarp/en/documents/dynamic-content/Mid-Year-Market-Overview-Sept-2013.pdf

workers' compensation and commercial property insurance, equaled $589B at year end 2012. A.M. Best recently reported that the US property and casualty industry's capital level grew to a record $626.5 billion in the second quarter of 2013, a 4.5% increase from the end of 2012.[3]

It is important to note, however, that not all capital is dedicated to or capable of writing terrorism coverage. While alternative, or "capital markets," providers have brought substantial reinsurance capacity into the industry, most have little to no appetite for the peril. Some are forced to decline on the basis of legal obligations made to their investors, whereas others simply avoid the exposure on the grounds of correlations with financial markets risk.

Nonetheless, were capital trends to continue and Congress to adhere to the precedent of decreasing federal involvement in terrorism insurance, Marsh & McLennan Companies believes that the insurance market could increase private coverage, thereby reducing taxpayer exposure. That said, there are limitations to what the market can absorb in losses, particularly in the event of a large-scale conventional attack or a NBCR event. For example, a reputable third party vendor modeled the impact of a 10-ton truck bomb explosion in Manhattan. This would result in an estimated loss of $38.6B in workers' compensation and property damage. Moreover, a nuclear bomb detonated in the Manhattan central business district would have a modeled loss estimated at $941B. In our judgment, a federal backstop is necessary to protect against these types of catastrophic events.

3. Marsh & McLennan Companies' Recommendations for Reform

TRIA has been, in our view, a model example of what a public-private partnership should be. TRIA's "make available" provision, in return for the explicit federal backstop, restored insurance capacity at a critical time after 9-11. Since then, Congress has implemented sensible and appropriate reforms that have expanded the private terrorism insurance market as the industry has recovered. We offer three recommendations for further refining and modernizing the TRIA program, which should be reauthorized for a minimum of 10 years.

NBCR Coverage – Marsh & McLennan Companies recommends that Congress specifically clarify during the reauthorization process that coverage should be provided by TRIA for all forms of terrorism (i.e., conventional and NBCR) if coverage is afforded on the primary policy. For instance, there is ambiguity in the market currently as to whether TRIA covers workers' compensation in the event of an NBCR-related act. In fact, a leading rating agency recently stated that NBCR related events remain outside of TRIA coverage. It is Marsh & McLennan Companies' view that TRIA would cover workers' compensation losses if a certified NBCR event occurred.[4]

[3] http://www.ambest.com/bestlink/industryreports/pcssaft1.pdf
[4] Fitch Ratings' Report: "U.S. Terrorism Reinsurance: Looming Uncertainty of Program Renewal": http://www.fitchratings.com/creditdesk/reports/report_frame.cfm?rpt_id=714979, page 3.

Cyber Terrorism – Former Secretary of Homeland Security, Janet Napolitano, cautioned in her farewell address: "Our country will, at some point, face a major cyber event that will have a serious effect on our lives, our economy, and the everyday functioning of our society."

This is a potentially new form of terrorism, which did not credibly exist at the time of the last reauthorization in 2007. Whether it is one or a series of cyber attacks, the impact of a "cyber 9-11" could be devastating, particularly if the attack were directed at one or several of the nation's critical infrastructures such as our telecommunications networks, food and water supplies, or health care institutions. Currently, there is uncertainty if TRIA would cover an act of cyber terrorism that resulted in catastrophic loss. There is not clear language in the law that states unambiguously that cyber terrorism would fall within the scope of TRIA; we, therefore, recommend that Congress analyze the best way to address this new terrorism risk in the reauthorization of the TRIA program.

Clarify Certification Process – Currently, TRIA enumerates specific requirements for an act to be certified as terrorism under the program.[5] However, the process by which an act of terrorism is certified remains uncertain, and there is not a mandated timeline for determining an event's certification. As an example, the federal government has neither certified the April 2013 Boston bombings as a terrorist event, nor has it offered a timeline to do so. This creates uncertainty for insureds and insurers alike. For instance, without certification, there may be delays in indemnity payments under private property or business insurance to business owners, which could jeopardize their financial position and ability to resume business operations. Marsh & McLennan Companies recommends that Congress include language in any reauthorization bill that clearly delineates a certification protocol and establishes a 90-day time period after an event for determining whether or not an act of terrorism is covered by TRIA.

4. Open Issues for Further Consideration

In 2005 and again in 2007, Congress appropriately expanded the role of the private insurance market for terrorism risk and reduced the scope of the backstop provided by the federal government. Specific reform included increasing the program trigger from $5M to its current level of $100M, raising the deductibles and co-share arrangements, and expanding the federal government's entitlement to recoup any payouts that are made. Policymakers, therefore, could revisit these same areas to further expand the private market role for conventional acts of terrorism, while mindful that large-scale attacks, both conventional and NBCR, require a federal backstop.

Third party groups from across the political spectrum have suggested quantitative changes, from abolishing the program completely[6] to dramatically increasing the role of the private sector.[7] The following is a range of estimates based on the ongoing discussion for reforms:

---

[5] See Marsh report, Appendix A, page 4.

[6] Cato: "Terrorism Risk Insurance Act: Time to End the Corporate Welfare": http://www.cato.org/publications/policy-analysis/terrorism-risk-insurance-act-time-end-corporate-welfare

[7] "TRIA: To Extend or Not to Extend": http://www.insurancejournal.com/blogs/right-street/2013/09/11/304910.htm

1. Company deductible:
   - May be increased (incrementally) from 20% in line with growth in industry surplus
2. Aggregate threshold:
   - Industry aggregate loss trigger may be increased from $100M to $1B or more over time
3. Company co-insurance:
   - Potentially increase insurers co-participation from 15% to 20% or more

As you grapple with these issues, it is important to keep in mind the risks associated with this transition and any expiration of the program. The ranges outlined above may cause some level of market disruption and increase the cost of insurance coverage. Mutual and regional insurers could be disproportionally impacted by these proposals. To be clear, the information above does not constitute a recommendation of Marsh & McLennan Companies and is merely intended to reflect a range of discussions on possible changes in a reauthorization of TRIA.

I applaud the Committee for scheduling this hearing to frame these issues for analysis and resolution. With the current law's expiration on December 31, 2014, quickly approaching, Marsh & McLennan Companies encourages policymakers to expeditiously reauthorize the program.

Finally, if the program is not reauthorized, there are two adverse consequences to keep in mind. First, the fact that insurers' capital has increased does not mean that, in the absence of the mandatory "make available" provision, insurance carriers will offer terrorism coverage in the future. Indeed, we believe there is a meaningful risk that, if TRIA is not renewed, many property and casualty carriers will decline to underwrite this difficult to model peril.

The second area of concern is workers' compensation insurance. Terrorism exposure presents a unique challenge for workers' compensation insurance as this line of business is regulated by the individual states that require coverage to be provided on an unlimited basis without the option to exclude any form of terrorism. Whether there is TRIA or not, workers' compensation carriers must pay claims without regard to fault; however, TRIA at least provides a backstop. Without a federal backstop, there is a substantial risk that workers' compensation carriers will decline to provide coverage in high-risk areas. That would potentially have a chilling impact on economic development and job creation.

Doubts about TRIA's future are already affecting the primary insurance market, particularly on the workers' compensation line of business. There are indications that carriers are negatively reacting to TRIA renewal uncertainty by non-renewing insureds with large employee accumulations in major urban cities. The market impact will likely worsen starting on January 1, 2014, as carriers withdraw coverage or issue short-term property and casualty policies.

Conclusion

TRIA is the backbone of a healthy terrorism insurance market that provides policyholders with affordable and widely available coverage options. In our judgment, the existence of a growing private terrorism insurance marketplace actually serves to protect the government and taxpayers from absorbing virtually all of the financial loss in the event of a terrorist attack. As the Committee and the Congress deliberate further on this important issue, Marsh & McLennan Companies is ready to collaborate with you to offer our expertise and experiences on this critical public policy matter.

Appendix to Marsh & McLennan Companies Testimony

Appendix A: Marsh "2013 State of the Terrorism Insurance Market Report"
Appendix B: Evolution of TRIA
Appendix C: Summary of Proposed TRIA Reauthorization Legislation

Appendix A: Marsh "2013 State of the Terrorism Insurance Market Report"

MARSH

Marsh Risk Management Research

MARKET UPDATE

2013 TERRORISM RISK INSURANCE REPORT

MAY 2013

MARSH   GUY CARPENTER   MERCER   OLIVER WYMAN   MARSH & McLENNAN COMPANIES

CONTENTS

INTRODUCTION

The September 11, 2001, terrorist attacks created a severe market shortage for terrorism insurance. As a result, the US Congress passed legislation — the Terrorism Risk Insurance Act (TRIA) — that created a federal "backstop" for insurance claims related to terrorism events in the US as defined by TRIA. The Act became law on November 26, 2002, and has since been extended and modified twice: in December 2005 and again in December 2007, when it was renamed the Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA).[1] The Act is scheduled to expire on December 31, 2014, if it is not renewed.

TRIA provides reinsurance coverage to insurers in the event of a certified terrorist act. The upcoming decision to extend TRIA as is, extend it with modifications, or allow it to expire will affect the property and casualty (P/C) insurance industry and organizations that buy terrorism insurance. As of the spring of 2013, there has been limited action in Washington, D.C., regarding TRIA's expiration, and Congress may wait until closer to the end of 2014 to determine its future.

If TRIA is not reauthorized, the number of property insurers willing to continue offering terrorism insurance is likely to decrease. According to interviews conducted by Marsh's property and terrorism experts before the 2005 extension, of 50 commercial property insurers polled, 34 (68%) confirmed they would have excluded terrorism coverage after December 31, 2005, if TRIA was not extended at that date.

With expiration less than two years away, supporters of an extension are gathering information, preparing for the possible outcomes, and asking Congress to take action. This report summarizes TRIA's history, provides benchmarking related to terrorism insurance take-up rates and pricing, and considers various scenarios regarding the future of the terrorism insurance market.

Note: Shortly before this report went to press, two bombs exploded at the Boston Marathon. As of this date, the event has not been classified as an act of terrorism under TRIPRA requirements. How and whether that event impacts the insurance markets in any way remains to be seen. But the bombing certainly raised yet again the ever-present possibility of mass violence.

1 In this report, the law will be referred to as TRIA or the Act, except where it is necessary to highlight specific distinctions of TRIPRA.

EXECUTIVE SUMMARY

A key issue facing the insurance industry and insureds is the pending December 31, 2014, expiration of the Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA), commonly known as TRIA. Enacted after the September 11, 2001, terrorist events, TRIA has been reauthorized twice before, both times with modifications. This report looks at the Act's history and uses Marsh benchmarking data to show trends in take-up rates, pricing, and other relevant issues.

Among the key findings:

- Congress may not fully address TRIA before the scheduled expiration at the end of 2014. If TRIA is allowed to expire or is substantially changed and the mandatory make-available provision is removed, insurers would not be obliged to offer terrorism coverage, which would affect its availability and price.

- TRIA was originally viewed as temporary and as a result, apart from the elimination in TRIPRA 2007 of the distinction between foreign and domestic acts, extensions consistently reduced government participation.

- TRIA's expiration or substantial modification at extension will almost certainly affect embedded TRIA coverage, standalone terrorism pricing/demand for capacity, and TRIA captive programs. Terrorism insurance capacity may be difficult to acquire at reasonable cost for insureds with significant exposures in a central business district of a major (Tier 1) city, or if the properties are perceived as potential targets for terrorism attacks, and/or where there have been instances of foiled plots.

- Available aggregate/terms and conditions can be restrictive in regions with past, present, or future trending terrorist activity.

- The Northeast US had the highest terrorism insurance take-up rates on average, likely due to the concentration of population centers, perceived potential for terrorist attacks, and the fact that the region was targeted in the 2001 and other attacks.

- The percentage of companies buying property terrorism insurance — the terrorism insurance take-up rate — has remained fairly constant since 2005 and has been in the low 60% range since 2009.

- Larger companies are more likely to purchase property terrorism insurance, and also to see the lowest cost as a percentage of overall property premiums.

- Among industry sectors, media companies were the most likely to purchase property terrorism insurance.

- Two likely impacts that the absence of or a serious modification of TRIA could have on the workers' compensation market are in the areas of pricing and capacity.

- Among US captive insurers managed by Marsh, 25% underwrite at least one TRIA-specific (standalone) program. Additionally, hundreds of owners use their captives to provide some element of terrorism coverage, thereby participating in TRIA.

- Global unrest has begun to affect the terror reinsurance market, not only with regard to supply and demand but in terms of how risks and coverages are defined.

- The recent bombing at the Boston Marathon had not been classified as an act of terrorism under TRIPRA requirements as of the date of this report. How and whether that event impacts the insurance markets remains to be seen. Regardless of the event being certified under TRIPRA or not, coverage for losses arising from the event will depend on clients' specific insurance contract language.

THE US TERRORISM RISK INSURANCE ACT AND ITS MODIFICATIONS

TRIA requires insurers to make terrorism insurance coverage available to their policyholders when offering to underwrite an accompanying line of business. The definition of insurer covers several categories, but the segment with the broadest reach is carriers licensed or admitted to engage in the business of providing primary or excess insurance in any state, which includes US-licensed captive insurers.

Although insurers must offer terrorism coverage, it is not mandatory for insureds to purchase the coverage, except for workers' compensation, which is defined by state statutes and compensates employees in the event of on-the-job injuries regardless of fault. Specific perils, including terrorism, cannot be declined or excluded from individual workers' compensation policies.

TRIA and its first extension required that an act be committed by an individual on behalf of any foreign person or foreign interest in order for it to be certified as an "act of terrorism" for purposes of reimbursement. This provision was removed in TRIPRA (see Figure 1). The 2007 reauthorization also provided coverage for domestic terrorism, which had previously been excluded.

CERTIFIED AND NONCERTIFIED ACTS

It is important to note that a distinction remains between acts of terrorism that are certified and those that are noncertified: Only certified acts are eligible for coverage through TRIA. An event can be certified if the Secretary of the Treasury, the Secretary of State, and the Attorney General of the United States determine the act meets all of the following criteria:

- It is considered an act of terrorism.
- It is violent or dangerous to human life, property, or infrastructure.
- It results in damage within the United States, (including US air carriers, vessels, and/or US missions, as described in the Act).
- It is committed by an individual or individuals as part of an effort to coerce the US civilian population or to influence the policy or affect the conduct of the US government by coercion.

An event cannot be certified if it does not cause property and casualty losses exceeding the $5 million threshold in the aggregate or if the act is committed as part of the course of a war declared by Congress. (Note: This shall not apply with respect to any coverage for workers' compensation).

The distinction between a certified and noncertified act of terrorism remains an important consideration for insureds and insurers alike. Although the make-available provision requires insurers to offer TRIA coverage for certified terrorism acts, some exclude coverage for noncertified acts. Therefore, businesses may wish to consider purchasing noncertified terrorism insurance, which can provide protection for those events that do not qualify as certified per the criteria listed above.

Key issues under TRIA include:

- **Trigger and threshold:** Insured losses — aggregated across all coverage lines and insurers — must exceed $5 million for an act to be considered for certification. However, there will not be any outlay of federal funds unless the event reaches the trigger of $100 million in aggregate losses.
- **Cost of coverage:** Insurers may charge an additional premium for coverage provided under TRIA, as the Act does not provide specific guidance on pricing. Although TRIA preempts state regulations for prior approval of rates, it retains a state's right to invalidate a rate as excessive, inadequate, or unfairly discriminatory.
- **Terms and conditions:** As discussed, insurers are required to make coverage available for "certified acts" to their policyholders for all subject lines of coverage. Although TRIA does not require insurers to offer specific terms and conditions, they cannot materially differ from the policy's other property and/or casualty coverages. Additionally, insurers must offer the coverage at each renewal, regardless of whether the insured previously declined.

FIGURE 1: TRIA AND ITS EXTENSIONS

TERM	NOVEMBER 26, 2002 – DECEMBER 31, 2005	JANUARY 1, 2006 – DECEMBER 31, 2007	JANUARY 1, 2008 – DECEMBER 31, 2014
Official Legislative Name	Terrorism Risk Insurance Act of 2002 (TRIA).	Terrorism Risk Insurance Extension Act of 2005 (TRIEA).	Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA).
Coverage Summary	Covered acts committed by individual(s) acting on behalf of any foreign person or interest to coerce the civilian population of the US or to influence the policy or affect the conduct of the US government by coercion.	Covered acts committed by individual(s) acting on behalf of any foreign person or interest to coerce the civilian population of the US or to influence the policy or affect the conduct of the US government by coercion.	Eliminated the distinction between acts of foreign or domestic terrorism.
Territory	US only.	US only.	US only.
Certification Threshold	$5 million	$5 million	$5 million
Federal Backstop Trigger	$5 million	$50 million in 2006, $100 million in 2007	$100 million
Insurer Retention	7% in 2003, 10% in 2004, 15% in 2005: Applied against prior-year direct earned premium.	17.5% in 2006, 20% in 2007: Applied against prior-year direct earned premium.	20%: Applied against prior-year direct subject earned premium. Subject to certain property and casualty insurance lines.
Government Share Excess of Retention	90%	90% in 2006, 85% in 2007	85%
Recoupment	Included with discretion on part of Secretary of Treasury — subject to maximum 3% per year applied to policyholders' premiums.	Included with discretion on part of Secretary of Treasury — subject to maximum 3% per year applied to policyholders' premiums.	Formula will be calculated using several factors: the size of the total loss, the amount of the industry aggregate retention as defined, the amount that the insurers actually retain, and the amount of the federal government reimbursement. There is no maximum on the amount that will be applied to future policyholders' premiums. For events that occur after 1/1/2012, the mandatory portion of any recoupment must be collected by 9/30/2017.

Source: Marsh's Property Practice

WORKERS' COMPENSATION COMPENSABILITY

The nature of a terrorist attack could have significant implications on whether injuries sustained are compensable under workers' compensation statutes. In many jurisdictions, any injuries sustained during the course and scope of employment are compensable under the statutes only if the injuries were caused by a risk specific to the employment. Simply being at work when injured is not sufficient to trigger a compensable event.

Most states focus the compensability determination on whether the employment put the employee at greater risk than that experienced by the general public. For example, with respect to acts of terrorism, employees at the World Trade Center during the terrorist attacks on September 11, 2001, were at greater risk than the general public, as those buildings were specifically targeted in the attacks. However, if the attack impacted several city blocks without targeting a specific building, then injured employees likely would not be deemed to be at a greater risk than the general public. This is essentially the same standard used to determine compensability in the event of a natural disaster such as a tornado or earthquake.

- **Adequate disclosure:** Insurers must provide policyholders with "clear and conspicuous" disclosure of both the TRIA premium being charged and the share of reinsurance provided by the federal government. If an insured rejects an offer to purchase terrorism coverage, the carrier is free to reinstate a terrorism exclusion clause (subject to state insurance regulations with standard fire policy (SFP) statutes, which in certain states do not permit the exclusion of terrorism).

- **Government participation:** The federal government will cover 85% of certified losses once insurers' deductibles have been reached. An insurer's deductible is calculated as 20% of its direct earned premium (DEP) for the prior year for the commercial P/C lines of coverage subject to TRIA.

- **Liability cap:** TRIA caps the total liability of the program and of insurers — including the insurers' participation and deductibles — at $100 billion in any one program year. If insured losses exceed $100 billion, then the allocation of loss compensation to insurers within the $100 billion cap will be determined by Congress. Insurers would not be liable for certified losses in excess of this amount unless Congress were to pass legislation increasing the limit.

- **Government recoupment:** In the event the government makes payments following a certified loss, TRIA includes provisions for both mandatory and discretionary recoupment. The insurance marketplace aggregate retention amount is the lesser of $27.5 billion and the aggregate amount, for all insurers, of insured losses from program trigger events during the program year.

TRIA AND WORKERS' COMPENSATION

TRIA's effect on workers' compensation coverage is somewhat different than it is on other lines due to the statutory nature of the coverage, which precludes the ability to limit exposure. In nearly all US states, employers are required to secure workers' compensation coverage to provide statutorily defined benefits for medical treatment and wage replacement. Exclusions and limitations to this coverage are not permitted. Because it is mandatory (via the state regulatory systems) for employers to purchase workers' compensation coverage, such coverage will always be available to employers either through private carriers, state funds, assigned risk pools, or by becoming a qualified self-insured.

After the September 11, 2001, attacks, workers' compensation insurers and reinsurers turned their focus to employee concentrations in geographic areas as a method of assessing their potential exposure to terrorist events. Computer models now allow insurers to gauge their potential exposures in a geographic area under different terrorism event scenarios, and insurers generally have adjusted their books of business accordingly in an effort to limit potential exposures.

Because TRIA provides protection for insurers, it effectively has helped a private market develop to fill in gaps in available coverage. For example, many carriers use reinsurance capacity to reduce their maximum exposure to terrorism losses and to help ensure their loss potential is within their predetermined risk tolerance.

TRIPRA's renewal, effective January 1, 2008, scaled down the protections afforded by TRIA via mechanisms such as larger deductibles and co-participations. As a result, many insurers became more vigilant in enforcing concentration guidelines. Uncertainty around TRIA's potential expiration or extension in 2014 has led some insurers to not renew certain programs for organizations with large employee concentrations in major cities. This trend could continue as TRIA's 2014 deadline draws closer.

TRIA AND CAPTIVE INSURERS

Guidance issued by the Department of Treasury affirmed that TRIA applies to captive insurers and risk retention groups that meet the definition of a qualified insurer, as set forth in Section 102 of the Act, "Definition of Insurer." Essentially, any entity that falls within the state licensed or admitted category and receives and reports direct earned premium is considered to be an insurer under TRIA. Captives are included to the extent they provide direct coverage only, and must be domiciled in the US to be eligible for inclusion under TRIA. (All references to "captives" in this report apply to US-domiciled captives only.)

To the extent the coverage is offered as part of an existing policy — embedded in the property program, for example — the terrorism coverage must not materially differ in the terms and conditions offered. This does not, however, prohibit an insured from seeking TRIA-specific coverage in a separate transaction. Captives also must comply with TRIA's disclosure requirements. The National Association of Insurance Commissioners (NAIC) has reporting forms that were approved by the Department of Treasury. The forms are available at http://www.naic.org/cipr_topics/topic_tria.htm

Using a captive to insure an organization against acts of terrorism can be a viable, cost-efficient alternative or adjunct to a traditional insurance program. There are many considerations that organizations should take into account when determining whether to use their captive to provide or supplement their terrorism insurance.

POTENTIAL ADVANTAGES OF ACCESSING TRIA THROUGH A CAPTIVE

- **Profit:** If there are no losses, the actual expense of the terrorism insurance program to the consolidated group is limited to the cost to operate the captive, which is generally only a fraction of the premium paid.

- **Relative ease:** It is relatively easy to add terrorism coverage to an existing captive. Doing so typically requires demonstrating a business need and sound plan of operation to the captive insurance regulator, which will often promptly approve the addition or expansion of a terrorism insurance program.

- **Enhanced coverage:** Generally, captives are willing and able to provide terrorism insurance coverage using a customized policy form, which may result in coverage that is better aligned to needs, including covering perils generally excluded or limited by traditional insurers. An example of this is captive insurers providing coverage for nuclear, biological, chemical, and radiological (NBCR) perils. Although TRIA guidance states that the Act provides reinsurance protection to insurers when they offer NBCR (and a loss occurs), TRIA does not require insurers to offer the coverage. Given the lack of a TRIA mandate, combined with the perceived risk, NBCR is not widely available in the traditional insurance marketplace. Captive insurers are able to offer this coverage and gain access to reinsurance afforded through TRIA. It is also possible to cover other perils in a similar fashion, as is occurring in some cases based on the unique needs and coverage limitations experienced by those seeking a viable risk transfer alternative.

TERRORISM INSURANCE MARKET

Terrorism insurance take-up rates generally have remained steady over the past few years. Most companies that purchased terrorism insurance in the past still do so as insurers continue to underwrite the risk, with the support of the TRIA backstop. The reauthorization of TRIA through 2014 has afforded needed capacity in the market for terrorism insurance.

Property insurers are able to include terrorism insurance in their risk portfolios at typically nominal rates to insureds. Clearly, the demand for terrorism risk insurance remains and the existence of TRIA plays a major part in the availability and affordability of the coverage.

TERRORISM INSURANCE TAKE-UP RATES BY YEAR

The percentage of companies buying property terrorism insurance — the terrorism insurance take-up rate — has remained fairly constant since 2005. In 2003, the first full year TRIA was in effect, the take-up rate was 27% but has since increased steadily, remaining in the low 60% range since 2009 (see Figure 2).

TAKE-UP RATES BY COMPANY SIZE

Looking at take-up rates by company size (see Figure 3), it is useful to consider four categories of total insured value (TIV):

- Companies with TIV in excess of $1 billion typically work with several insurers and likely pay large premiums. Of those companies that use their existing captives or establish new ones to provide TRIA, the majority are in this TIV group.

- Companies with TIV between $500 million and $1 billion are large organizations that also typically work with multiple insurers and have layered programs.

- Companies with TIV between $100 million and $500 million tend to have no more than three insurers involved in their insurance programs.

- Companies with TIV less than $100 million generally entail a smaller spread of risk, have lower overall premiums, and often work with a single insurer.

Changes in take-up rates by company size were marginal from 2010 to 2012. Companies with TIV less than $100 million had the lowest take-up rates among those analyzed, with 59% purchasing property terrorism insurance in 2012.

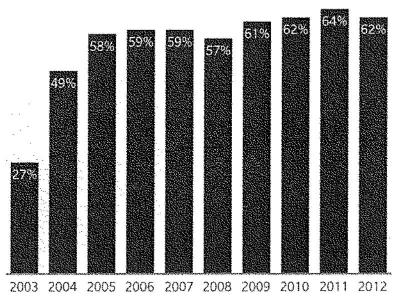
Conversely, the take-up rate for companies with TIV higher than $100 million was nearly 66% in 2012. This may be due to a perception that larger companies are more susceptible to an attack or because smaller companies typically have lower insurance budgets with which to purchase insurance.

TAKE-UP RATES BY INDUSTRY

Media clients purchased property terrorism insurance at a higher rate — 81% — than did those in any other industry segment in 2012.

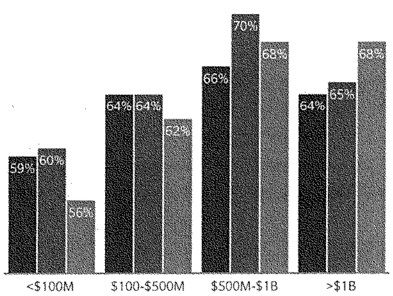
Companies in the health care, financial institutions, education, and public entity sectors had the next highest take-up rates among the 17 industry segments surveyed, all above 70%. This may be due in part to concentrations in those sectors of organizations in central business districts and in major metropolitan areas, which are likely perceived as being at a higher risk for terrorism. The manufacturing, energy, and chemicals sectors were the only three in which take-up rates did not exceed 50% in 2012 (see Figure 4).

FIGURE 2: TERRORISM INSURANCE TAKE-UP RATES BY YEAR



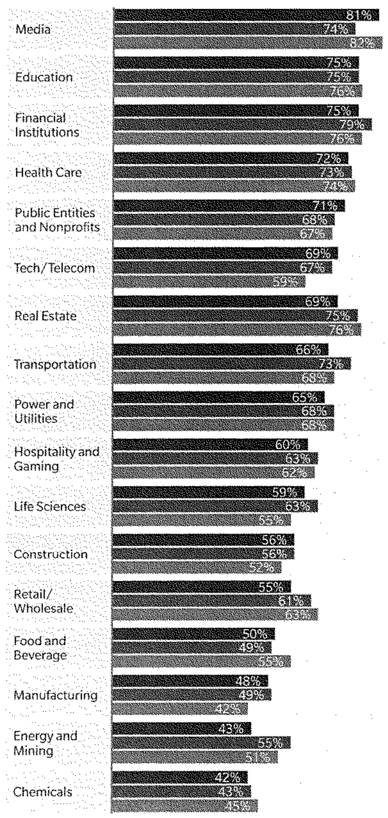
Source: Marsh Global Analytics

FIGURE 3: TERRORISM INSURANCE TAKE-UP RATES BY TIV



Source: Marsh Global Analytics ● 2012 ● 2011 ● 2010

FIGURE 4: TERRORISM INSURANCE TAKE-UP RATES BY INDUSTRY

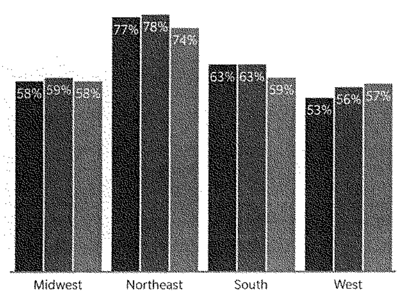


Source: Marsh Global Analytics ● 2012 ● 2011 ● 2010

TAKE-UP RATES BY REGION

A higher percentage of companies in the Northeast — 77% — purchased property terrorism insurance than in any other region. This is likely attributed to the Northeast's concentration of large metro areas, including Washington, D.C., and New York City; the perception that major cities may be at a higher risk of a terrorist attack; population density; and the fact that the 2001 attacks targeted sites in the region. The West saw the lowest take-up rate, at 53% in 2012 (see Figure 5).

FIGURE 5: TERRORISM INSURANCE TAKE-UP RATES BY REGION



Source: Marsh Global Analytics

TYPES OF TERRORISM COVERAGE PURCHASED

Approximately 95% of clients that purchased terrorism insurance did so as part of their property policies rather than as standalone placements. However, standalone policies are an important alternative and/or supplement to TRIA coverage for some companies. The primary industry segments purchasing standalone policies have been hospitality, large real estate firms, and financial institutions. Lesser but still significant amounts were purchased in the retail, media, transportation, public entity, and utilities segments.

Before the 2007 extension, companies that purchased terrorism coverage as part of their property policies generally purchased both TRIA coverage and noncertified acts coverage. However, because TRIPRA expanded the definition of covered acts to include domestic terrorist events, many companies since have elected not to purchase noncertified terrorism insurance in addition to purchasing TRIA coverage as part of their property policies. Nevertheless, certain events may still be considered noncertified, although to a more limited extent than before TRIPRA, which removed the foreign terrorism requirement to trigger certification.

More companies now are securing terrorism insurance through their captives and are purchasing reinsurance to cover their retention or liability under TRIA. Typically, those captives that do purchase reinsurance often buy coverage for noncertified terrorism exposures in addition to TRIA coverage.

THE COST OF TERRORISM INSURANCE

It is useful to measure the cost of terrorism insurance both as a premium rate — premium divided by TIV — and as a percentage of a company's overall property premium. Analyzing costs by premium rate allows companies to track what they paid in absolute terms; evaluating the cost as a percentage of their total premium shows how terrorism coverage affected their overall property insurance budget.

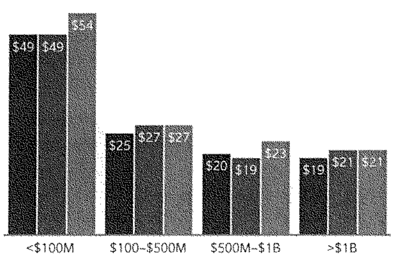
COST BY COMPANY SIZE

Property terrorism insurance rates typically decrease as the size of the company increases (see Figure 6). Since 2010, companies with TIV less than $100 million experienced moderate median rate decreases, from $54 per million in 2010 to $49 per million in 2012; however, their terrorism premium rates remained significantly higher than those of larger companies. Median rates for the largest companies stood at $19 per million in 2012. This generally is in keeping with overall insurance pricing patterns: Larger companies typically purchase more insurance, which leads to lower rates compared to rates for smaller companies.

The cost as a percentage of overall property premiums (see Figure 7) was similar for all companies, regardless of TIV. Modest changes — no more than one percentage point per year — were seen across the board, although companies with TIV between $100 million and $500 million remained flat at 4% over the past three years. Only companies with TIV less than $100 million experienced an increase from 2011 to 2012, and only companies with a TIV range between $500 million and $1 billion saw a decrease.

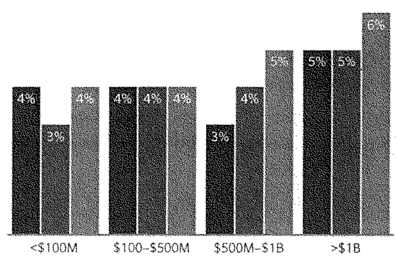
Although this suggests that the cost of terrorism coverage generally remained the same in the various size classes, individual businesses may have experienced significant swings based on their property insurance program's performance. For example, organizations with significant catastrophe (CAT) losses may have faced large increases in their overall property insurance program, but little change in their terrorism insurance pricing, resulting in a smaller percentage of their overall premium being attributed to terrorism coverage. Conversely, companies that had favorable loss histories in recent years may have experienced rate decreases in their overall programs while their terrorism insurance pricing remained constant or decreased, which may show in the analysis as an increase in terrorism pricing as a percentage, despite no overall increase in total costs.

FIGURE 6: TERRORISM INSURANCE PRICING – MEDIAN RATES BY TIV (RATES PER $MILLION)



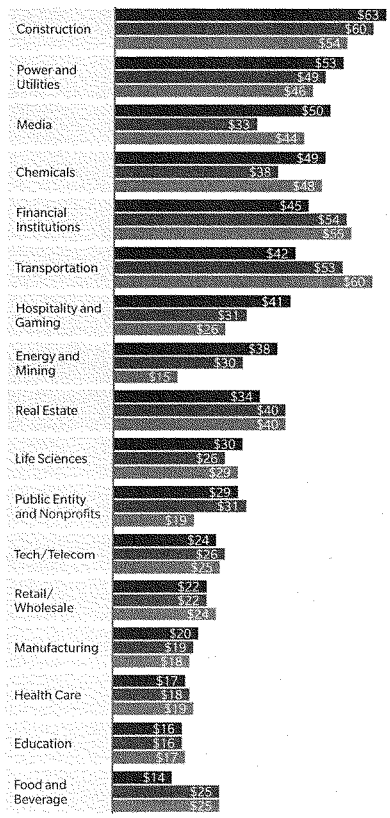
Source: Marsh Global Analytics

FIGURE 7: TERRORISM INSURANCE PRICING AS PERCENTAGE OF PROPERTY PREMIUM BY TIV



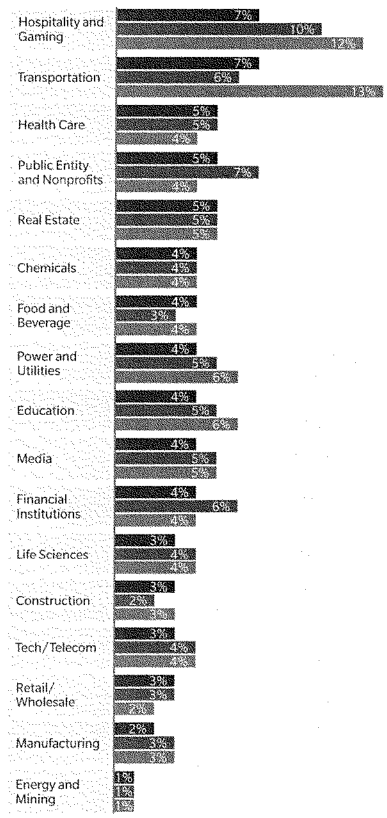
Source: Marsh Global Analytics

FIGURE 8: TERRORISM PRICING – MEDIAN RATES BY INDUSTRY (RATE PER MILLION)



Source: Marsh Global Analytics ● 2012 ● 2011 ● 2010

FIGURE 9: TERRORISM INSURANCE PRICING AS A PERCENTAGE OF PROPERTY PREMIUM BY INDUSTRY



Source: Marsh Global Analytics ● 2012 ● 2011 ● 2010

COST BY INDUSTRY

Compared to rates in 2011, median property terrorism insurance premium rates decreased in 2012 for seven of 17 industry categories: financial institutions, transportation, real estate, public entity and nonprofit, technology/telecom, health care, and food and beverage. Organizations in the financial institutions, food and beverage, and transportation sectors experienced the most significant decreases.

Rates increased most significantly for media companies, while construction, power and utilities, chemicals, hospitality, energy, life sciences, and manufacturing companies also experienced increases in their median rates (see Figure 8). Although each company's policy is priced based on its unique exposures, it is possible that a combination of prior CAT losses and location — namely businesses located in a central business district — may have contributed to any increases.

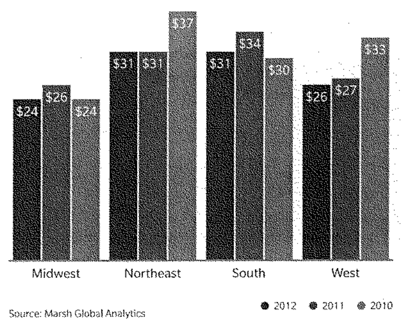
Overall, construction companies paid the most for their terrorism insurance, at a median rate of $63 per million, up from $54 per million in 2010. Companies in the food and beverage, health care, and education sectors paid the least for coverage, with median rates less than $20 per million. Food and beverage firms experienced the most significant reductions in median rates over the past three years.

When analyzing terrorism insurance pricing as a percentage of overall property premiums, hospitality and transportation companies paid the largest share, allocating 7% of their total property programs, which also represents the largest increase as a percentage of total property insurance cost among all industry groups (see Figure 9). No other industry sector paid more than 5% of its total property premium for terrorism coverage. Energy companies continued to pay the lowest, allocating only 1% of total property premiums to terrorism insurance over the last three years.

COST BY REGION

Companies in the Midwest paid the lowest rates for property terrorism insurance in 2012, followed closely by companies in the West (see Figure 10). Based on median premium rates, terrorism insurance was the most expensive in the South and in the Northeast, although the regional variation has narrowed. Companies in the Northeast experienced the highest median rates per million.

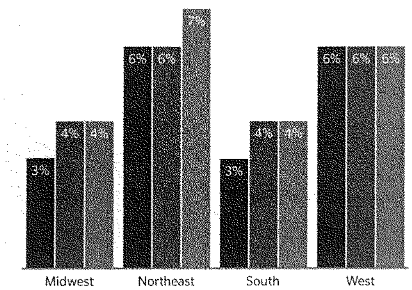
FIGURE 10: TERRORISM INSURANCE PRICING – MEDIAN RATES BY REGION (RATES PER MILLION)



Source: Marsh Global Analytics

Terrorism insurance pricing as a percentage of property premium varies slightly in the four US regions analyzed (see Figure 11), accounting for an average of 3% of total property premiums for companies in the Midwest and South, and 6% in the West and Northeast. Much of this difference can be explained by regional differences in terrorism exposure. Companies in major metropolitan areas — for example, New York, Washington, D.C., and Boston — are likely to pay a higher premium for their terrorism coverage, which results in a larger percentage of their overall property insurance costs being dedicated to terrorism coverage.

FIGURE 11: TERRORISM INSURANCE PRICING AS PERCENTAGE OF PROPERTY PREMIUM BY REGION



Source: Marsh Global Analytics

US property terrorism insurance rates generally have decreased or remained flat over the past three years. However, the overall property insurance marketplace was affected in 2011 and 2012 by a number of significant CAT events in the US and globally, contributing to slight increases in property and terrorism insurance rates. Additionally, the release of updated CAT models from modeling firms AIR Worldwide and RMS contributed to a general push by insurers to increase rates or to slow or cease rate decreases. Companies without significant CAT exposures or with favorable loss histories were less likely to experience rate increases.

CONSIDERATIONS IN USING CAPTIVES FOR TERRORISM COVERAGE

Among US captive insurers managed by Marsh, 25% underwrite at least one TRIA-specific (standalone) program. Additionally, hundreds of owners use their captives to provide some element of terrorism coverage, thereby participating in TRIA. Captive insurers' participation stems both from TRIA's make-available provision and from the standalone programs they underwrite. It is common for the policyholder to accept the captive's offer of terrorism insurance when the captive is also providing property or casualty insurance.

In more complex scenarios, captives provide standalone terrorism programs, often as a supplement to a traditional insurance placement. These arrangements most commonly involve providing insurance for property losses resulting from terrorism, not standalone liability placements. In some cases, the captive is asked to provide limits in excess of what is available in the commercial market and/or to provide additional breadth of coverage.

An example of a more complex structure is a captive providing $500 million in excess of $500 million of conventional terrorism insurance purchased from commercial insurers, $1 billion of NBCR coverage, and wraparound protection for the commercial insurance program. The wraparound element provides for payment of losses by the captive insurer if the commercial insurance program does not result in the expected coverage after a loss.

CAREFUL EVALUATION REQUIRED

Although implementing a terrorism insurance program within an existing captive (or forming a new captive to implement a terrorism insurance program) is relatively straightforward, it is important to thoughtfully evaluate the feasibility and appropriateness of doing so prior to implementation and again during subsequent renewals. Several key considerations follow.

- Captives are included in the definition of insurers under TRIA according to Department of Treasury guidance; however, captive owners have been specifically cautioned against "gaming" the program.

These cautions are in recognition of the inherent conflict of interest and unusual level of control a policyholder (typically the captive's parent and other affiliated companies) has over an insurer in a captive insurance transaction. The cautions emphasize that captive owners should not take actions that would improperly reduce an organization's overall share of a loss — for example, captive insurers should not deliberately price the premium low in order to reduce the captive's TRIA deductible.

- Capitalization must be determined and provided. Two major factors are considered when determining capitalization. The primary consideration is that capitalization must be sufficient to satisfy the responsible domicile's insurance regulator. Captive insurance company regulators apply different standards, but are primarily concerned with statutory minimums and ensuring that the captive insurer has the capacity to meet its reasonably foreseeable obligations to policyholders. Regulators also consider such traditional factors as reinsurance protection in this analysis, as well as nontraditional "assets" such as letters of credit posted with the regulator. Second, capitalization should be evaluated based on appropriateness considering the overall business plan and objectives of the captive.

- Premiums charged by the captive should be based on current market prices. If premiums are not thoughtfully derived and supported, financial penalties, including not recovering in the event of a loss, may apply.

- Captives, like all subject insurers, may be required to submit information on terrorism premium rates for review by NAIC and the Secretary of the Treasury. Should actual aggregate insured losses exceed $100 billion — the amount at which the federal government's annual liability is capped — it could result in a policyholder receiving less than the stated policy limits.

- TRIA permits insurers to obtain reinsurance coverage for all or any portion of any loss not covered by the Act. No payments will be made for acts of terrorism resulting in aggregate insured losses of less than $100 million. The effect of the trigger is to introduce uncertainty in the event of smaller losses. A worst-case scenario could see an insurer exposed to up to 100% of a loss of up to $99,999,999.

- Timing must be considered when creating a captive or amending its purpose to write new lines of coverage in order to avail itself of coverage provided by TRIA. It typically takes between 30 and 60 days to establish a new captive. With an existing captive, the timeframe will depend on its current scope and desired amendments, but it is likely to take at least seven days to secure the required approvals and incept the coverage.

- The startup and ongoing administrative costs of a US-domiciled captive should be considered and can vary depending on several factors, such as scope and fees for management, audits, legal advice, and actuarial work required.

- Under TRIA, insurers — including captives — are required to process claims in accordance with customary business practices. Other procedures may also be prescribed by the Secretary of the Treasury.

- If a captive insurer is affiliated with other organizations that qualify as insurers under TRIA, the direct earned premiums of the affiliated insurers will be considered along with the captive's when determining insurer deductibles.

STANDALONE PROPERTY TERRORISM INSURANCE MARKET

FIGURE 12: TERRORISM INSURANCE MARKET CAPACITY (IN $MILLIONS)

INSURER/REINSURER	CAPACITY
Chartis	$1,500
Berkshire Hathaway	$1,000
Lloyd's	$900
Lancashire Insurance Group	$200
AXIS Specialty	$150
Hiscox USA	$100
Validus	$100
Western Re	$85
ACE Global Markets	$50
Montpelier Re	$50
Transatlantic Re	$50
Beazley US	$50
Torus	$40
IRI/Westport	$40
Aspen Re	$30
Inter Hannover	$25

Note: The theoretical marketwide capacity would be difficult to acquire at a reasonable cost for any individual client, and few clients seek coverage above $1.5 billion. For a client with significant exposures in central business districts of Tier 1 cities or those with exposure schedules with properties perceived as targets for terrorism attacks or where there have been instances of foiled plots, the available capacity is lower. Insurer capacity (and pricing) is also affected by accumulation of aggregates within ZIP codes including Tier 1 cities such as New York, Chicago, Washington, D.C., and San Francisco.

Source: Marsh's Property Specialized Risk Group. Data as of April 23, 2013.

Terrorism and political violence events remain a threat worldwide. Demand for terrorism and political violence insurance coverage has grown in the Middle East, Asia, and North Africa following the so-called Arab Spring of 2010.

Standalone capacity can vary considerably, primarily due to:

- **Location of risk:** The demand for coverage in major metropolitan areas has a substantial affect on the available capacity.
- **Insurer's accumulation of exposure:** Most insurers place aggregate limits on the risks they will take, which can limit capacity in certain locations.
- **Concentration of exposure:** Terrorists attack targets of opportunity. Although it is certainly possible that an attack could occur in a rural area, a remote town, or a small city, demand for coverage will likely be higher in major metropolitan areas due to the concentration of exposures and higher perception of risk.

MARKET CAPACITY

- Standalone capacity has increased significantly for exposures outside central business districts.
- Approximately $750 million to $2 billion per risk in standalone capacity is available to companies that do not have sizeable exposures in locations where standalone insurers have reached or are approaching aggregation limits. Capacity in excess of $2 billion is available but is more expensive.
- For locations where standalone insurers have aggregation issues, the estimated market capacity is approximately $850 million or lower in some cases. Additional capacity can be accessed, but typically at significantly higher rates.
- Monitoring of aggregates is a priority for insurers, with capacity in top-tier cities being priced accordingly.

TERRORISM REINSURANCE MARKET

Global unrest has begun to affect the terror reinsurance market, not only with regard to supply and demand but in terms of how risks and coverages are defined. Although there is an abundance of capacity in the market due to the absence of a major recent terrorism insured loss (resulting in a stable to softening treaty terrorism market), civil unrest and/or riot coverages in some international terrorism programs are impacting several carriers. Indeed, the dramatic increase in global unrest has caused an increased frequency of localized or territory-specific losses in the facultative reinsurance market. As noted earlier, the Boston Marathon bombing's impact on the insurance markets is still to be determined as of this writing.

On a per-risk basis, there is an estimated $2.5 billion of capacity, approximately, for terrorism and sabotage coverage available in the facultative reinsurance market at the time of this writing. Capacity for the broader political violence coverage varies depending on world events and losses within specific territories. As loss activity increases and pricing subsequently rises, capacity is attracted to the territory. Nevertheless, the recent increase in loss frequency in the facultative market has not yet affected the general market and a general market hardening is not presently anticipated. Instead, there have been changes to capacity and pricing at the local level.

GLOBAL UNREST

The scale and damage caused by the recent global unrest has prompted a number of insureds in several countries and regions to broaden the coverage they purchase in an effort to mitigate any potential gaps. Coverage trends, however, vary by country and region. Rather than take a one-size-fits-all approach, reinsurers are increasingly evaluating coverage needs on a per-territory or per-region basis.

The unrest occurring in the Middle East and North Africa has led to a change in coverage purchasing behavior. As the nature of events in the region continues to change, a number of reinsurers are reassessing their overall protection. While strikes, riots, and civil commotions are typically included in an "all risk" policy, larger scale political upheavals — including events categorized as insurrection, civil strife, rebellion, revolution coup d'état, mutiny, and war — are covered only by the specialist political violence market.

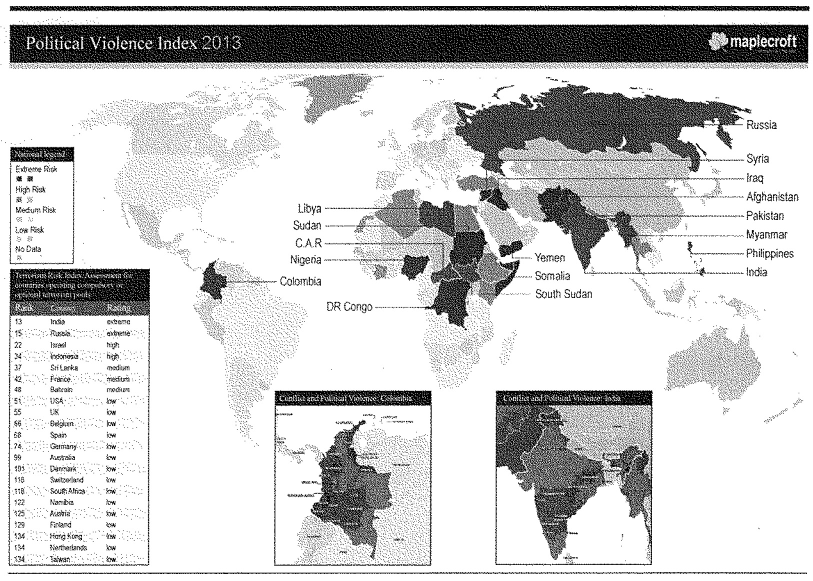
The volatility in the region has therefore led to increased demand for political violence coverage, as carriers are looking for comprehensive reinsurance coverage to ensure that claims will be dealt with effectively and swiftly. Recent events in countries such as Tunisia and Egypt have illustrated how situations can rapidly escalate from those categorized by reinsurers as strikes, riots, and civil commotion to full political violence events. By purchasing full political violence coverage, reinsurers and insurers have a broad spectrum of insurance, meaning protection is provided regardless of how the event is defined. As a result, the market has become more restrictive in some Middle Eastern and North African countries.

Loss history and incorrect interpretations of terrorism coverage in the past have also emphasized the importance of understanding the subtle differences in coverage. In Israel, for example, attacks by Hezbollah were classed as war losses by the government rather than as terrorism losses.

INTERNATIONAL SCHEMES — GOVERNMENT POOLS AND TRIA

To help insureds manage the global terrorist threat (see Figure 13), terrorism reinsurance pools have been created in a number of countries. The pools were established in reaction to the specific threats faced within each country, and each pool generally requires a declaration by the national government that a terrorist event has occurred to trigger coverage. In the countries where compulsory or optional terrorism reinsurance pools exist, property insurance policies can be extended to include terrorism coverage in accordance with the local pool. In such situations, the application of the standalone terrorism, sabotage, and/or political violence policy should be either difference in conditions (DIC), difference in conditions and limits (DIC/DIL), or primary of the locally issued property policy pool coverage depending on the pool being accessed.

FIGURE 13: GLOBAL POLITICAL VIOLENCE RATINGS



Maplecroft's *Political Violence Index 2013* illustrates global political violence and terrorism risks. The accompanying table summarizes the compulsory and optional terrorism pools that operate around the globe. Note: The table includes Northern Ireland in the rating of the United Kingdom; however, Northern Ireland maintains its own terrorism pool, "Criminal Damage Compensation Scheme Northern Ireland."

Source: Maplecroft

FUTURE OF TRIA/TERRORISM INSURANCE IN THE UNITED STATES

Since TRIA's enactment in 2002, terrorism insurance has been widely available for property and other qualifying lines of insurance. Insurers are mandated to offer TRIA as part of their original quote, and the coverage must substantially follow the terms and conditions of the policy to which the TRIA cover attaches.

POTENTIAL RAMIFICATIONS IF TRIA EXPIRES OR IS MATERIALLY CHANGED

If TRIA is allowed to expire or is substantially changed and the mandatory make-available provision is removed, insurers would not be obliged to offer terrorism coverage. The pricing that insurers charge for TRIA is effectively subsidized, in part because the federal backstop does not charge insurers for the protection it offers. Therefore, the TRIA premium charged by insurers without TRIA in place is likely to be considerably higher.

Potentially, property reinsurance capacity and competition could positively influence the supply of terrorism capacity; however, available coverage and limits would not be as readily available. In particular, this may impact companies that have substantial property exposures in central business districts and where reinsurance capacity would be diminished and insufficient to meet insurers' demands.

Additionally, some industries are susceptible to certain insurance requirements, such as mortgage lender requirements with real estate companies. Within TRIA's current structure, the limits available for terrorism insurance are typically sufficient for real estate companies to meet their risk transfer and lender requirement needs. A change in the Act's structure could potentially cause a gap in demand and availability. This susceptibility is not limited to "central business districts" or major cities.

STANDALONE MARKET

The main alternative for a property terrorism risk transfer mechanism if TRIA is not reauthorized would be the standalone terrorism insurance market. As standalone capacity is finite, the cost of this capacity likely would be considerably higher in areas or cities where demand is high, such as major metropolitan areas, central business districts, iconic buildings, ports/airports, and even "soft targets" such as shopping malls. This market dynamic varies considerably by location. In certain high-risk cities — such as New York or Washington, D.C. — the cost of standalone terrorism insurance capacity can be five to 10 times higher than the current pricing for TRIA embedded as part of property programs. However, standalone capacity in certain ZIP codes is so limited that approximately 10% of the current embedded TRIA limit may be currently available in the standalone property terrorism market; should TRIA no longer be in effect, capacity will be affected. In areas perceived to be lower risk, the costs and capacity can be similar between the standalone property terrorism market and TRIA embedded as part of an "all risk" property program.

STATE REGULATIONS

It is important to note that state insurance regulations in 14 of 29 states where standard fire policies (SFP) are mandated do not permit property terrorism exclusions or sublimits for fire caused by a terrorism event. In the absence of substantial market reinsurance capacity to offer insurers an alternative reinsurance mechanism to TRIA, this would likely impact the level of fire or "all risk" property capacity these insurers could offer in areas or cities where they are concerned about the aggregation of terrorism risk. For companies with locations in those areas or cities, this will result in less available fire/"all risk" property insurance, as well as terrorism coverage if TRIA is materially changed or not reauthorized.

In the absence of TRIA, companies with single-carrier property insurance programs and large limits ($100 million or more) in high-risk areas or those in states that have "fire following/no terrorism exclusion permitted" may require insurance programs to be shared and layered in order to achieve desired limits. This will increase the number of insurers needed to provide the same level of insurance and likely will increase the total cost to insureds.

PROPERTY PROGRAMS

Without a reauthorization of TRIA, shared and layered property insurance programs likely will be subject to substantial differences by layers of insurance on the extent and terms of terrorism coverage. The main implications of such potential differences are using higher-cost standalone terrorism capacity to fill gaps in insurance programs, increased risk if self-insuring gaps, and non-concurrent coverage in the event of a loss.

WORKERS' COMPENSATION

In addition to property insurance, other coverage lines likely will be impacted if TRIA expires or is significantly changed, particularly workers' compensation insurance, as workers' compensation insurers are not permitted to exclude terrorism from their policies. Insurers are concerned about potential aggregation of risk, which may impact the availability of workers' compensation insurance should TRIA materially change or expire. Where these insurers are also offering other lines of insurance, such as property, the combined aggregate exposure likely will further limit their ability or willingness to offer substantial property limits.

The workers' compensation market has been affected by the risk of a terrorist attack, even with the reinsurance backing TRIA provides. Because TRIPRA scaled down the protections afforded by the original 2002 Act (via mechanisms such as increased retentions), it forced insurers to be more vigilant in enforcing concentration guidelines. For example, some carriers have not renewed marquee financial services accounts because of the concentration risk in cities perceived to be terror targets.

If TRIA is either modified significantly or not renewed in 2014, the expectation is that employers will continue to have sufficient insurers from which to purchase workers' compensation coverage in order to comply with state laws. Since such coverage is statutory and cannot be limited, the terms of workers' compensation coverage will not be impacted by the absence of TRIA. An exception to this is the market for excess coverage for self-insured employers. Immediately after the September 11, 2001, attacks, some excess insurers responded by capping their liability at levels less than full statutory coverage. However, in the past, other insurers responded by writing statutory coverage above the limits of the underlying carriers; competition for workers' compensation business continues to exist in the market in 2013, albeit at higher prices.

Two likely impacts that the absence of or a serious modification of TRIA could have on the workers' compensation market are in the areas of pricing and capacity. It is expected that the reinsurance market would likely increase pricing because of the increased potential exposure. This would, in turn, have a trickle-down effect on the primary workers' compensation marketplace. Further, the ability of insurers to use reinsurance capacity to manage their maximum tolerable losses could prove more difficult, especially for the terrorism perils of NBCR events. This could significantly alter carriers' risk appetites and their willingness to offer coverage to employers with large employee accumulations.

In addition, insurers have had more than 10 years to collect premium and build surplus for the potential exposure to terrorist acts. Because of this, there arguably is capacity in the workers' compensation industry to respond to a terrorist event should one occur. One question that arises: Is that accumulated capacity adequate in the event TRIA is allowed to sunset?

While not frequently mentioned, the employers' liability component to the workers' compensation policy may also be a factor. When barred by workers' compensation's exclusive remedy from suing the employer, claimants will frequently sue others — for example, fire suppression system installers or security guards — in an effort to find a deep pocket. The employer is then brought in via third-party practice, and the employers' liability policy would have to respond. To a lesser extent, serious injuries and allegations of wanton conduct by the employer tend to produce attempts to surmount the workers' compensation bar in search of higher tort damages. For example, there could be allegations that cost-cutting measures resulted in a reduction of the number of security guards, despite an awareness of a serious threat.

GENERAL LIABILITY

Unlike property insurance, the general liability (GL) insurance market does not have robust standalone terrorism capacity. While it is possible to model the potential of loss with a single building of "$X" value, insurers typically find it difficult to become comfortable with GL risks, because the frequency, severity, and instrumentality of loss or number of victims cannot be predicted. Additionally, in the absence of TRIA, although there is no terrorism exclusion in a typical GL policy, other exclusions and conditions could be brought to bear by an insurer seeking to avoid exposure to large terror losses. For example, depending upon the circumstances, one might see the following types of defenses: late notice, pollution exclusion, professional liability, or war.

CAPTIVES

Organizations that employ captives also are likely to be affected in the event TRIA is allowed to expire or is significantly changed. Captives are widely used to supplement what is available in the commercial market, and, in some cases captive insurers are the only available option for certain layers and/or perils. This is most common in areas of higher perceived risk such as for property or employee-related coverages in major cities. Generally speaking, since captives are best suited to primary operating layers, or as a mechanism for accessing risk transfer solutions, it is very likely that, absent TRIA, captive utilization for terrorism coverage would change significantly. Without TRIA, captives will likely revert to their traditional role of providing commercial reinsurance access to the captive sponsor (where such reinsurance exists) or simply as a mechanism for funding lower-level retentions more consistent with the net retentions that are in effect under TRIA.

CYBER RISK

Although there has been no precedent where TRIA has been applied in response to a cyber attack, a cyber-terrorist attack arguably could trigger coverage under TRIA so long as the Treasury Secretary certified the attack as an "act of terrorism" and all other statutory requirements were met. Thus, TRIA could be instrumental in providing stability in the event of a "cyber Pearl Harbor," in which catastrophic damages resulted. Notably, as the severity and frequency of cyber attacks have grown more prominent, several proposals have been made to clarify that TRIA could apply as reinsurance in the event of a massive cyber attack. Were that clarification realized, TRIA could spur additional capacity in the cyber market.

IMPLICATIONS FOR THE REINSURANCE MARKET

If TRIA is not extended or is substantially modified, the impact on embedded terrorism insurance coverage, standalone terrorism pricing/demand for capacity, and TRIPRA captive placements are likely to impact the reinsurance marketplace as well. Although the standalone terrorism market continues to remain an alternative to TRIA coverage offered as part of property "all risk" policies, there is not sufficient capacity for regions with the highest demand for insurance to meet the needs of all policyholders. Coupled with limited availability of standalone reinsurance capacity and continued perceived limitations on the reliability of terrorism risk models, the insurance markets are not well positioned to be a viable alternative replacement to TRIA or other government-mandated and -supported terrorism risk transfer mechanisms in the United States.

Terrorism catastrophe exposure continues to be of particular interest to property and workers' compensation insurers and to rating agencies for several reasons. First, unlike property insurers, in most cases workers' compensation carriers are obligated to cover terrorism for every risk in their portfolios. Second, unlike for natural perils, A.M. Best requires a carrier to model the severity of its highest potential attack scenarios as well as a percentage of policyholders' surplus. This could result in some notably high results with the potential of being stress tested, and, in select cases, could impact an insurer's rating.

MERITS OF REINSURANCE PROTECTION

Although the need for TRIA is clear, reinsurance protection can help companies withstand the nonrenewal or alteration of the program. Indeed, even though the federal backstop currently is in place, many insurers seek to ensure additional protection via reinsurance. These standalone reinsurance protections typically exclude losses resulting from NBCR instruments, but would protect all losses from the property, casualty, and workers' compensation policies they underwrite. Standalone reinsurance pricing continues to vary depending on the geographical location of the risk(s) and proximity of the risk to a perceived target of terrorism.

Carriers that are perceived to benefit from lower TRIA deductibles (based on direct earned premiums) likely will see a greater impact and may need to reduce their aggregate exposure to terrorism on the front end (reduce writings) or buy more reinsurance protection. While there currently appears to be ample capacity for insurers that buy standalone terrorism reinsurance, increased demand would likely result in constrained capacity and higher prices. The potential scenario that an insurer suffers a loss less than the current $100 million (and potentially higher future) industry trigger — without any reimbursement from TRIA — is gaining heightened attention by carriers and the rating agencies.

Higher reinsurance limits and costs could make it less affordable for smaller companies to buy sufficient coverage. Any dramatic change in TRIA potentially could lead to contraction in the marketplace in both insurance and reinsurance. In a recent briefing, A.M. Best indicated that material changes in TRIA would raise rating concerns especially in cases where:

- Net exposure to terrorism (excluding the benefits of TRIA) exceeded 20% of capital and surplus.
- Aggregate exposures of risks in certain geographic areas are notably high.
- The locations of exposures within these areas potentially impact capitalization.

In its discussions with insurers, A.M. Best is questioning potential plans to track exposure, underwrite aggregates more conservatively, not renew specific risks, and/or increase/change reinsurance purchases should their net TRIPRA retention notably increase. Overreliance on the federal backstop is not considered to be a good substitute for sound risk management.

All rating agencies require cedents to model their largest US terrorism exposures and measure their frequency and severity against their policyholder surplus. Those carriers that have notable backstop TRIA protection as a percentage of their policyholder surplus may benefit from having proactive rating agency discussions while improving the accuracy of their exposure data and modeling output. They may also benefit from proactively pursuing exposure identification, exposure mitigation though portfolio management, and exploring various reinsurance solutions.

IMPLICATIONS FOR MEETING LENDER REQUIREMENTS

Terrorism insurance for real estate companies and construction firms is often required as part of their mortgage agreements; TRIA has offered those companies a mechanism for meeting lender requirements. The impact of not meeting the mortgage requirements varies from client to client and can include minimum premium spends, which are considered punitive. It has been speculated that the absence of TRIA could impact real estate investment and construction/development activity because of the challenge with meeting lender requirements.

Terrorism coverage may still be offered by certain property carriers if TRIA is not extended. However, it is very unlikely this would be at the levels that US businesses, specifically real estate and construction companies — two industries especially susceptible to meeting lender requirements — would need to meet their and their lenders' risk transfer needs. Additionally, there likely would be certain areas where market-wide capacity would be limited. Terrorism capacity/coverage would be at higher cost than businesses are currently paying.

POTENTIAL APPROACHES TO TERRORISM PROGRAMS

For insureds that currently rely substantially on TRIA for terrorism coverage, the current period of uncertainty is problematic. During 2013 and 2014 — or until a decision is made about TRIA's future — a number of approaches can be considered by insureds.

Following are some examples of potential approaches. It is important to note that any program structure needs to be implemented based on an insured's specific needs. Also, in most cases for the buyers of TRIA coverage in areas with the highest demand for terrorism coverage, these approaches are unlikely to completely replace the current level of coverage and limits provided under TRIA as part of property or captive programs.

- Insureds with TRIA 100% embedded as part of "all risk" property programs should work in coordination with property brokers and insurers to determine which property insurers are likely to continue to offer terrorism coverage as part of property programs, regardless of TRIA's extension. If potential gaps in property insurer capacity are identified should TRIA be substantially changed or not extended, insureds likely will have options to consider. For example, they may want to consider placing standalone capacity to fill gaps in capacity. Other alternatives include standalone capacity commitment contracts or excess standalone contracts with the option to drop down and fill gaps in capacity where property carriers cannot continue offering terrorism coverage in TRIA's absence. These approaches are likely to add to the total overall terrorism insurance cost; and in cases where insureds have exposure in major cities or areas where standalone terrorism carriers offer limited capacity, they are likely to result in reduced overall limits and coverage for terrorism.

- Insureds that currently access property TRIA coverage, either as part of a captive property program or as a standalone captive TRIA policy, should consider securing standalone terrorism reinsurance for the captive's liabilities as defined by the Act. This standalone capacity can then be accessed on a direct basis in the event TRIA is not extended.

- Captives providing property TRIA coverage that already purchase standalone terrorism reinsurance, can consider identifying options with standalone terrorism insurers to increase their capacity to cover potential changes in TRIA — such as an increase in the level of reinsurance required. If TRIA is not extended, they can consider converting the standalone terrorism reinsurance limits to primary coverage and seek additional limits in the standalone terrorism insurance market.

- Insureds that currently access standalone terrorism insurance markets for either US noncertified or international terrorism coverage should engage standalone terrorism carriers to discuss various options and terms for converting capacity to cover full terrorism risk in the US, including any foreign or domestic acts that would have been covered under TRIA.

Since both insurers and reinsurers focus on catastrophe models to help determine their underwriting strategies — including whether to offer coverage, the amount of capacity offered, and pricing — it is critical that insureds provide the highest quality of data possible for both property and employee accumulation, as this will help to ensure they receive the most accurate terms, conditions, and pricing based on their actual exposures. There is a direct correlation between high-quality data and the credibility of modeled catastrophic losses and ability to quantify an employer's hazard profile.

Some examples of high-quality data elements that can affect a carrier's view of terrorism loss potential for a particular insured and that can help minimize the impact that default assumptions have on expected modeled losses include:

- Accurate location and property/building information, including COPE (construction, occupancy, protection, and exposure) data.

- Total number of employees by location at the address level.

- Shift information or maximum at each location at any one time.

- Single location or multiple building campus setting.

From a workers' compensation coverage perspective, providing employees by building location in a campus setting will help to mitigate one pitfall of the catastrophic models that defaults to assuming that all employees are in a single building versus being spread across the buildings where they actually work. Identifying the actual buildings where employees work in a campus setting should, when done according to best practices, reduce the loss potential to most types of catastrophic workers' compensation events (for example, terrorism, industrial accident, and natural disasters).

Two other data elements that can make a difference in quantifying an employer's actual hazard profile are construction type and the floor where employees are located. Some building types are less prone to immediate collapse, which gives employees more time to evacuate in catastrophic loss scenarios.

In terms of an insured's property coverage, the more complete the data, the more accurate and comprehensive the CAT models will be. This lack of volatility and uncertainty allows property insurers to more accurately price coverage and insureds to better understand their exposures. As a result, the insured can be better positioned to purchase adequate coverage limits with appropriate terms and conditions.

STEPS FOR CAPTIVES CONSIDERING ACCESSING TRIA

Captive owners and non-captive owners alike should consider initiating or expanding relationships with traditional insurers in order to be in a stronger position to request expanded coverage should it be desired. Captive owners should also ensure the policies their captives write contain appropriate provisions to enable cancellation or modification of terrorism coverage in the event of a material change in or expiration of TRIA.

Until the Act's scheduled expiration on December 31, 2014, using a captive to access TRIA can be a viable option for some companies. Organizations considering using their captives to access TRIA should consider the following recommendations:

- Determine the captive exposure by calculating the 20% horizontal deductible, and the vertical 15% quota-share based on the policy limit.

- Determine the premium to charge for terrorism coverage. US Treasury guidelines state the premiums must not be discriminatory, excessive, or inadequate. If they are found to be so, this could jeopardize the captive's ability to collect in the event of a loss.

- Be aware of, and factor in, the terrorism risks that are not covered by the Act (such as losses occurring outside of the United States).

- Consider purchasing reinsurance for the horizontal deductible, vertical 15% quota-share, and $100 million net trigger liability.

- Consider purchasing coverage for a deliberation or delay in the TRIA certification and/or payment process lasting greater than 180 days.

- Keep in mind that the captive, like all insurers, will be responsible for assessing, collecting, and distributing the post-loss surcharge that will be assessed against all policyholders in the event a loss occurs.

- Compare the findings against commercial insurance options.

- If the decision is made to use a captive, secure the approval of the responsible domicile insurance regulator and implement the program.

POLITICAL ENVIRONMENT

Federal lawmakers will likely address TRIA, which is set to expire on December 31, 2014, during the 113th Congress. Members will have to decide whether to reauthorize the Act as is, amend and modify key provisions, or allow the program to expire. Two key factors will influence the debate:

- First, the two congressional committees with jurisdiction over the program — the Senate Banking Committee (SBC) and House Financial Services Committee (HFSC) — have new leaders and members with divergent perspectives on TRIA and its future.

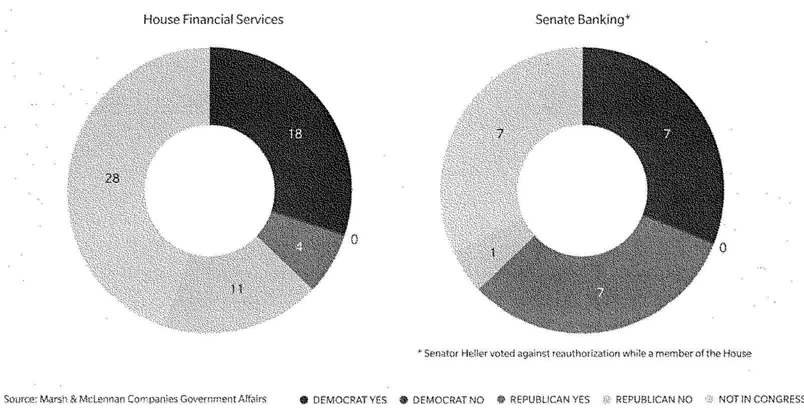
- Second, the composition of Congress has changed considerably since the 2007 reauthorization.

The process will begin in the HFSC, where Republican Jeb Hensarling of Texas, in his new role as chairman, will set the agenda. Of importance to the debate, he and 11 current senior Republican members of the HFSC opposed passage of the 2007 TRIA extension both in the committee and when the entire US House of Representatives voted on the bill in September 2007 (see Figure 14). The voices of the chairman and these 11 senior members will likely carry great weight. New members of the panel will look to their leadership for guidance during the debate. Across the Capitol, Senator Tim Johnson, Democratic chairman of the SBC, likely will preside over a less controversial process. During the 2007 TRIA extension, the bill passed easily in both the committee and in the full Senate.

Both committees have staked out differing views concerning their intent to examine and debate the program. Whereas the SBC's business agenda for the next two years includes language to enact long-term reauthorization of TRIA "with appropriate improvements, as necessary," the HFSC's two-year oversight plan called for expanded deliberation. Indeed, as the oversight plan explicitly points out, the "Committee will examine the private sector's capacity to assess and price for terrorism risk and consider whether to reauthorize TRIA as well as proposals that would reduce the potential federal exposure and participation in the TRIA." This language suggests a straight extension without meaningful reforms may be unlikely. The number of congressional members who were not in office for the 2007 debate complicates matters: 46% of the current HFSC members are new since 2007, as are one-third of the members of the SBC.

On September 11, 2012, the HFSC held a subcommittee hearing in which panel witnesses were in near-unanimous agreement in support of the program and a long-term reauthorization. On February 5, 2013, Representative Michael Grimm (R-NY), a member of the Financial Services Committee, introduced a straight extension of TRIPRA. And President Obama's FY 2014 budget projects net TRIA spending of $443 million over the 2014 – 2018 period and $526 million over the 2014 – 2023 period.

FIGURE 14: CURRENT COMMITTEE MEMBERS AND THE 2007 TRIA REAUTHORIZATION VOTE



* Senator Heller voted against reauthorization while a member of the House

Source: Marsh & McLennan Companies Government Affairs

CONCLUSION

For more than 10 years, US-based insureds have benefited from access to terrorism insurance as a result of TRIA. Insureds and insurers alike must prepare for the possibility the Act will be materially changed or allowed to expire on December 31, 2014. Data clearly show a demand for — and a perceived need of — this coverage across many insurance lines, notably property, casualty, and workers' compensation.

Although there is private market capacity for terrorism insurance, it may not be enough to meet the demand in the marketplace should TRIA not be reauthorized. In that case, despite an ongoing exposure to terrorism events, insureds may be unable to secure adequate capacity to insure their risks, or may be unable to do so at commercially viable prices. It is likely that many would be left to self-insure at least some portion of their terrorism risk.

From the standpoint of global business competition, it should be noted that there are a number of countries that offer government supported terrorism risk transfer solutions that are likely to remain available. For these and other reasons, representatives from real estate, finance, energy, construction, insurance, professional sports leagues, and elsewhere have supported TRIA and are making the case for its reauthorization.

APPENDIX

INDUSTRY CATEGORIES

This report examined property terrorism insurance purchasing patterns for 17 industry sectors, selected based on such criteria as sample population size, perceived exposures, take-up rates, and premium rates. Other industry groups were part of the overall analysis but not reported on individually. The industry groupings included, but were not limited to, the following lines of business:

- **Chemicals:** specialty chemicals, agrochemicals, distributors, industrial gases, and personal care and household companies.
- **Construction:** contractors, homebuilders, and general contractors.
- **Education:** universities and school districts.
- **Energy:** oil, gas, and pipelines.
- **Financial institutions:** banks, insurers, and securities firms.
- **Food and beverage:** manufacturers and distributors.
- **Hospitality:** hotels, casinos, sporting arenas, performing arts centers, and restaurants.
- **Health care:** hospitals and managed-care facilities.
- **Life sciences:** research, manufacturers, biotechnology, and pharmaceuticals.
- **Manufacturing:** all manufacturers, excluding aviation.
- **Media:** print and electronic media.
- **Public entity and nonprofit:** city, county, and state entities and nonprofit organizations.
- **Real estate:** real estate and property management companies.
- **Retail and wholesale:** retail entities of all kinds.
- **Technology/telecom:** hardware and software manufacturers and distributors, telephone companies, and internet service providers.
- **Transportation:** trucking and bus companies.
- **Power and utility:** public and private gas, electric, and water utilities.

METHODOLOGY

The report analyses relied on data from Marsh clients that purchased property terrorism insurance across the United States. Purchasing patterns were examined in the aggregate and were also based on client characteristics such as size, industry, and region.

The 2012 data came from property insurance placements incepting during calendar year 2012. The study population does not include placements in the United States for foreign-based multinationals or for small-firm placements made through package policies.

The 2012 study was based on a sample of 2,558 firms with the following characteristics:

	1ST QUARTILE	MEDIAN	3RD QUARTILE
TIV	$36 million	$165 million	$675 million
Property Premium	$51,411	$171,277	$555,495
Terrorism Premium	$1,000	$4,915	$16,409

It is important to note:

- The sample size for the energy industry sector was relatively small and therefore may not be statistically significant. There may be a larger margin of error in the data analyzed, which may result in property terrorism take-up rates and pricing for energy companies varying more widely than the data indicates.
- For some companies, insurers quoted only a nominal terrorism premium of $1. These $1 premiums were omitted from the calculations of the median terrorism premium rates.
- Companies were assigned to regions based on the locations of the Marsh offices that served them. Generally, this was the Marsh office most closely located to a company's headquarters. Many clients have multiple facilities across the US and the world, meaning the potential risk for a terrorist attack may not be fully represented by where a company is headquartered. That said, the decision as to whether to purchase terrorism insurance is typically made at headquarters.

NOTES

ABOUT MARSH

Marsh is a global leader in insurance broking and risk management. We help clients succeed by defining, designing, and delivering innovative industry-specific solutions that help them effectively manage risk. We have approximately 26,000 colleagues working together to serve clients in more than 100 countries. Marsh is a wholly owned subsidiary of Marsh & McLennan Companies, whose market-leading professional services companies offer clients advice and solutions in the areas of risk, strategy, and human capital.

MARSH

This report is a coordinated effort among Marsh's Property Practice, Marsh's Casualty Practice, Marsh Captive Solutions, Marsh Global Analytics, Guy Carpenter, and Marsh & McLennan Companies Government Affairs.

For more information, please reach out to your Marsh or Guy Carpenter or other Marsh and McLennan Companies representative, send an email to questions@marsh.com, or visit marsh.com and guycarp.com.

Marsh is one of the Marsh & McLennan Companies, together with Guy Carpenter, Mercer, and Oliver Wyman.

Appendix B: Evolution of TRIA

	TRIA 2002	TRIA Extension 2005	TRIPRA 2007
Termination	December 31, 2005	December 31, 2007	December 31, 2014
Make-available provision	Must make coverage available for certified acts of terrorism on same terms and conditions as for other covered risks	No change	No change
Covered acts	Foreign terrorism in the U.S. and on U.S. interests abroad. Includes an act of war for workers' compensation policies only.	No change	Foreign and Domestic terrorism in the U.S. and on U.S. interests abroad. Includes an act of war for workers' compensation policies only.
Certification level	$5 million	No change	No change
Program trigger	$5 million	$5 million in 2006 (thru March 31, 2006) $50 million in 2006 (after March 31, 2006) $100 million in 2007	$100 million in insured loss in a Program Year
Covered Lines	Commercial property and casualty (P&C) insurance (including excess insurance, workers' compensation and surety insurance)	Commercial P&C insurance (including excess insurance, workers' compensation and directors and officers insurance)	No change
Excluded	• Federal crop • Private mortgage • Financial guaranty • Medical malpractice • Health or life insurance including group life • Flood under NFIP • Reinsurance or retro	Added Exclusions: • Commercial auto • Burglary and theft • Surety • Professional liability • Farm owners multiple peril	No change
Insurer Deductible (% of direct earned premium)	15 percent in 2005	17.5 percent in 2006 20 percent in 2007	20 percent
Federal reinsurance quota share	90 percent in 2002-2005	90 percent in 2006 85 percent in 2007	85 percent
Insurance industry retention for mandatory recoupment	$15 billion in 2005	$25 billion in 2006 $27.5 billion in 2007	$27.5 billion
Cap on liability	$100 billion	No change	No change

Appendix C: Summary of Proposed TRIA Reauthorization Legislation (As of September 10, 2013)

Stipulations	Terrorism Risk Insurance Act of 2002 Reauthorization Act of 2013 (H.R. 508)	Terrorism Risk Insurance Program Reauthorization Act of 2013 (H.R. 2146)	Fostering Resilience to Terrorism Act of 2013 (H.R. 1945)
Sponsorship	75 cosponsors, 35 Republicans and 40 Democrats	31 cosponsors, 30 Democrats and 1 Republican	6 Democratic cosponsors
Term (Expiration)	December 31, 2019	December 31, 2024	December 31, 2024
Recoupment Deadline	September 30, 2024	September 30, 2027	September 30, 2024
Reporting Requirements	None	2013, 2017, 2020, and 2023 on the findings of the President's Working Group on Financial Markets to determine long term affordability/availability of terrorism insurance	2013, 2017, 2020, and 2023 on the findings of the President's Working Group on Financial Markets to determine long term affordability/availability of terrorism insurance
Other Key Changes	None	None	• DHS to provide Insureds with appropriately classified terrorism risk information and information on best practices, to "foster resilience" to a terrorist act • Act Certification by Secretary of DHS (and not Sec. of State) in concurrence with Sec. of Treasury

TAXPAYERS FOR COMMON SENSE
MAKING GOVERNMENT WORK

Testimony of Steve Ellis
Vice President, Taxpayers for Common Sense

Committee on Financial Services
hearing on
"The Terrorism Risk Insurance Act of 2002"

September 19, 2013

Good morning, Chairman Hensarling, Ranking Member Waters, members of the committee. I am Steve Ellis, Vice President of Taxpayers for Common Sense, a national non-partisan budget watchdog. Thank you for inviting me here today to testify on the Terrorism Risk Insurance Act of 2002 (TRIA) and the Terrorism Risk Insurance Program (TRIP).

Taxpayers for Common Sense has been concerned with the federal involvement in providing terrorism reinsurance from day one. Congress enacted TRIA to "establish a temporary Federal program" that would "allow for a transitional period for the private market to stabilize, resume pricing of such insurance, and build capacity to absorb any future losses...."

We opposed the creation and extensions of the temporary program, but in each case have offered constructive commentary on how the program could be designed to reduce the possible burden on taxpayers and increase the amount of risk borne by the private sector. A dozen years after the tragic events of 9/11, the terrorism marketplace has settled to the extent that it is past time for the government to step aside and let the private sector handle the portfolio. If there is an extension, and we are not proposing there needs to be one, it should be for a short duration, charge reinsurance premiums, reduce the taxpayers' exposure to risk, and explicitly put this "temporary" program on a path to ending.

Learning Lessons of the Past

Much of our concern with the terrorism reinsurance program comes from experience with the National Flood Insurance Program, where the availability of subsidized federal insurance largely prevented the development of a private market, forcing taxpayers to pick up the tab for approximately $25 billion in losses to date. In addition, below market rates serve as disincentive to mitigate for risk, something which is concerning in both a flood and terrorism context.

But there's another example of the government backstopping an "uninsurable" risk and then ceding the business to the marketplace. A federal riot insurance program was created in 1968 after the series of urban riots had occurred and insurers had pulled out of the property insurance market. Insurers paid a premium to the government for reinsurance that would cover costs over a certain deductible. The private reinsurance market – which was far less sophisticated and capitalized than todays – eventually returned to the market and the federal program was terminated in 1985.[1]

With the riot insurance program being the possible exception, President Reagan once observed that federal programs and agencies are "the nearest thing to eternal life we'll ever see on this earth."[2] And so you have this three year, explicitly temporary terrorism reinsurance program program extended for two years then extended for seven years. Legislation has been introduced to extend the program for another five to ten years.[3] That would result in a "temporary" program that's old enough to vote or get a drink.

The 2005 extension was for a short term and began to shift more of the responsibility to the private sector. In contrast, the 2007 extension mostly maintained the status quo, with the notable exception of significantly expanding the program scope by removing the stipulation that to qualify terrorist attacks must be done by foreign interests. It was also a seven year extension that doubled the life of the program. It would be completely irresponsible to simply extend the program again without incorporating additional taxpayer safeguards.

A Good Deal – Just Not for Taxpayers

I know that insurance companies and the insureds would like to see the program extended as is. No wonder, it's a good deal. But as then-Congressional Budget Office Director Douglas Holtz-Eakin observed in the 2005 reauthorization debate, it's not such a good deal for taxpayers:

> "It is easy to exaggerate the overall costs to the economy of reducing the federal subsidy for terrorism insurance; in fact, those costs are likely to be small. One reason is that TRIA does not lower total costs of terrorist attacks but rather shifts them from property owners to taxpayers. Indeed, total costs might be lower without TRIA because efforts to mitigate risk could pay off in smaller losses from a terrorist attack."[4]

For more than a decade, insurance companies have been pocketing terrorism insurance premiums with nary a payout. The companies pay no upfront premium for federal reinsurance that would pay out post-event once a deductible equal to 20 percent of an insurance companies' previous year premiums is reached. Above that threshold, 85 percent of the cost is

[1] Webel, Baird. "Terrorism Risk Insurance: Issue Analysis and Overview of Current Program," Congressional Research Service. April 26, 2013. P. 7.
[2] Available at: http://www.reagan.utexas.edu/archives/reference/timechoosing.html
[3] H.R. 508 "TRIA Reauthorization Act of 2013," H.R. 2146 "TRIP Reauthorization Act of 2013," H.R. 1945 "Fostering Resilience to Terrorism Act of 2013."
[4] Statement of Douglas Holtz-Eakin, Director, Congressional Budget Office before the Committee on Banking, Housing, and Urban Affairs. April 14, 2006. P. 1.

borne by the taxpayer, and insurance companies would pay surcharge would be used to recoup 133 percent of the taxpayer outlays unless the industries aggregate loss exceeds $27.5 billion.[5]

For the insureds, TRIA requires that insurance companies make terrorism insurance available. After significant initial growth, the take-up rate for terrorism insurance is relatively steady at a little over 60 percent since 2009. In 2012, the take-up rate was highest in the Northeast at 77 percent and the lowest in the west at 53 percent. The premium rates per million dollars of coverage were significantly higher for companies with a total insured value (TIV) of less than $100 million ($49) than companies with much higher insured value ($19 per million dollars of coverage for companies with a TIV of greater than $1 billion). Some of that can be attributed to economies of scale – you buy more insurance, you get a better price. Terrorism insurance premiums as a percentage of total property insurance premiums by TIV was fairly consistent, from four percent for companies with a TIV of less than $100 million to five percent for companies with TIV over $1 billion.[6]

Ongoing Development of Terrorism Reinsurance Markets

Reinsurance and insurance industry response to large disastrous events is to initially pull back only to return with greater capacity, like pruning a tree. This occurred after Hurricane Andrew in 1992 and the Northridge earthquake in 1994. After more recent events like the storms of 2005, there wasn't the retreat but increased reinsurance capacity post-event. Roy Williams, the Director of Aviation for the New Orleans airport testified before this committee a month and a half after 9/11.[7] Although he was testifying in support of federal involvement in the insurance markets, his testimony about the difficulty of obtaining insurance unintentionally made another point. As Philip Bougen points out in a journal article, "The significance of this testimony is apparent: the insurance industry had learned sufficient about terrorism risk insurance that while on September 20th insurance was unavailable, a short while later it was available at a price, and by the third week of October available at a lower price, all without federal support."[8]

Releasing their 2013 Terrorism Risk Insurance Report, Marsh and Co. indicated that "capacity in the standalone terrorism insurance market has increased significantly over the years."[9] In the report they estimate that the terrorism insurance market capacity is $4.3 billion, and that there is up to $2 billion per risk in standalone capacity.[10]

---

[5] Supra note 1 at 3.

[6] Marsh and Co. "2013 Terrorism Risk Insurance Report." May 2013. P 9-11

[7] Statement of Roy A. Williams, Director of Aviation, Louis Armstrong New Orleans International Airport before the Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, Committee on Financial Services. October 24, 2001. Available at: http://archives.financialservices.house.gov/media/pdf/102401rw.pdf

[8] Bougen, Philip D. "Governing Alongside the Specter of Risk Society: Legislating US Terrorism Risk Insurance, 2001-2007," The Open Law Journal. 2009. P33-41. Available at: http://www.benthamscience.com/open/tolawj/articles/V002/24TOLAWJ.pdf

[9] Marsh and Co. Marsh Report: Demand for Terrorism Coverage Remains Strong. Available at: http://online.wsj.com/article/PR-CO-20130430-915243.html

[10] *Supra* Note 6 at 16.

It's important to note that in the U.S. the reinsurance market is servicing a very small slice of the reinsurable pie. Some insurance companies are purchasing reinsurance to cover a portion of their deductible. This market would clearly grow if the federal government was no longer taking that market share with reinsurance that doesn't charge a premium.

Before 9/11, terrorism models didn't exist in the marketplace. Since 2002, companies modeling terrorism have been refining and updating their models each year, in some cases multiple times a year. There is also greater sophistication and customization in the models.[11] While this discipline isn't as developed as natural catastrophe modeling, it has clearly grown significantly over the last decade.

TRIA Going Forward

Absent Congressional action and a Presidential signature to extend TRIA, the "temporary" Terrorism Risk Insurance Program will expire December 31, 2014 after a dozen years in existence. We believe that it should expire. However, it is important that this be an affirmative decision by Congress and the administration that can lead to an orderly transition in the market. To that end, we think it is important to have hearings like this one and that the committees of jurisdiction thoroughly examine the issue.

If Congress should decide to continue TRIA in some form, we have several recommendations.

Short term – the program was always intended to be a temporary transition. A long term extension like was done in 2007 lends itself more to permanence than transition. A two or three year extension should be the maximum. Furthermore, the law should explicitly state that this is the last extension.

Skin in the Game – the 2007 extension did nothing to shift more responsibility onto the private sector. Any new extension should increase the trigger for federal involvement dramatically – gradually increasing to as much as $50 billion. In addition, the deductibles should be increased throughout the extension and companies should pay a premium to the federal government for reinsurance coverage.

TRIA was created in a much different time with extensive uncertainty about future risks and the marketplace for terrorism insurance and reinsurance. TCS believes we have crossed the bridge to where the program should be ended and the market respond. It's never easy to take that last step, but our experience is that it won't get any easier.

This program doesn't reduce any of the risks to people or property from terrorist attacks, nor does it encourage companies to minimize and mitigate those risks through security measures. It simply shifts much of the fiscal risks off property owners and insurance companies and puts it on the backs of taxpayers. It's time for that to end.

[11] Guy Carpenter. "Tensions Building: The Changing Nature of Terrorism Risk and Coverage." December 2012. P15-16.

Evolution of TRIA (Adapted from Marsh, Inc.)[12]

TERM	NOVEMBER 26, 2002 – DECEMBER 31, 2005	JANUARY 1, 2006 – DECEMBER 31, 2007	JANUARY 1, 2008 – DECEMBER 31, 2014
Official Legislative Name	Terrorism Risk Insurance Act of 2002 (TRIA).	Terrorism Risk Insurance Extension Act of 2005 (TRIEA).	Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA).
Coverage Summary	Covered acts committed by individual(s) acting on behalf of any foreign person or interest to coerce the civilian population of the US or to influence the policy or affect the conduct of the US government by coercion.	Same	Eliminated the distinction between acts of foreign or domestic terrorism.
Territory	US only.	Same	Same
Certification Threshold	$5 million	Same	Same
Federal Backstop Trigger	$5 million	$50 million in 2006, $100 million in 2007	$100 million
Insurer Retention	7% in 2003, 10% in 2004, 15% in 2005: Applied against prior-year direct earned premium.	17.5% in 2006, 20% in 2007: Applied against prior-year direct earned premium.	20%: Applied against prior-year direct subject earned premium. Subject to certain property and casualty insurance lines.
Government Share Excess of Retention	90%	90% in 2006, 85% in 2007	85%
Recoupment	Included with discretion on part of Secretary of Treasury — subject to maximum 3% per year applied to policyholders' premiums.	Same.	Formula will be calculated using several factors: the size of the total loss, the amount of the industry aggregate retention as defined, the amount that the insurers actually retain, and the amount of the federal government reimbursement. There is no maximum on the amount that will be applied to future policyholders' premiums. For events that occur after 1/1/2012, the mandatory portion of any recoupment must be collected by 9/30/2017.

[12] Marsh, Inc. "2013 Terrorism Risk Insurance Report" May 2013. Available at: http://www.insureagainstterrorism.org/MMC%20TRIA%20Report%2004-2013.pdf

UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON FINANCIAL SERVICES

SEPTEMBER 19, 2013

"THE TERRORISM RISK INSURANCE ACT of 2002"

J. ERIC SMITH

PRESIDENT AND CHIEF EXECUTIVE OFFICER

SWISS RE AMERICAS

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON FINANCIAL SERVICES

SEPTEMBER 19, 2013
"THE TERRORISM RISK INSURANCE ACT of 2002"

J. ERIC SMITH, PRESIDENT AND CHIEF EXECUTIVE OFFICER
SWISS RE AMERICAS

Chairman Hensarling, Ranking Member Waters, and members of the Financial Services Committee, my name is Eric Smith, and I am president and CEO of Swiss Re Americas. On behalf of Swiss Re, I thank you for the opportunity to testify this morning on the state of the terrorism risk insurance marketplace and the important role the Terrorism Risk Insurance Act (TRIA) plays in providing market stability and certainty, and ensuring an orderly economic recovery following catastrophic terrorism in the United States. Swiss Re is a global reinsurance company with a highly-skilled workforce of several thousand employees in more than thirty offices throughout the U.S., and we transact U.S. business through U.S. companies, including primary insurance companies that are subject to TRIA.

Swiss Re recently published a paper, *Terrorism Risk Insurance Act: The Economic Case for Public-Private Partnership*, that covers in detail many of the topics in this statement. It is attached for your review.

As the CEO of a company with dual marketplace roles as a global reinsurer and an insurer offering coverage for terrorism risk, I believe that I can offer the Committee a unique perspective on three critical issues:

1. Why the risk of terrorism continues to be uninsurable;
2. How both the traditional and non-traditional reinsurance markets view the risk of terrorism; and
3. How other governments manage terrorism risk insurance compared to the United States.

In focusing on these three issues, I hope to reinforce for this Committee the critical role that TRIA has played in supporting the management of terrorism risk exposure by the private market and stabilizing the U.S. economy since its initial enactment in 2002. I also hope to clarify the impact of the recently reported influx of capital into the catastrophe bond market and what, if any, role this capital has in supporting the terrorism reinsurance market. Last week, Swiss Re submitted comments to the Federal Insurance Office for their report on the long term availability and affordability of insurance for terrorism risks. In those comments, we reach a conclusion that bears repeating to this Committee today: unlike most natural catastrophes, major acts of terrorism remain uninsurable by private markets, and the extension of TRIA is vital for the stability of the U.S. insurance industry.

Summary of TRIA as Public-Private Partnership

Just over 12 years ago, in the wake of the devastating September 11 attack, the re/insurance industries responded to unprecedented levels of terrorism loss by helping our policyholders, and the economy, recover. The total insured loss of $32.5 billion ($42.1 billion in 2012 dollars) was the largest terrorism loss on record and remains many multiples of any other terrorist attack loss.[1] After the 9/11 attack, the industry recognized that the peril of terrorism had changed forever, with the prospect of truly catastrophic terror events being carried out by well-organized, and well-funded, terrorist groups. Terrorism was a new form of warfare carried out in the shadows and was not a peril that was viewed as "insurable" in the traditional sense of the word.

As a result, the insurance industry worked with the federal government in evaluating a number of different proposals for creating a public-private partnership for financing terrorism risk. Ultimately, the federal government passed TRIA in late 2002, providing a loss sharing partnership between the federal government and commercial property-casualty insurers, while making terrorism coverage available to all U.S. businesses. The passage of TRIA solidified the economy and reinforced the resiliency of the markets against future terrorist attacks. Subsequent extensions of TRIA have maintained the public-private partnership, providing stability that has enabled insurers to manage their individual terrorism exposures to the extent possible, while ensuring that the federal government remains a backstop for large-scale terrorism as well as a necessary post-hoc redistribution channel.

Terrorism Remains an Uninsurable Risk

Swiss Re is celebrating its 150th anniversary this year. Terrorism has been around since our company began operations, as have natural catastrophes. Yet re/insurance for natural catastrophes is much more available and much more affordable than coverage for terrorism Why is this the case? The answer is straightforward: even with all our years of underwriting experience, we do not believe that we understand terrorism risk in the same way that we understand natural catastrophe risk.

Almost 11 years after TRIA's enactment, the industry's knowledge of terrorism has evolved. We have made great strides in exposure management and in understanding the potential severity of different conventional terrorism attack scenarios. Unfortunately, the one aspect of terrorism that has not changed is that, absent a federal government role in managing terrorism exposure and loss, the risk is ***not*** privately insurable. For the private insurance marketplace to function with respect to a risk, it must be measurable, have loss occurrences that are largely independent, have manageable average and maximum losses, and be mutually acceptable to both the insured and the insurer. Terrorism risk fails each of these conditions.

Despite the best efforts of modelers, terrorism risk remains unmeasurable today, largely because of the ***intentional nature*** of a terrorist attack. In the case of natural catastrophes, events represent random, uncorrelated outcomes from underlying physical processes or

[1] Hartwig, Robert P and Claire Wilkinson, "Terrorism Risk: A Constant Threat: Impacts for Property/Casualty Insurers," Insurance Information Institute, June 2013.

phenomena. As such, through the efforts of geologists, engineers, and meteorologists, insurer's understanding of the risk of natural disasters has improved and a steadily growing

body of data exists for the development of catastrophe models for natural disasters. While the data may still exhibit uncertainty, insurers can manage to this uncertainty. In contrast, for terrorism, the terrorist actually tries to confound those who study them – effectively invalidating any sample used to estimate their behavior. As such, even the most skilled practitioners are far from an informed consensus regarding how to accurately model terrorism risk. The models that do exist have not been tested, so we don't have the same level of confidence in terrorism models that we would have in models for other types of perils, where we have much more information that has permitted us to test the waters. There simply is no effective basis for assessing the likelihood, location or type of a terrorist attack.

Moreover, the risk of terrorism is ***dynamic*** and ***interdependent***. The goal of a terrorist is to avoid detection and inflict the maximum loss possible at precisely the weakest link in our economy. Since terrorists modify their tactics in the face of any known defensive strategies or loss mitigation, their methods and targets are constantly changing. This constantly changing threat dynamic places a premium on the secrecy of the government's intelligence information and effective countermeasures. Keeping this information confidential is vital to the efficacy of the government's interdiction efforts, but it undermines attempts to measure the risk of terrorism in the private sector – an acceptable trade-off to limit the overall likelihood of an attack.

At the same time, terrorism losses have the potential to be truly ***catastrophic in size and scope,*** impacting a wide array of different policies and policyholders, as well as impacting the overall financial markets and economy. This extreme correlation is another classic example of a failure of private "insurability." The loss potential from a successful terrorist attack using unconventional means such as nuclear, biological, chemical, or radiological weapons can measure in the hundreds of billions of dollars and be well in excess of the maximum loss potential for natural catastrophe events in the United States. With at most an estimated $200b in surplus backing all of the different sources of risk to TRIA-eligible lines of business, the insurance industry simply does not have the capital, absent TRIA, to absorb this level of loss.

In fact, no private capitalization strategy for unconventional terrorism makes economic sense. If re/insurers were asked to hold a sufficient level of capital to withstand these cataclysmic losses – maybe to maintain ratings for writing other lines of business -- the price of terrorism insurance would have to be so high as to make it uneconomic for the policyholder. The net result is that the market for terrorism would violate the ***mutuality*** principle requiring the transfer of risk to be mutually beneficial for all members of the risk pool. Suggestions to the contrary and proposals to cross-subsidize the provision of terrorism insurance with surplus backing other lines of business demonstrate a failure to understand terrorism risk, the private insurance mechanism and business model, the process for establishing risk-based premiums, and the parameters of state insurance law. Simply put, a public-private structure for pooling catastrophic terrorism losses is necessary.

Traditional Reinsurance Capacity

As Swiss Re is a leading global reinsurance company, I also want to comment on the capacity of the reinsurance market and the potential real and illusory opportunities for growth in the terrorism reinsurance market. Recognizing the same challenges of insurability that face primary insurance companies, the reinsurance market has dedicated very limited capacity to

support the provision of terrorism reinsurance. The capacity we do offer supports our clients and the mandates that they must adhere to under TRIA. Based on the most recent estimate, the total amount of reinsurance capacity available for terrorism in the United States is approximately $6-10b – well below the $27.5b insurance marketplace aggregate retention under TRIA and the $34-35b cumulative insurer loss retentions. As a point of reference, the total global capacity for natural catastrophe risks has been estimated as $300-$350 billion, with the U.S. commanding roughly 35-45% of this capacity.

Moreover, the reinsurance capacity that is available for terrorism in the U.S. generally is limited to conventional terrorism losses, with virtually no capacity available for unconventional NBCR terrorism. Even for conventional terrorism, terrorism reinsurance may be further constrained within large metropolitan areas due to exposure aggregation challenges. Thus, while private reinsurance is playing a role in helping to manage the risk of terrorism, the market for terrorism reinsurance is relatively small and operates within the existing TRIA retentions for large insurance companies.

With TRIA in place, private reinsurance companies have been able to make marginal increases in the amount of capacity provided for conventional terrorism losses – increasing from $4-6 billion several years ago to $6-10b today. This additional reinsurance capacity can be extremely valuable to primary insurers as they manage their considerable exposure within the existing TRIA retentions. The commitment that the federal government has provided to the terrorism insurance market through TRIA has given the reinsurance community the confidence in the market to offer this capacity. I don't envision a scenario where private reinsurers are competing against TRIA for providing reinsurance against extremely large or unconventional terrorism losses. Simply put, the existence of TRIA supports the ability of the reinsurance markets to providing capacity for our clients to manage terrorism losses within the aggregate industry retention. If TRIA were permitted to expire, that capacity would no longer be available.

Capital Markets and Insurance-linked Securities

I would also like to take a moment to comment on the recent influx of capital into the insurance-linked securities (ILS), or catastrophe bond, markets, as Swiss Re is a market leader in providing this alternative risk management solution. Spurred by the quest for higher yields in a persistent low interest rate environment, many pension funds and asset managers have created or expanded their mandates to invest in insurance-linked securities (ILS). As a result, Swiss Re estimates that total alternative reinsurance capacity – including catastrophe bonds, sidecars and other non-traditional financing vehicles – has grown to approximately $40b worldwide – comparable to the levels reached immediately after hurricanes Katrina, Rita and Wilma in 2005.

The maturation of the ILS market over the past decade has been an exciting and welcome development. The ability of primary insurance and reinsurance companies to access new sources of capital to fund peak natural catastrophe exposures – the main recipient of these capital investments -- has helped keep capital costs down and traditional insurance more affordable. Moreover, the timing of the capital flows is fortuitous, especially with demand for natural catastrophe coverage expected to grow between 50% in mature markets to 200% in high growth markets, as population growth in high risk areas continues unabated.[2]

However, the ILS market does not substitute for traditional insurance and the ILS market has not been willing to underwrite risks that are not being underwritten by the traditional reinsurance market. Moreover, investors are reluctant to buy terrorism bonds for two reasons. First, there is a correlation between terrorism risk and the broader equity markets -- financial markets are more sensitive to terrorism risk and the possibility of broader economic disruption. Second, there is a greater potential for adverse selection – that is, those with the highest risks purchasing the coverage. Finally, rating agencies have been reluctant to rate terror bonds because of the inherent uncertainty in determining the risk, which further restricts potential investor interest. As a result, to date, there have been no securitizations of property catastrophe bonds solely for terrorism risk in the market despite this influx of capital.[3] With terrorism risk largely uninsurable, we may never see a significant market for terror bond securitizations.

TRIA in Comparison with Other Government Programs

Recognizing the private "uninsurability" of terrorism and the "public good" of protecting an economy from a terrorist attack, many other countries exposed to the risk of terrorism have created their own government mechanisms for financing terrorism losses. The terrorism program in each country is unique to that country's own political environment and perceived risk. The structures range from Israel's complete government insurance model to the public-private partnerships created in the United Kingdom ("Pool Re") and in Germany ("Extremus"). Contrary to other countries, the U.S. program does not collect up-front premiums. However, TRIA incorporates a significant recoupment mechanism for financing losses after an event and has comparatively high insurance company retentions – forcing the private sector to bear a larger portion of the risk.

Specifically, under TRIA, the federal government reimburses 85% of all losses in excess of individual insurance company "deductibles" up to an annual aggregate industry loss cap of $100b. Individual company deductibles are set at 20% of prior-year direct earned premium for TRIA-eligible lines. However, to ensure that the program provides industry protection -- not individual company protection – TRIA includes a mandatory recoupment provision that requires repayment via policy surcharge of any federal tax dollars used to reimburse terrorism

[2] Swiss Re presentation to investors and the media, p. 16, September 9, 2013 (http://media.swissre.com/documents/pres_20130909_Monte_Carlo_final.pdf)

[3] The FIFA event cancellation bond in 2006 and the Swiss Re excess mortality bond program included the peril of terrorism. Both were multi-event bonds, with the FIFA bond covering natural catastrophes and terrorism events, and the excess mortality program covering pandemic and terrorism. In both bonds, the terror component was deemed insignificant to the loss exposure of the investors.

losses up to an insurance marketplace aggregate loss retention of $27.5b. Moreover, program losses above the $27.5b can be funded through discretionary recoupment using the same surcharge mechanism.

In the event of a future terrorist attack, TRIA helps to speed the flow of payments to those affected businesses that have purchased terrorism insurance, as well as their employees, which helps those businesses and the economy recover. The clarity and commitment of an explicit federal backstop enhances the ability of re/insurers to offer terrorism insurance and helps the private market to ameliorate the potential loss from an attack. In addition, taxpayers benefit in many ways from TRIA. First, taxpayers benefit from the economic security provided by having access to commercial terrorism insurance before an attack. Second, after an attack, the immediate flow of claims payments offers stability to commercial taxpayers that suffer directly or indirectly from an attack and minimizes economic disruptions that would otherwise follow an attack. Finally, to the extent that federal resources are needed to respond to a truly catastrophic terrorism loss, TRIA's recoupment mechanism provides a stable way to ensure that federal expenditures ultimately can be recaptured and repaid without compromising the viability of the private commercial insurance marketplace.

Conclusion

At bottom, it is the unique and uninsurable characteristics of terrorism that are driving all of these developments. From Swiss Re's vantage point as a reinsurer and an insurer subject to TRIA, the nature of the risk underscores the need for a continuing government partnership with the private sector under TRIA. TRIA may not be perfect, but it has proven to be an effective way of balancing the challenges of terrorism risk with national security, private market stability, and establishing the foundation for an orderly economic recovery following catastrophic terrorist attacks on U.S. soil. Thank you again for inviting me to testify today, and I would be happy to answer any questions from the Committee at the appropriate time.

Swiss Re

Terrorism Risk Insurance Act (TRIA)

The Economic Case for Public-Private Partnership

Economic Research & Consulting, September 2013

Ginger Turner
Senior economist
+1 914 828 8064
Ginger_Turner@swissre.com

The Terrorism Risk Insurance Act (TRIA), a congressional act that has protected the US economy from terrorism since 2002, is set to expire in 2014. Unlike most natural catastrophes, major acts of terrorism remain uninsurable by private markets, and the extension of TRIA is vital for the stability of the US insurance industry. International comparisons with foreign government programs provide insight into the range of options.

Contents

I. Uninsurable features of terrorism risk

The mere existence of terrorism insurance...

At first glance, it might appear that terrorism risk is insurable. After all, it is a risk that insurers currently carry on their books and that reinsurers used to cover in the past, even without TRIA. Yet even though terrorism has been insured in competitive markets previously, it is not a fully insurable risk.

...does not prove that it would be widely available under free market conditions.

Although terrorism coverage is available for most insureds much of the time, it is not universally available under free market conditions. Because terrorism risk has many qualities that make it difficult to insure, insurers limit their exposure. The resulting limited supply of coverage means that, for some insureds, it will be either entirely unavailable or available at prices that are prohibitive.

Terrorism risk lacks many of the characteristics that would make it insurable

Insurable risks are measurable, have independent loss occurrences, manageable average and maximum losses, premium rates that are acceptable to both insurer and insured, and adequate industry capacity.[1] Terrorism risk fails to meet these criteria. For terrorism, there is a lack of both historical data and simulation data. Existing data is mostly classified by intelligence agencies, and furthermore, any known attempts to de-classify and model such data in private markets could invite terrorists' deliberate attempts to evade prediction.

Information to quantify risk is not adequate for underwriting.

Terrorism risk is unmeasurable

Terrorism risk is impossible to measure precisely. It is inherently more challenging than natural catastrophe risk, because of the willful nature of terrorist attacks and historical data that is limited and largely irrelevant. Natural catastrophes are physical phenomena. Through the efforts of geologists, engineers and economists, insurers' understanding of these risks has improved over time. A steadily growing body of data on catastrophic events — and declining computation costs — have facilitated the development of more accurate catastrophe models.

[1] Swiss Re, sigma 4/2005, "Innovating to insure the uninsurable."

Due to the willful nature of terrorist events, modeling approaches remain unproven

Terrorism risk cannot be assessed in the same way. Unlike a natural catastrophe, it is a willful act. Terrorists, unlike natural phenomena, try to confound those who study them. Although they have improved in the past five years, models that forecast the frequency and severity of terrorism events remain in their infancy. The models are highly subjective and idiosyncratic. Even the most skilled practitioners are far from an informed consensus on how to effectively model terrorism risk.

Insurers must exercise great caution when promising to cover ambiguous risks

Because the probabilities underlying terrorism risk are poorly understood, insurers exercise great caution when covering the risk. One study found that underwriters require premiums 43% to 77% higher in cases of extreme ambiguity than when the probability of a risk is clearly understood.[2] Lack of clarity with respect to terrorism risk makes insurers less able to cover it and prompts them to charge higher risk premiums.

Loss occurrences are not independent

Terrorism losses are correlated over time and across business lines.

Insurable risks are generally characterized by independent loss occurrences. In recent years, terrorists have shown a preference for launching coordinated attacks, which can make loss occurrences highly correlated. As the scale of terrorist attacks has escalated, their potential to affect many lines of business has grown. Results from terrorism coverage can therefore be highly correlated across lines of business.

Average and maximum losses unacceptably high

Insurable risks are of a magnitude that insurers can bear.

Insurable risks tend to occur with a regular frequency that allows the industry to plan for average and maximum losses. For unprecedented events, insurers do not have enough data to accurately estimate risk or hold adequate reserves to cover probable maximum losses. A large-scale terrorist attack could generate potential losses so far beyond the scope of other insured risks that they cannot be diversified within the private insurance industry. Loss estimates for terrorism scenarios must consider the worst-case total loss exposure. Many industry participants learned on 11 September 2001 that their scenarios were not, in fact, "worst case".

Terrorism losses, by contrast, can be truly devastating.

Potential losses are limited only by the imagination of terrorists. An RMS study estimates that a release of anthrax in Chicago could cause $55 billion in insured workers compensation and life/health losses. Towers Perrin found that a New York City release of anthrax could cause $91 billion in insured workers compensation losses. Other scenarios that include weapons of mass destruction lead to insured losses in excess of $250 billion, nearly equal to the total claims paying capacity of the entire US commercial property and casualty sector. Finally, a recent study by the American Academy of Actuaries indicates a potential for $778 billion of insured losses from a large CNBR (chemical, nuclear, biological or radioactive) attack on New York City. Although these studies address CNBR events, recently-thwarted terrorist plots demonstrate that conventional items can also cause mass destruction.

Mutuality

For a risk to be insurable, there must be *mutuality*, a communal willingness to share the risk.

One further characteristic common to insurable risks is *mutuality*, which implies that the parties exposed to a given risk are willing to join together to build a risk community to share the risk. Insureds must be satisfied that the terms of the risk

[2] Howard C. Kunreuther et al, "Ambiguity and underwriter decision processes", *Journal of Economic Behavior and Organization*, May 1995.

sharing with other members of the risk community are economically fair, a perception that depends on society and culture.

Without mutuality, adverse selection occurs, increasing the chance of market failure

If only high-risk parties are willing to purchase insurance (so-called "adverse selection"), coverage may become unaffordable as premiums rise to reflect the risk profile of the adversely-selected insureds. This problem of adverse selection further increases the likelihood of market failure.[3]

A lack of mutuality makes it difficult to buy terrorism coverage in major urban areas

This represents a basic market failure that policy makers should work to rectify.

Just such a lack of mutuality appears to exist in major urban areas, which are at greatest risk of terrorist attacks. New York City, Los Angeles, Toronto, Chicago, Washington D.C., and Boston are not mere exceptions. Aside from their great symbolic and economic importance, these metropolitan areas are home to approximately 60 million people. In such high profile cities, businesses and individuals are much more likely to purchase terrorism insurance, while those in less densely-populated areas are not, resulting in adverse selection and market failure that affects about 20% of the population of the US and Canada.

II. Market imperfections and the need for intervention

Free markets, though often highly efficient, are sometimes wasteful.

Although competitive private markets generally lead to the most productive allocation of resources, markets sometimes fail to function efficiently, creating a waste of resources and loss of economic value. The market for terrorism (re)insurance is especially prone to market failure. When market failure occurs, the government can improve social well-being through appropriate intervention. This intervention can occur through the price mechanism (taxes, subsidies); by mandating provision of service; by public provision of service; by public financing of private provision; or through regulation.

Markets failures relevant to terrorism insurance

The malfunctioning of markets, which economists call "market failure"...

There are three fundamental economic reasons why government intervention in the market for terrorism insurance market will benefit the country.

- imperfect information
- the private sector's underproduction of, or failure to produce, *public goods*
- *externalities* that may not be taken into account

Imperfect information

...often arises from imperfect information.

Information imperfections are a basic source of market failure. Producers and consumers must have adequate knowledge of product quality and prices to make sound economic choices. The absence of sufficient information can reduce market activity because of distrust between buyers and sellers.

Information imperfections are endemic to the insurance industry ...

The problem of imperfect information is often the central challenge facing insurance buyers and sellers. Insurance contracts promise future delivery and rely on *pricing inversion*, i.e., the price is set before the costs of production (claims and expenses) are known. Insurers and their insureds both face uncertainty with respect to these costs.

...particularly when there is adverse selection or a lack of opportunity to diversify.

When this uncertainty is especially pronounced due, for example, to changes in the legal, judicial or social landscape, markets become suboptimal. Insurers will not provide every type of coverage for which demand exists. In particular, they will

[3] Market failure can be rectified if coverage is made mandatory, solving the problem of adverse selection. Private insurer premiums would be lower, reflecting the risk profile of the entire risk pool, rather than that of just those in high risk areas. Mandatory and enforced risk based pricing can create a system that the public deems equitable.

avoid risks characterized by heightened adverse selection, basic ambiguity, or a lack of diversification opportunities. For example, private companies offer little unemployment insurance.

A government backstop can rectify this source of market failure for terror insurance.

Due to the imperfect information problems noted above — a shortage of historical data, a limited ability to model future events, and the willful nature of the risk — terrorism is a risk whose great ambiguity makes it prone to market failure. The provision of a government backstop injects much-needed certainty into the market, making it economically possible for the insurance industry to provide adequate coverage.

Public good

A public good is one that all enjoy in common.

A public good is one that "...all enjoy in common in the sense that each individual's consumption of such a good leads to no subtractions from any other individual's consumption of that good".[4] Examples of public goods include national defense, law enforcement (including the system of property rights), public fireworks, clean air and street lamps.

Public goods are underproduced because "free riders" can enjoy them without paying.

The ability of "free riders" to enjoy public goods without paying for them makes it less profitable for businesses to produce them. Even when society's collective willingness to pay for these goods exceeds their cost of production, individuals may be unwilling to pay a price high enough to warrant their production. Businesses will therefore tend to produce fewer of these goods than are socially optimal, or none at all. The tendency of businesses to underproduce public goods sometimes makes it beneficial for the federal government to provide these goods and services at an efficient level.

Counter-terrorism initiatives and the ability to insure against terrorism risk are public goods.

Government counter-terrorism policies and crisis management following an attack mitigate the risks associated with global terrorism. These initiatives, a natural extension of the government's role in national defense and law enforcement, provide a public good. The presence of a terrorism insurance market with enough capacity to meet the needs of the economy is likewise a public good, reducing the level of uncertainty both before and after a terrorist event. Security, stability, respect for property rights and the absence of violence and coercion are among the cornerstones of any society.

Externalities

Externalities arise when parties affect one another yet don't take this into account.

Externalities arise when the actions of one party make another worse or better off, yet the first party neither bears the costs nor receives the benefits of his effect on others. Externalities can be positive (e.g. creating beautiful architecture) or negative (e.g. blasting loud music). Markets provide incentives to maximize profits and minimize costs, but not to consider the profits or costs of others. Consequently, when externalities exist, producers and consumers lack incentives to consider the costs they impose, or the benefits they provide, to other parties.

A major attack would create negative externalities, disrupting the economy.

A major terrorist attack might easily result in externalities, with cascading losses. For example, the 2005 London Underground bombing cost an estimated $1 billion in lost tourism and transport revenues. One study finds that, absent TRIA,

[4] Paul A. Samuelson (1954), "The pure theory of public expenditure", *Review of Economics and Statistics*, 36 (4): 387-389. The opposite of a public good is a private good. Water, for example, is a private good: its owner can exclude others from using it, and once it has been consumed, it cannot be used again.

coordinated truck bomb attacks in the US could cause the loss of more than a million jobs and a decline in real GDP, due to sharp declines in confidence and investment. With TRIA in place to improve economic confidence and recovery time, the number of jobs lost would be reduced by half and the GDP decline averted.[5] Furthermore, the non-renewal of TRIA could have negative externalities of market uncertainty, so that even without another major terrorist attack, the absence of TRIA would cause US GDP to decline by 0.4% and cut employment by 326,000 jobs.[6]

III. Insufficient industry capacity to cover a massive terrorist event

Total industry capital is not a good indicator of terrorism insurance capacity.

Despite the insurance industry's size, total capital is not a good indicator of the amount that would be available to cover losses from terrorism. Based on aggregate data, the industry appears to have ample resources to cover large-scale terror events, as US property/casualty firms had a total surplus of $615 billion and wrote $522 billion in total direct premiums in 2012.

Surplus appears high due to natural catastrophes, low interest rates, and regulatory requirements, but would not be available for terrorism.

However, industry surplus appears high compared to historical levels for three main reasons. First, other catastrophe risks, such as major hurricanes, create the potential for large and increasingly-frequent losses. Industry surplus has grown to provide coverage for natural catastrophes, as these risks have grown over time, due to both weather patterns and property value concentration in coastal areas. Second, surplus currently appears inflated due to historically-low interest rates. Third, regulatory requirements have changed since the financial crisis, and insurance companies have a fiduciary responsibility to shareholders to employ capital responsibly. Therefore, insurers and reinsurers must continually adjust surplus to adhere to both regulatory and financial risk management standards. These factors are subject to change surplus quickly (for example, in the event of a major hurricane or a rise in interest rates) and do not guarantee that surplus would be available for terrorism risk in the future.

Surplus is also segmented by line of business and geography.

Furthermore, the aggregate industry surplus is compartmentalized by line of business, and most annual premiums are needed to pay claims for high-frequency losses such as motor insurance. Also, the aggregate surplus represents funds held by insurers writing coverage in all states. For example, if a major terrorism event occurred in New York, Washington or Los Angeles, only insurers writing policies in the state where the attack occurred would be liable.

An increase in reserves would help, but would cause accounting and regulatory problems.

One possible response is for the industry to build reserves. But insurers lack incentives to hold expensive equity capital sufficient to finance losses from extremely high severity, low frequency events. US accounting provisions preclude establishing pre-tax terrorism reserves. Even if they were allowed to do so, tax law would penalize such reserving via double-taxation of the investment income earned on reserves, which would substantially reduce after-tax profitability. In

[5] Economy.com, "The impact of terrorist attacks on the US economy", Report for The Hartford, October 2005.
[6] "Economic Effects of Federal Participation in Terrorism Risk," American Insurance Association, 2004

addition, some argue that high reserves would invite regulatory scrutiny and consumer backlash in the event of a rate increase.[7]

According to research, massive Florida windstorm losses could destabilize the industry.

Massive losses could potentially destabilize the insurance industry. Research on the effects that a $100 billion Florida catastrophe would have had in the late 1990s offers some clues.[8] Although the industry would have been able to pay 90% of the losses, approximately 140 insurers would have failed, the largest failure rate in more than a century. Post-event, there would be fewer insurers and those that would remain would raise rates, tighten terms and conditions and, in many cases, withdraw coverage completely.

Yet the industry is even more vulnerable to terrorist events.

The insurance industry is more vulnerable to terrorist events than to natural catastrophes. Whereas windstorm risk is insured and backed by state funds and global reinsurers, terrorism risk is a smaller market, backed just by TRIA and a limited amount of reinsurance.

IV. Securitization not a viable substitute for terrorism insurance

Over the past decade, a market for Insurance Linked Securities (ILS) has developed for modeled risks.

The maturation of a market for Insurance Linked Securities (ILS) over the past decade has been an exciting development but does not substitute for traditional insurance. Risk assessment for catastrophe bonds is not done by expert underwriters but by risk rating agencies on behalf of investors. While catastrophe bonds can increase capacity and access for different investor pools, they cannot push the boundaries of parametric uncertainty or ambiguity. Catastrophe bonds therefore focus on the best understood and modeled risks. Thus far, capital markets have not assumed insurance risks that would not be assumed traditionally by reinsurers. Because terrorism risk is largely uninsurable, a significant market for terrorism bonds may never develop.

A pure terrorism bond is not yet feasible.

A pure terrorism bond would require rating agency evaluation and would need to overcome investor resistance. To rate terrorism bonds, ratings agencies would need to rely on third party terrorism risk models. These have not yet proven trustworthy to the investment community. Even with a rating, investors would be reluctant to buy terrorism bonds, due to the potential for moral hazard and asymmetric information. Since investors feel most comfortable with risks that insurers underwrite, terrorism bonds could supplement, but not replace, insurance.

The $14 billion capacity of cat securities in 2012 is dwarfed by the $28 *trillion* value of private and residential structures.

Catastrophe bonds, the most mature segment of the ILS market, are created mostly for natural catastrophes. After a decline in issuance following 2007, total issuance has grown since 2008 and reached approximately $6 billion in 2012, bringing total capacity to approximately $16.5 billion at year end 2012. This amount is dwarfed, however, by the value of private property in the US. The aggregate value of U.S. private nonresidential structures, including office, industrial, and retail properties, is about $11 *trillion*, according to the U.S. Commerce Department's Bureau of Economic Analysis. The total value of residential structures in the US is

---

[7] Dwight M. Jaffee and Thomas Russell, "Catastrophe insurance, capital markets, and uninsurable risks", *Journal of Risk and Insurance*, June 1997.

[8] David Cummins et al, "Can insurers pay for the 'big one'? Measuring the capacity of the insurance market to respond to catastrophic losses", *Journal of Banking and Finance*, March 2002, pp. 557-583.

estimated at $17 *trillion*. Thus, the total insurance-linked securities market still provides only a small fraction of the potential capacity needed.

Terrorism risk will likely represent a small share of overall ILS issuance in coming years

Only two types of terrorism-related bond have been issued to date, and neither is explicitly a terrorism bond. Rather, each is a multi-event cat bond associated with the risk of terrorist attack or the risk of natural disaster or pandemic. The first bond was developed by FIFA, the world football governing body, to protect its investment in organizing the 2006 World Cup in Germany. The security, rated investment grade (A3) by Moody's, covered natural and terrorist catastrophic events that would result in the cancellation of the World Cup game. The second category of bonds related to terrorism is catastrophic mortality transactions, which cover significant increases in population mortality for any reason. Rating agencies and investors have become comfortable with these transactions, because the main source of risk is a pandemic or natural catastrophe with higher expected value than a terrorist attack, so that terrorism risk contributes only a small portion of the expected loss. Currently, there is no expectation that pure terrorism bonds will be offered in the catastrophe bond market.

V. Advantages of a public-private response to terrorism risk

Even without a backstop, the government would likely step in after a major terrorist attack.

This implicit backstop distorts incentives and increases waste.

Without TRIA, the Federal government would lack an explicit backstop for major terrorist attacks. Many believe that the government would nonetheless provide aid to individuals, insurers, and other businesses who suffer devastating losses from a terrorist event, even if they have not purchased insurance. Thus, even without an explicit terrorism risk backstop, the government provides a perceived implicit backstop. However, such uncertainty about whether the government would step in distorts incentives for the private market and increases the likelihood of misspending funds.

An explicit government backstop offers numerous advantages...

An explicit government terrorism risk backstop offers numerous advantages. It reduces ambiguity both pre- and post-event and enhances transparency by making it clear who will pay how much for what, should an event occur. This clarity makes it easier for insurers to price risks and strengthens the incentives to mitigate risks and to purchase terrorism insurance.

...making lower premiums and higher coverage possible.

A broader societal sharing of terrorism risk makes lower premium rates possible. The median premium rate for terrorism insurance for middle-size and large firms was $57 per million of total insured value (0.0057%) in 2004, $37 per million (0.0037%) in 2008, $25 per million (0.0025%) in 2009, according to Marsh. By 2012, medium rates for the largest companies (those with greater than $1 billion total insured value) declined to $19 per million (0.0019%). The decrease and stabilization of premium rates is largely explained by the absence of any new attack on U.S. soil, as well as the effect of competition in insurance markets. By reducing uncertainty, a backstop also reduces the risk of financial market disruption in the wake of an attack.

By lowering the disruptive impact of terrorists, a government backstop reduces their incentive to strike.

A final benefit of an explicit backstop is that it reduces the "gains to terrorism". A goal of terrorists is to undermine a society through confusion and fear. A backstop that provides contingent resources reduces the cost of disruptions and the gains to terrorist acts. The prospect of a smaller "payoff" may conceivably reduce the incentive for terrorists to act, allowing insurance to discourage terrorism.

Appendix: International comparisons

Most countries facing terrorism risk already have government programs either proposed or in place.

Most countries facing terrorism risk have programs initiated or proposed by their governments to backstop terrorism risk, including European countries (Austria, Belgium, Denmark, France, Germany, Italy, Netherlands, Northern Ireland, Spain, Switzerland, UK), as well as countries in other regions (Australia, Hong Kong, India, Israel, Russia, Sri Lanka, Taiwan, Namibia, South Africa). Some developing countries also face substantial terrorism risk but do not have governance systems in place to address the risk.

Such programs usually develop after a large terrorism event....

Each country has developed a terrorism insurance arrangement unique to its own political structure and perceived level of risk, usually established following the experience of a major terrorist attack. The overview below shows the variety of approaches taken by different countries to terrorism risk sharing between the government and the private insurance industry.

...therefore reflecting each country's unique political and historical situation.

On one end of the spectrum, Israel has faced high costs of terrorism historically, using complete government coverage and no private involvement. On the other end, Germany has established a private insurance company dedicated to extreme risk. Other countries, such as Spain, France, UK, and US, have developed different structures for public-private risk sharing, using pre-determined loss tiers.

On the international spectrum, the US program reflects a middle ground of public and private involvement.

Contrary to what is done in some other countries, the U.S. federal government does not collect any premiums in exchange for covering 85% of the insurer's losses above the deductible. However, compared to other countries, private insurers in the US must pay a high deductible before triggering any government assistance, and this deductible has increased over time.

1. Israel: Complete Government Coverage, No Private Involvement

Israel relies completely on government.

Since 1961, any direct or indirect damages from terrorist attacks within Israel, for either individuals or businesses, have been compensated directly by the State's public compensation fund according to a pre-defined formula. The public fund is financed by the general property tax collected across the country, and there is no private insurance for terrorism risk.

2. Spain: Government Coverage, Sold by Private Insurers

Spain provides state-backed catastrophe reinsurance in exchange for premiums.

Since 1954, terrorism has been covered as part of the State-backed insurance compensation for extraordinary risks, which also includes natural hazards and riots, from the *Consortio de Compensation de Seguros* fund. Private insurers sell property insurance including terrorism coverage as an add-on, but private insurers do not bear any catastrophe risk. Commercial enterprises pay a fee of 0.21 euros per thousand of property coverage and an additional 0.25 euros for business interruption insurance against catastrophic risks, with no differentiation in rates. The fund has over 4 Billion euros in reserves, and during its 50-year history, it has been able to pay claims quickly without requiring additional government backstop.

3. France: Public-Private Risk Share, Unlimited Government Reinsurance

The French government backs a reinsurance pool...

Since December 2001, the public-private partnership GAREAT has provided a co-reinsurance pool for sharing commercial terrorism risk, not including personal lines. The first layer of 400 million euros is shared between 105 members, pro-rated to their share of ceded business. The second layer up to 2 Billion euros is provided by private insurers and reinsurers. Beyond 2 Billion euros, the French government provides an unlimited guarantee through the state-owned reinsurance company

...made possible by mandatory universal coverage and uniform insurance premiums.

Caisse Centrale de Reassurance (CCR). Premiums are shared between the pool (52%), reinsurance (36%), and the CCR (12%) (Michel-Kerjan, 2012).

A key feature of the French system is that terrorism insurance is mandatory, so that the take-up rate is 100%. Reinsurance rates do not vary by location; they are spread identically across the country, as a percentage of property premiums. Costs are much higher than those in the United States, with French rates 6-24% of property premiums and US rates 3-8% of property premiums.

4. United Kingdom – Unlimited Government Credit to Private Pool

The UK government provides unlimited debt to a private reinsurance pool, which must repay any funds borrowed.

Since 1993, the UK has provided commercial property and business interruption insurance for terrorism acts (since 2002 extended to chemical, biological, and nuclear risks) through a mutual reinsurance organization called Pool Re. The UK Treasury provides unlimited credit to Pool Re, which is open to any private property insurers, but loans must be repaid in full to the government. Private insurers have an individual retention before being reimbursed by the pool, which is based on their proportional participation in Pool Re, applied to the "industry retention" (£100 million per event, £200 million per year in 2012). Pool Re must exhaust its reserves (currently £4.7 billion) before receiving any UK government assistance, and it shares 10% of its collected premiums with the UK government in exchange for coverage.

5. Germany – Government-Backed Private Insurance Company

The German government backs a private catastrophe insurance company.

Since 2002, the federally-backed property insurance corporation *Extremus AG* has provided catastrophe insurance for Germany, covering property and business interruption for total insured losses over 25 million euros. The annual compensation by *Extremus* for any company is capped at 1.5 Billion euros. Unlike Pool Re, *Extremus* is not a reinsurance institution but a private insurance company. It is reinsurance by both private reinsurance companies (first layer limited to 2 Billion euros), as well as by the federal government (second layer of 8 Billion euros). The annual capacity to pay claims is therefore 10 Billion euros. *Extremus* collects approximately 50 million euros in premiums and pays 12.5% of premiums to the federal government in exchange for coverage.

6. Netherlands – dedicated reinsurance company

The Dutch government backs a dedicated private reinsurance pool.

Since 2003, the Dutch Terrorism Risk Reinsurance Company (NHT) has provided catastrophe insurance as a dedicated reinsurance pool. The NHT has available market capacity of EUR 1 billion per calendar year, with EUR 400 million borne by the pool participants according to their market shares and the excess layer up to EUR 950 million placed on the international reinsurance market, with the Dutch government contributing EUR 50 million.

The above international review shows that different countries have responded to the question of terrorism risk financing differently, and that those responses were often modified after terrorist attacks on national soil. International benchmarks may be relevant for the United States as we rethink the role that TRIA should play in the future.

TESTIMONY ON TERRORISM INSURANCE RISK MODELING

Dr. Gordon Woo

Catastrophist, Risk Management Solutions Inc.

United States House of Representatives, Committee of Financial Services,

2129 Rayburn House Office Building, Washington DC 20515

September 19, 2013

EXECUTIVE SUMMARY

Terrorism has become and will remain a catastrophe insurance risk. The possibility of a malicious aircraft impact in a central business district of a major U.S. city will exist as long as there is air travel. The private sector market for any catastrophe insurance peril requires risk to be quantified. To meet this need, catastrophe insurance modeling has progressed from covering earthquakes and hurricanes in the 1990s to terrorism after 9/11.

In 2002, when the Terrorism Risk Insurance Act (TRIA) was introduced, and subsequently, when TRIA was reauthorized in 2005 and 2007, some attention was given to terrorism insurance risk models, but experience was still too limited for them to be accorded much weight. Now, in September 2013, with a doubling of experience since 2001, terrorism insurance risk modeling has attained a level of capability, validation and maturity to make a more notable contribution to the discussion over the future of TRIA.

What has become clearer since 2007 is that terrorism risk is as much about counter-terrorism action as about terrorists themselves. U.S. terrorism insurance is essentially insurance against the failure of counter-terrorism. This is true not just in the U.S.A., but across the western alliance: Canada, Western Europe and Australia. Numerous terrorist plots are developed, but the vast majority are interdicted through the diligence of western intelligence and law enforcement agencies. Mass surveillance of communication links, and the intrusion of intelligence moles, elevate the likelihood of plot interdiction with plot size.

The ambitious plots that might have the potential to cause massive insurance loss would tend to involve a significant number of operatives, and thus be very prone to interdiction: too many terrorists spoil the plot. Attacks by a lone wolf, or a pair of operatives such as the Boston bombers, may be horrific acts of murder and destruction, but they are unlikely to cause large catastrophe insurance payouts.

An earthquake is a deadly and destructive force of Nature, but it is not a crime. After the tragic Japanese tsunami of March 2011, a Japanese boy asked why the earthquake that caused the tsunami could not be arrested. Terrorism is a crime. Terrorists can be arrested in a way that earthquakes and hurricanes cannot. Whereas Katrina and five other hurricanes could strike the U.S.A. in 2005, the possibility of a wave of successful terrorist attacks throughout a single year is extremely remote because of the prompt and vigorous counter-terrorism response that would inevitably follow any successful attack. Once aware of the appalling 2005 London bombing death toll, Prime Minister Blair responded that 'this changes everything'. And it did, particularly in more robust counter-terrorism legislation and counter-radicalization initiatives.

With every terrorist brought to justice, the evidence of counter-terrorism control of loss volatility is accumulating across the western alliance. Progressively, the courtroom record of terrorism convictions, combined with low terrorism insurance losses, should encourage cautious expansion of the U.S. terrorism insurance market.

However, terrorism risk is not geographically diversifiable. In striving to maximize loss impact, subject to counter-terrorism security constraints, terrorists predominantly choose iconic targets with name recognition in populous urban centers. There is thus a steep threat gradient outside New York and Washington D.C., and other major American cities. Hurricane insurance is required all along the East coast, in suburban and rural areas as well as cities. But unlike hurricanes, terrorists intentionally focus on striking the crowded centers of large cities. Furthermore, Al Qaeda seeks to use whatever means, including weapons of mass destruction, to inflict maximum loss, which might be far beyond private sector market capacity.

The lack of geographical diversification inherently limits the insurance market capacity for covering terrorism risk in the central business districts of Manhattan and other main metropolitan areas. A key ongoing challenge for future terrorism insurance market development is the lack of capacity in some prominent zip codes.

Market pricing and capacity depend not just on past loss experience, which has been low since 9/11, nor just on the estimated average loss, but also on the perception of the uncertainty in risk estimation. In contrast with natural hazards, terrorism risk analysis is not learned in college or professional insurance courses. Unless insurers are otherwise informed about counter-terrorism effectiveness, uncertainty is instinctively presumed to be very large compared with natural hazards.

Terrorism risk modelers thus have an important educational role in guiding the perception of uncertainty through analysis of the key risk factors, such as terrorist plot interdiction. Such analysis is not common public knowledge because security agency staff, with several notorious exceptions, take pride in serving in silence.

The federal government has a permanent implicit involvement in terrorism insurance in providing extensive counter-terrorism resources to stop terrorists before they move to their targets. These resources have been deployed very effectively since 9/11. Continued proficiency of counter-terrorism action provides a solid security platform for future development of the terrorism insurance market, and potentially also risk transfer to the capital markets, provided that a government backstop is in place for the most extreme losses.

THE INTERDICTION OF TERRORIST PLOTS

For terrorism as with natural hazards, a catastrophe insurance risk analyst's task is to assess the likelihood of an event occurring, not to predict, let alone prevent, an event. This is the responsibility of the intelligence and law enforcement agencies. In leaving office as FBI director after 12 years of distinguished service, Robert Mueller thanked his staff: '*Through their hard work, their dedication and their adaptability, the FBI's better able to predict and prevent terrorism and crime*'.

The annual frequency of terrorist attacks against the U.S. homeland is quite narrowly bounded, being tightly constrained by intelligence and law enforcement vigilance. The high interdiction rate of terrorist plots against the countries of the western alliance can be understood through an analysis of social networks. Many audacious terrorist plots may be imagined; but the actual scale of any real terrorist plot is fundamentally restricted by the connectivity of social networks. A terrorist plot can be readily compromised through leakage of information.

RMS Inc. has estimated that a plot involving as many as ten operatives has only a slim 5% chance of avoiding interdiction. This is corroborated by the injunction of Osama bin Laden from his Abottabad hideout that plots against the U.S. homeland should not involve more than ten operatives. With the intensive global surveillance conducted today by western intelligence agencies, a plot involving as many as 19 hijackers or bombers would have only a minimal chance of eluding their attention. This is of course the very purpose of such surveillance – to stop 9/11 happening again.

Lone wolf attacks are the most likely to evade interdiction, but the least likely to cause massive catastrophe insurance loss. Next, plots involving two terrorists may have a reasonable chance of succeeding, especially, as in Boston, when the operatives are brothers, with just one family as a potential leakage source. Ambitious plots with the potential to cause catastrophe insurance losses would generally need to involve a sizeable number of people to be technically and operationally effective and successful. In particular, it should be recognized that large complex plots requiring numerous operatives, e.g. 5 ton truck bombs and weapons of mass destruction, would only have a slight chance of being successful.

Risk-based estimates of potential loss, taking account of scenario likelihood, might support enhanced insurance cover in central business districts of major cities. To take a seismic risk analogy, earthquake insurance capacity in Manhattan would be substantially reduced if loss aggregation were based on a rare Magnitude 7 earthquake scenario, that might cause an economic loss of several hundred billion dollars.

The plot that would have caused the largest U.S. terrorism catastrophe insurance loss since 9/11, had it not been interdicted, was masterminded from Britain by Dhiren Barot. This ambitious 2004 plot targeted important iconic buildings in New York and Washington D.C.. Had it succeeded, the insured loss might have been of the order of $10 billion. But this plot was interdicted: Barot and his team of seven accomplices were arrested, convicted and jailed.

Only a handful of major terrorist plots in countries of the western alliance have not been interdicted since 9/11. For the U.S.A., before the Boston marathon attack on April 15, only three major plotters were not foiled: the aircraft shoe bomber, Richard Reid, in December 2001; the aircraft underpants bomber, Umar Farouk Abdulmutallab, in December 2009; and the Times Square vehicle bomber, Faisal Shahzad, in May 2010. In U.K., there have been the London transport bombings of July 7, 2005 and July 21, 2005, and an attempted vehicle bombing of a nightclub in the London theater district in June 2007.

In U.K., as in the U.S.A., the advanced professional tradecraft in plot detection and tracking means that terrorism insurance is essentially insurance against the failure of counter-terrorism. Government reassurance over the maintenance of effective counter-terrorism programs should reduce a major source of uncertainty in the minds of terrorism insurers.

TERRORISM RISK MODELING

Dr. Gordon Woo

Committee on Financial Services,
2128 Rayburn House Office Building,
Washington DC

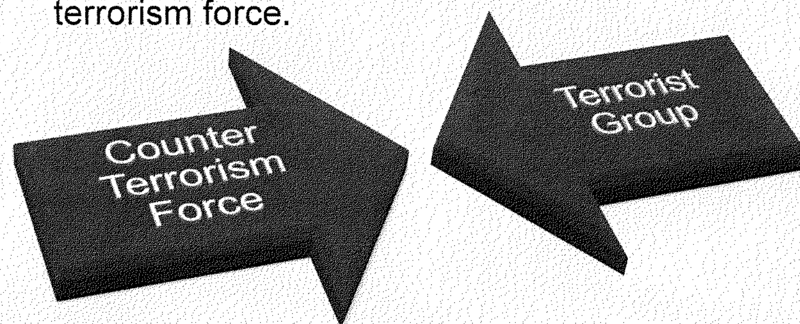
September 19th, 2013

RMS™

TERRORISM IS A CONTROL PROCESS

Flexible and rapid counter-terrorism threat response reduces the volatility in insurance loss potential.

- **Terrorism is NOT just about terrorists**.
- Terrorism is a deadly strategic game where terrorist action is opposed by counter-terrorism force.



In countries of the western alliance, including USA, Canada and Western Europe, which have extremely proficient intelligence and law enforcement services, terrorism is controlled.

RMS

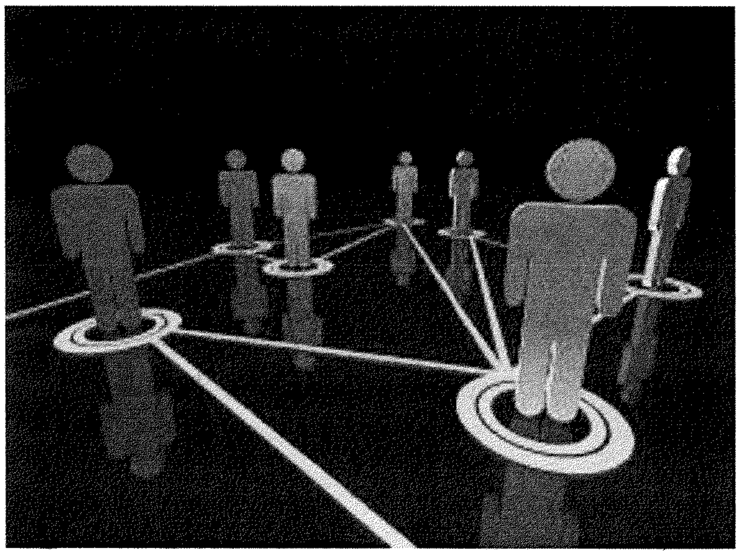
Suppressive counter-terrorism action as a response to terrorist attacks

- Security is ratcheted up to prevent another terrorist attack.
- Targets are hardened.
- More security staff are hired.
- More informants are recruited by the security and law enforcement services to obtain early warning of future plots.

The principles of terrorist modus operandi

- Terrorists seek to maximize loss, subject to security changes.
- Terrorists follow the path of least resistance in their operational planning.
- Terrorists are members of social networks, which are under surveillance from counter-terrorism intelligence and law enforcement services.

Social network plot constraints



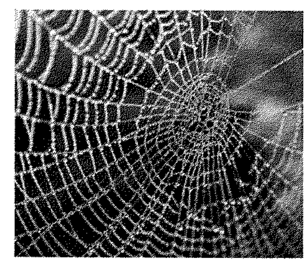
For terrorism in countries with effective intelligence services, hazard events are subject to the universal law of social networks, which apply as much to terrorists as to other groups in society.

Meta-data mining of conspiracies

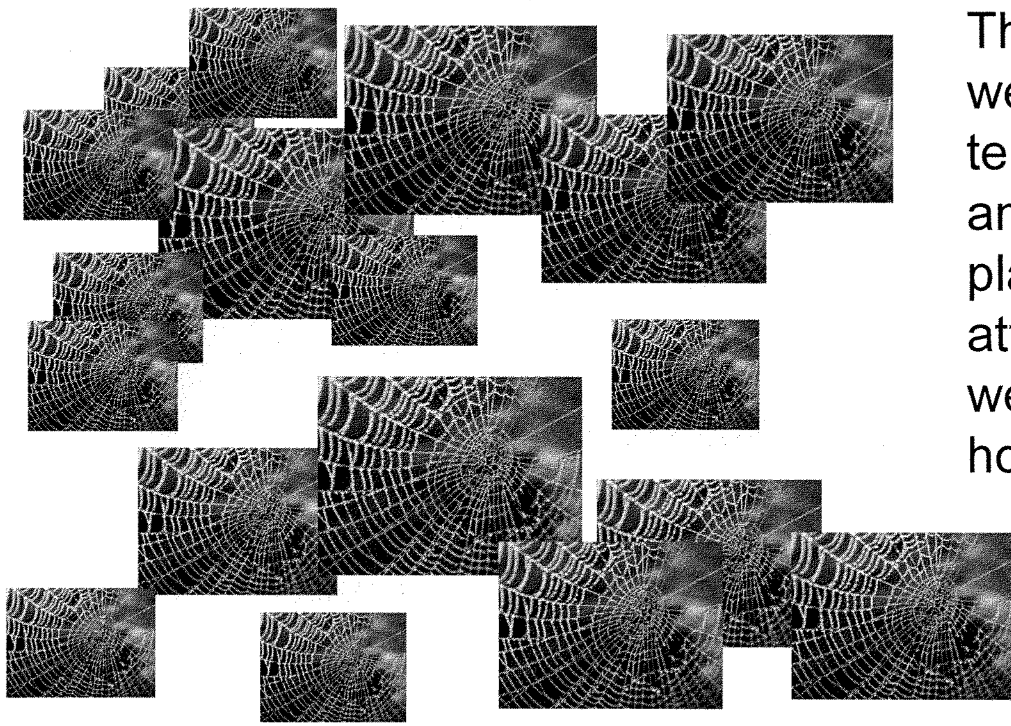
"Analysts start with a suspect and spider-web outward, looking at everyone he contacts, and everyone those people contact, until the list includes thousands of names.

Before individuals are actually wiretapped, computers sort through flows of meta-data , information about who is contacting whom by phone or e-mail."

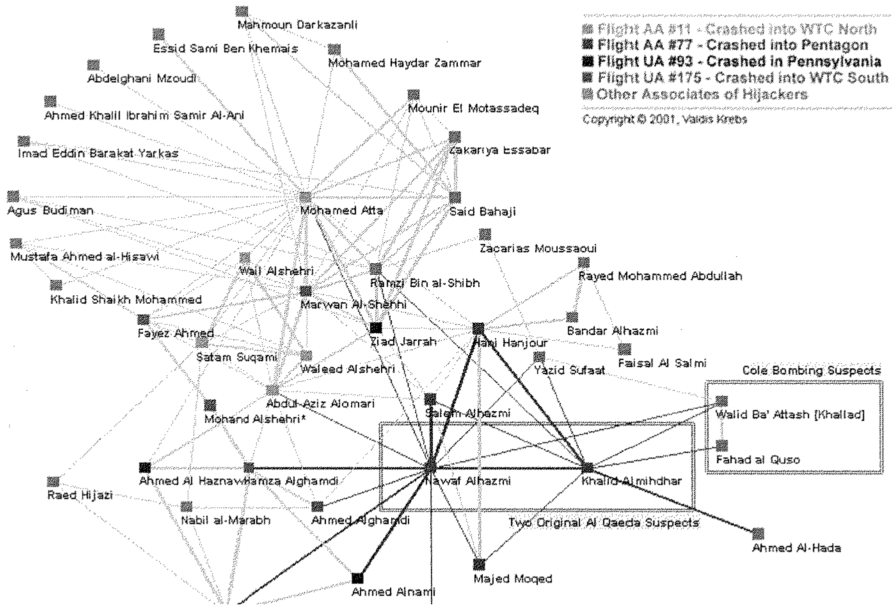
Ex-NSA staff member



Spanning the webs of known terrorists



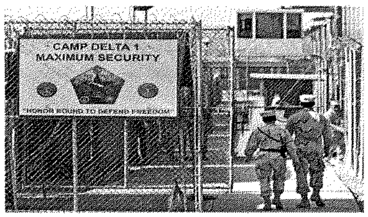
The aggregated webs of known terrorists close in on any operatives planning new attacks against western alliance homelands.



All nineteen 9/11 hijackers were within 2 degrees of separation from two original suspects uncovered by CIA in 2000.

Valdis Krebs

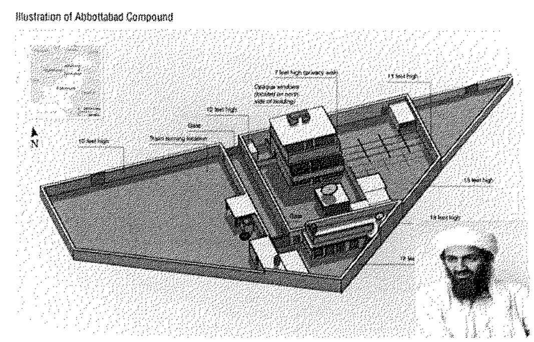
Social network downfall of Osama bin Laden



Old Friend

Intercepted
catch-up
phone call

Abu Ahmed al-Kuwaiti
COURIER



Too many terrorists spoil the plot

Through indiscretion, each contact may provide an entry point into a plot network. The probability that a conspiracy is not compromised is the product of the likelihood of non-discovery by any external contact.

Cell Size	1	2	3	4	5	6	7	8	9	10
Plot Interdiction Probability	0.26	0.46	0.60	0.70	0.78	0.84	0.88	0.91	0.93	0.95

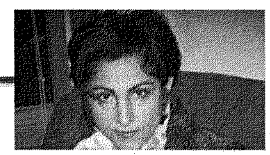
'For a large operation against the US, pick a number of brothers not to exceed ten...'

Osama bin Laden

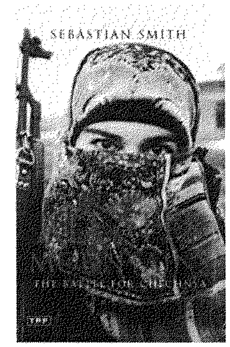
Tamerlan and Dzhokhar Tsarnaev

To minimize your social network footprint,
if you can't carry out the plot as a lone wolf, the
next best strategy is to enlist your kid brother....

William
Plotnikov



Zubeidat
Tsarnaev

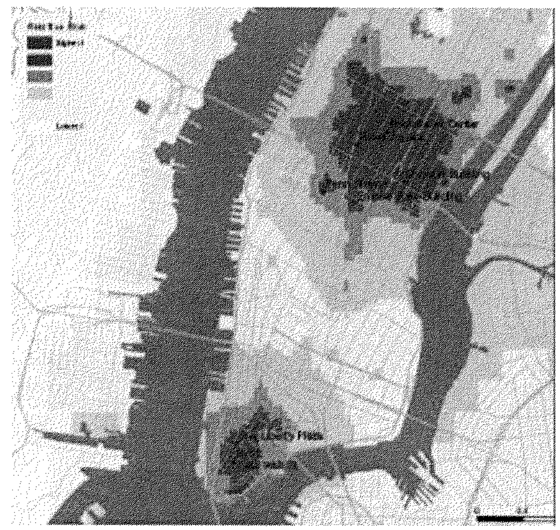


FSB

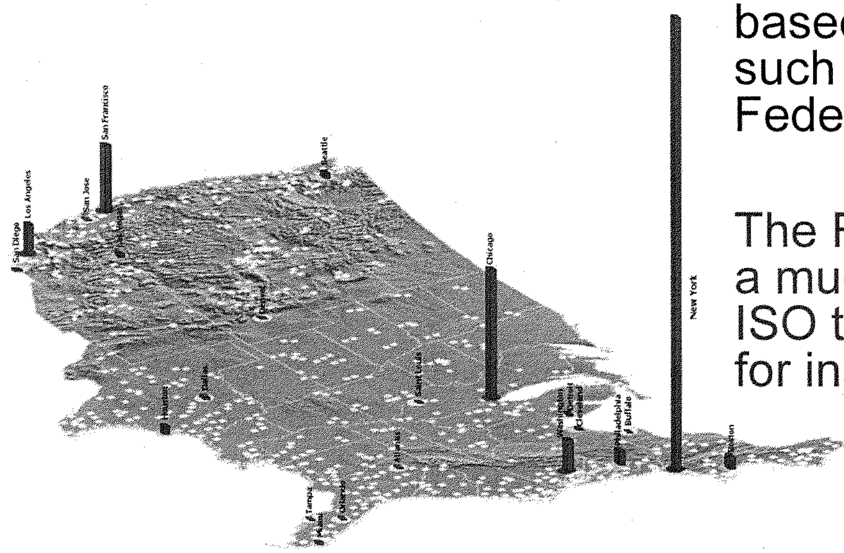
Concentrating force at crucial points

'It's been said that when you find a terrorist, he'll have a map of New York City in his back pocket.'

Mayor Bloomberg
(following Times Square bomb plot of May 1, 2010)



Dzhokhar Tsarnaev told the FBI that he and his brother had intended to drive to New York and detonate additional explosives in Times Square.



The 2002 RMS model challenged the 'population-based' assessments of risk, such as those used to distribute Federal funds.

The RMS model contrasted with a much flatter gradient of the ISO terrorism rating by zip code for insurance.

The heartland theory suggested that terrorists might concentrate their attacks in small towns, so that no American could feel safe.

Post 9/11 bomb plots targeted at major commercial buildings

2004: **New York, Newark NJ and Washington DC** offices (Dhiren Barot)

- Operation Rhyme originating in UK

2006: Sears Tower, **Chicago** (Narseal Batiste)

- Conspiracy of seven from Liberty City, Miami

2009: 60-story skyscraper in **Dallas** (Hosam Smadi)

- FBI vehicle bomb sting operation

2010: Times Square, **New York**, bomb (Faisal Shahzad)

- FBI exploded a correctly constructed version of the bomb.

2010: Pioneer Courtyard Sq., **Portland**, (Osman Mohamud)

- FBI vehicle bomb sting operation

Precise terrorist targeting of high-value properties

- With the centers of the principal US cities being the prime focus of terrorism, there is a heavy concentration of exposure at risk that is only weakly diversifiable across the country.
- Commercial insurers cannot build a significant book of business without including a high proportion of exposures in these areas.
- This leads to substantial adverse selection: the strongest demand for terrorism insurance comes from the principal cities.

No bound to potential destruction

- The proclaimed ambition of terrorist plot destruction has no upper bound.
- An early version of the 9/11 plot involved additional planes flying into high-rise buildings in Chicago and Los Angeles.
- The 2006 liquid explosives aviation plot targeted the destruction of seven passenger planes over North America.
- There is no intrinsic finite limit to the catastrophe scale of property and casualty losses from a terrorist attack.

Insurance against counter-terrorism failure

- Whatever behavioral moves a terrorist organization makes can be countered by agile and adaptive western security and law enforcement services.
- A successful terrorist attack can only happen if there is some failure of the counter-terrorism forces.
- Terrorism insurance in countries of the western alliance is essentially insurance against counter-terrorism failure.

‘Known Knowns’ of terrorism risk

- Terrorism has become and will remain a catastrophe risk.
- Terrorists have the ambition to inflict maximum loss, with no limit to the scale of property or casualty loss.
- Terrorists deliberately target properties in principal cities with very high insured value.
- But terrorism is subject to counter-terrorism control.

American Insurance Association

2101 L Street, NW
Suite 400
Washington, DC 20037
202-828-7100
Fax 202-293-1219
www.aiadc.org

September 16, 2013

VIA ELECTRONIC SUBMISSION (http://www.regulations.gov)

The Federal Insurance Office
Attention: Kevin Meehan
Room 1319 MT
Department of the Treasury
1500 Pennsylvania Ave., N.W.
Washington, DC 20220

RE: President's Working Group on Financial Markets: Terrorism Risk Insurance Analysis

The American Insurance Association ("AIA") appreciates the opportunity to comment on questions that were published in the July 16, 2013, Federal Register by the Federal Insurance Office ("FIO") on behalf of the President's Working Group on Financial Markets ("PWG") concerning the long-term availability and affordability of insurance for terrorism risk.[1] AIA represents approximately 300 major U.S. insurance companies that provide all lines of property-casualty insurance to consumers and businesses in the United States and around the world. AIA members write more than $117 billion annually in U.S. property-casualty premiums and approximately $225 billion annually in worldwide property-casualty premiums. Our members underwrite about one-quarter of the commercial insurance market and include half of the top ten commercial lines writers in the U.S. As such, terrorism risk remains a significant concern for our members and our members continue to support the need for a balanced public-private partnership as established under the Terrorism Risk Insurance Act of 2002 ("TRIA"),[2] as further modified and extended most recently under the Terrorism Risk Insurance Program Reauthorization Act ("TRIPRA").[3]

In responding to the questions raised by the PWG in its request for public input, AIA would like to take the opportunity to review the evolution of the market for terrorism risk since the original passage of TRIA, including developments in modeling and underwriting; revisit the

[1] 78 Fed. Reg. 42588 - 42589 (July 16, 2013).
[2] Pub. L. 107–297, 116 Stat. 2322.
[3] Pub. L. 110-160, 121 Stat. 1839.

continuing insurability challenges associated with the risk of large-scale terrorism events; examine the advantages of *ex post* vs. *ex ante* risk spreading approaches for risks like terror; and provide an overview of the nature of the insurance and reinsurance markets in evaluating the "insurability" of terrorism risks. Our submission includes detailed information addressing the questions raised by the PWG in the Request for Comment (RFC). In so doing, AIA submits that the risk of unconventional and large-scale terrorism events remains uninsurable and that only through a public-private partnership can insurance be used as an important economic weapon in neutralizing terrorist objectives.

Executive Summary

While AIA's submission responds to the questions posed by the PWG in anticipation of its statutory report to Congress, several issues bear emphasis. First, the risk of terrorism is fundamentally different from other exposures because the underlying event is intentional and largely in the control of the individual terrorist or terrorist group planning an attack. As such, the means, location, and timing of a terrorist attack rely on a human element. The adage, where there's a will there's a way, impedes the influence of mitigation efforts, advances in modeling and government interdiction. Relevant information typically involves national security intelligence that is not available to the public, including the insurers that underwrite the risk, the businesses seeking insurance, and the reinsurers and other risk-spreading mechanisms that provide support for the primary carriers.

Second, flowing from this fundamental difference in insurability, a government role is necessary due to the nature of terrorism risk and to provide some certainty and stability for the private insurance market to operate. Third, far from "crowding out" private market capacity, TRIA's public-private partnership has provided this stability and certainty, and allowed commercial insurers to become more comfortable with individually managing terrorism exposures without compromising financial solvency. The main reason for this is that the TRIA individual insurer retention creates a quantifiable cap on the maximum exposure assumed by an insurer. Even though an underwriter cannot predict how much of the retention is at risk in any given scenario, he or she can at least know the worst case exposure and underwrite it accordingly. However, the current insurer retentions are significant, having steadily increased to 20 percent of an individual carrier's prior year direct earned premiums for covered property-casualty lines before any federal participation in loss-sharing. Also, the 15 percent insurer co-share of every dollar of loss (after the 20 percent "deductible" is reached) must be taken into account by the underwriter. Unfortunately, a worst case exposure from the co-share cannot be reasonably quantified and adds uncertainty. Therefore, any increase in insurer retentions – either through deductibles or co-shares – might threaten the public-private balance currently achieved by the program, and make the conditions untenable for insurers that are charged with the responsibility of maintaining their businesses in sound financial condition.

Fourth, and as an outgrowth of the current insurer retentions, TRIA has effectively become a government backstop for the uncertain risks of unconventional and large-scale terrorist attacks in the United States. This is a valuable government role and ensures that there will be an orderly economic recovery following such an attack. Finally, however, TRIA's success should not be misconstrued to mean that the nature of terrorism risk has fundamentally changed. As a result, while AIA agrees that TRIA should be examined to determine whether it is the most viable program for the long-term, such an examination should be done with full knowledge that private market alternatives also face the identical obstacles that terrorism risk poses for insurers.

Foundations of Insurability: Why Can't Private Markets Bear This Risk?

TRIA was originally passed in 2002 and has been extended twice by Congress, each time with programmatic adjustments intended to incent additional private-sector risk-bearing for terrorism. While the primary insurance industry has managed to these programmatic changes, very little new private sector capacity for terrorism has developed. As such, a natural question arises as to whether the private markets can assume more terrorism risk without public involvement, especially given that 11 years have passed since the Terrorism Risk Insurance Program ("TRIP") was established. Unfortunately, as we discuss below, this question presumes that the risk of terrorism is an insurable peril – an assumption that does not square with the facts, given the unpredictability of frequency and severity of terror events. With the success of TRIA over the past 11 years, the more fundamental question is how is the risk of terrorism most efficiently pooled and financed within the U.S. economy? Addressing this question requires an examination of the different approaches for risk pooling; the nature of the risk vis-à-vis conditions for insurability; the impact of regulatory constraints; and evidence of existing so-called "free market solutions" for terrorism.

Technically, risk pooling (or risk spreading) is accomplished by establishing contractual obligations today that effect a redistribution of income in some future period, contingent on the occurrence of some "adverse" event.[4] The establishment of contingent contractual obligations can be accomplished through many mechanisms, including traditional insurance, equity or debt instruments, and/or government taxes and transfers. Where sufficient information regarding the risk is known up-front (e.g., overall likelihood and severity of loss and the relative probabilities of loss across the pool participants) and when the risk of loss is not catastrophic, contracts can be established to create an optimal risk pool on an up-front or *ex ante* basis. Private insurance works well in this case. Private insurers administer a risk pool on behalf of policyholders – collecting a risk-based premium, pooling the risk and paying claims out of the pool resources when a loss occurs. When information on the risk is not knowable in advance and a risk pool cannot be funded up-front with risk-based premium, risk pooling/spreading is still feasible, but only on an *ex post* basis. The challenge with creating an *ex post* risk exchange, however, is that it generally requires the existence of an authority to credibly appropriate needed capital to absorb loss and then recoup it from society after an

---

[4] *See, e.g.,* Karl Borch, The Mathematical Theory of Insurance, Lexington Books (1973), and Ken Allow, *The Role of Securities in the Optimal Allocation of Risk Bearing*, 31 Review of Economic Studies 2, 91-96 (1964).

event -- usually an authority only ceded to governments.[5] Large-scale and unconventional terrorism are unique challenges because they are risks that fail the conditions for private "insurability," but impact traditional lines of insurance.

Conditions for Insurability – As noted above, private insurance provides an effective "ex ante" mechanism for risk pooling/spreading. However, in order for private companies to establish credible *ex ante* contracts for redistributing or pooling risk, the risk needs to meet certain conditions, referred to as conditions of insurability. In general, for a risk to be considered privately insurable, the risk should be quantifiable (i.e., knowable, measurable and well understood), well-behaved (i.e., identically-distributed), and independently impact each of the members in the insured population (i.e., limited catastrophe risk exposure). When these conditions are met, insurers can adequately price each insurance policy to reflect the relative risk of each party to the overall pool (i.e., risk-based pricing), while allowing the insured to benefit from the diversification effects of belonging to the pool. Statistically, the benefit of risk pooling emanates from the Law of Large Numbers, where the standard deviation in the mean loss for an individual tends toward zero when the number of participants in the pool gets infinitely large – greatly reducing the risk load charged on the insurance policy.[6] The problem with the risk of terrorism is that the risk does not meet any of these criteria, as we highlight below.[7]

The Risk of Large-Scale and Unconventional Terrorism is Still Not Well Understood – In order for a private insurance market to function, insurance companies must have sufficient information to quantify the probability of a loss both from a frequency and severity standpoint (i.e., overall and relative probabilities by risk) and the correlation between losses – key ingredients for setting the fair risk-based premiums used to create an optimal risk pool. As discussed in prior PWG reports and in other studies, the risk of terrorism is exceptionally difficult to quantify and the risk of large-scale or terrorism attacks by nuclear, biological, chemical, radiological ("NBCR") or other unconventional means may be largely unquantifiable at this point. This section highlights some of these challenges.

[5] See Christopher Lewis and Jay Bruns, *Insuring the Uninsurable? Catastrophic Risk, Private Markets, and Public Policy*, Casualty Actuaries of New England Annual Meeting, Massachusetts (2007), and Goran Skogh and Hong Wu, *The Diversification Theorem Restated: Risk-pooling Without Assignment of Probabilities*, 31 Journal of Risk and Uncertainty 1, 35-51 (2005).

[6] Of course, even if a given risk meets these conditions, the premium charged for the insurance must be viewed as "economic" to consumers for a market to exist. For example, for high frequency and low severity risks (e.g., low value jewelry or toys), high transaction costs make it more efficient for consumers to self-insure and very little market exists – a private market solution that includes no insurance.

[7] Questions of insurability have been raised in numerous publications, including *TRIA and Beyond: Terrorism Risk Financing in the U.S.*, the Wharton Risk Management and Decision Processes Center, The Wharton School (August 2005), and Baird Webel, *Terrorism Risk Insurance: Issue Analysis and Overview of Current Program*, CRS Report for Congress, Congressional Research Service (April 26, 2013).

Probability – While we can speculate on the likelihood of relatively small-scale terror attacks based on the number of interdicted plots over the past several years,[8] the probability of the large-scale terrorist attacks that trigger the TRIA program is largely unknown, and potentially unknowable, to the private sector. In contrast with other perils where insurers rely on hundreds of thousands or millions of loss records, the industry has extremely limited historical information for understanding the likelihood of a catastrophic terrorist attack. Even for natural catastrophes where the probabilities of a large hurricane or earthquake exhibit some degree of uncertainty, the industry is able to leverage scientific information going back hundreds, and in some cases thousands, of years to understand the risk, notably with respect to where such natural catastrophes are likely to occur and the type of damage that is likely to result. No such data exists for terrorism. Some of the third-party modeling firms have developed subjective or network-based models to assess the risk of terrorism.[9] However, no modeling approach can be validated without sufficient data to test the inputs and to back-test the model output relative to a sufficient number of actual events. Thus, while such modeling is always encouraged, these models lack the empirical support required to determine their credibility in assessing the likelihood of a catastrophic terrorist attack, the likely success of interdiction efforts, and the ultimate probability of a loss.

Federal law enforcement and defense experts may have a better sense of the likely terrorism attack scenarios and their probability, but this information, to the extent it exists, is classified and subject to government protection, as is appropriate for matters of national security. Moreover, this information should remain confidential to help those agencies interdict and stop the attack(s) and to limit the opportunities that the terrorists have to adjust their tactics in response, undermining the government's ability to thwart the attack. This *dynamic* aspect of terrorism is unique when compared with most other forms of privately insured perils.[10] Generally, the underlying risk does not adjust the timing, location, and type of attack in response to efforts to protect against a loss, dynamically seeking out the weakest link in the insured's defenses to inflict the maximum damage possible. That is, the occurrence of an act of terrorism is not a random event, but an intentional act carried out by humans and designed to evade detection and to inflict maximum physical, psychological and economic damage.

In fact, not only is terrorism dynamic, but it exhibits *interdependence*. The case of interdependence is where the exposure of one insured is highly dependent on the strength of defense not just at its location, but at all locations in the surrounding area and – as the attack

---

[8] For a partial list, see Robert P. Hartwig and Claire Wilkinson, *Terrorism Risk: A Constant Threat*, Insurance Information Institute, 3 (June 2013).

[9] See, e.g., *RMS Probabilistic Terrorism Model* in Lloyd Dixon, Robert J. Lempert, Tom LaTourrette and Robert T. Reville, The Federal Role in Terrorism Insurance: Evaluating Alternatives in an Uncertain World, RAND Center for Terrorism Risk Management Policy (2007).

[10] N. Keohane and R, Zeckhauser, *The Ecology of Terror Defense,"* 26 Journal of Risk and Uncertainty 2 and 3, 201-229 (2003). Statement by George J. Tenet, Director, Central Intelligence Agency (CIA), before the Senate Select Committee on Intelligence on the "Worldwide Threat 2001: National Security in a Changing World, February 2001."

on 9/11 demonstrated – at locations hundreds of miles away.[11] Interdependence makes terrorism risk extremely difficult, if not impossible, to underwrite as the risk exposure is a function of many factors external to the insured's risk profile. The challenge of interdependence is that an individual insured has very little incentive, and often very little ability, to identify and invest in loss mitigation beyond acts that provide protection for other perils. In fact, absent government policy, the dynamic and interdependent nature of terrorism risk may result in inefficient individual choices around terror mitigation (e.g., to relocate away from central business districts and avoid major transportation hubs).[12] As a result, unlike the case for natural catastrophes (e.g., proposals for higher deductibles, building code credits etc.), suggestions focused on forcing the private sector to retain more risk so as to encourage effective mitigation are overly simplistic and may be counterproductive. That is, terrorism is a collective defense problem that cannot be addressed by individual mitigation. Stopping or limiting the risk of terrorism is a national defense issue where insurance can provide an ameliorating role, but only as part of a coordinated government strategy/program.

Loss Severity – Even assuming that the insurability problems associated with the frequency, target location and type of terrorist attack in the United States could be overcome, understanding of the potential severity of a large-scale terrorist attack remains quite limited. Working with internal and external modeling experts, the insurance industry has invested significant time and resources to better understand the potential losses from a successful terrorist attack. The progress that has been made over the past 11 years reflects the fact that for single-location, conventional terror attacks, insurance companies can estimate – though still with significant uncertainty – the severity of an attack and have managed the potential aggregation of losses across policyholders through capacity management actions within the existing retentions.[13] In fact, with the current levels of TRIA deductibles (i.e., 20 percent of prior year direct earned premium for TRIA-covered lines), almost all conventional, single-site, terrorist attack scenarios are managed by large companies within the individual company retentions today.

Notwithstanding the progress on conventional terrorism attack scenarios, however, the industry continues to have extremely limited information for assessing the potential severity of a devastating terrorist attack using unconventional weapons or attack modes. For example, there simply is no precedent for the potential death and destruction that can be caused by an NBCR attack on the United States, and what evidence is available would suggest cataclysmic losses and unique claims-handling scenarios for the industry.[14] While evidence exists that terrorist groups have sought out and intend to use these weapons, the industry has no credible basis for estimating the potential loss scenarios associated with large-scale NBCR attacks.

---

[11] See Howard Kunreuther and Geoffrey Heal, *Interdependent Security*, 26 Journal of Risk and Uncertainty 2 and 3, 231-249 (2003) and Geoffrey Heal and Howard Kunreuther, *IDS Models for Airline Security*, 49 Journal of Risk and Uncertainty 2, 201-217 (2005).

[12] Keohane and Zeckhauser, *supra* note 10 at 201-229.

[13] It is important to stress that TRIA has created the stability that has allowed individual insurer management of terrorism exposure to take place.

[14] Dixon, Lempert, LaTourrette, and Reville, *supra* note 9.

Moreover, the evolving turbulence in countries that possess stockpiles of these weapons heightens the potential risk. The inter-linkage between U.S. foreign and defense policy and the threat of future terrorist attacks reinforces the central role that terrorism plays in our national defense strategy.

Lack of independence -- The potential for large-scale terrorist attacks using NBCR weapons also highlights the second biggest challenge to the insurability of terrorism – *a lack of independence across policyholders. Ex ante* risk pooling works well when the probabilities of a loss for any one policyholder are completely independent of other policyholders. As a result generally, the likelihood of a large group of policyholders being hit with a loss at the same time remains very low and is easily managed by the capital resources of an insurance company. In a successful NBCR attack, all policyholders in a given region would be hit simultaneously (i.e., perfectly correlated) and any benefit of *ex ante* risk pooling becomes illusory.[15] While managing exposure aggregations for natural catastrophes can be a challenge, the severity of a successful NBCR attack dwarfs the loss potential of natural catastrophes. For hurricanes and earthquakes, catastrophe models typically estimate a maximum loss potential of $200-300 billion. For terrorism, the largest modeled losses can be in the trillions of dollars.[16]

The challenges associated with a lack of independence are also manifest in the newest form of unconventional terrorist threat – cyber terrorism. Under a cyber attack, the origin of the attack can be from any single location where there is a computer and access to the internet. However, the ultimate victims of the attack (e.g., Denial-of-Services, Identity Theft, system degradation/control) can be numbered in the thousands or millions, can be widespread geographically, and can be located in any area of the United States. In this context, traditional insurance company means of exposure management are challenged.

Absent TRIA, insurance companies would need to hold a considerable amount of capital against these potentially catastrophic events. This capital is required to meet both internal and external risk concerns, including capital to maintain the external ratings from Nationally Recognized Statistical Rating Organizations (NRSROs).[17] The increased costs associated with holding additional capital would increase the risk load on the underlying insurance premium significantly. Between the increased risk load and the absence of any premium benefit from *ex ante* risk pooling, the optimal market solution would be to revert back to self-insurance, which would undercut the private market stability and certainty that the TRIA program provides today. Thus, especially with respect to the risk of large-scale NBCR attacks – attack scenarios that are being covered by TRIA today – a private market solution is likely to be a "no insurance" solution comparable to the conditions in the reinsurance market today. Of course, given state regulatory constraints on certain insurance product offerings (e.g., workers' compensation), a

[15] Under conditions of perfect correlation, the standard deviation in the average loss for policyholders is additive, the benefits of risk pooling don't hold and the insurance risk load can be prohibitively expensive.
[16] Dixon, Lempert, LaTourrette, and Reville *supra* note 9, at 19.
[17] If insurance companies elected not to hold the additional capital, the risk of a large scale terrorism loss would be passed on to the company's shareholders, debtholders, and ultimately policyholders through the guaranty fund system.

"no insurance" solution would create significant practical challenges for the private insurance industry and the states, as reviewed below.

Additional Challenges in Underwriting and Risk Selection – The third major challenge of insurability with respect to terrorism is that, while all policyholders are exposed to the risk of terrorism, the current thinking is that the relative likelihood will be higher around major metropolitan areas; marque properties and landmarks; government buildings and utilities; and key distribution or production centers of the economy. As a result, the relative risk for policyholders will differ substantially across geographies, industries, and even types of buildings. The challenge imposed by the varying distributions of risk across policyholders is that, with the challenge of quantification identified above, pooling the risk of terrorism can drive adverse selection. That is, with a limited ability to differentiate across policyholders with a risk-based premium, the potential demand by "high risk" policyholders could drive up the average premium to levels that are unacceptable to "lower risk" policyholders, who then simply choose not to purchase terrorism coverage. As this process repeats, with only the highest risk policyholders demanding coverage, the market for terrorism insurance again would migrate to a "no-insurance" solution as premium rates would become uneconomical for almost all policyholders.

In summary, the insurance industry has continued to invest and make improvements in its ability to manage available capacity for the risk of conventional terrorism, supported by the stable partnership underlying TRIA. Over the past 11 years, the industry has improved the modeling around conventional terrorism losses and taken steps to redistribute outsized exposures to levels that are more manageable within the risk appetites of the individual companies – all while increasing the overall take-up rate for terrorism insurance in the commercial marketplace (a principal objective of TRIA). As a result, the industry is in a better position today to manage the risk of a conventional terrorist attack – a scenario that is predicted to result in losses contained within most large insurance company TRIA retentions. However, the fundamental insurability challenges of terrorism, especially unconventional, large-scale terrorism, remain unchanged.

Alternative Private Market Solutions – Despite the insurability challenges of terrorism cited above, some have questioned the need for a federal role in backstopping the terrorism insurance market – preferring to prod the private markets to develop a purely private solution. The premise of this line of reasoning is that a private market solution, even if second best, is still more desirable than a solution that involves federal government participation. As a general approach, private industry supports this view. Unfortunately, given the national security characteristics of terrorism and its lack of insurability, this approach will not lead to an expansive private market. Instead, it would very likely lead to a "no insurance" model for terrorism where all businesses retain the risk of terrorism.

To obtain a better understanding of how this "no insurance" solution may look, we can simply look at the market for private terrorism reinsurance, where only $6-8 billion of reinsurance capacity exists for conventional terrorism[18] (representing only a fraction of the aggregate industry retention under TRIA) and virtually no reinsurance capacity exists for terrorism losses using NBCR weapons.[19] The net result would be that the risk of terrorism would be redistributed to business owners, borrowers, lenders, employees, and very likely to, the federal government through post-disaster relief aid. While this approach may sound theoretically appealing to some, this model ignores several key practicalities that undermine its viability.

First, this approach presumes that insurance companies have the ability to exclude the peril of terrorism from the underlying insurance products. In reality, insurance companies are often compelled to offer terrorism coverage as part of their standard product offerings. As such, even under this approach, federal legislation would be needed to preempt state regulations compelling the provision of terrorism coverage on the underlying policies.

> ***Workers' Compensation*** – For example, workers' compensation policies are a state-defined or "statutory" policy that must cover "all risks," including the risk of terrorism. As a result, if an insurance company elects not to offer terrorism coverage, the only avenue for excluding the coverage on their workers' compensation portfolio is to not write the entire workers' compensation policy. If insurance companies drop their workers' compensation policies, state residual markets and workers' compensation pools -- that are generally required to take all risks -- would have to absorb all of these policies – transferring workers' compensation risks, either back to these same companies required to reinsure the financial results of residual market pools, and thereby jeopardizing the financial security of the workers' compensation private market, or possibly to a state's taxpayers, if the residual market is a state fund.[20] About 19 states have active state workers' compensation funds, financed by employers, as is the private workers' compensation market. Most of these state funds are members of their respective state's property-casualty guaranty funds. Thus, if a state fund became financially impaired and is a member of the guaranty fund, again, the entire private market's financial security is jeopardized.
>
> While it is unclear how states would react to such a development, the development could ultimately result in the socialization of all workers' compensation risks by the states, not just the peril of terrorism. Moreover, the exposures for workers' compensation would now be concentrated in individual states (limiting geographic diversification), which would likely lead to an increase in pricing or a drain on state

---

[18] Testimony of Edward B. Ryan, AON Benfield, "TRIA at Ten Years: The Future of the Terrorism Risk Insurance Program," before the Subcommittee on Insurance, Housing, and Community Opportunity, House Financial Services Committee, at 3 (September 11, 2012), available at http://financialservices.house.gov/uploadedfiles/hhrg-112-ba04-wstate-eryan-20120911.pdf.

[19] *Id.* at 4.

[20] Testimony of Dennis Smith, Missouri Employers Mutual Insurance and the American Association of State Compensation Insurance Funds, before the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, House Financial Services Committee, at 4 (June 21, 2007), available at http://archives.financialservices.house.gov/hearing110/htsmith062107.pdf.

budgets. Further, as the state pools are not structured to manage such an increase in risk, questions would remain as to how to finance a large loss event from any catastrophe, including terrorism or an earthquake. Even in a "second best" framework, we find it challenging to view the absorption of the workers' compensation markets by the state's taxpayers as a more optimal structure. Equally important, the wholesale transfer of all workers' compensation exposures in this manner would truly represent a governmental assumption of risk (i.e., non-terrorism workers' compensation risks) that can be managed within the private sector.

Commercial Property – Another example is coverage for the "fire following" an uninsured peril under a standard commercial fire policy. A number of states have regulations that require an insurance company to provide coverage for the "fire following" an explosion or other uninsured peril loss even if the loss was caused by a terrorism event.[21] These states include those with major metropolitan areas – California, New York, and Illinois. Since insurance companies cannot exclude fire following an act of terrorism in these states, the only way they can avoid the exposure is by not writing the policy at all, as in the case of workers' compensation insurance above.

Second, most commercial lenders and debtors require that borrowers procure and maintain "all-risk" property insurance (including terrorism) as a precondition to financing. This is because lenders are unwilling to assume the risk of loss to property used as security for financing. If such insurance is not available and commercial lenders had to self-insure the risk, the market likely would see a material contraction in the amount of commercial lending, and hence commercial activity, in the U.S. economy. This pattern of declining commercial construction and lending activity was witnessed in the immediate aftermath of the 9/11 attack when TRIA was not in place.[22]

Third, when catastrophic events have occurred in the past, the federal government understandably has demonstrated a propensity to respond with various forms of government aid.[23] At the same time, the efficiency of that aid distribution process has been repeatedly

---

[21] See, e.g., Cal. Ins. Code §2701; Ga. Admin. Code 120-2-19-.01; Haw. Rev. Stat. §431:10-210; 50 Ill. Admin. Code §2301.30; Iowa Code §515.109; Me. Rev. Stat. tit. 24-A, §3001; Mo. Code Regs. Tit. 20, §500-1.100; N.Y. Ins. Law §3404; N.C. Gen. Stat. 58-44-16; Or. Rev. Stat. §742.216; Wash. Admin. Code §284-20-010; W. Va. Code §33-17-2; and Wis. Admin. Code Ins. 6.76. Some states have adopted specific exclusions for terrorism "fire following" loss, but many of those exclusions are tied to the continuation of TRIA (See, e.g., Ariz. Rev. Stat. §20-1503; Conn. Gen. Stat. §38a-307a; Idaho Code §41-2401; La. Rev. Stat. §22:1311; Mass. Gen. Laws ch. 175, §99; Mich. Comp. Laws §500.2834; Minn. Stat. §65A.01; N.H. Rev. Stat. Ann. §407:22; N.D. Cent. Code §26.1-39-06; 40 Pa. Cons. Stat. §636; and Va. Code §38.2-2102).

[22] Statement of Richard J. Hillman, U.S. General Accounting Office, "Terrorism Insurance: Rising Uninsured Exposure to Attacks Heightens Potential Economic Vulnerabilities," before the Subcommittee on Oversight and Investigations of the House Financial Services Committee, at 9-10 (February 27, 2002), available at http://www.gao.gov/new.items/d02472t.pdf.

[23] Federal disaster declarations have been rising and set new records in 2010 and then again in 2011. See Federal Emergency Management Agency Reports on Disasters at http://www.fema.gov//disasters; Robert Hartwig,

questioned. The private insurance mechanism, where the administration of risk pooling and claims paying has been honed by private market competition, provides a much more efficient vehicle for responding to losses than an *ad hoc* post-disaster relief mechanism administered by the government. The benefit of leveraging an existing insurance mechanism, with its well-established and responsive infrastructure, is no clearer than in the case of business interruption coverage. After 9/11, when most of lower Manhattan was effectively closed, many small businesses would have failed due to a lack of business if not for the funding provided by the business income insurance component of their commercial property insurance policies. Because the reinsurance risk spreading mechanism was in place at that time, insurers were able to help their policyholders maintain revenue streams, meet payroll, and fulfill continuing business obligations as they recovered from that horrible attack. These businesses remained in the area, re-opened, and contributed to the rebuilding effort and economic stability of the region. Without TRIA and without the reinsurance capacity that existed prior to 9/11, small businesses would not have the coverage needed to remain in business after a terrorist attack today – they would have closed permanently, exacerbating the recovery effort and deepening the economic impact on taxpayers, both directly and indirectly.

The value of analyzing this "no insurance" outcome is three fold. First, the model highlights the sophistry in arguments that try to elevate taxpayer obligations over policyholder obligations – policyholders are taxpayers and vice-versa. Second, from an overall economic perspective, the existence of TRIA actually can be less expensive for federal taxpayers. As shown in the 2007 RAND Report, TRIA actually facilitates more private sector risk-bearing and lower expected federal costs, especially for conventional terrorist attacks, than having no program.[24] Finally, the "no insurance" solution identifies the potential downside costs of not utilizing the TRIA-backed private sector insurance mechanism to help ameliorate the impact of the loss -- quickly and efficiently speeding resources to the impacted businesses after a terrorist attack. For example, a study conducted in 2005 by Moody's Economy.com estimated that for a large biological attack in Chicago, the existence of TRIA could reduce the impact of a loss in the first year alone by approximately $200 billion in gross domestic product and 1.4 million jobs as compared to a scenario without a similar federal public-private loss sharing program.[25]

TRIA – A Public-Private Partnership – Recognizing the challenges posed by the unique risk of terrorism and the need to create a more certain and stable private market environment, the Congress and the Administration originally designed TRIA as a public-private partnership – leveraging the private market's capacity to efficiently and effectively administer the risk pooling process and the payment of claims, while utilizing the federal government's ability to pool risk on an *ex post* basis. Given the insurability challenges cited above for unconventional and large-scale terrorism losses, the best approach for pooling the risk of terrorism is through an *ex post*

Overview & Outlook for the P/C Insurance Industry: Trends, Challenges and Opportunities in 2013 and Beyond, at slide 102, Insurance Information Institute, New York (2012).

[24] Lloyd, Lempert, LaTourrette, and Reville, *supra* note 9.

[25] Christopher Lewis, *Managing the Risk of Terrorism in the Economy: A Public Policy Perspective"* American Enterprise Institute Conference "Should TRIA Be Extended?" slide 14 (July 8, 2005), available at http://www.aei.org/files/2005/07/08/20050708_Lewis.pdf.

pooling mechanism. As noted above, *ex post* risk pooling is only effective when backed by a party that can credibly appropriate needed capital to absorb the loss and then recoup it from its citizens. The federal government is one of the few parties with the capacity to provide this *ex post* risk pooling. In the case of TRIA, the federal government can accomplish this *ex post* risk pooling through the TRIP, while funding losses through a combination of mandatory recoupment or general tax revenues if discretionary recoupment is not exercised.

The federal government's credibility and commitment to TRIA provides a level of certainty that has helped facilitate the private market provision of commercial insurance in general, as well as the provision of terrorism insurance and the small but growing amount of terrorism reinsurance for conventional terrorism losses. This credibility coincides with the government's overall mission around national security and defense. Through TRIA, the federal government is enhancing the economy's ability to ameliorate the impact of any terrorist attack, effectively lowering the loss potential of any given event. Given the dynamic nature of the terrorist threat, this amelioration also serves as a deterrent to potential terrorists – effectively lowering the "expected pay-off" from any risk attack scenario.

At the same time, the design of TRIA leverages the benefits of private sector efficiencies in the provision of the coverage. Thus, the taxpayer cost of "administering" TRIP is very low. For example, the partnership maximizes the utilization of private markets for the distribution, administration, and management of terrorism coverage and the repayment of claims – leveraging significant economies of scale and scope within the private sector. TRIA also allows for a more efficient delivery of terrorism coverage by encouraging the provision of such coverage within existing insurance contracts instead of as a separate policy. The program raises the awareness and opportunity for all policyholders to purchase the coverage through the mandatory offer process. Finally, by ensuring a stable market and by providing a short-term liquidity mechanism for catastrophic terrorism losses, TRIA provides reinsurance companies with the confidence that primary carriers can withstand large terrorism events -- effectively "crowding in" a small amount of terrorism reinsurance capacity for conventional losses through the private market.

Of course, public-private partnerships can be created in many forms. In fact, all other major developed countries facing the risk of terrorism have taken similar steps to create their own form of public-private partnership for the insurance of terrorism, each with a slightly different form of public-private partnership. Other government examples include Pool Re in the United Kingdom, Extremus AG in Germany, GAREAT in France, Consortio de Compensation de Seguros in Spain, and the Dutch Terrorism Risk Reinsurance Company.[26] Thus, other public-private partnership approaches are available. It is important to note, however, that TRIA has worked. Terrorism insurance protection is available and affordable in the United States and the financial

[26] Testimony of Erwann O. Michel-Kerjan, The Wharton School, University of Pennsylvania, "TRIA at Ten Years: The Future of the Terrorism Risk Insurance Program," before the Subcommittee on Insurance, Housing, and Community Opportunity, House Financial Services Committee, at 8-11 (September 11, 2012), available at http://opim.wharton.upenn.edu/risk/library/2012-09-11_TRIA-testimony_MichelKerjan.pdf. See also E. Michel-Kerjan and P. Raschky, European Journal of Political Economy, (2011).

protection provided through TRIA is an important component of our national defense against terrorism. As such, any proposals to reform TRIA should be carefully evaluated so as to not undercut the partnership's success.

Addressing Specific Questions on the Potential for TRIA Modification or Termination

Impact of TRIA Termination – As noted above, TRIA has worked and the termination of the program would have potentially serious implications for the private market for terrorism insurance (and insurance generally), the commercial real estate sector, municipalities and overall commerce. A key foundational objective of TRIA was to provide financial security to the economy by ensuring that terrorism coverage was available and affordable, thereby facilitating the continued functioning of private industry. As has been well-documented, many aspects of the economy started to sputter prior to the passage of TRIA due to a lack of terrorism insurance capacity.[27] Given commercial lenders' demand for insurance against terrorism as a condition to provide financing, when coverage wasn't available, commercial projects lacked funding and the wheels of commerce started to seize.

Today, terrorism insurance in the United States is widely available and affordable. For large and mid-sized businesses, brokers have shown take-up rates that have averaged a steady 62-64 percent over the past several years, up markedly from 27 percent in 2003.[28] Moreover, these published take-up rates may understate the overall take-up rate for the industry as they exclude take-up rates for small businesses. As an example, one leading small business insurer and AIA member, The Hartford, recently testified that take-up rates were as high as 98 percent in 2011.[29] Other AIA member companies have reported similar take-up rates in the small commercial insured market. The previously-cited Marsh Report also showed that the cost of terrorism insurance has remained affordable. For property, the cost of terrorism insurance has remained approximately 3-5 percent of the underlying property premium over the past several years.[30] Terrorism insurance is available and affordable today because TRIA has provided the insurance industry and the economy with the protection, certainty, and stability needed to respond in the event of a truly catastrophic terrorism loss.

---

[27] See *e.g.*, President George Bush, "Remarks on signing the Terrorism Risk Insurance Act of 2002, Weekly Compilation of Presidential Documents, Proquest Information and Learning (December 2, 2002).

[28] *2013 Terrorism Risk Insurance Report* Marsh & McLennan Companies, at 8 (May 2013), available at http://www.insureagainstterrorism.org/MMC%20TRIA%20Report%2004-2013.pdf.

[29] Testimony of Christopher M. Lewis, The Hartford Financial Services Group, "TRIA at Ten Years: The Future of the Terrorism Risk Insurance Program", before the Subcommittee on Insurance, Housing and Community Opportunity, House Financial Services Committee, at 4 (September 11, 2012), available at http://financialservices.house.gov/uploadedfiles/hhrg-112-ba04-wstate-clewis-20120911.pdf.

[30] Note that Insurance companies actually apply different approaches for specifying the terrorism premium, including as a percent of premium or a percent of Total Insured Value (TIV).

At the same time, TRIA has forced the insurance industry to manage a significant level of exposure, imposing very high individual company retentions equal to 20 percent of subject direct earned premium, plus a 15 percent coinsurance requirement above the retention. Relative to other public-private partnerships, TRIA keeps a significant amount of private sector "skin in the game." In fact, insurer stock price reaction after the original passage of TRIA supports the fact that TRIA was a balanced give-and-take between the federal government and the private sector and not a windfall for the insurance industry.[31] Quite to the contrary, insurance companies were forced to manage significant concentrations of exposure. Over the past decade, insurance companies have realigned portfolio exposures to manage to these concentrations in the face of increasingly higher retentions – dropping policies in cases of an overconcentration of risk. With TRIA, these policies found capacity from other carriers and the program facilitated an overall rebalancing of terrorism risk within the industry.

Still, any increase in insurer retentions, increased coinsurance requirements, or reduction in the level of federal protection likely would result in a significant retrenchment in industry terrorism capacity. Several points highlight why this is likely to be the case. First, the aggregate industry loss retention of $27.5 billion or the estimated weighted average industry loss retention of $30-34 billion accounts for nearly 30% of TRIA capacity.[32] Few *coordinated, multi-location* conventional (e.g., SWARM) terrorist attack scenarios approach industry loss levels near $34 billion.[33] While the insured losses from the attack on the World Trade Center on September 11, 2001 were approximately $32.5 billion ($42 billion in current dollars), it is considered one of the larger single event scenarios as there simply are very few such high-valued buildings.[34] However, TRIA does provide protection for multiple events in a given year and for any individual insurer in a single event depending on their deductible level. Additionally, the primary insurance industry has little capacity or capability to underwrite the risk of unconventional or large-scale attacks. So, even with substantial capacity in play, particularly for single event scenarios, if the primary insurance industry lost TRIA support for multiple events and unconventional attacks, companies would be forced to evaluate their own exposure profiles – likely resulting in individual insurer decisions to reduce their exposure lest they place their respective companies in untenable solvency positions.

Second, under the current program, insurance exposure to terrorism is already significant. At year-end 2012, insurance industry retentions under TRIA averaged between 8-12 percent of *total surplus* for most large commercial insurance companies.[35] Of course, total surplus is backing all other insurance lines (e.g., homeowners, automobile, fidelity, etc.) and all other risks

---

[31] Jeffrey R. Brown, J. David Cummins, Christopher Lewis, and Ran Wei, *An Empirical Analysis of the Economic Impact of Federal Terrorism Reinsurance*" 51 Journal of Monetary Economics, 861-898, (2004).
[32] Webel, *supra* note 7.
[33] Dixon, Lempert, LaTourrette, and Reville, *supra* note 9 at 19.
[34] Hartwig and Wilkinson, *supra* note 8.
[35] TRIA retentions for large commercial lines carriers estimated using year-end data from SNL Data, 2012.

(e.g., inflation, medical, non-catastrophe property, hurricane, earthquake, etc.) to TRIA-eligible lines and not just the risk of terrorism. If TRIA were allowed to expire, individual company net exposures could more than double or triple and leave exposures in excess of 20 percent of total surplus absent management intervention. In fact, a 2007 Rand study demonstrated that the number of NBCR loss scenarios that consume 30 percent or more of industry surplus would jump from 27 percent with TRIA to over 44 percent if TRIA were allowed to expire.[36] Moreover, this exposure does not adjust for the fact that insurers have other lines of business (e.g., group life, auto) that would experience a loss in a terrorist attack but are not covered under TRIA.

<u>A Note on Policyholder Surplus & Capital</u>

Opponents of TRIA have argued that insurance companies can absorb terrorism risk given the overall level of insurance capital and surplus in the industry, roughly $597 billion at year-end 2012. However, these arguments fail to understand the role of capital in backing other policyholder obligations and, in effect, are calling for an unfunded mandate imposed on all insurance policyholders who would face higher premiums if such an approach were adopted.

- The total level of surplus in the industry at any point in time is a function of many competing factors, including actual vs. projected earnings, expected target returns by line of business, and the amount of risk capital that each firm believes is needed to support each line of insurance based on a ground up evaluation of the risk in that business. Thus, total surplus is really just an outcome of ground up decisions by insurance companies on the amount of capital needed to support the economics of each business. If a company has too much capital, then surplus is returned to policyholders or shareholders: too little capital and the company will raise/save additional surplus. In the competitive insurance marketplace, insurance companies would be challenged to hold pure "excess" capital.
- Of the total surplus, we estimate that approximately $270 billion supports overall commercial lines insurance and about $180-200 billion can be attributed to the TRIA-eligible lines of insurance. This estimate of surplus backing TRIA-eligible lines is consistent with the typical underwriting leverage (i.e., premium-to-surplus ratio) of 0.8:1 to 1.0:1 in commercial lines.
- Third, even within this $180-$200 billion level of surplus, most of the capital is attributed to other risk such as non-catastrophe underwriting, reserving, and investment risk. For example, most large insurance carriers hold between 15-25 percent of their capital for investment activity that is completely unrelated to terrorism. (Note: U.S. insurance companies cannot reserve prospectively for catastrophes, so no reserves are set aside for future terrorism events.)
- Finally, groups that assert the surplus argument against TRIA often have used this argument for any number of other insurance risk issues ranging from natural catastrophes to workers' compensation insurance. While capital can be fungible, it only can be used once.

[37]

Third, while it is extremely unlikely that companies would fail to adjust their risk profile in the face of such an increase in exposure, several recent developments will create even greater pressure for companies to bring their terrorism risk profiles back in line with current parameters:

---

[36] Dixon, Lempert, LaTourrette, Reville, *supra* note 9 at 36-37.

[37] See Federal Insurance Office, "Annual Report on the Insurance Industry," (June 2013), available at http://www.treasury.gov/initiatives/fio/reports-and-notices/Documents/FIO%20Annual%20Report%202013.pdf.

- **Enterprise Risk Management** -- With the advent of formal Enterprise Risk Management (ERM) limits, reporting, and disclosure, primary insurance companies may find it more difficult to quickly or accurately modify their ERM processes to reflect a lower risk appetite that may result from a significant increase in terrorism exposure, due to a substantial reduction or expiration of TRIA.

- **Rating Agency Focus** – The rating agencies have started to increase their focus on insurance company terrorism risk management and an individual company's terrorism exposure relative to surplus.[38] As an example, A.M. Best has been evaluating company exposure excluding the benefit of TRIA and has stipulated that companies could experience ratings pressure if (a) the net exposure to terrorism exceeds 20 percent of capital and surplus, (b) aggregate exposures of risks in specific geographic areas are notably high, or (c) specific location concentrations can adversely impact capital.[39] As highlighted above, many companies could face ratings pressure under this standard if TRIA were severely curtailed or non-renewed.

- **State Regulatory Scrutiny** – A new development in the evolving state regulatory framework for insurance companies is the requirement that each company provide its lead state regulator with an Own Risk and Solvency Assessment (ORSA). The ORSA document is intended to assist the lead regulator in evaluating how each company evaluates its overall risk and capital profile vis-à-vis multi-year solvency. As currently scheduled, companies will start submitting ORSA reports to their lead regulator as soon as 2015. To the extent that terrorism represents a material risk to the solvency or risk profile of an insurer, terrorism will have to be addressed in an insurer's ORSA.

The implication of all of these developments is that if TRIA is not renewed in its current form, insurance companies will likely re-evaluate their overall risk profile with the potential for significant reductions in coverage where it can be excluded and for overall workers' compensation and commercial property risk where terrorism cannot be excluded. A 2009 report by insurance broker Aon estimated that some 70 to 80 percent of the commercial property insurance market would revert to absolute exclusions for terrorism if TRIA is changed.[40] Meanwhile, FitchRatings noted the potential for broader dislocations in coverage

[38] *As Expiration of TRIPRA Approaches, Rating Pressure Increases*, Best's Briefing (April 1, 2013). *Higher Premiums if Terror Insurance Act Not Renewed*, Fitch Wire, Fitch Ratings (May 6, 2013).
[39] *The Treatment of Terrorism Risk in the Rating Evaluation*, A.M. Best Methodology Report, A.M. Best (August 2011) and *2013 Terrorism Risk Insurance Report*, Marsh & McLennan (May 2013).
[40] *Terrorism Update and Key Metrics Report*, Aon Risk Services (May 2009).

for the overall workers' compensation market: "Workers' compensation insurers could be particularly vulnerable to large losses if an extreme terrorist event takes place without TRIPRA coverage."[41]

In fact, for many primary insurance companies, the process of re-evaluating portfolio terrorism exposure and developing contingency plans in case TRIA is not renewed in substantially the same form is well under way. While TRIA is scheduled to sunset on December 31, 2014, insurance companies have to be concerned whether or not TRIA protection will be available on policies incepting as early as January 2014, since the expiration of TRIA would leave the policy exposed for part of the policy period. To help manage this renewal risk, for property insurance, many companies have adopted conditional exclusions that drop the terrorism coverage in the event that TRIA is not renewed. Unlike the 2007 TRIA renewal process, conditional exclusion endorsement wording has been developed and filed using standard industry forms well in advance of the current TRIA renewal timeline.[42] When attached to a policy, terrorism coverage will be dropped automatically if TRIA is not renewed – creating an immediate impact in the marketplace. At the same time, if states do not approve the conditional exclusions, companies will evaluate options to non-renew the entire policy in order to manage the increase in exposure associated with the potential expiration of TRIA. Therefore, to avoid the potential for considerable confusion and disruption in the commercial marketplace as early as January 2014, we are urging the Congress and the Administration to act quickly to extend TRIA.

Evaluating Possible TRIA Modifications – AIA members support the extension of TRIA because as a public-private partnership TRIA has worked. Terrorism coverage is now readily available and affordable in the United States, providing an effective response mechanism for financing the costs of any large-scale terrorism loss. At the same time, as highlighted above and illustrated by the myriad of other government programs, a public-private partnership for financing the risk of terrorism can be designed in many ways. Over the years, AIA has explored many alternative formulations for a public-private partnership for terrorism, including pooling arrangements such as the United Kingdom's "Pool Re" program, options to incent additional capital market participation (e.g., securitization) and bonding. To date, this experience continues to demonstrate no significant private sector interest in assuming the risk of terrorism without federal government participation – largely because of the previously-discussed insurability challenges. A few observations from AIA's 2007 survey of capital markets are representative of the challenges faced, especially as these observations remain valid today:

- Capital market participants cited (1) a lack of confidence in being able to measure the risk of terrorism, (2) the likely correlation between terrorism and other capital market

[41] Fitch Ratings, "U.S. Terrorism Reinsurance: Looming Uncertainty of Program Renewal," Special Report, at 6 (July 31, 2013), available at http://www.insureagainstterrorism.org/FitchReport-8-13.pdf.

[42] Conditional exclusions have not been approved by all states and do not apply to workers' compensation insurance.

investments, and (3) the "headline" risk of underwriting a terrorism bond as the main obstacles for securitization.

- Investors also noted that while the inability to obtain a bond rating from the NRSROs didn't necessarily limit small, one-off transactions, the absence of bond ratings for terrorism bonds would severely constrain the potential size of the market. (The rating agencies have been unwilling to rate terror bonds given their lack of confidence in evaluating the risk.)

- Finally, investors and advisors noted that the existence of TRIA in no way constrained the development of a private securitization market for terrorism given the extremely high retentions, as any likely market development would occur below TRIA's attachment point.

Note that in 2007, the capital markets were discussing a "roaring" market for catastrophe bonds with $7.2 billion in new issuance for natural perils – very similar to the environment in 2013. Thus, while AIA is prepared to evaluate potential options for changing the structure of TRIA, any re-evaluation should be done with caution and leverage the tremendous body of analysis compiled in the interim. At the same time, AIA would suggest several areas where the TRIP program can be improved within the confines of the program's current design. Specifically, AIA would suggest improvements in the following areas:

1. **Certification process** – The Congress can provide more certainty regarding whether or not an event will be certified as an "act of terrorism" under the Act by incorporating a timeline for the certification process from any given terrorism event date.

2. **Disclosure requirements** – The Congress also can make slight modifications to the disclosure requirements within TRIA that preserve the intent of the legislation while greatly reducing the administrative overhead and cost on insurance companies and insurance agents. Specifically, under the current structure, insurers are required to make detailed TRIA disclosures to an insured at three different times in the process – at offer, at purchase, and at renewal. Since the insured receives the full TRIA disclosures with every eligible policy, we would suggest dropping the additional "disclosure" requirement at purchase while ensuring that the disclosure language at the time of offer clearly discusses the right to purchase terrorism coverage at renewal even if not initially purchased.

3. **Federal offset** – The current legislation also can be improved by eliminating or narrowing the federal offset language in the bill, especially given the inability of insurance companies to gather the necessary information from an insured as to whether or not they have received any other form of aid from the federal government and at what period in time.

AIA would be happy to work with the Administration and the Congress to make improvements in each of these areas, as well as evaluating the feasibility of any number of other changes or modifications designed to improve the overall efficacy of the Act.

Assessing the Current Capacity of the Reinsurance Markets

In terms of the reinsurance market for terrorism risk, the same insurability challenges that limit a primary insurance company's ability to underwrite terrorism risk constrain the amount of risk that reinsurers are willing to underwrite. Of course, reinsurers are not compelled by federal legislation or regulation to underwrite terrorism risk in the United States and can operate in a less constrained free market. The result: reinsurance capacity for the risk of terrorism is extremely limited at $6-8 billion.[43] Moreover, the terrorism reinsurance capacity that is available generally excludes losses caused by NBCR weapons and includes additional limitations in major metropolitan areas.

To put the $6-8 billion of reinsurance capacity in context, we estimate that the total amount of reinsurance capacity available for natural catastrophe risks in the United States is in the range of $90-120 billion. Given that the aggregate level of individual insurance company retentions is estimated to exceed $34 billion,[44] today's terrorism reinsurance capacity is insufficient to satisfy even a portion of individual company reinsurance demand within existing TRIA retentions. As noted in recent testimony, the reinsurance that is available for terrorism is for conventional terrorism only.[45]

At the same time, the fact that reinsurance capacity, however small, has grown from $4-6 billion to $6-8 billion since 2007 is encouraging for the market on two fronts. First, the increase in reinsurance capacity demonstrates that TRIA is not crowding out private reinsurance markets, but may in fact provide the stability for the marketplace that allows the program to "crowd-in" reinsurance capacity. Second, while the capacity does not offer an alternative to TRIA, the growth in reinsurance would be beneficial in improving the risk pooling opportunities for conventional terrorism risks within existing TRIA retentions.

---

[43] Testimony of Edward Ryan, *supra* note 18.
[44] Webel, *supra* note 7.
[45] Testimony of Christopher Lewis, *supra* note 29.

Additional Considerations

In responding to the PWG's request for public input, AIA would highlight several additional market developments worthy of mention.

New Developments in ILS -- The trade press is replete with stories covering the tremendous inflow of "hot capital" from pension funds and other asset managers into the market for securitizing catastrophe risks. Motivated by the search for higher yield in a persistently low yield environment, many pension funds and asset managers have initiated or increased their investment allocations to the class of insurance-linked securities ("ILS"). As a result, the rate-on-line, or reinsurance premium, for ILS transactions has fallen by 35-45 percent and 22 new non-life transactions were completed during the first half of the year with an estimated total issuance value of approximately $5 billion.[46] Total issuance for 2013 is now expected to eclipse $7 billion – slightly higher than the record year of 2007. Outstanding ILS capacity is now over $17 billion[47] and total alternative capital solutions (i.e., including private placements and side-cars) are estimated to represent around 15 percent of total global capacity for natural catastrophe risk.[48] While some have questioned the permanence of this inflow of capital, the trend is positive for primary insurance companies as it provides additional options for risk transfer and can lower the long-term cost of capital for natural catastrophe risk. *However, despite all of this new capital chasing yield and new investment opportunities, no ILS transactions have come to market with the goal of financing the risk of terrorism for property-casualty insurance.* Unfortunately, the same insurability impediments cited in AIA's survey of capital markets in 2007 exist today. Where the new influx of capital ultimately may yield a benefit is by encouraging a marginal increase in capacity by reinsurance companies in offering coverage for conventional terrorism losses within existing TRIA retentions. Such an expansion would be limited and would not impact the coverage provided under TRIA, but would be welcome as another vehicle for improving how terrorism risk is managed in the U.S.

Cyber Risk – As highlighted by the recent Denial of Service (DOS) attacks on the New York Times and Washington Post, cyber risk is becoming the latest weapon in the terrorist arsenal.[49] In recent years, concern has grown over the ability of individual terrorists or terrorist groups to mount an attack on critical communications, utility and transportation infrastructure in the United States via key computer control systems. Indeed, the U.S. Department of Homeland Security indicated that it had received reports of approximately 200 attacks on key U.S. infrastructure systems in 2012, which represented more than a 50 percent increase over

---

[46] *Convergence Quarterly: ILS Pricing Drops 40%*, Reactions Magazine, (September 4, 2013). *Insurance-linked Securities: Capital Revolution – ILS Market Expands to New Heights 2013*, Aon Benfield (August 2013).
[47] Swiss Re, *Insurance Linked Securities Market Update*, July 2013.
[48] *The Search for Creative Destruction*, Goldman Sachs (August 7, 2013).
[49] Note that cyber risk is currently covered under TRIA to the extent that cyber risks are insured in the underlying commercial insurance policies.

reported attacks in 2011.[50] Cyber-risk can be an effective unconventional weapon for a terrorist because (a) an attack can be launched from almost any location, (b) the terrorist can exploit a weak link in a supply chain thousands of miles from the ultimate victim, and (c) a large-scale cyber-attack can create significant losses by disrupting businesses, utilities (e.g., stuxnet virus), and the capital markets in the U.S.. Finally, the ultimate victims of a cyber attack are not limited to individuals living in metropolitan areas, as the ability to shut down a major utility or on-line service would be felt across very large areas of the United States. The recent attacks also demonstrate the close links between U.S. foreign policy and the risk of a terrorist attack – once again drawing the parallel between terrorism and U.S. national defense policy.[51]

NBCR Risk – Finally, while U.S. efforts to disrupt and destroy the leadership of Al Qaeda have proven effective, recent developments in the world illustrate the persistent threat of future terrorist attacks, including the feasibility of an attack using some form of NBCR device. Most recently, the Syrian government allegedly deployed chemical weapons on its own citizens. Meanwhile, the U.S. and the world continue to manage antagonistic relationships with both Iran and North Korea over their nuclear programs, with Iran linked to a variety of militant groups across the globe. Thus, with terrorist groups already having expressed an interest in using these weapons against the United States and with continued violent upheaval in key countries, the risk of a NBCR terrorist attack remains a real concern today.

Conclusion

In summary, the Terrorism Risk Insurance Act has been a success. Terrorism insurance is available and affordable throughout the United States, greasing the wheels of commerce and keeping our economy moving as the long recovery finally gathers momentum. TRIA works because it is an effective partnership between the private sector and the federal government – maximizing private market risk bearing and private market infrastructure while leveraging the government's pooling capabilities for non-insurable risks that align with our national defense policy. Moreover, TRIA has been administered at minimal cost to taxpayers. TRIA is serving as a key element in maintaining an orderly economic recovery should there be another catastrophic terrorist attack on U.S. soil – prepositioning resources to respond to an attack and thereby thwarting a principal objective of terrorism. At the same time, AIA recognizes that any legislation presents opportunities for improvement, especially against a backdrop of continuous change, and we stand ready to work with the Congress and the Administration to evaluate any potential changes to the legislation and their potential impact on the stability of private insurance markets.

---

[50] U.S. Department of Homeland Security, *ICS-Cert Monitor* (April – June 2013), available at http://ics-cert.us-cert.gov/sites/default/files/ICS-CERT_Monitor_April-June2013.pdf .

[51] *FBI Warns Syrian Group May Step Up Cyber Attacks*, Reuters (September 6th, 2013).

Thank you again for the opportunity to comment. We look forward to working with you on the PWG study in the coming weeks and months.

Respectfully submitted,

J. Stephen Zielezienski
Senior Vice President &
General Counsel
American Insurance Association
2101 L Street, N.W.
Suite 400
Washington, DC 20037
202-828-7175 (phone)
202-293-1219 (fax)
szielezienski@aiadc.org

THE FINANCIAL SERVICES ROUNDTABLE

Financing America's Economy

Committee on Financial Services

Full Committee Hearing
"The Terrorism Risk Insurance Act of 2002"

September 19, 2013

The Financial Services Roundtable ("FSR") thanks Chairman Hensarling and Ranking Member Waters for holding this important hearing and for the opportunity to submit comments for the record on the important topic of the Terrorism Risk Insurance Act ("TRIA").

FSR supports the long-term reauthorization of TRIA. TRIA establishes a public-private partnership that enables the private sector to offer terrorism risk insurance and absorb substantial property and casualty losses resulting from acts of terrorism. Under this framework, FSR believes TRIA achieves its public policy goals of supporting a private market for terrorism risk insurance, fostering economic resiliency before and after a terrorist attack, and limiting taxpayer losses following a terrorist attack against the nation.

This hearing is an important step in assessing the program and informing policymakers about this marketplace for terrorism insurance coverage. The last time Congress voted on TRIA was in 2007, and many of the Financial Services Committee members have never considered this program.

FSR represents 100 of the largest integrated financial services companies providing banking, insurance, investment products and services to the American consumer. FSR member companies fuel America's economic engine, accounting directly for $92.7 trillion in managed assets, $1.2 trillion in revenue, and 2.3 million jobs.

Our diverse membership gives FSR a unique perspective on TRIA. FSR member companies not only include the insurers and reinsurers that offer terrorism coverage, but also banks and investors that must protect their investments from terrorism-related events, companies that need workers compensation protection for their employees and the very policyholders that must insure against terrorism loss. TRIA was not established for insurers, but rather for policyholders – investors, developers, lenders, and employers, all of whom drive economic growth and create jobs.

TRIA BACKGROUND

Congress approved the Terrorism Risk Insurance Act of 2002 on November 26, 2002, after private terrorism insurance constricted following the terrorist attacks of 2001. The September 11, 2001, attacks totaled approximately $31.6 billion (in 2001 dollars), and Congress enacted TRIA in response to widespread concern that the lack of terrorism insurance would have a tangible adverse impact on the U.S. economy.

TRIA was a three year program authorized through 2005 and then reauthorized again in 2005 and 2007 in recognition of the ongoing terrorist threat and the inability of insurers to underwrite the threat and make a sufficient private market for terrorism coverage. The existing law is set to expire on December 31, 2013.

TRIA'S FRAMEWORK

TRIA ensures that the private sector offers terrorism risk coverage and ultimately absorbs some if not all of the loss from an attack. Extraordinary losses that exceed substantial private funding levels will be shared between the private and public sector, as outlined below. The existing program's structure requires substantial private sector capital before any public money becomes involved, and that public money which may be called upon is subject to a meaningful recoupment formula.

TRIA only covers certified acts of terrorism (as determined by the U.S. Department of the Treasury), requiring, among other things, property and casualty losses that exceed $5 million. The current version of TRIA has a "program trigger" of $100 million, under which the private sector absorbs all loss. If losses exceed $100 million, each individual insurance company will realize the entire loss up to 20 percent of its previous year's annual direct written premiums from commercial and property lines (this is the program deductible). Though that deductible varies depending on the premiums written, it is currently estimated to be approximately $34 billion.[1]

If losses exceed this level, private insurers begin to share losses with the federal government; the government absorbs 85 percent of additional losses and the private sector absorbs the remaining 15 percent. In effect, this government participation is a liquidity mechanism, where the government payments, should there be any, provide immediate liquidity to the insurer, allowing policyholders and claimants to receive insurance claims payments quickly. The law requires that government will recoup from insurers 133 percent of public funds provided up to $27.5 billion; losses above that amount are subject to recoupment in the government's discretion. Government funding for events that occur after January 1, 2012, must be collected by September 30, 2017, under current law.

TERRORISM RISK INSURANCE MARKETPLACE

The marketplace and take-up rate for terrorism risk insurance has evolved substantially since the inception of the program. According to Marsh's 2013 study, "In 2003, the first full year TRIA was in effect, the take-up rate was 27 percent but has since increased steadily, remaining in the low 60 percent range since 2009."[2] Take-up rate varies between sectors and regions and company size.

Pricing for terrorism risk has also evolved over the life of the program. Initially, coverage was priced at approximately 7 percent of property premium during the third quarter of 2003.[3] Over time, however, price levels declined, ultimately stabilizing between 3 – 5 percent of property premium range. Price levels, of course, vary according to the size location, and industry.

Workers Compensation

---

[1] Webel, Baird. Congressional Research Service. Terrorism Risk Insurance: Issue Analysis and Overview of Current Program. April 26, 2013.

[2] Marsh. 2013 Terrorism Risk Insurance Report. Marsh Risk Management Research. May 2013.

[3] President's Working Group on Financial Markets, Terrorism Insurance, September 2006.

Under state law, insurers cannot exclude workers compensation from coverage, whether or not TRIA is in place. This leaves insurers vulnerable to substantial downside risk from terrorist attacks, including non-conventional NCBR attacks. Without TRIA in place, this downside risk related to workers compensation coverage jeopardizes the solvency of insurers, potentially leaving policyholders unprotected in the aftermath of a tragedy. Consequently, the workers compensation market may experience a variance in pricing and capacity based on the framework and existence of the program.

Commercial Lending

The market for terrorism risk insurance and the take up rate has important implications for commercial lending because commercial lenders include terrorism risk insurance coverage requirements for loans over a certain size or where the project being financed is in proximity to areas identified as potential targets for terrorist attacks. Lenders have adopted these coverage requirements to help mitigate risk that banks are uncomfortable assessing and ultimately holding. If the terrorism insurance market constricts and reduces policyholders' ability to access terrorism risk coverage, both existing and future commercial loans would be severely affected.

Existing commercial loans that require terrorism risk insurance do not condition a borrower's performance of this requirement on the existence of TRIA or excuse performance if the insurance is unavailable or prohibitively expensive. As many commercial loans span multiple years, even decades, borrowers are required to purchase and renew terrorism coverage for the duration of their loans regardless of whether TRIA is reauthorized or functioning marketplace for terrorism risk insurance exists. If these borrowers and policyholders do not repurchase coverage, they would be in violation of the loan covenant; depending on the contractual language, the lender would be able to call the loan. Borrowers would be forced to purchase coverage no matter how difficult or costly to access, or face consequences for violating the loan covenant. Lenders would be forced to examine each loan and assess whether to call the loan or adjust the terms in some way to mitigate this now unprotected risk. This would result in substantial economic disruption and potential added risk for all participants in the transaction.

For future loans, lenders would assess each loan that triggers its terrorism risk insurance requirement on a case-by-case basis. This would lead to greater uncertainty in the marketplace and put lenders in the business of trying to model terrorism risk – a risk that insurers themselves cannot model at the present time.

CONCLUSION

FSR appreciates the Committee holding this hearing and beginning public consideration of this important public policy program. Thank you for opportunity to submit comments for the record. We look forward to working together on this important issue.

Thank you.

PCI

Property Casualty Insurers
Association of America

Advocacy. Leadership. Results.

Nathaniel F. Wienecke
Senior Vice President
Federal Government Affairs

September 18, 2013

The Honorable Jeb Hensarling
Chairman, Committee on Financial Services
United States House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Hensarling:

On behalf of our nearly 1,000 member insurance companies, the Property Casualty Insurance Association of America (PCI) commends you and the entire Financial Services Committee for holding tomorrow's hearing on the important questions relating to the terrorism insurance market and the Terrorism Risk Insurance Act (TRIA). We understand your interest in ensuring that the TRIA program remains a sound and fiscally responsible one and we look forward to working with you and your staff toward that end.

Please find enclosed a written statement from PCI, which we respectfully request be made a part of the official hearing record.

Sincerely,

Nat Wienecke

Nathaniel F. Wienecke
Senior Vice President, Federal Government Relations

PCI

Property Casualty Insurers
Association of America

Advocacy. Leadership. Results.

Property Casualty Insurers Association of America (PCI)

Committee on Financial Services
United States House of Representatives
September 19, 2013

The Property and Casualty Insurers Association of America (PCI) commends Chairman Hensarling, Ranking Member Waters and the House Financial Services Committee for holding this hearing on the Terrorism Risk Insurance Act of 2002 (TRIA). PCI is composed of more than 1,000 member business, home and auto insurance companies, representing the broadest cross-section of any national insurance trade association. PCI members write more than $195 billion in direct premium, which is 39 percent of the nation's property-casualty insurance.

As TRIA comes up for reauthorization again, the Committee is properly inquiring whether there are any changes that could be made to attract even greater private capital to support terrorism risks. PCI is pleased to assist the Committee in considering that question, and we agree that the program should continue to seek to maximize commercial participation. Indeed, that goal is coterminous with PCI's mission to promote and protect the viability of a competitive private insurance market for the benefit of consumers and insurers.

As explained more fully in PCI's recent comments to the President's Working Group on Financial Markets (see attached), having a federal terrorism insurance plan in place prior to another catastrophic terrorism event is critical to protect America's economic resiliency. TRIA ensures that businesses can continue to obtain terrorism coverage necessary to protect their economic activity and obtain ongoing financing, while being fiscally responsible for taxpayers by limiting any federal involvement only to catastrophic terrorist attacks certified as being intended to coerce the United States. Not a penny from the terrorism risk insurance plan ultimately goes to insurers. Any federal shared responsibility only kicks in after insurers have exhausted their deductibles and exceeded high level triggers, at which point TRIA limits insurance liabilities and provides a backstop protection to policyholders, with a recoupment mechanism in place to make the government as well as policyholders whole over time.

There are several risks (such as war risk and more recently terrorism risk) that are not broadly insurable in the private market and are not naturally subjectable to pooling across a limited number of private parties. Terrorism risk does not fall within any of the traditional definitions of insurability and absent a finite limit on liability to mitigate aggregate risk exposures, private investors and insurers cannot responsibly commit capital beyond a limited specialty niche. The current terrorism risk insurance plan already requires insurer liability for terrorism far beyond the private sector appetite, with most insurers trying to manage their probable maximum loss exposures far below the caps that TRIA provides. The termination of TRIA or increases in the mandated terrorism coverage private insurers are required to provide (through the deductibles, co-shares, triggers and caps) could have devastating effects on the market as the increased risk could cause private capital to recede and credit rating agencies and insurance regulators would further pressure carriers to reduce their underwriting exposure to maintain solvency. Indeed, the insurance broker AON has said they expect "a withdrawal of insurance capacity for terrorism and a reversion to a post-9/11 environment," should TRIA be allowed to lapse.[1] This could have the undesired effect of reducing the availability of commercial coverages, which would run counter to one of the key purposes of the TRIA program as set forth in the statute: "To protect consumers by addressing market disruption and ensure the continued widespread availability and affordability of property and casualty insurance for terrorism risk."

TRIA is especially important to the workers compensation market due to the mandatory nature of the coverage. Workers compensation insurers cannot exclude terrorism. So without TRIA, some workers compensation insurers would likely face ratings agency pressures, which could effectively force them to reduce their exposures. If fewer commercial insurers are in the market, this could put added pressure on states, all of which provide either a residual market mechanism or a state fund as a market of last resort. State taxpayers could become responsible for state fund liabilities, and because any remaining insurer participants in a state are assessed to capitalize state residual market mechanisms, this may also leave them with no choice but to reduce exposures further.

One of TRIA's best attributes is that it keeps commercial insurers participating in the terrorism insurance market, thus protecting taxpayers from most terrorism losses. Commercial insurers pay losses through their annual TRIA deductibles and then additional co-pays even if federal payments are made. Over the past twelve years, the commercial industry's participation in writing terrorism risks has gradually under TRIA. While there is a limit to the capital the commercial market can commit to underwriting terrorism risk, the Congress wisely designed the program to keep the maximum amount of private capital at work in the market, reserving a government role only for catastrophic events that commercial insurers simply cannot handle alone.

In addition, when federal payments are made, taxpayers are protected by a mechanism that allows federal payments to be recouped from the insurance marketplace. And this recoupment is mandatory for all but the largest of losses.

Taken together, these two features make TRIA an extraordinarily fiscally responsible program.

---

[1] *Reinsurance Market Outlook*, AON Benfield, September 2013, p. 28.

TRIA currently provides an economic and national security terrorism resiliency plan that has been extremely successful in protecting the United States. It has cost taxpayers nothing in loss payments and negligible administrative costs while improving the availability of private capital and terrorism insurance in the marketplace to keep our economy moving forward.
PCI and its members and their policyholders strongly support the current terrorism insurance plan and encourage your consideration of a long-term reauthorization to provide stability and certainty in the marketplace. Although Treasury has not certified a terrorist event since TRIA's inception, having a terrorism protection plan in place before the next event occurs continues to be essential for all businesses, small and large, to manage their risk and obtain financing for ongoing economic activity. The federal government greatly expanded its efforts to interdict terrorist attacks and protect national security but TRIA is an essential plan in place to mitigate loss liabilities and stabilize the markets if a catastrophic event occurs. Since a key objective behind terrorist attacks is to destroy or damage the U.S. political and economic systems, including critical infrastructure, the federal government must remain an integral part of any comprehensive terrorism risk management strategy in order to protect national security and the country's financial well-being

We look forward to working with the Committee to help satisfy all members of the Congress that the program will continue to function as a fiscally responsible and effective national terrorism risk management plan that maximizes private sector participation and protects taxpayers.

PCI

Property Casualty Insurers
Association of America
Advocacy. Leadership. Results.

DAVID M. GOLDEN
SENIOR DIRECTOR, COMMERCIAL LINES

September 16, 2013

Federal Insurance Office,
Attention: Kevin Meehan, Room 1319 MT,
Department of the Treasury, 1500
Pennsylvania Avenue NW., Washington,
DC 20220.
Via **http://www.regulations.gov**

Re: Report by the President's Working Group on Financial Markets on the Long-Term Availability and Affordability of Insurance for Terrorism Risk

Dear Mr. Meehan:

The Property Casualty Insurers Association of America (PCI) is pleased to respond to the request of the President's Working Group on Financial Markets ("PWG") for comments on the current market for terrorism insurance in the United States and on the impact of the Terrorism Risk Insurance Act ("TRIA") on that market. PCI is composed of more than 1,000 member business, home and auto insurance companies, representing the broadest cross-section of any national insurance trade association. PCI members write more than $195 billion in direct premium, which is 39 percent of the nation's property-casualty insurance.

PCI has answered the PWG's specific questions in some detail, but the following will summarize key points:

- TRIA was first enacted and is still needed because the risk of terrorism is generally uninsurable. Terrorism risk does not fit the model of insurability, *i.e.*, that insurance can protect from fortuitous yet statistically predicable loss. Risk models can project the *severity* of losses from a hypothetical terrorist attack, but unlike natural catastrophe risks, they cannot predict the *frequency* or *likelihood* of terrorism attacks. This is why, in the aftermath of 9/11, the market for terrorism reinsurance virtually evaporated, which in turn made it impossible for insurers to provide terrorism coverage to policyholders. The current available insurance and reinsurance capacity for terrorism insurance is highly correlated to the existence of TRIA, and the insurance and reinsurance industries would be unable to fully meet the market's need for terrorism insurance in the absence of TRIA.

- TRIA is critical to the workers compensation market. Workers compensation insurers are prohibited by state laws from excluding any non-war risk, including terrorism. So if TRIA disappears, there is a real danger that many commercial insurers, and especially workers compensation insurers, will be subject to rating agency downgrades.

- Immediately following 9/11, many large constructions projects stopped in their tracks, or could not get off the ground, because lender-required terrorism insurance was not available. TRIA made that coverage available and helped jump-start the country's economic recovery from the 9/11 attacks. Terrorism coverage is also critical for the commercial mortgage-backed securities (CMBS) market. Similar economic consequences to what occurred in 2001 are expected if TRIA is not renewed.

- By requiring insurers to offer terrorism coverage, and imposing substantial insurer deductibles and co-payments, TRIA enables commercial insurer participation in terrorism insurance to an extent measured in the tens of billions of dollars. Federal participation kicks in only in the event of extremely high-dollar catastrophic attacks. Insurer deductibles and co-pays have increased gradually over the years, but we are now close to a tipping point at which further increases will begin to threaten insurer solvency. Small insurers would be particularly vulnerable to potential increases in deductibles or co-pays. Even some of the largest insurance companies anticipate that they are unlikely ever to access TRIA because their current deductibles are so high.

For the sake of convenience, we reprint below the questions posed by the PWG. Our answers reflect the experience of PCI members with the current program and are supplemented with research findings and comments of others from publicly available sources.

General Solicitation for Comments

The PWG first asks for comments about the long-term availability and affordability of terrorism risk insurance since 2010. As our answers to the specific questions state in more detail, terrorism coverage remains readily available, with generally decreasing prices, *because* of TRIA. Over 60 percent of commercial risks tracked by insurance broker Marsh, Inc. for its 2013 terrorism insurance report actually purchase the coverage. The geographic regions with the highest average premium rates also have the highest take-up rate. This illustrates that coverage is both available and affordable, even in the likeliest target areas, under TRIA.[1] On the other hand, both history and recent statements by rating agencies indicate that both availability and affordability of terrorism coverage will likely suffer should TRIA expire. Such action would, in turn, place significant downward pressure on the economy, as many lenders and investors in large properties would understandably decline to place money in ventures that did not include terrorism insurance coverage in their risk management plans. Further, terrorism exposures affect much more than property insurance; liability and workers compensation insurers also remain heavily exposed to terrorism risk.

Terrorism continues to fail the four tests of insurability: (1) statistical predictability; (2) cost predictability; (3) randomness; and (4) event independence. Terrorists work to be as unpredictable as possible, continually seeking new methods and targets. The 9/11 and Boston Marathon attacks illustrate the breadth of possible attacks, for both events and their possible costs. The shoe bomber, underwear bomber and printer-cartridge bomber cases illustrate the breadth of what terrorists will attempt. Terrorist attacks are deliberate; there is nothing random about them.

Even with TRIA, the private insurance industry will significantly participate in a terrorist loss. TRIA leaves significant gaps below the 20 percent deductible and within the 15 percent co-participation above the deductible. These insurer responsibilities are measured in the tens of billions of dollars, in the aggregate. [2]

There are instances where an individual insurer's direct exposure is significantly higher than the insurance industry as a group. For smaller insurers that are geographically concentrated around high-value targets, e.g., Boston and New York City, a terrorism incident that does not exceed the statutory $100 million event trigger could be financially devastating. This also creates a potential

[1] Marsh: *"2013 Terrorism Risk Insurance Report: Market Update,"* (May 2013)
[2] Specifically, in 2012, 20 percent of industry earned premium in TRIA-covered lines was $35.6 billion.

limitation on the ability of new insurers to enter the market in these geographic areas. Even large insurers must carefully allocate their available capital to avoid becoming overextended in terrorism target areas.

Further, all insurers face pressure by rating agencies[3] to take underwriting action to protect their capital bases should TRIA expire. For all of these reasons, it is imperative that TRIA be allowed to continue to facilitate private sector involvement in insuring terrorism risks.

PCI Comments to PWG Questions

PCI's comments repeat the questions as they were posed by the PWG for your convenience. Our answers are supplemented with research findings and comments of other groups, made available from publicly available sources.

(1) Describe and explain in detail any and all possible ramifications from the termination of the Program on December 31, 2014, including any available evidence to support the predicted result, regarding:

(a) The availability and affordability of insurance for terrorism risk in the United States generally

History may be the best predictor of the future should TRIA not continue in its current form. In its 2004 economic report on TRIA, the Analysis Group stated:

> "The previously unimaginable losses sustained by insurers and reinsurers [from 9/11] were more than one and a half times as large as the next largest insured catastrophe loss in history, and more than 30 times larger than the next largest insured terrorist loss... Reinsurers refused to provide or limited terrorism reinsurance coverage in new or renewed contracts. This limited the ability of primary insurers to spread their exposure to catastrophic terrorism risk. Without the ability to spread the risk of catastrophic losses, primary insurers sought to reduce their own exposures within the constraints of existing state regulatory requirements... Whether because of exclusions or the tighter underwriting environment, many commercial policyholders faced steep price increases or were wholly unable to obtain terrorism coverage. The lack of coverage, in turn, stalled real estate transactions and construction projects, disrupted product flows, and reduced employment."[4]

TRIA has enabled a limited private market to develop for terrorism coverage. Rating agency Fitch and insurance broker Marsh, Inc. both reported in recent months that limited amounts of terrorism coverage remain available in the private market, under TRIA. Limits, coverage and rates vary by exposure. According to Marsh, stand-alone capacity is generally available for up to $2 billion per risk but this varies by location. Factors that influence per-risk capacity include location, concentration of exposure and insurer aggregation of limits in a geographic area. Although some

---

[3] Rating agencies, such as Fitch and A.M. Best Company, Inc., look at how insurers manage their terrorism exposures when determining the insurers' claims-paying ability and creditworthiness. This is similar to what agencies do for other significant exposures, such as windstorms.

[4] Analysis Group, "The Economic Effects of Federal Participation in Terrorism Risk," prepared by R. Glenn Hubbard (Dean, Graduate School of Business, Columbia University and Former Chairman, Council of Economic Advisors) and Bruce Deal (Managing Principal, Analysis Group, Inc.), Sept. 14, 2004

capacity exists above $2 billion but at significantly higher cost, less capacity exists in high-risk geographic centers, such as New York City, Washington, DC and Chicago. It is important to remember that this current capacity exists in conjunction with, and because of, TRIA.

In its July 2013 report, Fitch's conclusion reinforces the importance of TRIA's continuation: "Most terrorism coverage written today is provided in tandem with TRIPRA coverage, and the private market is unlikely to duplicate the coverage limits available under the current program if renewal is unsuccessful."[5]

Perhaps the best indicator of likely insurer action, should TRIA not be renewed, comes from insurance rating agency A.M. Best Company, Inc. On April 1, 2013, Best announced that it would request from insurers detailed plans that they would implement should TRIA expire or be significantly altered.[6] Best also stated that it was stress-testing insurers to see how a large terrorism loss would affect an insurer's capitalization in the absence of TRIA.

Best concluded its announcement by stating: "Insurers that currently would be materially affected by the absence of TRIPRA, and that cannot provide a sufficient action plan to reduce exposures to terrorism risks, likely will face rating pressure as the expiration date approaches." Since Best's principal objective is to evaluate an insurer's creditworthiness and ability to write new business and maintain existing clients, its finding provides a good indication that capacity for terrorism risk would likely contract in the absence of TRIA. The impact on several key lines of insurance coverage follows in subsection (b).

(b) The availability and affordability of insurance for terrorism risk in the United States specifically by line of business; geographic location, including the rating tiers defined by the Insurance Services Office, Inc.; and other relevant characteristics

Workers Compensation

Workers compensation is a unique line of insurance. Under state law, coverage for injuries resulting from acts of terrorism cannot be excluded from workers compensation coverage, including the terrible injuries that would occur from a nuclear, biological, chemical, or radiological ("NBCR") attack. Workers compensation insurers therefore lack some of the freedom that other insurers have to avoid risks.

The 9/11 attacks demonstrated the aggregation of risk present in many terrorism target locations. Should a catastrophic event occur, especially where an insurer (public or private) has risk concentration, the solvency of the company would likely immediately be threatened.

Because workers compensation carriers cannot exclude terrorism coverage, the ratings impact on them could be severe. In this regard, rating agency Fitch concludes, "Recognition of this vulnerability may lead to a withdrawal of insurer's underwriting capacity from the workers' compensation market, particularly in industries and geographic areas with greater perceived risk of terrorism-related losses. Reduced workers' compensation coverage availability would generate broader economic consequences for employers."[7]

The uncertainty of TRIA's renewal has already affected the workers compensation insurance market. At a recent conference, Aon Risk Solutions' U.S. Retail Operations CEO Tom Fitzgerald

[5] FitchRatings, "U.S. Terrorism Reinsurance: Looming Uncertainty of Program Renewal, Special Report," July 31, 2013 (TRIPRA stands for Terrorism Risk Insurance Program Reauthorization Act of 2007)

[6] A.M. Best, "Best's Briefing, As Expiration of TRIPRA Approaches, Rating Pressure Increases," April 1, 2013

[7] FitchRatings, "U.S. Terrorism Reinsurance: Looming Uncertainty of Program Renewal, Special Report," July 31, 2013

said, "We're actually seeing underwriting companies shed major New York business as a result of trying to de-risk the balance sheet in the event that Tria [sic] is not renewed so they are putting long-standing relationships with workers' comp clients and workers' comp lines they've been on for 60, 70, 80 years into the market because they simply don't understand what the potential impact is if it is not renewed. We think it's very important to get this solved before it expires next year."[8]

Reinsurers are not subject to the same statutory restrictions that primary insurers face. Reinsurers would be able to exclude terrorism from their workers compensation reinsurance agreements, leaving primary insurers holding 100 percent of any terrorism exposures associated with their workers compensation writings. This situation would put additional pressure on primary insurers to control their terrorism exposures through managing aggregation of risk at geographic locations. Such actions could well limit the availability of workers compensation in high-terrorism-risk geographic locations. Indeed, economic activity could be significantly impaired without affordable workers compensation insurance.

Property Insurance

As noted earlier, much attention has focused on large property risks located at or near target locations. The continued availability of TRIA will also influence insurance capacity for nearby properties, which will likely include many smaller businesses. Unlike workers compensation, property insurers would have the option to exclude terrorism in many locations absent TRIA. This option is not available everywhere, however, for fire following an attack. In places such as New York, that have Standard Fire Policy laws without the ability to exclude fire following a terrorist attack, property insurers would effectively have to rely on managing their aggregation of risk in order to manage terrorism exposures.

Lenders for many large properties, such as office towers, shopping malls, stadiums, etc., continue to require terrorism coverage to protect their investments. TRIA currently ensures the availability of such coverage, which is why its reauthorization is so critical.

Liability Insurance

Commercial liability insurance is often combined with property coverage into package insurance policies. It is also written on its own, as a monoline policy. Either way, businesses face exposures to lawsuits stemming from terrorist attacks that combine facets of both property and workers compensation risks. Whether or not a business has any real control over its terrorism exposure, the reality of American litigation is that all businesses victimized by terrorism face lawsuits from injured parties seeking monetary compensation.

As with property insurance requirements, organizers of large public events, such as sports, conventions, festivals, fairs, etc., must typically show proof of liability coverage that includes terrorism. The myriad of small suppliers, vendors and other businesses that support large gatherings of people must also show proof of terrorism liability coverage.

Unlike property coverage, liability insurers incur costs even when there is no liability, since liability coverage generally provides legal defense. Although many businesses are sued that ultimately pay no damages, they still can incur massive defense costs that come under liability insurance. As with property and workers compensation, the sunset of TRIA could significantly affect the availability of liability coverage for terrorism, especially for large projects and events that support an area's economy. TRIA's inclusion of liability coverage protects many jobs throughout the country that support large public gatherings.

[8] Mr. Fitzgerald spoke at the Inaugural Reactions Midwest Insurance Conference (Chicago, April 30, 2013); "Tria uncertainty disrupting workers' comp writers," May 10, 2013, www.reactionsnet.com

Geography
Insurance broker Marsh indicates in its 2013 Terrorism Insurance Market Update that take-up percentage rates countrywide have remained in the low 60s for the last four years. The highest take-up rate is in the Northeast, where a concentration of target cities exists, including New York City and Washington, DC. This, in turn, indicates that terrorism coverage is readily available under TRIA. Costs seem to reflect perceived risk, with the Northeast and South showing median terrorism insurance rates just over $30 per million insured value in 2012. The West and Midwest showed median rates in 2012 of $26 and $24 per million insured value, respectively.

(c) Additional specific effects on commerce in the United States

As noted above, many large projects simply cannot proceed without terrorism coverage, as private insurance capacity for such terrorism targets would be inadequate without TRIA. These large construction projects, existing properties and public events provide job opportunities for many smaller businesses, beyond the direct jobs of the locations themselves. Without TRIA, the impact on the American economy would be devastating.

According to Evan Greenberg, Chairman and CEO of ACE, the White House Council of Economic Advisors found that 300,000 jobs were lost due to deferred construction investment in the 14 months between the 9/11 attacks and the enactment of TRIA.[9] Similarly, the Real Estate Roundtable found that $15 billion of real estate transactions were cancelled or delayed during the same period.[10]

In its July 2013 report, Fitch provides an ominous outlook for the insurance marketplace and the economy it supports: "In the event that TRIPRA is not extended or coverage is significantly reduced, Fitch has concerns about the ability of the private market to provide sufficient reinsurance capacity at a price that is economically justifiable to primary insurers... In this event, underwriters' ability to reduce exposures will be tested."[11]

Fitch emphasizes that, "Terrorism insurance coverage remains an important component of the U.S. CMBS [Commercial Mortgage Backed Securities] market and Fitch expects all new U.S. CMBS loans to include coverage against terrorism attacks as part of their insurance policies. Furthermore, the loan documents require terrorism insurance over the life of the loan." The commercial real estate market underpinning the U.S. economy depends on the broad availability of terrorism insurance that only TRIA can support. The comment about the need for coverage over the life of the loan reinforces the necessity of a long-term renewal for TRIA.

(2) If the Program were to continue beyond December 31, 2014, describe and explain in detail any revisions or modifications to the Program that would promote the availability and affordability of terrorism insurance, including any accompanying challenges that might arise from any proposed revisions or modifications to the Program.

The current TRIA program has been highly successful in ensuring that there is a viable market available to meet the needs of commercial policyholders for terrorism insurance. Unlike terrorism insurance programs in some other countries, TRIA has kept the private insurance industry participating in that market to the greatest extent possible and minimized taxpayer exposure to loss.

---

[9] *CEO Risk Forum 2013,* "Why Tria must be extended," www.reactionsnet.com
[10] News Release: February 6, 2013 - Roundtable Welcomes House Bill to Maintain Federal Terrorism Insurance Backstop
[11] FitchRatings, "U.S. Terrorism Reinsurance: Looming Uncertainty of Program Renewal, Special Report," July 31, 2013

For these reasons, and because the uninsurability of the risk of terrorism would make it impossible for the private insurance industry to meet the market need without TRIA, the Administration should ask the Congress to reauthorize the program as it currently exists, with only certain procedural changes as described below to address operational issues that have arisen.

The Congress and the Administration will understandably wish to consider whether there are ways to increase the already substantial participation of the private commercial insurance industry in the terrorism insurance market and to reduce the already very limited circumstances in which taxpayers would be exposed to any ultimate loss. However, over the history of the TRIA program, commercial insurer participation has steadily risen, with increases in insurer deductibles and co-pays, meaning that taxpayer exposure has decreased correspondingly. We note elsewhere in our comments why the risk of terrorism is generally uninsurable absent some form of plan to help manage the risk. It follows that there is an outward limit on the degree to which insurers can participate on terrorism risks responsibly. Policymakers must consider the strong likelihood that further increases in deductibles and co-pays will have the undesired effect of causing at least some insurers to exit lines of business or geographic markets rather than to expose their balance sheets to risks that they cannot responsibly underwrite. This would run counter to one of the key purposes of the TRIA program as set forth in the statute: "To protect consumers by addressing market disruptions and ensure the continued widespread availability and affordability of property and casualty insurance for terrorism risk."

Small insurance companies, in particular, are especially vulnerable to increases in deductibles and co-pays. Even some of the largest companies already anticipate that, because their deductibles are so high, they are unlikely ever to access the federal backstop. To increase those deductibles and co-pays would increase the number of both large and small companies that may conclude they must make changes in their market participation, in ways that will decrease the availability of coverage to the market.

<u>Certification Issues</u>

As noted above, the TRIA program should be reauthorized largely as is. However, the recent bombing at the Boston Marathon exposed deficiencies in the current law's provisions governing the certification of terrorism events. Thus, a reconsideration of the certification process is warranted in the current reauthorization debate.

Many policyholders who declined to purchase terrorism coverage will have an exclusion added to their policy, developed by the Insurance Services Office (ISO) and approved for use by all but three states, New York, Florida and Georgia. The exclusion provides that the policyholder would have no coverage for certified acts of terrorism as defined in TRIA. Because the exclusion applies only to certified acts, any acts of terrorism that are not certified would be covered.

The current TRIA definition of "act of terrorism" is any act that is certified by the Treasury Secretary and which meets a number of other requirements, including that it was committed "as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion," and that aggregate property-casualty losses from the act exceed $5 million. There is no current requirement that a certification decision must be made in any particular timeframe. This was in part out of recognition that it may take some time for claims data to come in and for the Secretary to determine the identity and motivation of the perpetrator(s). However, the certification process is open-ended and there is no obligation to make a decision one way or another, or even to announce whether or not a decision will be made.

To date, the event has not been certified. Soon after the Boston event, insurers began receiving claims but, in many cases, they have been unable to determine whether they will ultimately be responsible for those claims as this is dependent on whether or not the Boston event is certified.

Under state law, insurers are typically required to respond to claims within specific timeframes but are put in an impossible position when the lack of a certification decision leaves them unclear on whether they have ultimate liability for a given claim. In the event an insurer pays a claim that ultimately becomes non-compensable because of a federal certification decision, the insurer could, in theory, seek reimbursement from the policyholder, but the likelihood of actual recovery would be slim.

It is inappropriate for insurers to be placed in a position in which they have a legal obligation to respond to claims, but have no way to know whether they are liable for those claims. It is also unfair to policyholders, who suffer from uncertainty about the status of their claims. This situation also undermines the policyholders' purchase decision for terrorism insurance; if the Federal Government's certification decision is not determinable, policyholders may have paid for coverage that may not activate even when warranted.

Certification Time Parameters

Congress should consider placing some reasonable parameters on the certification decision-making process, which at a minimum would require the Secretary to inform the public about the status of the decision-making process and perhaps stay the application of insurers' claims response deadlines as appropriate.

The current delay in a certification decision on the Boston event might also be partially the result of barriers to timely collection of the necessary data on which to base the decision. Minimal public information is available on the current claims gathering process. An ambiguous information gathering system exacerbates the lack of a transparent certification process. Consideration should be given to ways to coordinate and streamline the information gathering process and to make it more transparent.

There is also an inconsistency among the protocols employed by the National Association of Insurance Commissioners (NAIC) and different state statistical agents with respect to catastrophe claims thresholds at which the state regulators and organizations collect information. Protocols should be updated in anticipation of TRIA data collection needs.

"Act of Terrorism" Definition

Finally, the Congress has not significantly revised the statutory definition of "act of terrorism" since TRIA's initial enactment in 2002 (with the exception of the 2007 change to cover domestic terrorism). It may be advisable to consider other definitions that present fewer logistical or political obstacles to a timely certification decision. For example, the Homeland Security Act of 2002 includes a definition used in an aviation insurance program that defines "act of terrorism" in relevant part as an act that "uses or attempts to use instrumentalities, weapons or other methods designed or intended to cause mass destruction, injury or other loss to citizens or institutions of the United States." [Public Law 107-296, Subtitle G. §865.(2)(B)(iii).] At least in some circumstances, making this determination may be somewhat more objective and obvious than seeking to divine whether a terrorist intended to "coerce the civilian population" or to "influence the policy" of the U.S. government as is required under the current definition in the TRIA statute.

(3) Describe and explain the ability of the insurance industry to model, quantify, and underwrite terrorism risk, and the resulting impact of such analysis on the availability and affordability of terrorism insurance, including an examination of the price (by line of business, location of risk, and other relevant characteristics) and coverage options for terrorism insurance.

Insurance is one of the few industries in which participants cannot know with any certainty the cost of providing its product at the time it brings the product to the market. For example, while manufacturers can make informed pricing decisions based on known data about the cost of materials, labor, distribution, etc., insurers find out their actual costs to provide coverage to a policyholder only after the policy has expired and any loss experience is known. Further, an insurance claim can develop and increase for years after an insured event occurs. Instead of the hard data often available in other industries, insurers must rely on *estimates* of the probability and severity of future losses in order to determine a responsible price for their products.

Insurers rely on actuaries trained to analyze historical loss data to develop these estimates of expected future costs. For most insurable perils, there is adequate data available upon which to base pricing decisions. Auto accidents are everyday occurrences in the property-casualty industry, as are deaths of insured lives in the life industry. These can be reliably predicted in the aggregate and priced accordingly. Catastrophic weather events, such as hurricanes, though less frequent, still provide sufficient historical data for the actuary to use scientific models to estimate loss experience, based on the insurer's risk portfolio.

Terrorism presents a unique type of catastrophic risk. The U.S. has suffered a relatively small number of terrorist attacks, and only one (9/11) with catastrophic insured losses. To be sure, significant global terrorist activity is being documented, along with military and scientific research (including behavioral science) assessing that activity. This has indeed led to some improvements in terrorism risk modeling since 9/11. However, for purposes of insurance underwriting, the models' uses are very limited. Model outcomes are severely dependent on assumptions about type, severity and location of an attack. Due to the very limited historical data detail available, some of which is unavailable due to security classification, modelers have made little progress in their ability to predict the likelihood and frequency of attacks that is essential for insurance underwriters. Even if such information could be shared, its value is minimal. Current information about today's security risks will not help insurers and reinsurers that may have made decisions on whether to underwrite a particular risk as much as a year prior.

Another key difference between natural disasters and terrorist attacks is that the latter events are man-made and thus potential occurrences and their associated losses are highly dependent on the guile, creativity, and resources of the human terrorists. These characteristics greatly restrict the usefulness of predictive models. The incidence of hurricanes and other natural disasters and their losses may change to a degree over time, but such changes are not the result of deliberate efforts to make such events occur and evade any opposing efforts to thwart them. Moreover, the insurance industry is restricted from obtaining the information that government intelligence agencies gather on the likelihood and severity of future attacks.

The American Academy of Actuaries noted in its April 21, 2006, submission to the President's Working Group on Financial Markets the following:

> "The events of September 11 made it clear to the insurance industry that there is considerably more uncertainty concerning potential significant losses due to terrorism than most industry participants had previously been aware. Reactions of participants in the industry, starting with the almost immediate and almost complete disappearance of voluntarily sold reinsurance coverage for terrorist events, were key factors motivating the TRIA legislation in 2002."

Indeed, it was the recognition of the uninsurability of the risk of terrorism that led the reinsurance industry to withdraw from the terrorism market. This level of uncertainty is no less now than it was in 2002, when TRIA was enacted.

While TRIA was drafted to be a temporary mechanism to permit the development of an efficiently functioning market for terrorism insurance, the challenge to effectively underwrite terrorism remains insurmountable. The current available insurance and reinsurance capacity for terrorism insurance is highly correlated to the existence of TRIA. Further, the demand (take-up) for terrorism insurance remains highly dependent on the affordability of the pricing that has successfully been maintained via the TRIA program.

In 2013, rating agencies, whose financial strength assessments can affect the competitiveness of insurers, are already running stress tests on insurers under a scenario where TRIA is not reauthorized or has been further limited. Additionally, rating agencies expect regional writers and insurers with significant geographic concentrations of insured risk to present plans for a potential expiration of the federal backstop.

All of the above considerations affect the ultimate availability and affordability of terrorism insurance. In addition, terrorism is but one type of risk exposure that insurers must consider (such as fire, theft, wind, bodily injury, etc.). Each underwritten risk requires commitment of capital to support that exposure. Based on the extreme loss potential from a terrorist attack, there will be a limit to the amount of capital allocated to support a book of business exposed to terrorism. So, just as individuals would try to diversify their investment portfolios so that no one investment could wipe out or severely impair the value of their life savings, the insurer and reinsurer must likewise diversify and limit the risk exposures they underwrite. Should TRIA expire, all evidence suggests that the availability and affordability of terrorism insurance would diminish.

In terms of examining the price by location of risk, Best indicates the following cities as "higher" and "highest" risk targets for terrorism:[12]

"Higher" Risk Cities			"Highest" Risk Cities
Atlanta, GA	Detroit, MI	Philadelphia, PA	New York, NY
Baltimore, MD	Houston, TX	Phoenix, AZ	Chicago, IL
Boston, MA	Las Vegas, NV	San Diego, CA	Los Angeles, LA
Buffalo, NY	Miami, FL	San Jose, CA	San Francisco, CA
Cleveland, OH	Minneapolis/St. Paul, MN	Seattle, WA	Washington, DC
Dallas, TX	Newark, NJ	St. Louis, MO	
Denver, CO	Orlando, FL	Tampa/St. Petersburg, FL	

(4) Describe and explain, with supporting information where available, any additional insurance market considerations that could impact the long-term availability and affordability of terrorism insurance (e.g., implications for coverage of insurance for nuclear, biological, chemical, and radiological acts of terrorism; cyber acts of terrorism; and terrorism in workers' compensation policies).

Market considerations that could influence the long-term availability and affordability of terrorism insurance – especially as they relate to workers compensation policies and nuclear, biological, chemical and radiological ("NBCR") acts of terrorism – are largely unchanged since the PWG considered these issues in 2010 and 2006.

Workers Compensation

Workers compensation is a state-mandated insurance coverage for employers.

---

[12] *A.M. Best Methodology*, "The Treatment of Terrorism Risk in the Rating Evaluation," Aug. 22, 2011

State workers compensation statutes require that all injuries arising out of and in the course of employment must be covered. Insurers providing workers compensation insurance cannot limit what is covered. State workers compensation agencies and courts determine what injuries and diseases, from what causes, meet the "arising out of and in the course of" test.

States can exclude some injuries from workers compensation coverage. For example, a number of states exclude mental injuries that solely result from mental stimulus. However, none of the states exclude by statute injuries or diseases that result from acts of terrorism. The only state that has any exclusion dealing with hostile acts is Pennsylvania, which enacted legislation around the time of World War II. This exclusion provides that: "… no compensation shall be paid if, during hostile attacks on the United States, injury or death of employees results solely from military activities of the armed forces of the United States or from military activities or enemy sabotage of a foreign power." (77 P.S. §431.)

If a state were to enact a terrorism exclusion for workers compensation, it might relieve the insurer from responsibility, but it might at the same time shift responsibility to the employer, or some other form of insurance or government program. Either way, a terrorist attack in the workplace would still damage economic activity.

<u>NBCR</u>
As noted, the marketplace has seen few developments in the area of NBCR coverage since the PWG considered the issue in 2006 and concluded that there appeared to be little potential for market development.

State laws do not allow workers compensation insurers to exclude coverage for NBCR events, whether or not terrorism-related. Additionally, Standard Fire Policy laws in some states mandate property insurance coverage for fire following a NBCR event, again, whether or not it is terrorism related.

A range of mitigation tools has been used by NBCR risks, including: maintaining tighter inventory controls, limiting access to vulnerable areas, personnel checks, ventilation safeguards, emergency preparedness training, etc. However, the key difference between "conventional" and NBCR risks for insurance purposes is the potential magnitude of the losses rather than the range of mitigation options. Therefore, even if mitigation tools reduce loss potential, the exposure for any losses that do occur is still quite large. Thus, mitigation alone will not increase capacity for NBCR-related terrorism losses.

Because of these persisting realities, little has changed since the Government Accountability Office (GAO) last assessed NBCR risks almost five years ago. Little is expected to change in the marketplace for NBCR coverage. In a December 2008 study No. 09-39, *TERRORISM INSURANCE - Status of Coverage Availability for Attacks Involving Nuclear, Biological, Chemical, or Radiological Weapons*, GAO reported:

> "Representatives from the majority of the insurers and reinsurers we interviewed said that their companies generally do not offer NBCR coverage or offer a limited amount of such coverage."
>
> "Property/casualty insurance industry participants we contacted told us that NBCR risks generally are uninsurable because insurers lack a reliable means to estimate the severity (because of the wide range of potential weapons and targets) and frequency (because of the impossibility of predicting terrorists' intentions)."

"Unless a way is found to dedicate substantial capital to these events, the industry will remain reluctant to make coverage available and affordable. As stated above, these losses present a catastrophic exposure to an industry with limited capital and are difficult to mitigate using traditional methods of risk management and loss control."

Cyber Terrorism

Issues surrounding the implications of, and coverage for, acts of cyber terrorism have come increasingly into focus since the PWG last studied and reported on the terrorism risk insurance marketplace in 2010. While cyber coverage remains less mature than other risks, the lack of industry feedback specific to this coverage for cyber acts of terrorism suggests that there are no availability issues in the market for cyber coverage. Information on the relationship between the increasing amount of cyber insurance being written and TRIA is even less conclusive.

At present, losses resulting from cyber acts of terrorism that fall under TRIA-covered lines of insurance are covered by TRIA. A significant amount of cyber insurance is written as professional liability, however, which is not a TRIA-covered line. Since there have been no certified acts of terrorism, concerns about the effectiveness of the TRIA certification process – similar to the certification of other events (see Question 2) – enter into insurers' analyses of cyber insurance opportunities. As noted in our response to Question 2, statutory revisions that bring greater certainty to the post-event information gathering and certification processes could also improve market conditions in the market for cyber acts of terrorism coverage.

(5) Explain and describe in general the demand (or "take-up") of terrorism insurance and provide specific data and information, where available, regarding the take-up rate by line of business, location of the risk, and other relevant characteristics.

Demand (take-up) for terrorism coverage has increased significantly since Congress first enacted TRIA. According to Bloomberg Government,[13] take-up has more than doubled, from 27 percent in 2003 to 62 percent in 2012. At the same time, terrorism insurance rates have fallen significantly. After noting that terrorism fails the four insurability tests of statistical predictability, cost predictability, randomness and event independence, Bloomberg opined, "TRIA has successfully created a functioning marketplace for terrorism insurance and that competition has brought the cost of insurance down."

Take-up rates by location of risk were described to some extent earlier in this submission. Detailed information on take-up rates by geography and industry is available in the Marsh 2013 Terrorism Risk Insurance Report, available at:
http://usa.marsh.com/NewsInsights/MarshRiskManagementResearch/ID/30732/2013-Terrorism-Risk-Insurance-Report.aspx

(6) Describe and explain in detail the long-term availability and affordability of private reinsurance for terrorism risk. Analyze, with supporting information, the impact of the Program, and any changes to the Program, on the private reinsurance market for terrorism risk, including any accompanying challenges that might arise from revisions or modifications to the Program.

---

[13] Bloomberg's BGOV Analysis, "Extending Terrorism Insurance: The case is strong for maintaining a federal backstop in a market too risky for the private sector alone," July 17, 2013

PCI has noted elsewhere in our comments the reasons why the risk of terrorism is uninsurable. There is no question that this view was shared by the global reinsurance industry in the aftermath of 9/11. This view continues to be the case today.

On September 11, 2012, Edward Ryan, Senior Managing Director of AON Benfield, testified on behalf of the Reinsurance Association of America before the Subcommittee on Insurance, Housing and Community Opportunity of the House Subcommittee on Financial Services. Mr. Ryan noted that the commercial reinsurance industry now participates significantly in reinsuring the terrorism risks retained by primary insurers through their TRIA deductibles and co-pays. However, should insurer retentions be significantly increased, there is doubt as to whether the private reinsurance market would be able to increase the reinsurance capacity available to primary insurers proportionately.

Mr. Ryan also noted that, should TRIA be allowed to expire, "the private reinsurer marketplace would work productively with insurers to provide reinsurance coverage for terrorism, but capacity would be severely constricted." He estimated that the amount of stand-alone terrorism treaty reinsurance capacity available in the private market is between $6 and $8 billion and noted that that figure has not changed significantly in recent years. (By comparison, the Insurance Information Institute reports that the 9/11 attacks caused over $42 billion of insured losses, in 2012 dollars.) Mr. Ryan's most ominous, but accurate, observation was as follows:

> "Absent a federal backstop for terrorism risk, expectations that the vast majority of the existing insurance market for terrorism risk would disappear are not merely speculative. Aon tracked property insurance market behavior prior to the previous expiration of the various iterations of TRIA and, in each instance, more than 80% of the existing capacity for terrorism risk would have been withdrawn from the market in the absence of TRIA and its mandatory offer of coverage provisions."

PCI members, like most insurers, use reinsurance as one of many tools to spread and manage risk responsibly so as to ensure their continuing ability to thrive and pay their policyholders' claims. In the absence of sufficient reinsurance, insurers cannot responsibly write significant amounts of terrorism coverage. Our members are already facing challenges in purchasing additional and expanded workers compensation reinsurance terrorist coverage due to the potential sunset of TRIA in 2014.

(8) Describe and explain any other developments, considerations, or market issues that might affect the long-term availability and affordability of terrorism risk insurance. (Note: there is no Question 7.)

Please see our answers to Questions 1-6 above.

Conclusion

PCI, its members and policyholders strongly support the current terrorism insurance program and encourage your consideration of a long-term reauthorization to provide stability and certainty in the marketplace. Thank you for the opportunity to comment.

Please contact us with any questions or if we can be of further assistance.

Sincerely,

David M. Golden

David M. Golden

Terrorism Insurance Still Necessary to Foster Resilience

Washington Times

September 18, 2013

Aerospace, Defense & Homeland Security Special

By Rep. Bennie G. Thompson (D-MS)

Last week, we commemorated the twelve year anniversary of the terrorist attacks of September 11, 2001. One of the tough lessons of that day was that our Nation was not as resilient as it could be. In the weeks and months that followed, as Americans began coming to terms with the resulting loss of life and destruction, our economy sputtered. The Dow experienced its worst one-day drop ever (600 points), our civil aviation system teetered on economic collapse, and over 125,000 American workers were laid off. Property insurance claims resulting from the attacks were nearly $40 billion—rendering September 11th the largest single insurance event that the Nation had ever experienced. By early 2002, fearing that the terrorist threat could not be adequately predicted and underwritten, prominent reinsurers exited the U.S. market and businesses across the country could not get terrorism coverage. In an effort to prevent further damage to the U.S. economy, particularly to the construction, hospitality, housing, and manufacturing sectors, Congress enacted the Terrorism Risk Insurance Act (TRIA) which mandated that terrorism coverage be made available to at-risk businesses and, in turn, the Federal government would provide a backstop in the event of a certified terrorist incident that results in at least $100 million in insured damages. As designed, a complex system of triggers must be activated before Federal funds are disbursed. To date, not a single dollar has left the U.S. Treasury under this program; it appears as though the Boston Marathon bombings will not meet the statutory threshold either, since insurance payouts are only about $1 million.

Over the past ten years, TRIA has fostered a more resilient country and, notwithstanding these turbulent times, the number of firms securing terrorism risk insurance, as well as premium rates, has remained fairly constant. The Boston Marathon bombings are a stark reminder that mass violence, whether a result of terrorism or other acts, remains a homeland security and economic threat to the Nation and our infrastructure. Today, firms that need insurance to bounce back from terrorism face the very real threat that it will not be available to them. According to a prominent insurance industry survey, if TRIA is allowed to expire, as is slated to occur at the end of 2014, there is a great likelihood that 68% of insurers would exclude terrorism coverage, thereby causing an enormous spike in the cost of this insurance and placing a heavy burden on the private sector as it emerges from the recent economic crisis.

Recognizing the importance of TRIA to fostering a more resilient America, it has been reauthorized by Congress twice, on wide bipartisan bases. Inexplicably, even as policymakers openly debate whether new insurance products should be made available to firms that proactively address the risk of cyber attacks, there is increasing likelihood that this Congress will let TRIA lapse. To ensure economic stability and ensure that at-risk businesses can continue to operate, plan, and grow, I introduced legislation to extend TRIA for ten more years. The Fostering Resilience to Terrorism Act would ensure that responsible companies, big and small, can be certain in the knowledge that should they be hit by terrorism, they will be able to dust themselves off, roll up their sleeves, and get back to business. It is time for Congress to do its part to foster resilience. It is time for Congress to provide a long-term authorization for the TRIA program.

Rep. Bennie Thompson (D-MD) is the Ranking Member, House Committee on Homeland Security.

ACCIDENT FUND HOLDINGS, INC.

P.O. Box 40790
Lansing, MI 48901-7990
www.afhi.com

Written Testimony
On Behalf of Accident Fund Holdings, Inc. (AFHI)
Committee on Financial Services
United States House of Representatives
September 19, 2013

Chairman Hensarling, Ranking Member Waters, Members of the Committee:

Accident Fund Holdings, Inc. (AFHI) appreciates the opportunity to share our views on the Terrorism Risk Insurance Act (TRIA) program. The combined efforts of our Enterprise make AFHI the 17th largest provider of workers' compensation, and the largest non-governmental specialty writer, in the country. AFHI is a wholly owned subsidiary of Blue Cross Blue Shield of Michigan (BCBSM).

AFHI now employs nearly 1,000 employees throughout the country, writing monoline workers' compensation in all 46 states we're licensed in. In this capacity, and as the former state fund of Michigan, we offer a unique perspective on the TRIA program.

To insure against the peril of terrorism, public/private partnerships such as the TRIA program are necessary. The extension of the federal backstop under the TRIA program continues to have AFHI's full support. TRIA needs to be a long-term solution for workers' compensation insurers and the property casualty industry to protect employers, injured workers and their families. Basic key fundamental reasons for our reauthorization support are:

- Terrorism coverage for workers' compensation insurers cannot be excluded or limited by the policy language. Reinsurers are not able to replace the market capacity created by the expiration of TRIA.
- Workers' compensation insurance is a "no-fault" system, created to provide benefits on behalf of employers to injured workers. Without the extension of the federal backstop, the system designed to protect injured workers will be in jeopardy.
- We are unable to measure the frequency of attacks as we have few data points to model the risk of terrorism in the United States. We do not have a large number of observations to develop credible ratemaking or predictive models for catastrophic risks as a result of terrorism.

ACCIDENT FUND HOLDINGS, INC.

P.O. Box 40790
Lansing, MI 48901-7990
www.afhi.com

Workers' compensation insurers will need TRIA as long as we need the government to protect us from terrorists. The expiration of TRIA could result in financial insolvency for workers' compensation insurers and the businesses we serve should a nuclear, biological, chemical, radiological attack or a similar catastrophic terrorist event, occur. We would expect to see a migration of business currently being written by private workers' compensation carriers to public state funds, residual markets and guaranty funds for large segments of metropolitan areas. These public options for workers' compensation are not designed to handle a catastrophic terrorist event and they will fail. Injured workers and their families would face potential disruption in benefits.

If the workers' compensation system fails, taxpayers could still be responsible for compensating victims, the very scenario that some policymakers want to avoid by letting TRIA expire. There would be delays in payment and hardship for those injured because of the lack of an efficient compensation system.

These disruptions can be averted. Workers' compensation carriers are unable to exclude terrorism or acts of war through policy language like other property casualty writers. Extending TRIA is more than a federal backstop for insurers -- it is a social and economic imperative.

1201 New York Avenue, NW · #600 · Washington, DC 20005
Tel. 202-289-3100 · Fax 202-289-3199 · www.ahla.com

American Hotel & Lodging Association

September 18, 2013

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

The American Hotel & Lodging Association applauds the leadership of the House Financial Services Committee in holding hearings to consider the Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA). The lodging industry calls on Congress to act quickly to continue this important private/public partnership.

AH&LA is a 100-year-old association of state and city partner lodging associations throughout the United States with some 10,000 property members nationwide. We represent more than 4.9 million guest rooms and over 1.8 million employees in the United States. AH&LA's membership ranges from the smallest independent properties to the largest convention hotels.

Without TRIPRA, the lodging industry will face substantial difficulty in obtaining terrorism risk coverage which is often required for securing loans for development projects. The Terrorism Risk Insurance Act (TRIA) was enacted in the months following the September 11, 2001 attacks and provides a federal plan for economic continuity and recovery in the event of another severe terrorist attack against the United States. TRIPRA ensures a market exists for businesses to secure terrorist risk coverage often required under the terms of bank loans. Importantly, TRIPRA protects American taxpayers as the program mandates that "first dollar losses" be paid by insurers and policy holders and is only triggered in the event of a major event and after individual insurer loss thresholds are met. In addition, the program has operated virtually cost-free to the taxpayer since being enacted.

The lodging industry has seen no evidence that the terrorism risk market is prepared to provide coverage without the private/public partnership TRIPRA provides. TRIPRA has allowed for terrorism coverage prices to stabilize and adequate coverage to be secured with minimal risk to taxpayers. Our members will soon begin to see renewal notices with exclusion clauses if TRIPRA is not renewed by Congress.

AH&LA applauds your efforts to extend this vital program and calls on Congress to act quickly.

Thank you for your consideration of our views.

Sincerely,

Katherine G. Lugar

President and CEO

Cc: Members of House Financial Services Committee

AMERICAN
PUBLIC
TRANSPORTATION
ASSOCIATION

September 18, 2013

The Honorable Jeb Hensarling
Chairman
House Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
House Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

On behalf of the American Public Transportation Association (APTA) and its more than 1,500 member organizations, I write in support of legislation to extend the Terrorism Risk Insurance Program. Originally created following the September 11, 2001 attacks, the public transportation industry requires the program in order to insure against potentially large losses due to acts of terrorism.

Public transportation agencies are technologically advanced systems that are largely open to the public and have repeatedly been identified as high-risk terrorist targets. Despite significant and continuing efforts to harden facilities, enhance public awareness, and increase overall security across their systems, public transportation agencies require full insurance coverage (both property and casualty) from terrorist acts. Since September 11, the insurance industry has been unable to provide the necessary insurance capacity to financially protect public and private assets such as public transportation, utilities, commercial real estate, and similar industries and projects. The passage of Terrorism Risk Insurance Act (TRIA) enabled public transportation agencies to once again access the marketplace and obtain affordable coverage along with the reinsurance available through TRIA. There is no indication that the private insurance market is any better equipped to exclusively provide terrorism insurance now than it was when TRIA was initially enacted in 2002. To this end, we ask that the federal government continue its role in the ongoing public-private partnership that is the Terrorism Risk Insurance Program.

I thank the committee for its leadership on this important issue. Please feel free to contact me or my staff should you have any questions.

Sincerely,

Michael P. Melaniphy
President & CEO

MPM/bt

1666 K Street, N.W., 11th Floor Washington, DC 20006Phone (202) 496-4800FAX (202) 496-4324 www.apta.com

Bloomberg GOVERNMENT

»BGOV Analysis
July 17, 2013

Extending Terrorism Insurance

The case is strong for maintaining a federal backstop in a market too risky for the private sector alone

BY CHRISTOPHER PAYNE
Bloomberg Government Analyst

ROBERT LITAN
Director of Research

ON BGOV.COM

Legislation Search
H.R. 508
H.R. 1945
H.R. 2146
Congress Tracker
Finance Industry

RELATED ANALYSIS

Basel Capital Rules May Put Biggest Insurers at Competitive Disadvantage
Insurance Regulation

COMPANIES

Liberty Mutual Insurance Co.
Hartford Financial Services Group
American International Group
Berkshire Hathaway Inc.
Zurich Insurance Group AG
The Allstate Corp.

FINDINGS

» The Terrorism Risk Insurance Act (TRIA) is scheduled to expire at the end of 2014. The insurance industry is unanimous in arguing that it should be extended. The industry and many experts believe insurance coverage for acts of terrorism would be less available without TRIA, potentially curtailing construction of high-profile commercial projects.

» After 9/11, the supply of terrorism insurance policies virtually disappeared. After TRIA was enacted, commercial take-up rates rose to more than 60 percent in 2012 from 27 percent in 2003. Acts of terrorism remain almost impossible to build into traditional insurer pricing models because they are deliberate and not random events.

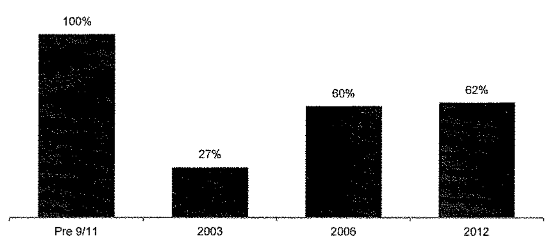
» Arguments by some critics of TRIA that the private market is ready and able to step in to fill the void have almost no academic support.

» This analysis concludes that TRIA, like bank deposit insurance, is a government program that addresses a permanent failing of the private market to provide necessary coverage.

WHAT'S AHEAD

Three House bills — H.R. 508, H.R 1945 and H.R. 2146 — all seek to extend the program. H.R. 508 and H.R. 2146 have been referred to House Subcommittee on Cybersecurity, Infrastructure Protection and Security Technologies.

Commercial Take-Up Rates for Terrorism Insurance
The Terrorism Risk Insurance Act of 2002 became law on Nov. 26, 2002



Source: Property Claim Services, Insurance Information Institute, testimony by Erwann O. Michel-Kerjan to the House Committee on Financial Services (see endnote 9)

INTRODUCTION

The Terrorism Risk Insurance Act of 2002 was first extended in 2007, and is now scheduled to expire in 2014. On Feb. 5, Rep. Michael Grimm (R-N.Y.) introduced the "Terrorism Risk Insurance Act of 2002 Reauthorization Act of 2013" (H.R. 508), which would extend the terrorism risk insurance program (TRIA) for another five years, to 2019[1]. In addition, recoupment of any payments made under the program would need to be recovered by 2024, rather than 2017 as currently written into the law. Another bill, "The Fostering Resilience to Terrorism Act of 2013" (H.R. 1945),[2] would extend the program for 10 years. A third bill, the "Terrorism Risk Insurance Program Reauthorization Act of 2013" (H.R. 2146),[3] would extend the program for 10 years and also require the president's Working Group on Financial Markets to file reports on market conditions in 2017, 2020 and 2023.

The main provisions of the current program are:

1. Insurers are required to make terrorism coverage available to commercial policyholders, although policyholders are not required to buy it. The coverage can form part of a more general property/casualty insurance contract or can be standalone.
2. For an act certified as terrorism by the Secretary of the Treasury, Secretary of State and Attorney General, government coverage begins for losses exceeding $100 million.
3. In the event of a claim, private insurers pay out 20 percent of their direct earned premiums from TRIA-specified policies. According to the National Association of Insurance Commissioners, direct earned premiums specified in TRIA totaled $34 billion in 2011.
4. Once the $100 million event-specific threshold is passed and the deductible is paid, the government pays 85 percent of the losses incurred by each insurer. The insurer's total liability is therefore the 20 percent deductible plus 15 percent of the loss in excess of the deductible.
5. If the total loss doesn't exceed $100 billion, the government will recoup 133 percent of its payout through an after-the-fact assessment on the property and casualty insurance industry.
6. Since TRIA was enacted in 2002, no event has triggered a government payout.

For a detailed overview of the program, see papers published by the Congressional Research Service[4] and the President's Working Group on Financial Markets.[5]

PERMANENT MARKET FAILURE?

During the past few years, lawmakers have been looking for ways to lower taxpayer exposure to the financial sector. Dodd-Frank, for instance, was written with the expressed aim of reducing the chances of government bail-outs for banks that were previously considered too big to fail.[6]

Congress has chosen where possible to terminate specific guarantee programs set up during the financial crisis. The Treasury's money market guarantee program was allowed to expire on Sept. 18, 2009, one year after it had been set up. And in January of this year, the Transaction Account Guarantee (TAG) program came to an end. This special program, also created at the height of the financial crisis, provided unlimited deposit insurance on transaction deposit accounts. With its expiration, deposit insurance on transaction accounts, like other deposit accounts, is limited to $250,000 per person per account.

The decision by Congress to terminate both emergency programs has not, so far, caused any significant issues for either industry. While emergency government support is sometimes required financial institutions and their customers generally should look to themselves, and not to the government, for surety. This of course doesn't mean that the programs' expirations were uncontested. In the case of TAG, a coalition of large depositors and small banks attempted, but failed, to have the program extended.[7]

While the mood in Washington seems to be that any special financial crisis-related guarantees should be terminated, no one seems to be contesting the continuation of a base level of deposit insurance. It is generally recognized that the Federal Deposit Insurance Corporation and its guarantees (backed by fees paid by the banking industry) has brought stability to deposit-taking banking in the U.S. since its creation in 1933.

In deciding whether to extend TRIA after it expires in 2014, Congress will debate whether the program is similar in nature to emergency programs such as TAG and the money market fund guarantee that were judged to be no longer needed after the financial crisis passed, or whether TRIA is more like deposit insurance that should be maintained in good times and bad. If the latter is the case, the most appropriate response is to extend TRIA and/or consider ways to make it permanent.

Put another way, the question revolves around whether the private market is able to provide necessary insurance coverage. In the case of the FDIC, the private market was found wanting. Congress needs to consider whether the same can be said of terrorism insurance.

ARGUMENTS FOR EXTENDING TRIA

Both this section and the next one summarize arguments in favor and against extending TRIA that were advanced during a hearing of the House Financial Services Committee, held on Sept. 11, 2012.[8]

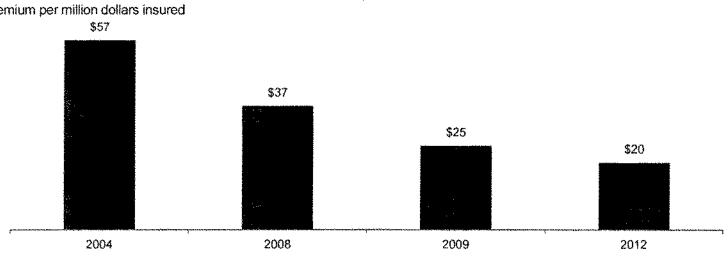
1. TRIA appears to have been a great success. Prior to 9/11, U.S. insurers bundled terrorist coverage into their general property/casualty insurance policies without an additional premium. In retrospect, this reflected a major risk miscalculation on the part of the industry. Prior to 9/11, risk was shared between primary insurers and reinsurers (predominantly European). After 9/11, reinsurers ended coverage for terrorist acts. Soon after, primary insurers did the same; leaving very little available coverage. As the chart on the front page shows, policyholder coverage for terrorism has risen substantially since TRIA was enacted. According to data from Marsh Inc. and Aon Plc., commercial take-up rates were 27 percent in 2003, more than doubling to 60 percent by 2006 and remaining stable since then.[9]
2. Without TRIA the private market for terrorism insurance coverage probably would shrink, and where coverage was offered it could be much more expensive. The reasons relate both to the nature of insurance and the nature of terrorist attacks. Insurance works on the basis of four main principles: (1) there are enough events (think of fender-benders) to make losses reasonably predictable; (2) losses can be estimated and, in particular, a maximum possible estimate can be made; (3) losses happen by chance, so the events are random and not purposeful; and (4) events are not highly correlated or catastrophic so as to cause huge payouts well in excess of premiums collected and reinvested earnings.

Terrorism fails on all of these criteria. Unlike weather-caused disasters, for instance, terrorist attacks are unique events whose likelihood and costs are almost impossible to predict or model. Events don't happen by chance and they are potentially catastrophic. And, unlike earthquakes (which the federal government refused to provide a backstop to in the early 1990s, after much lobbying by industry), home-owners and builder-owners cannot take meaningful steps to reduce the risk of damage.

As a result, it is almost impossible to price insurance premiums properly. While it was reported in 2010 in the Presidents Working Group Report that there had been significant advances in terms of data collection and modeling, such advances still fell far short of what would be required for rational pricing.[10] Indeed, it is questionable whether a model can ever be developed that would account for the erratic and purposeful behavior of terrorists.

Median Premium Rate for Medium- and Large-Sized Companies

Premium per million dollars insured



Source: Property Claim Services, Insurance Information Institute, testimony by Erwann O. Michel-Kerjan to the House Committee on Financial Services (see endnote 9)

3. As the chart above shows, prices for coverage have fallen since TRIA was enacted. This may reflect the fact that there has been no repeat of an attack on the scale of 9/11 (the only terrorist attack within the U.S. has been the 2013 Boston Marathon). However, it also probably reflects that TRIA has successfully created a functioning marketplace for terrorism insurance and that competition has brought the cost of insurance down.

4. The expiration of TRIA would probably lead to a shrinking of available coverage for terrorism. Aon estimates that 70 percent to 80 percent of the market would encounter terrorism exclusions if the program were discontinued.[11] This may mean that companies required to have such coverage (such as construction companies operating in Manhattan and other dense urban areas) would have to cancel investment projects.

   The potential downside effect on the economy of not having terrorism insurance coverage was one of the key motivations for TRIA in 2002. The Council of Economic Advisers found that in the absence of a well-functioning terrorism insurance market, 300,000 jobs were lost due to deferred construction investment.[12] According to the Real Estate Roundtable, during the 14-month period between 9/11 and the passage of TRIA, about $15 billion in real-estate transactions were delayed or cancelled.[13] Available evidence seems to suggest that prior to the extension of TRIA in 2007 the market for terrorism insurance had already begun to shrink.[14]

5. Letting TRIA expire may not lessen the government's potential liability arising from future acts of terrorism. As discussed above, the expiration of TRIA probably would lead mainstream insurers to withdraw from the market. Second-tier insurers could step into the void — without the requisite policyholder surplus (and capital) to cover a loss from a major terrorist attack — and sell high-value insurance based on a gamble that no major terrorist event will occur. Were such an event to take place, and these insurers were unable to cover losses, government would probably would feel duty bound, especially in the emotional aftermath of a terrorist attack, to spend taxpayer funds to cover the shortfall.

6. TRIA is fiscally responsible. Any payouts made by the federal government under the TRIA program are recouped from the industry as a whole. Therefore the contingent liability created by TRIA is not permanent but relates to the timing of cash flows. This makes it similar to the deposit insurance fund, which had to borrow from the Treasury during the crisis. These loans have now been repaid through assessments on FDIC member banks and thrifts. That said, it should be noted that, save for the effects of the financial crisis, the deposit insurance fund is funded *ex ante* by the industry, while TRIA is funded *ex post*; that is, government payouts are recouped from the industry after the event.

7. Other countries that have faced terrorist attacks — Israel, Spain, France, the U.K. and Germany — have opted for terrorism insurance that involves some form of government participation. Governments in these countries concluded that the private market alone would not be able to provide the coverage required by commerce.

ARGUMENTS AGAINST EXTENDING TRIA

During the House Financial Services Committee hearing only one of the 12 witnesses, David C. John, a senior research fellow at the Heritage Foundation, argued against the extension of TRIA. The arguments in this section generally summarize his testimony.

1. The continued existence of TRIA is preventing the development of a private terrorism insurance market. With enough lead time, insurers could develop appropriate models that would lead to rational pricing. By the end of 2014, the industry would have more than 12 years of data to work with.

2. TRIA contributes to an underpricing of terrorism insurance because the government provides a backstop and the industry therefore collects premiums without facing the true value of potential losses. As a result, those buying the insurance don't have sufficient incentives to reduce their exposure to terrorism risk.

   An example of this is the federal flood insurance program and the Florida hurricane insurance program. Both demonstrate that political pressure can lead to lower and lower premiums, which can end up being well below the actual cost, thus subsidizing risky behavior.

Congress should begin immediately to start the partial phase-out of TRIA. For example the deductible paid by insurers should increase, the threshold for payout should be increased and acts of domestic terrorism should be removed from coverage. Phasing out TRIA now would give the industry enough time to meet customer needs and would make it clear that there is to be no reprieve for the program.

3. Increased coverage and falling prices reflect that a proper market is developing for terrorism insurance, even as TRIA continues to exist. As such, there is no reason to assume that insurers cannot build models that price risk appropriately. That these models are less developed than for other catastrophic events may not reflect the nature of the risk, but instead reflect that TRIA is stunting full development of the market.

4. It is wrong that taxpayers should have continued exposure to insurance losses on private property. If a terrorist attack were to cause greater than $100 billion in damages, TRIA leaves the issue of repayment to the discretion of government. And regardless of the size of the loss, there remains a risk that the private insurers will be unable to repay the government.

CONCLUSION

The weight of professional and academic opinion is clearly on the side of extending TRIA. While coverage has improved, the argument that a private market can provide sufficient terrorism coverage doesn't have wide academic support. Based on past experience, there is no reason to assume that reinsurers will re-enter the market if the TRIA program expires, and every reason to assume that the availability of coverage will fall.

The most convincing argument for the extension of TRIA is that terrorist acts are entirely different from other events that insurers cover, and TRIA fills a permanent gap in the market that has emerged in the wake of 9/11. TRIA is therefore more like permanent deposit insurance than temporary government programs such as TAG. And just like the deposit insurance fund, any federal payment of covered terrorism-related losses can be recouped by assessments on policyholders. TRIA is fiscally responsible.

Congress perhaps should consider the appropriate way to make TRIA permanent while at the same time ensuring that insurers are not gaining at the taxpayers' expense. This would bring the U.S. in line with other developed countries that face similar threats.

ABOUT BLOOMBERG GOVERNMENT

ANALYST CONTACT INFORMATION

Christopher Payne, Senior Economic Analyst cpayne9@bloomberg.net

ABOUT THE ANALYST

Chris Payne is a Senior Economic Analyst with Bloomberg Government. After earning a Ph.D. at the London School of Economics, he served as a research fellow at Duke University. Payne worked as a CPA at PricewaterhouseCoopers and was a vice president at JPMorgan Securities covering Asian emerging markets. He holds a master's degree from the London School of Economics and a B.A. from Cambridge University.

ENDNOTES

[1] H.R. 508, Terrorism Risk Insurance Act of 2002 Reauthorization Act of 2013, www.bgov.com/us_legislation/2749447646884290492/full_text, (retrieved June 27, 2013).

[2] H.R. 1945, Fostering Resilience to Terrorism Act of 2013, www.bgov.com/us_legislation/2749447578172839169, (retrieved July 12, 2013).

[3] H.R. 2146, Terrorism Risk Insurance Program Reauthorization Act of 2013, www.bgov.com/us_legislation/2749447659778440877, (retrieved July 12, 2013).

[4] Congressional Research Service, www.bgov.com/static/service/5887936413754196327.pdf, (retrieved June 24, 2013).

[5] President's Working Group on Financial Markets, www.treasury.gov/resource-center/fin-mkts/Documents/PWG%20Report%20Final%20January%2013.pdf, (retrieved June 24, 2013).

[6] Bloomberg Government, www.bgov.com/media/news/5tdzcfFKyZoWVwL6N30EwQ, (retrieved June 28, 2013).

[7] Bloomberg Government, www.bgov.com/media/news/3uvzASsytexaex-z7EHKxA, (retrieved June 28, 2013).

[8] House Committee on Financial Services, http://financialservices.house.gov/calendar/eventsingle.aspx?EventID=307443, (retrieved June 24, 2013).

[9] Erwann O. Michel-Kerjan, written testimony to the House Committee on Financial Services, http://financialservices.house.gov/uploadedfiles/hhrg-112-ba04-wstate-emichelkerjan-20120911.pdf, pp. 5-6, (retrieved June 27, 2013).

[10] President's Working Group on Financial Markets, www.treasury.gov/resource-center/fin-mkts/Documents/PWG%20Report%20Final%20January%2013.pdf, (retrieved June 24, 2013).

[11] Robert Hartwig, written testimony to the House Committee on Financial Services, http://financialservices.house.gov/uploadedfiles/hhrg-112-ba04-wstate-rhartwig-20120911.pdf, p. 17, (retrieved June 27, 2013).

[12] Rolf Lundberg, written testimony to the House Committee on Financial Services, http://financialservices.house.gov/uploadedfiles/hhrg-112-ba04-wstate-rlundberg-20120911.pdf, p. 3, (retrieved June 27, 2013).

[13] Steve Bartlett, written testimony to the House Committee on Financial Services, http://financialservices.house.gov/uploadedfiles/hhrg-112-ba04-wstate-sbartlett-20120911.pdf, p. 3, (retrieved June 28, 2013).

[14] National Association of Realtors, written testimony to the House Committee on Financial Services, http://financialservices.house.gov/uploadedfiles/hhrg-112-ba04-wstate-lstpeter-20120911.pdf, pp. 2-3 ,(retrieved June 24, 2013).

Building Owners and Managers Association International

Suite 800
1101 15th Street, NW
Washington, DC 20005
OFFICE: 202-326-6300
FAX: 202-326-6377
www.boma.org

September 18, 2013

The Honorable Jeb Hensarling
Chairman
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
House Committee on Financial Services
B301C Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

On behalf of the Building Owners and Managers Association (BOMA) International, I would like to thank you both for holding hearings on the Terrorism Risk Insurance Act (TRIA) of 2002. BOMA International's members – owners and managers of commercial properties across the country – are hopeful that Congress will act quickly to extend this critical program.

As you know, following the September 11, 2001 terrorist attack, many owners of commercial properties were advised that their policies would not be renewed or that their new policies would exclude terror/war risks. Without adequate insurance, it is difficult, if not impossible, to operate or acquire properties, refinance loans, and to sell commercial-backed securities. We fully supported Congress' actions to enact a federal backstop program and pass the Terrorism Risk Insurance Act of 2002 (and again in 2005 and 2007). BOMA members believe that the current program works and must be extended as soon as possible. If it is allowed to lapse or expire, many building owners will not be able to acquire adequate levels of coverage at reasonable and affordable rates, and commercial real estate transactions will be severely impaired.

The Building Owners and Managers Association (BOMA) International is a federation of 93 BOMA U.S. associations, BOMA Canada and its 11 regional associations and 13 BOMA international affiliates. Founded in 1907, BOMA represents the owners and managers of all commercial property types including nearly 10 billion square feet of U.S. office space that supports 3.7 million jobs and contributes $205 billion to the U.S. GDP.

If there is anything that BOMA can do to assist you in your efforts, please don't hesitate to contact me at kpenafiel@boma.org or (202) 326-6323.

Sincerely,

Karen W. Penafiel

Karen W. Penafiel, CAE
Vice President, Advocacy, Codes and Standards
BOMA International

CRE Finance Council®
The Voice of Commercial Real Estate Finance

September 18, 2013

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives
B301C Rayburn House Office Building
Washington, DC 20515

Re: Full Committee Hearing on "The Terrorism Risk Insurance Act of 2002"

Dear Chairman Hensarling and Ranking Member Waters:

Thank you for holding the important hearing September 19th to highlight the need to reauthorize this vital legislation. On behalf of our over 250 members, we are fully supportive of Congressional efforts to extend the current legislation. Further, we also appreciate your attention to this issue at present, so as to minimize near certain disruption to finance markets in the waning days before expiration next year.

The CRE Finance Council is the collective voice of the entire $3.1 trillion commercial real estate finance market. Our principal missions include setting market standards, facilitating market information, and providing education at all levels. Because our membership consists of all constituencies across the entire CRE finance markets, the CRE Finance Council has been able to develop comprehensive responses to policy questions that promote increased market efficiency and investor confidence.

The continued availability of terrorism risk insurance is critical to the health and liquidity of the commercial real estate finance markets. Terrorism insurance is a near universal requirement for CMBS and portfolio loans alike and has been since TRIA's inception. The federal program created under the Terrorism Risk Insurance Act of 2002 after the attacks of 9/11 helped avoid economic dislocation and paralysis in our industry by providing a framework whereby the insurance industry could continue to offer terrorism risk insurance. Better yet, TRIA does this while providing taxpayers assurance that if an event did happen, we would have in place prior to any event the mechanisms to deal with the claims and recoup most, if not all, federal outlays.

Our members and their respective borrowers are keenly aware that TRIA will expire in 2014, and believe this successful program must be renewed to maintain the continued availability of terrorism risk insurance. This is an issue that affects not just large metropolis centers, but all communities throughout our nation. We urge the Committee to move quickly to renew the terrorism risk insurance program, and look forward to working with you and your committee staff on this effort.

Sincerely,

Stephen M. Renna
President & CEO

900 7th Street NW, Suite 820, Washington, DC 20001
20 Broad St, 7th Floor, New York, NY 10005
Tel: 202.448.0850 • www.crefc.org

HOST
HOTELS & RESORTS

September 18, 2013

The Honorable Jeb Hensarling, Chairman
The Honorable Maxine Waters, Ranking Member
The Committee on Financial Services
U.S. House of Representatives
Washington DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

I am writing to express my sincere appreciation and support for your decision to hold hearings on the Terrorism Insurance Act of 2002, as amended (TRIA), and to urge prompt renewal of this critical legislation.

I am the President and CEO of Host Hotels and Resorts. Host owns or has interests in more than 140 luxury and upper upscale hotel properties in 15 countries, 24 states and the District of Columbia and is one of the largest owners of hotels in the world. I also serve as the Chair of the National Association of Real Estate Investment Trusts, the worldwide voice for REITs and publicly traded real estate companies with an interest in the U.S. real estate and capital markets. I know first-hand the terrible consequences of acts of terror against our country, its workers and our economy. My company was deeply affected by the terrorist acts of September 11. Host lost our Marriott World Trade Center Hotel, which was destroyed by the collapses of the World Trade Center towers, and our Marriott New York Financial Center Hotel located two blocks away was also heavily damaged. Much more importantly, we suffered the loss of two hotel employees. Moreover, the thwarted 2010 Times Square bombing attempt happened directly in front of our Marriott Marquis, and the Boston Marathon bombings took place just two blocks from our Boston Marriott Copley Place and Sheraton Boston hotels.

The uncertainty surrounding the future of terrorism insurance following the attacks of September 11 contributed significantly to a paralysis in the economy, particularly in construction, tourism, business travel and real estate finance. TRIA provides a plan for our economy to survive a terrorist event without losing stability or continuity. It requires the insurance industry to bear a significant amount of any claims and also provides a mechanism for the government to recoup from policy holders the cost of governmental outlays. TRIA works and I urge Congress to act quickly to renew this vital program.

Sincerely,

W. Edward Walter

W. EDWARD WALTER
PRESIDENT & CHIEF EXECUTIVE OFFICER
HOST HOTELS & RESORTS · 6903 ROCKLEDGE DRIVE · SUITE 1500 · BETHESDA, MD 20817 · T 240.744.5200 · F 240.744.5205
ed.walter@hosthotels.com

International Association of Amusement Parks and Attractions

1448 Duke Street
Alexandria, VA 22314 USA

Tel: +1 703/836-4800
Fax: +1 703/836-1192
Email: IAAPA@IAAPA.org
www.IAAPA.org

IAAPA

September 13, 2013

Rep. Jeb Hensarling	Rep. Maxine Waters
Chairman	Ranking Member
Committee on Financial Services	Committee on Financial Services
U.S. House of Representatives	U.S. House of Representatives
2129 Rayburn House Office Building	B301C Rayburn House Office Building
Washington, DC 20515	Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

The International Association of Amusement Parks and Attractions, IAAPA, represents more than 4,500 facility, supplier, and individual members from more than 90 countries. In the United States, IAAPA has members in all 50 states. Member facilities include amusement/theme parks, waterparks, attractions, family entertainment centers, arcades, zoos, aquariums, museums, science centers, resorts, and casinos. Providing safe family fun is IAAPA's highest priority. On behalf of IAAPA, I wanted to applaud the Committee's hearing on the Terrorism Risk Insurance Act and urge passage of an extension of that Act as soon as possible.

The parks and attractions of IAPPA members, located throughout the United States, play important roles in the many States and communities in which they are located. The provide safe, fun places to make family memories, attract visitors often from all over the world, and are important economic engines. Each year, IAPPA members make massive investments in maintaining and expanding these attractions – investments which require for financing the availability of terrorism insurance. The TRIA program has been very successful, and is critical to the continued availability of such insurance.

Indeed, although the TRIA program expires at the end of 2014, policies are typically for one full calendar year, meaning that if Congress does not act before then, as of January 1, 2014 and each day thereafter, uncertainty about TRIA will begin to affect the availability and pricing of such insurance. In turn, that uncertainty could affect the investments and jobs that IAAPA members are proud to provide to our communities.

As venues that attract large numbers of visitors, IAAPA members take safety and security very seriously. We welcome Congress' support for the critical TRIA program and look forward to working with you to help ensure an extension as soon as possible.

Sincerely,

Randy Davis

Randy Davis
Senior Vice President, Safety & Advocacy

Regional Offices:

IAAPA Asia Pacific
Hong Kong SAR, China

IAAPA Europe
Brussels, Belgium

IAAPA Latin America
México City, México

International Council of Shopping Centers, Inc.
555 12[th] Street, NW, Suite 660,Washington DC 20004-1200
+1 202 626 1400 • Fax: +1 202 626 1418 • www.icsc.org

The Honorable Jeb Hensarling
United States House of Representatives
2228 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters
United States House of Representatives
2221 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

On behalf of the International Council of Shopping Centers (ICSC) and its 63,000 members, we express our gratitude for your willingness to hold a hearing on the Terrorism Risk Insurance Act (TRIA), while encouraging the House Financial Services Committee to seek a renewal of this vital program.

Following the terrorist acts of September 11, 2001, both primary insurers and reinsurers began excluding risks of terrorism from their commercial policies, due to the inability to effectively model such catastrophic events. This exclusion posed a very real threat to the stability of the commercial real estate industry and market as a whole – as many investors, developers, and retailers are required to obtain and maintain such insurance on projects in order to meet the contractual obligations of their commercial loans. Without reasonable access to terrorism risk insurance, the commercial real estate industry was left without an answer.

The Terrorism Risk Insurance Act (TRIA) was established by Congress in 2002 to create a federal backstop helping insurers return to the commercial insurance marketplace with obtainable and affordable terrorism risk insurance options; while encouraging renewed growth in the weakened commercial real estate industry in the years following the attacks of September 11[th].

While TRIA was established as a temporary solution, as of yet, insurers have been unable to effectively resolve the issues associated with insuring against certified terrorist attacks. If TRIA is allowed to expire as scheduled, the commercial real estate market could be threatened and may be unable to refinance or secure commercial loans and/or left in default of current loan covenants that require terrorism risk insurance coverage.

ICSC, in conjunction with the Coalition to Insure Against Terrorism (CIAT), requests your support of a renewal of the 2002 Terrorism Risk Insurance Act. Thank you for consideration and please do not hesitate to contact Jennifer Platt (jplatt@icsc.org or 202-626-1404) should you have any questions regarding our position on this important matter.

Sincerely,

Betsy Laird

Betsy Laird
Sr. Staff Vice President
Global Public Policy

INSURANCE JOURNAL

View this article online: http://www.insurancejournal.com/news/national/2013/09/18/305548.htm

Private Market Will Dry Up If Federal Terrorism Insurance Not Renewed: Aon

Research by Aon shows that more than 85 percent of insurers will no longer insure terror risk if the federal backstop goes away.

The brokerage firm revealed the conclusion based on its "market intelligence" in a written comment to the U.S. Treasury Department, advising that renewal of TRIA will ensure the continuation of a functional market for commercial property/ casualty terrorism coverage.

"Although a revised version of the original Terrorism Risk Insurance Act (TRIA) federal legislation was signed into law reauthorizing the program for seven years via the Terrorism Risk Insurance Program Reauthorization Act (TRIPRA) in 2007, the Act's imminent expiration at the end of 2014 has already generated dislocation" in the commercial P/C insurance and reinsurance marketplace, the Aon comment said.

Noting that the TRIA in its various forms has succeeded in increasingly shifting the risk of terrorism loss to the private market, Aon stresses that TRIA "also had the benefit of forcing insurers to offer terrorism coverage."

"If the mandatory offer of coverage disappears with TRIPRA 2007 expiring without replacement, then the market will contract. This is not supposition–it has been backed up by carrier behavior with prior TRIA expirations—with nearly 85 percent of property insurance carriers looking to exclude terrorism in the absence of TRIA," the Aon comment states.

Also conceding that more capital would enter the market in the form of specialty standalone terrorism insurers should TRIA expire, Aon says that "this capital would not come close to approximating the $100 billion of contingent reinsurance capital provided by TRIA."

The commentary includes a chart (a downward sloping line graph) showing average property terror insurance price declines between 2002 and 2012 of close to 50 percent. Highlighting a slight uptick on the chart after 2012, Aon comments that "a noticeable increase in terrorism pricing" starting in the first quarter of 2013 is a function of prevailing rate cycles and the fact that markets began to adjust their portfolios of risk to manage the potential expiration of TRIA.

The Aon comment also notes that it is "highly unlikely" that the risk models will improve to a point that allows insurers and reinsurers to be comfortable with the ability to forecast the size and frequency of potential losses or terrorism accumulations.

In a statement released in conjunction with the comment, Ed Ryan, a senior managing director with Aon Benfield, the firm's global reinsurance business, said: "The main hurdle in assessing and underwriting terrorism risk is that the frequency of loss from terrorism is neither predictable nor random. Therefore, terrorism insurance is unlike any other marketplace risk. The uncertainty surrounding terror risk makes insurance coverage unique and this requires a novel approach."

Aaron Davis, a managing director with Aon Risk Solutions, added: "Today's successful terrorism risk marketplace relies on the TRIA program. TRIA minimizes price volatility and coverage uncertainty."

"This makes TRIA reauthorization imperative for our country and the economy," he said.

The comment also included a chart showing carriers participating in the standalone terrorism, which exists as a specialty subset market within the property marketplace, according to Aon. "This market is comprised of global P/C carriers and reliant on TRIA's backstop for some of the capacity it deploys to insureds in the United States," Aon says.

Standalone Terror Market Top Players

Underwriter	Normal ($) maximum Line	Absolute ($) maximum Line
Various Syndicates at Lloyd's	925,000,000	1,195,000,000
AIG / Lexington	100,000,000	250,000,000
Arch Insurance Company (Europe) Ltd	5,000,000	5,000,000
Ace European	50,000,000	50,000,000
Axis Specialty	150,000,000	200,000,000
Hannover Rückversicherungs-Aktiengesellschaft	15,000,000	50,000,000
Hiscox USA	100,000,000	100,000,000
Lancashire Insurance Company UK Ltd	100,000,000	200,000,000
Montpelier Re	50,000,000	50,000,000
Validus/Talbot US	100,000,000	100,000,000
Total	**1,595,000,000**	**2,200,000,000**
National Indemnity Company	500,000,000	1,000,000,000
Total incl Berkshire	**2,095,000,000**	**3,200,000,000**

Source: Aon Risk Solutions

Aon notes that the standalone terrorism market was in place to cover global terrorism exposures before 9/11 and has emerged as a growth area for terrorism risk in a post-9/11 insurance world.

According to Aon, capacity has increased by over 130 percent since 2006, to a technical level of $2.2 billion and a normal "per risk" level of $1.6 billion (which is reduced to $750 million or less in certain problem postal code/ZIP code zones).

More from Insurance Journal

Today's Insurance Headlines | Most Popular | National News

The Jewish Federations
OF NORTH AMERICA

Risk Overview: Threats, Vulnerabilities and Potential Consequences
September 13, 2013

Existential Threats to Jewish Communal Institutions:

- Since 9/11, the FBI, Department of Homeland Security and other law enforcement entities have warned the U.S. Jewish community of a number of plots by international terrorist organizations, white supremacists, prison Islamic radicals and other homegrown violent individuals across the political spectrum. While a number of prominent plots have been averted, others became operationalized.

- One regular thread among many terrorist occurrences is the symmetrical selection of targets that include both government/military facilities/personnel, and Jewish communal institutions and civilians. One large distinction, however, is that the latter category comprises soft nonprofits with limited resources and capabilities with which to harden their facilities and to train their personnel.

- Additionally, over the past decade, the FBI has reported that approximately 70% of religious-based hate crimes have been perpetrated against the Jewish community – well above the combined occurrences of all other faiths.
  (Source: Annual FBI Hate Crimes Statistics Reports; Link:
  http://www.fbi.gov/news/stories/2012/december/annual-hate-crimes-report-released/annual-hate-crimes-report-released)

- **December 10, 2012:** Of the 1,480 victims of an anti-religious hate crime, 63.2 percent were victims of an offender's anti-Jewish bias – more than all other categories combined.
  (Source: FBI Hate Crime Statistics, 12/10/12; Link:
  http://www.fbi.gov/news/stories/2012/december/annual-hate-crimes-report-released/annual-hate-crimes-report-released)

- **July 20, 2012:** New York police believe **Iranian Revolutionary Guards** or their proxies have been involved so far this year in nine plots against Israeli or **Jewish targets** around the world. According to NYPD analysts, "through its own Revolutionary Guard and Hezbollah, Iran had "sharply increased its operational tempo and its willingness to conduct terrorist attacks targeting Israeli interests and the **International Jewish community worldwide**".

(Source: Reuters, 07/20/12; Link: http://www.reuters.com/article/2012/07/20/us-iran-hezbollah-plots-idUSBRE86J0SW20120720)

- **June 5, 2012: According to Homeland Security Secretary Janet Napolitano,** "Jews face special risks that require vigilance." She also stated that, during her tenure at DHS, threats to the Jewish community came from foreign entities, homegrown extremists and domestic hate groups.
  (Source: The Forward, 06/05/12: Link: http://forward.com/articles/157280/jews-face-special-risks-napolitano-says/?p=all)

- **February 16, 2012:** With tensions between Iran and the West running high, law enforcement officials are concerned **Iran or its surrogates could mount attacks against Jewish targets inside the United States.**
  (Source: CNN, 02/16/12; Link: http://www.cnn.com/2012/02/15/us/iran-fbi-warning/index.html?iref=allsearch)

- **January 9, 2009:** Terrorist analysts report that throughout the world, **Jewish communities will be specifically at risk** from several "fatwas" disseminated through Arab media and jihadist websites, including one instructing that "any Jew is a legitimate target that can be struck by Muslims."
  (Source: European Strategic Intelligence and Security Center, 01/09/09)

- **March 24, 2008:** Al Qaeda's second in command, Ayman al-Zawahiri, released an audio tape on, which called upon al Qaeda followers and **sympathizers to attack Jewish interests worldwide**. The tape, part of a string of provocative statements by bin Laden and his senior cohorts, was regarded by counter terrorism experts as a new and bold escalation by al Qaeda to link the Middle East conflict with immediate and urgent violence in the West, including against **Jewish targets** in the United States.
  (Source: Associated Press, 03/24/08)

- **November 24, 2002:** In a "Letter to America" Osama bin Laden released soon after the 9/11 attacks, to explain his reasoning and intent to justify the attacks, he wrote, "The creation and continuation of Israel is one of the greatest crimes, and you are the leaders of its criminals." "This is why the American people cannot be innocent of all the crimes committed by the Americans and **Jews** against us." **The letter also made clear that, to bin Laden, civilian populations**, as with governments, were acceptable (equivalent) targets for retaliation.
  (Source: Guardian (UK), 11/24/02; Full text of the letter: http://www.guardian.co.uk/world/2002/nov/24/theobserver)

- **June 3, 2002:** Abdul Rahman Yasin, one of the terrorists in the first attack on the World Trade Center in 1993, revealed in a CBS 60 Minutes interview that the World Trade Center was not the terrorists' original target. Rather, **they initially planned to blow up Jewish neighborhoods** in Brooklyn. But after scouting Crown Heights and Williamsburg, they decided to target the World Trade Center, instead. The reasoning: rather than undertaking multiple small explosions in **Jewish neighborhoods, they figured that one big explosion in the World Trade Center would kill mostly Jews** who they believed made up a majority of the workforce there, according to Yasin's statements.
  (Source: CBS News 06/02/02; Reuters, 06/03/02)

- **February 2, 2002:** Shortly after the 9/11 attacks, Al Qaeda's training manual was translated by the Associated Press, which included a directive to followers **to attack Jewish communal organizations and institutions in every country Jews exist** and to carry out the attacks in a manner designed to cause the most causalities. It specified community centers, hospitals, places of worship and wherever there are large gathering places of Jews.
(Source: Associated Press, 02/02/02)

Recent Jewish Security Threats:

- **May 16, 2013:** A 22-year-old Moroccan man has been convicted and sentenced to five years and four months in jail for plotting a terror attack against a Milan synagogue. The man was arrested in March 2012 after police noted that the suspect had used a Google maps application to case security at the synagogue.
(Source: The Associated Press, 05/16/13)

- **May 7, 2013:** Israeli airstrikes on Syrian missile stockpiles suspected to be destined for Hezbollah raise concern for retaliation against Jewish civilians. According to the Washington Post, "U.S. and Middle Eastern officials say any retaliation would probably come in a familiar form: attempted attacks by Hezbollah operatives on Israeli or Jewish civilian targets, perhaps far outside the Middle East."
(Source: Washington Post, May 8, 2013; Link: http://www.washingtonpost.com/world/national-security/western-officials-fear-retaliation-for-israeli-airstrikes-in-syria/2013/05/07/2989f1a4-b72f-11e2-92f3-f291801936b8_print.html)

- **May 1, 2013:** Bomb threats were phoned in to two different Houston synagogues (Congregation Beth Israel and Congregation Or Ami), causing their schools to cancel classes, so that the FBI and Houston Police Department could search the institutions for explosives. When the buildings reopen, it was reported that they will require extra security personnel and police presence. April 8, 2013: Ruben Ubiles, 35, who the police say has more than 50 prior arrests, on charges including robbery, assault, and weapons and drug possession, was arrested for the hate-crime burning of a dozen Jewish doorway adornments in Williamsburg, Brooklyn, on Holocaust Remembrance Day. The ornaments, known as mezuzot, contain scrolls with Old Testament verses that are intended to bless and protect the home.
(Source: New York Times, 04/10/13)

- **March 18, 2013:** French President Francois Hollande on Sunday paid tribute to the seven people who last year fell victim to terrorist Mohamed Merah, saying he remains committed to the fight against terrorism. A self-described Al-Qaeda sympathizer, 23-year-old Merah murdered Rabbi Jonathan Sandler, his sons Aryeh and Gavriel and Miriam Monsonego at a Jewish school, Otzar HaTorah, in Toulouse. Before that, he murdered three paratroopers.
(Source: Arutz Sheva, 03/18/13: Link: http://www.israelnationalnews.com/News/News.aspx/166321)

- **March 17, 2013:** Marked the 21st anniversary of the March 17, 1992 terrorist attack that left 28 people dead and 240 wounded at the Israel Embassy in Buenos Aires. Two years later (July 1994), 85 members of the Argentine Jewish community were killed in an

attack on a community center. This was the deadliest terror attack in Argentina's history. In both cases, the attackers were never caught.
(Source: Arutz Sheva, 03/17/13; Link: http://www.israelnationalnews.com/News/News.aspx/166301)

- **March 15, 2013:** An Algerian man convicted of plotting to bomb synagogues was sentenced to 10 years imprisonment. According to New York City Police Commissioner Raymond Kelly, ""Ferhani posed a real threat to New York's Jewish community, eagerly purchasing a hand grenade, two guns and 150 rounds of ammunition from an undercover officer as part of Ferhani's stated intention to attack and then 'blow up a synagogue in Manhattan, and take out the whole entire building."
(Source: CNN, 03/15/13)

- **January 30, 2013:** A new policy paper from the Washington Institute for Near East Studies finds that Iran's elite Qods Force and Hezbollah militants pose a growing threat to the U.S., fueling worries that they increasingly have the ability and willingness to attack the U.S., and, in particular, Jewish targets. Among the most likely scenarios, stated the report, **"an attack targeting a location affiliated with a Jewish community abroad", such as the report noted, the 1994 bombing of AMIA Jewish community center in Buenos Aires.**
(Source WINES, January 30, 2013; Link:
http://www.washingtoninstitute.org/uploads/Documents/pubs/PolicyFocus123.pdf)

- **January 23, 2013:** The Congressional Research Service published a comprehensive analysis on the complex threat of American Jihadist Terrorism, including particular threats to Jewish communal security: 1) The 2005 plot by the group Jamiyyat Ul-Islam Is-Saheeh, to attack **Jewish institutions, including synagogues**, and military recruiting offices and military bases, which the report described as the "most prominent post-9/11 example of domestic violent jihadist activity inspired in prison;" 2) The 2009 Newburgh Four case, which involved a plot to trigger explosive in front of a **synagogue and Jewish community** center and to shoot down military aircraft; 3) The 2011 grenade plot by Ahmed Ferhani, an Algerian, and Mohamed Mamdouth, a naturalized US citizen from Morocco, who plotted to blow up prominent **synagogues** in New York City; and 4) The 2012 bombing plot by Amine El Khalifi, a Moroccan citizen living in the US on an expired B2 tourist visa, who targeted the US Capitol, **a synagogue**, and a restaurant that was frequented by US military personnel.
(Source: CRS, 01/23/13; Link: http://www.fas.org/sgp/crs/terror/R41416.pdf)

- **January 16, 2013:** The FBI warned the Detroit Jewish community of potential risks after discovering in the home of a known white supremacist and convicted murderer, Richard Schmidt, 18 firearms including assaults weapons, high-capacity magazines, and more than 40 thousand rounds of ammunition; Nazi paraphernalia; a "Jewish hit-list" of 500 Jewish owned businesses; and detailed information on the leadership of the **Jewish Federation of Metropolitan Detroit** and diagrams of the facility.
(Source: US Attorney, Ohio, 01/16/13; Link:
http://www.justice.gov/usao/ohn/news/2013/16janschmidt.html)

Historic Record of Threats:

- **December 4, 2012:** A man from Queens accused of plotting to blow up a synagogue in Manhattan ended on Tuesday when the man, Ahmed Ferhani, pleaded guilty to 10 charges, including conspiracy as a crime of terrorism and criminal possession of a weapon as a crime of terrorism. He was arrested immediately after making a down payment in exchange for a hand grenade, three semiautomatic pistols and 150 rounds of ammunition.
  (Source: New York Times, 12/04/12; Link: http://www.nytimes.com/2012/12/05/nyregion/ahmed-ferhani-pleads-guilty-in-plot-to-blow-up-synagogue.html)

- **July 20, 2012:** New York police believe **Iranian Revolutionary Guards** or their proxies have been involved so far this year in nine plots against Israeli or **Jewish targets** around the world. According to NYPD analysts, "through its own Revolutionary Guard and Hezbollah, Iran had "sharply increased its operational tempo and its willingness to conduct terrorist attacks targeting Israeli interests and the **International Jewish community worldwide**".
  (Source: Reuters, 07/20/12; Link: http://www.reuters.com/article/2012/07/20/us-iran-hezbollah-plots-idUSBRE86J0SW20120720)

- **June 22, 2012:** The FBI announced the 11.5 year sentence for American Jess Curtis Morton, aka Younus Abdullah Muhammed, for **running several Internet sites in the United States to solicit attacks and future threat against Jewish organizations** in the US. His co-conspirator lived in Fairfax, VA (less than 20 miles from Capitol Hill). The web sites Morton ran perpetuated al Qaeda produced propaganda and **included hit lists.**
  (Source: U.S. Attorney's Office/Eastern District of Virginia, 06/22/12; Link: http://www.fbi.gov/washingtondc/press-releases/2012/leader-of-revolution-muslim-sentenced-to-138-months-for-using-internet-to-solicit-murder-encourage-violent-extremism?utm_campaign=email-Immediate&utm_medium=email&utm_source=washington-press-releases&utm_content=108401)

- **June 20, 2012:** This week, the New York Post described a new "Crime Wave" against Brooklyn's Jewish community when it reported several synagogue thefts and anti-Semitic vandalism targeting synagogues and Jewish neighborhoods.
  (Source: New York Post, 06/20/12; Link: http://www.nypost.com/p/news/local/brooklyn/anti_jewish_crime_wave_GNiQRau6jWlqBeqM7ugEBO; Forward, 06/05/12; Link: http://m.forward.com/articles/157280)

- **June 5, 2012: According to Homeland Security Secretary Janet Napolitano,** "Jews face special risks that require vigilance." She also stated that, during her tenure at DHS, threats to the Jewish community came from foreign entities, homegrown extremists and domestic hate groups.
  (Source: The Forward, 06/05/12: Link: http://forward.com/articles/157280/jews-face-special-risks-napolitano-says/?p=all)

- **May 3, 2012:** On the anniversary of the bin Laden raid, the US Government released a sampling of documents. Only one pertained to approving funding for terrorism – the approval of a request by a militant group to purchase and manufacture weapons, and to support operations**against the Jewish community**.
  (Source: CNN, May 3, 2012; Link: http://edition.cnn.com/2012/05/03/world/osama-bin-laden-documents/index.html)

- **April 23, 2012:** Meanwhile, the US just placed a $10 million bounty on Hafeez Saeed, the leader of Lashkar-i-Taiba, an al Qaeda-affiliated militant group, and the mastermind behind the 2008 Mumbai, India massacre. A paramount objective of the massacre was an attack on that city's **Jewish community center** and the torture and murder of its Jewish civilians. Saeed remains at-large.
  (Source: Pro Publica, 04.03.12; Link: http://www.propublica.org/article/10-million-bounty-for-alleged-mumbai-plotter-ups-pressure-on-pakistan)

- **March 26, 2012:** The livery driver whose two-gun attack on a group of Hasidic students on the Brooklyn Bridge shocked the city 18 years ago has finally admitted that he targeted them because they were Jewish, The Post has learned. Rashid Baz was convicted in 1995 of murdering Yeshiva student Ari Halberstam, 16, and trying to kill more than a dozen others in a van with a hail of bullets he fired on a Manhattan approach to the bridge on March 1, 1994.
  (Source: New York Post, 03/26/2012; Link:
  http://www.nypost.com/p/news/local/killer_jews_my_target_gOgyDs9rPP92Z5irlUqK1H)

- **March 26, 2012:** According to the Associated Press this morning, French authorities are defending criticism that their counterterrorism authorities and laws failed in preventing an Islamic terrorist attack that killed paratroopers, Jewish children and a rabbi (teacher) in front of a Jewish school in Toulouse, France. The general reaction from Europol, and a growing chorus of other European terrorist authorities, is that homegrown extremists are hard to track and stop; combating individuals acting in isolation will be tough and problematic; and it will be hard for police to apprehend them before they attack.
  (Source: Associated Press, 03/26/12)

- **February 17, 2012:** The FBI announced the indictment of Amine El Khalifi, an illegal immigrant from Morocco, for attempting a suicide attack on the Capitol. According to the indictment, El Khalifi had first indicated his **intention to blow up a Jewish civilian target -- a synagogue**.
  (Sources: FBI WFO; Link: http://www.fbi.gov/washingtondc/press-releases/2012/virginia-man-accused-of-attempting-to-bomb-u.s.-capitol-in-suicide-attack?utm_campaign=email-Immediate&utm_medium=email&utm_source=washington-press-releases&utm_content=72268; Criminal Complaint Link: http://www.washingtonpost.com/wp-srv/world/documents/amine-el-khalifi-criminal-complaint.html)

- **February 16, 2012:** With tensions between Iran and the West running high, law enforcement officials are concerned **Iran or its surrogates could mount attacks against Jewish targets inside the United States**.
  (Source: CNN, 02/16/12; Link: http://www.cnn.com/2012/02/15/us/iran-fbi-warning/index.html?iref=allsearch)

- **February 15, 2012:** A statement by House Homeland Security Committee Chairman Peter King called attention to **the "almost imminent threat posed by Hezbollah quite possibly to Jewish houses of worship and religious institutions."**
  (Source: Hearing: An Examination of the President's FY 2013 Budget Request for the Department of Homeland Security; Link: http://homeland.house.gov/hearing/hearing-examination-presidents-fy-2013-budget-request-department-homeland-security)

- **February 14, 2012: With Iran allegedly striking out at Israeli citizens and Jewish targets around the world, Israeli and American security officials in the U.S. are on high alert.** According to Frank Cilluffo, director of the Homeland Security Policy Institute at George Washington University in D.C., the recent incidents in India, Georgia, Thailand and Azerbaijan have "all the hallmarks of a concerted campaign" that could extend to U.S. soil. As such, the NYPD has adjusted its counterterrorism posture to include increased presence in recent weeks at Israeli government facilities and synagogues. Furthermore, around the country, private security industry officials report numerous requests for Jewish institutional security.
  (Source: ABC News; Link: http://abcnews.go.com/Blotter/heightened-security-us-iran-threat/story?id=15592451)

- **February 14, 2012:** In a lead story, **the New York Times reported on the escalation of threats posed by Iran (and its proxies)** -- meaning violent actions taken against Jewish targets outside of the region. The article followed recent plots and attacks that have increased the concern of American Jewish leaders for the safety and security of Jewish community centers and synagogues within the United States, and the article reminds that an attack on the Mumbai Jewish community center led to the torture and death of a number of Jewish American civilians in 2008.
  (Source: New York Times, 02/14/12; Link: http://www.nytimes.com/2012/02/14/world/middleeast/israeli-embassy-officials-attacked-in-india-and-georgia.html?_r=2&ref=world&pagewanted=print)

- **February 14, 2012:** Convicted arsonist/bomber Omar Bulphred, 26, will serve his full seven-year prison term for hate crimes - including the **firebombing of a Jewish school for children and attempted bombing of a Jewish community center** - will remain behind bars for his entire sentence as he continues to pose a serious problem for Correctional Service Canada (CSC).While investigating the fires, police found letters in which Bulphred and an accomplice declared jihad and demanded the liberation of their "brothers" - a group of men arrested on terrorism charges in Toronto.
  (Source: The Gazette (Montreal); Link: http://www.montrealgazette.com/news/todays-paper/Hate+crime+convict+refused+early+release/6148040/story.html)

- **February 10, 2012:** Nine extremists who "were well advanced in their terrorist planning were convicted. "The men possessed almost every famous jihadi publication, including copies of Inspire, an English language internet magazine produced by Yemen-based extremist cleric Anwar al-Awlaki's group Al Qaida in the Arabian Peninsula." According to the prosecution, "These men were motivated to act as they did in large part by extreme jihadist propaganda circulated on the internet. Convicted for **planning a "Mumbai" style attack that included targeting the Jewish community**, one of the group's leaders and his brother, "were bugged claiming that fewer than 100,000 Jews died in the Holocaust and talking about how Hitler "had been on the same side as the Muslims" because he understood that "the Jews were dangerous".
  (Source: http://www.mirror.co.uk/news/uk-news/british-terror-gang-that-plotted-to-blow-680112)

- **February 9, 2012:** The leader of "Revolution Muslim" pleaded guilty to **using the Internet to solicit murder and encourage violent extremism against Jews**.
  (Source: The FBI; Link: http://www.fbi.gov/washingtondc/press-releases/2012/leader-of-revolution-muslim-pleads-guilty-to-using-internet-to-solicit-murder-and-encourage-violent-extremism?utm_campaign=email-Immediate&utm_medium=email&utm_source=washington-press-releases&utm_content=69655)

- **February 1, 2012**: Four defendants inspired by al-Qaeda have admitted planning to detonate bombs – Mumbai-style – at five symbolic sites including the U.S. Embassy, the Palace of Westminster (both well-fortified institutions), **and two prominent rabbis from separate synagogues**. The men reportedly admitted to being inspired by the preachings of the radical al-Qaeda extremist Yemeni American imam Anwar Al-Awlaki and to being in possession of two editions of al-Qaeda magazine Inspire for terrorist purposes.
  (Source: BBC News, Link: http://www.bbc.co.uk/news/uk-16833032)

- **January 25, 2012:** A joint attack by **Iran and Hezbollah against Jewish targets in Bangkok**, Thailand, had been stopped, where the operative in custody reportedly confessed to having intended to blow up a synagogue and the Israeli Embassy. Moreover, the New York Times story reported that Iran and Hezbollah have also planted some 40 terrorist sleeper cells around the world, **ready to attack Jewish targets if Iran deems it necessary to retaliate against efforts to thwart its nuclear ambitions.**
  (Source: The New York Times Magazine, 01/25/12; Link: http://www.nytimes.com/2012/01/29/magazine/will-israel-attack-iran.html?scp=1&sq=six%20key%20strikes%20thought%20to%20be%20made%20by%20the%20mossad&st=cse)

- **January 13, 2012:** Federal elected officials from North Jersey and across the state pledged resources in the investigation into the **firebombing of a Rutherford synagogue** at a meeting convened to discuss safety at Jewish temples Thursday night.
  (Source: New Jersey On-Line; Link: http://www.nj.com/bergen/index.ssf/2012/01/officials_pledge_federal_resources_for_investigation_into_temple_firebombing_bias_crimes.html)

- **December 2, 2011:** Homeland Security Director Janet Napolitano and Attorney General Eric Holder met with their counterparts from Britain and other European partners to discuss issues of points of cooperation in fighting terrorism. In seeking this meeting to improve the U.S.-EU partnership to combat global terrorism, **the Secretary pointed to the success of shared efforts in aiding the investigation and prosecution of American David Headley, the mastermind behind the deadly attack on the Mumbai Jewish Community Center** just over 3 three years ago – November 27, 2008.
  (Sources: Associated Press; Link: http://www.cbsnews.com/8301-201_162-57336080/napolitano-lone-wolf-terror-threat-growing/)

- **December 2, 2011:** Jubair Ahmad, 24, a native of Pakistan and resident of Woodbridge, Va., pleaded guilty of providing material support to Lashkar-e-Tayyiba (LeT), a designated foreign terrorist organization. "By preparing and posting a graphic video that glorified violent extremism, Mr. Ahmad directly supported the mission of a designated terrorist organization," said FBI Assistant Director in Charge McJunkin. "The FBI will track down and disrupt those who communicate with terrorist groups for the purpose of recruiting others to inflict harm on the U.S. and its interests overseas." **Ahmad considered including images of the Mumbai attack to show the power of LeT. This is a reference to LeT's operation against the city of Mumbai, India, on Nov. 26, 2008, which resulted in the death of over 160 people, including a number of Jewish Americans killed at the targeted Jewish Community Center.**
  (Source: U.S. Attorney, Eastern District of Virginia; Link: http://www.fbi.gov/washingtondc/press-

releases/2011/virginia-man-pleads-guilty-to-providing-material-support-to-terrorist-organization?utm_campaign=email-Immediate&utm_medium=email&utm_source=washington-press-releases&utm_content=53207)

- **November 14, 2011:** The FBI released hate crimes data for 2010. As has been the case since the FBI first began reporting incidents of hate crimes, approximately 70% of all **religious bias crimes are committed against Jewish institutions and civilians** in the US. (Source: FBI Hate Crime Statistics: http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2010)

- **November 9, 2011:** The Cold War's most notorious international terrorists, Ilich Ramirez Sanchez (aka "Carlos the Jackel"), went on trial in France, on charges of instigating four attacks in 1982 and 1983. Sanchez's first terrorist strike was **an assassination attempt against major British philanthropist of Jewish charities, Joseph Sieff. Sanchez gained entrance into Sieff's home by gunpoint, and shot the past vice-president of the British Zionist Federation at point blank range in the face.**
(Sources: Associated Press; Link: http://m.ctv.ca/topstories/20111107/carlos-ilich-ramirez-sanchez-jackal-terror-trial-france-111107.html and TruTV; Link: http://www.trutv.com/library/crime/terrorists_spies/terrorists/jackal/1.html)

- **January 17, 2011: Five synagogues and a Jewish school in a Jewish enclave in Montreal were attacked** in a single night. Condemning the attack, the Liberal Leader, Michael Ignatieff, remarked, "Our thoughts and prayers are with Jewish communities across Canada that once again have been made to feel that their congregations and the children in their schools have cause to fear for their safety."
(Sources: The Globe and Mail (Canada), 01/17/11)

- **October 29, 2010:** Al-Qaeda in the Arabian Peninsula attempted to **ship air cargo bombs addressed to Chicago-based synagogues.**
(Source: MSNBC, 10/29/10)

- **January 20, 2010:** FBI Director Robert Mueller testified before the Senate Committee on the Judiciary **that al Qaeda; self-directed groups linked to terror organizations; and self**-radicalizing, self-executing homegrown terrorists remained determined to strike the country and the threat has not diminished.
(Source: http://judiciary.senate.gov/pdf/10-01-20Mueller'sTestimony.pdf, 01/20/10)

- **December 28, 1009:** The FBI Year in Review chronicled the U.S. top terror cases, including: the arrest of David Coleman Headley, a U.S. citizen, for his role in planning the 2008 Mumbai attacks, **where six Americans (4 Jewish) were killed**; the arrest of four radicalized individuals for attempting to blowup a Riverdale, **New York synagogue and Jewish community center**; the deadly shooting at the Holocaust Museum in Washington, DC; and the attack on an Army recruiting center in Little Rock, Arkansas, by an assailant who was also found to be **targeting Jewish sites in Little Rock, Philadelphia, Atlanta, New York, Louisville and Memphis.**
(Source: FBI Release, 12/28/09; Link: http://www.fbi.gov/page2/dec09/review_122809.html)

- **December 15, 2009:** the House Homeland Security Subcommittee on Intelligence, Information Sharing and Terrorism Risk held a hearing on the emergence of violent extremism and domestic terrorism in the U.S. In her opening remarks, **Chairwomen Jane Harman (D-CA) focused on two infamous plots and attacks against Jewish**

communal interests at home and abroad: 1) The plot by Jami'yyat Ul-Islam Is-Shaheeh, a prison-founded radical Muslim group, to attack prominent synagogues and other Jewish iconic sites in the Los Angeles area; and 2) The massacre in Mumbai, India, where American David Headley is now accused by federal law enforcement officials of having helped to identify and surveil for attack, among others, the Chabad House Jewish community center, whose director, Rabbi Gavriel Noach Holtzberg, his wife, unborn child, and four others were tortured and killed.
(Source: House Homeland Security Subcommittee on Intelligence, Information Sharing and Terrorism Risk, 12/15/09; Link: http://homeland.house.gov/Hearings/index.asp?ID=229)

- **September 13, 2009:** Osama bin Laden warned the American people over their government's **close ties with Israel**. In the tape, bin Laden warned, "If you stop the war, then fine. Otherwise we will have no choice but to continue our war of attrition on every front."
(Source: Washington Post, 09/13/09)

- **August 17, 2009:** A man was sentenced to 70 months in prison today for his role in a domestic terrorism plot to wage war on the United States by attacking **Jewish synagogues** and military bases. Hammad Riaz Samana is the fourth member of Jami'yyat Ul-Islam Is-Shaheeh, or JIS, a prison-founded radical Muslim group that wanted to make a political statement that also had plans to attack the Israeli consulate in Los Angeles and El Al Israel Airlines at the Los Angeles International Airport.
(Source: The Orange County Register, 08/17/09)

- **June 16, 2009:** Critical aspects of the nonprofit sector are particularly vulnerable and regular targets of terrorist groups and radicalized homegrown individuals. A number of incidents make this point clear. In remarking on the June 10, 2009, attack at the **U.S. Holocaust Memorial Museum by a radical rightwing fanatic, Secretary Napolitano stated that the attack underscored the need for the Nonprofit Security Grant Program**, so that high risk nonprofits can take their own security measures.
(Sources: Remarks by Secretary Napolitano Announcing Fiscal Year 2009 FEMA Preparedness Grants, Release, 06/16/09)

- **June 3, 2009:** The Arkansas man convicted of killing an Army recruiter and wounding another had used the popular Google Maps application to investigate recruiting centers in at least five states, as well as **Jewish institutions in Little Rock, Philadelphia, Atlanta, New York, Louisville and Memphis.**
(Source: ABC News, 06/03/09)

- **April 7, 2009:** Two accusatory tactics associated with the current rise in rightwing radicalization and the **potential for violence are aimed at the Jewish community.** The first is a belief in anti-government conspiracy theories related to **a Jewish-controlled "one world government."**_ The second is a prevalence of rightwing extremist chatter on the Internet that focuses on the perceived loss of U.S. jobs in the manufacturing and construction sectors, and home foreclosures they **attribute to a deliberate conspiracy conducted by a cabal of Jewish "financial elites.**
(Source: Rightwing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment, Office of Intelligence Assessment and Analysis, Department of Homeland Security, April 7, 2009.)

- **April 4, 2009:** The New York Police Department beefed up security at the city's synagogues and other Jewish sites amid escalating tensions between Israel and Iran. Concerns that Muslim extremist groups might retaliate against civilians in the city's Jewish community if Israel were to attack Iran's nuclear facilities prompted the NYPD to put together a response plan that includes deploying extra officers, including heavily armed "Hercules Teams," **to synagogues, Jewish community centers** and Israeli diplomatic offices.
(Source: Jerusalem Post, 04/04/09)

- **March 24, 2009:** A British terrorist cell with alleged links to Al-Qaeda discussed bombing revelers at a large central London nightclub as well as targeting **several synagogues** in London and one in Manchester, according to prosecutors. One of the defendants, Salahuddin Amin, even discussed trying to buy a radio-isotope "dirty bomb" from the Russian mafia.
(Fox News, 03/31/09; European Jewish Press, 03/24/09)

- **February 23, 2009:** FBI Director Robert S. Mueller III warned that extremists "with large agendas and little money can use rudimentary weapons" to sow terror, raising the specter that recent attacks in Mumbai that killed 170 people (**including victims at the Chabad House Jewish community center**) could embolden terrorists seeking to attack U.S. cities. Mueller said that the bureau is expanding its focus beyond al-Qaeda and into splinter groups, radicals (who come in through the visa waiver program) and "home-grown terrorists." He warned that "melting-pot" communities in Seattle, San Diego, Miami or New York were of particular concern.
(Source: Washington Post, 02/23/09)

- **February 2, 2009:** According to Michael J. Heimbach, assistant director of the FBI's Counterterrorism Division, Al-Qaida and like-minded individuals are still the country's No. 1 concern in 2009, and that there is significant intelligence out there that indicates their focus remains on the U.S. Threats from Hamas and Hezbollah are quite concerning to the U.S. as well, he stated. In addition, he acknowledged that homegrown extremism is still a significant focus of the FBI, and that we **can't lose sight of the domestic terrorism issues, such as White supremacists and neo-Nazi group**, who need to remain on the FBI's radar.
(Source: WTOP (New York), 02/02/09)

- **January 9, 2009:** Terrorist analysts report that throughout the world, **Jewish communities will be specifically at risk**_from several "fatwas" disseminated through Arab media and jihadist websites, including one instructing that "any Jew is a legitimate target that can be struck by Muslims."
(Source: European Strategic Intelligence and Security Center, 01/09/09)

- **January 6, 2009:** al Qaeda's second-in-command, Ayman al-Zawahiri, called on Muslims to strike at **Jewish targets in the West and around the world**.
(Source: Reuters, 01/06/09)

- **January 5, 2009:** Hamas leader, Mahmoud Zahar, called on Palestinian sympathizers to **target Jews abroad** (including their children) in response to Israel's incursion into Gaza.
(Source: Associated Press, 01/05/09)

- **May 21, 2009:** The Federal Bureau of Investigation and other cooperating law enforcement agencies arrested four Muslim men as they attempted to carry out a plot **to bomb a synagogue and Jewish community center** in Riverdale, New York. Law enforcement sources are calling it a homegrown terrorist plot.
(Source: NBC News; Los Angeles Times, 05/21/09)

- **January 1, 2009:** For the third time in a year, a **Jewish pre-school was defaced by swastikas and hate speech**. Investigators are exploring whether they might be related to Israeli's conflict with Hamas militants in Gaza.
(Source: Ventura County Star, 01/01/09)

- **January 1, 2009: Jewish day schools in Chicago received a bomb threat** in the mail. The letter was sent to the Chicago offices of the Associated Talmud Torahs and the Ida Crown Jewish Academy.
(Source: WBBM newsradio 780; JTA World Report, 01/01/09)

- **September 15, 2008:** Top counterterrorism officials at the U.S. Department of State reiterated a growing refrain among American intelligence agencies that Hezbollah is emerging as an increased threat to the United States (Associated Press, September 15, 2008). The story followed reports in August 2008 that deepening ties between Iran and Venezuela may lead to the establishment of a new Hezbollah front in the western hemisphere to carry out **abductions and attacks against Jewish targets** (Source: Los Angeles Times, August 27, 2008). Similar reports in June 2008 pointed to warnings raised by intelligence agencies in the United States and Canada that Hezbollah sleeper cells are operating along the U.S. border with Canada, and are **poised to mount terror attacks against Jewish targets in the West**
(Source: ABC News, June 19, 2008).

- **April 9, 2008:** The U.S. House of Representatives Select Committee on Intelligence held a hearing on "Assessing the Fight Against al Qaeda." On the subject of tactics and targeting al Qaeda will use in the future, counterterrorism experts testified that since 9/11 al Qaeda and its affiliated groups have directed **an "intensified campaign" against Jewish targets**. Moreover, since 2004, Osama bin Laden has moved the Israeli-American alliance to the center of his justification for al Qaeda's attacks against the west.
(Source: U.S. House of Representatives Select Committee on Intelligence, 04.09/08; Link: http://intelligence.house.gov/Media/Word/Bergen040908.doc)

- **March 4, 2008:** Al Qaeda's second in command, Ayman al-Zawahiri, released an audio tape on March 24, 2008, which called upon al Qaeda followers and **sympathizers to attack Jewish interests worldwide**. The tape, part of a string of provocative statements by bin Laden and his senior cohorts, was regarded by counter terrorism experts as a new and bold escalation by al Qaeda **to link the Middle East conflict with immediate and urgent violence in the West, including against Jewish targets in the United States.**
(Source: Associated Press, 03/04/08)

- **February 16, 2008:** With known Hezbollah fundraisers and supporters in the United States, U.S. counterterrorism authorities have been particularly concerned about the **threat of Hezbollah sleeper cells against synagogues and other potential Jewish**

targets in the United States. On February 14, 2008 the FBI put 101 nationwide Joint Terrorism Task Forces on alert for potential threats against the Jewish community by Hezbollah operatives. (AP, February 14, 2008) A day later, the FBI and the Department of Homeland Security sent out a rare joint bulletin to state and local law enforcement authorities advising them to watch for strikes by Hezbollah **against Jewish targets**, as well.
(Source: Los Angeles Times, 02/16/08)

- **January 15, 2008:** the Wall Street Journal reported a policy shift within the White House (and among its allies) to place greater pressure on the Iranian regime through an investigation that centers on the **1994 bombing of the AIMA Jewish Community Center in Buenos Aires, Argentina**. In an effort to redefine its Iran policy, the Administration's focus on the JCC bombing, "Serves as a model for how Tehran has used its overseas embassies and relationships with foreign militant groups, in particular Hezbollah, to strike at its enemies.
(Source: Wall Street Journal, 01/15/08)
- **May 1, 2007:** Convicted British homegrown Islamic terrorists with links to the 2005 London subway bombings were in advanced stages of planning, and were **targeting synagogues for attack** when they were arrested.
(Source: CNN.com, 05/01/07)

- **February 13, 2007:** Osama Bin Laden's last known personally authorized terror attacks were made against two **Jewish synagogues in Istanbul**. The simultaneous attacks, in 2003, killed 27 people and injured more than 300.
(Source: Washington Post, 02/13/07)
- The FBI warned Jewish community leaders that Hezbollah operatives were conducting surveillance on numerous **synagogues and Jewish community centers** for possible terrorist attacks in the United States.
(Source: New York Post, 07/19/06)

- **October 10, 2006:** Homegrown Islamic militants were convicted of plotting terrorist attacks against prominent **synagogues and other Jewish iconic sites in Los Angeles**. FBI Director Mueller reported that the group was ready to strike when they were brought down. The plot is considered by counterterrorism officials to be the closest to operationalization since 9-11. Of particular concern, the groups' clandestine terrorist activities were discovered serendipitously during a police investigation into a string of gas station robberies that only later were connected to the funding of the terrorist operation.
(Source: Department of Justice Releases, 7/24/08; 12/14/07; International Herald Tribune 10/10/06)

- **July 28, 2006:** Naveed Haq was found guilty of murder and hate crimes in his second trial for a 2006 **shooting spree at the Jewish Federation of Greater Seattle**. On July 28, 2006, Haq, a Muslim American, attacked the Federation, a center of Jewish communal life and supporter of social welfare, youth and adult education programs. Of the six women he gunned down, one was 17 weeks pregnant and another, Pamela Waechter, died of her wounds. At trial evidence was presented that "he railed against Jews and U.S.-Israeli policies as he opened fire in the Jewish Federation," and that in telephone calls recorded by the King County Jail, Haq told his mother he was "a soldier of Islam."

(Source: Associated Press, 12/15/09; The Seattle Times, 12/15/09; Seattle Post-Intelligencer, 08/06/08; 2008; The Seattle Times, 02/21/08; 07/29/06)

- **May 31, 2005:** Department of Justice convicted an Iraqi-American who had obtained illegal machine guns and **targeted Jewish communal sites in Nashville**, Tennessee.
  (Source: Department of Justice Release, 10/08/04; Associated Press, 05/31/05)

- April 13, 2004: Terrorists responsible for the Madrid train bombings in March 2004 also were planning additional attacks on a **Jewish community center outside of Madrid**, home to the largest Jewish population in Spain, according to evidence gathered in the investigation.
  (Source: New York Times; CNN.com, 04/13/04)

- November 24, 2002: In a "Letter to America" Osama bin Laden released soon after the 9/11 attacks, to explain his reasoning and intent to justify the attacks, he wrote, "The creation and continuation of Israel is one of the greatest crimes, and you are the leaders of its criminals." "This is why the American people cannot be innocent of all the crimes committed by the Americans and **Jews** against us." **The letter also made clear that, to bin Laden, civilian populations**, as with governments, were acceptable (equivalent) targets for retaliation.
  (Source: Guardian (UK), 11/24/02; Full text of the letter: http://www.guardian.co.uk/world/2002/nov/24/theobserver.)

- **June 3, 2002:** Abdul Rahman Yasin, one of the terrorists in the first attack on the World Trade Center in 1993, revealed in a CBS 60 Minutes interview that the World Trade Center was not the terrorists' original target. Rather, **they initially planned to blow up Jewish neighborhoods** in Brooklyn. But after scouting Crown Heights and Williamsburg, they decided to target the World Trade Center, instead. The reasoning: rather than undertaking multiple small explosions in **Jewish neighborhoods, they figured that one big explosion in the World Trade Center would kill mostly Jews** who they believed made up a majority of the workforce there, according to Yasin's statements.
  (Source: CBS News 06/02/02; Reuters, 06/03/02)

- **January 2, 2002:** Al Qaeda's training manual, translated by the Associated Press, directed followers **to attack Jewish organizations and institutions in every country Jews exist** and to carry out the attacks in a manner designed to cause mass causalities.
  (Source: Associated Press, 02/02/02)

Point of Contact: Rob Goldberg, Senior Director, Legislative Affairs, at:
rob.goldberg@jewishfederations.org.

NAMIC
NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

THE FINANCIAL SERVICES ROUNDTABLE
Financing America's Economy

Independent Insurance Agent
The Trusted Choice

PCI
Advocacy. Leadership. Results.

AMERICAN INSURANCE ASSOCIATION

THE COUNCIL
The Council of Insurance Agents & Brokers

September 18, 2013

Dear Representative:

The undersigned trade organizations strongly support the long-term reauthorization of the Terrorism Risk Insurance Program, currently due to expire on December 31, 2014. It is our firm belief that in the absence of a risk-sharing mechanism between the private and public sectors, no self-sustaining private market for terrorism risk coverage is likely to develop. The TRIA program has acted to create space for a robust private market for terrorism insurance to form where it might not have otherwise.

Fundamentally, terrorism risk is not the same as natural catastrophe risk; insuring against a terrorist attack defies traditional underwriting techniques. The fact that these are intentional acts perpetrated with the goal of maximizing death and destruction creates enormous challenges. By sharing in only the risk of the very expensive and (hopefully) very rare events, the TRIA program allows the private sector to completely cover all terrorism losses except for the most catastrophic.

Current law requires all insurers selling covered commercial lines to offer terrorism coverage, compelling many insurers that had previously exited that market to return and dramatically reducing the amount of potentially uninsured losses in the event of an attack. In other words, the private sector participation made possible by TRIA means that far less government intervention in the form of taxpayer-funded disaster assistance will be needed in the aftermath of a future attack. Now, all but the largest terrorist attacks are completely borne by the private sector.

It is our belief that the federal government plays an important and appropriate role in encouraging private sector involvement in the terrorism insurance marketplace – and thereby protecting and promoting our nation's finances, security, and economic strength. We are urging swift passage of legislation that would maintain a long-term, risk-sharing partnership for terrorism risk insurance.

Sincerely,

National Association of Mutual Insurance Companies
Financial Services Roundtable
Property Casualty Insurance Association of America
American Insurance Association
Independent Insurance Agents and Brokers of America
Council of Insurance Agents & Brokers

NAIC National Association of Insurance Commissioners & The CENTER for INSURANCE POLICY and RESEARCH

September 19, 2013

The Honorable Jeb Hensarling
Chairman
House Financial Services Committee
U.S. House of Representatives

The Honorable Maxine Waters
Ranking Member
House Financial Services Committee
U.S. House of Representatives

RE: Terrorism Risk Insurance Act

Dear Chairman Hensarling and Ranking Member Waters:

Thank you for holding this hearing to examine issues regarding the Terrorism Risk Insurance Act (TRIA). On behalf of the National Association Insurance Commissioners (NAIC)[1], we write today to express our support for TRIA reauthorization and to urge prompt Congressional action to renew this important partnership between the private insurance market and the federal government.

As you gather information and consider reauthorizing TRIA, we would like to submit for the record our resolution in support of TRIA reauthorization and our comment letter to the President's Working Group on Financial Markets.

We look forward to working with you as you continue to discuss TRIA reauthorization and would encourage all Members of Congress to discuss the program with your state's insurance commissioner. Should you have any questions or wish to discuss our comments or any other matter relating to the NAIC's views on this issue, please do not hesitate to contact Brooke Stringer, Financial Policy and Legislative Advisor, at (202) 471-3974.

Sincerely,

James J. Donelon
NAIC President
Louisiana Insurance Commissioner

Adam Hamm
NAIC President-Elect
North Dakota Insurance Commissioner

Monica J. Lindeen
NAIC Vice President
Montana Commissioner of Securities & Insurance

Michael F. Consedine
NAIC Secretary-Treasurer
Pennsylvania Insurance Commissioner

Enclosures
cc: The Honorable Randy Neugebauer, U.S. House of Representatives
The Honorable Michael Capuano, U.S. House of Representatives

[1] Founded in 1871, the NAIC is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and the five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the U.S.

EXECUTIVE OFFICE • 444 North Capitol Street, NW, Suite 701 • Washington, DC 20001-1509 p | 202 471 3990 f | 816 460 7493
CENTRAL OFFICE • 1100 Walnut Street, Suite 1500 • Kansas City, MO 64106-2197 p | 816 842 3600 f | 816 783 8175
CAPITAL MARKETS & INVESTMENT ANALYSIS OFFICE • 48 Wall Street, 6th Floor • New York, NY 10005-2906 p | 212 398 9000 f | 212 382 4207
www.naic.org

National Association of Insurance Commissioners (NAIC) Resolution to Support Reauthorization of the Terrorism Risk Insurance Act

Adopted August 26, 2013

RESOLUTION

WHEREAS, the Terrorism Risk Insurance Act of 2002 (TRIA) was adopted and subsequently reauthorized twice by Congress to provide a federal shared loss program for incurred losses resulting from certain acts of terrorism in order to protect American businesses by minimizing market disruptions and ensuring the widespread availability and affordability of property and casualty insurance for terrorism risks;

WHEREAS, state insurance regulators have supported TRIA since its inception and its subsequent reauthorizations in 2005 and 2007; and

WHEREAS, the presence of the federal backstop has provided a measure of security to the insurance industry and has enabled insurers to extend offers of coverage for acts of terrorism following the tragic events of September 11th; and

WHEREAS, to date, state insurance regulators have not seen evidence suggesting that the insurance marketplace is capable or willing to voluntarily take on a substantial portion of the risk of providing coverage for acts of terrorism; and

WHEREAS, the evidence state insurance regulators have seen suggests that unknown frequency, coupled with the potential for substantial severity of a loss makes coverage for acts of terrorism one that insurers would likely choose to avoid if given the opportunity.

NOW, THEREFORE BE IT RESOLVED THAT:

State insurance regulators support the reauthorization of TRIA to help ensure market stability through the availability of terrorism coverage and urge prompt Congressional action prior to the program's expiration at the end of 2014 in order to minimize disruptions to the commercial insurance markets.

NAIC & The CENTER for INSURANCE POLICY and RESEARCH

National Association of Insurance Commissioners

September 16, 2013

Michael T. McRaith
Director, Federal Insurance Office
Room 1319 MT
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

RE: President's Working Group on Financial Markets: Terrorism Risk Insurance Analysis

Dear Director McRaith:

We write on behalf of the National Association of Insurance Commissioners (NAIC) to offer comments regarding the President's Working Group on Financial Markets' analysis of terrorism risk insurance. Founded in 1871, the NAIC is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and the five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer reviews, and coordinate their regulatory oversight. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the U.S.

State insurance regulators have supported the Terrorism Risk Insurance Act (TRIA) since its inception and its subsequent reauthorizations, and the NAIC recently adopted a resolution reiterating its strong support for continuation of the program. We believe that the presence of a federal partnership with the private insurance markets has provided a measure of security to the insurance industry by minimizing market disruptions and ensuring the widespread availability and affordability of property and casualty insurance for terrorism risks. The availability of this coverage provides stability to commercial policyholders, lenders, builders, and the businesses that operate in urban centers and other areas prone to a terrorist attack. This public-private partnership ensures that insurers bear primary financial responsibility for losses from terrorism and must make the coverage available, while effectively capping the magnitude of losses and recouping federal funds if they are expended.

State insurance regulators have not seen evidence to suggest that the insurance marketplace is capable or willing to voluntarily take on a substantial portion of the risk of providing terrorism risk coverage. The difficulty in accurately determining the frequency, severity, and loss costs for acts of terrorism makes coverage for acts of terrorism one that insurers would likely choose to avoid if given the opportunity. If TRIA were allowed to expire, some insurers might place limitations on commercial insurance policies to exclude terrorism coverage or choose to withdraw from the market completely. While a permanent solution to terrorism risk insurance would be ideal, we support a prompt, long-term reauthorization of TRIA to help ensure economic stability through the availability of terrorism coverage.

EXECUTIVE OFFICE • 444 North Capitol Street, NW, Suite 701 • Washington, DC 20001-1509 p | 202 471 3990 f | 816 460 7493
CENTRAL OFFICE • 1100 Walnut Street, Suite 1500 • Kansas City, MO 64106-2197 p | 816 842 3600 f | 816 783 8175
CAPITAL MARKETS & INVESTMENT ANALYSIS OFFICE • 48 Wall Street, 6th Floor • New York, NY 10005-2906 p | 212 398 9000 f | 212 382 4207
www.naic.org

Attached to this letter are the NAIC's responses to the questions posed in the Federal Register. The NAIC and its Terrorism Insurance Implementation Working Group look forward to a continued dialogue with the Department of the Treasury regarding long-term solutions to address the risk of loss from acts of terrorism. Should you have any questions regarding these comments please do not hesitate to contact Eric Nordman, Director of the Regulatory Services Division and Director of the Center for Insurance Policy and Research, at (816) 783-8005 or Brooke Stringer, Financial Policy and Legislative Advisor, at (202) 471-3974.

Sincerely,

James J. Donelon
NAIC President
Louisiana Insurance Commissioner

Adam Hamm
NAIC President-Elect
North Dakota Insurance Commissioner

Monica J. Lindeen
NAIC Vice President
Montana Commissioner of Securities & Insurance

Michael F. Consedine
NAIC Secretary-Treasurer
Pennsylvania Insurance Commissioner

Response to President's Working Group on Financial Markets: Terrorism Risk Insurance Analysis

TRIA Termination Considerations

(1) Describe and explain in detail any and all possible ramifications from the termination of the Program on December 31, 2014, including any available evidence to support the predicted result, regarding: (a) The availability and affordability of insurance for terrorism risk in the United States generally;

To reduce the cost and increase availability of coverage for acts of terrorism, insurers need to be able to accurately estimate their ultimate expected loss costs associated with the risk transfer and related costs of capital. To do so requires knowledge of both the expected frequency and severity of future losses. In the case of coverage for acts of terrorism, severity and to a greater degree frequency, are extremely difficult to predict. When insurers are unable to determine what price to charge, they understandably tend to restrict coverage. This problem is partially resolved through the Terrorism Risk Insurance Act (TRIA) by providing insurers with a cap on the severity of exposures. With limitations in place, insurers can more reasonably assign a price to coverage that will not threaten their solvency and will place them in a better position to make such coverage available.

Unfortunately, there is no empirical measure of availability and affordability since they are both subjective measures and intertwined concepts in most cases. It can be argued that coverage for every peril is available to anyone if they are willing to pay any price. However, as a practical matter, if businesses perceive that coverage for acts of terrorism is too expensive for the risk of loss presented, they will choose not to buy the coverage. Further, if insurers perceive that not enough is known about the frequency or severity of losses caused by acts of terrorism, they will choose not to make the coverage available, unless either the state or federal government forces them to do so. If TRIA is not reauthorized, the absence of a federal backstop may lead insurers to choose to withdraw from the market completely.

Insurance regulators generally agree termination of TRIA would result in an availability crisis as insurers would not voluntarily offer coverage for acts of terrorism to most U.S. businesses. Evidence for this comes from the fact that, in the past, the insurance industry has filed conditional exclusions[1] in all states, and has received approval to use them in all but two states. It is possible a limited market for terrorism coverage would develop; however, regulators expect the cost would be high and the coverage very limited in scope.

(b) The availability and affordability of insurance for terrorism risk in the United States specifically by line of business; geographic location, including the rating tiers defined by the Insurance Services Office, Inc.; and other relevant characteristics;

The availability and affordability of terrorism insurance suffers in areas often referred to as Tier 1 terror targets, i.e., those that due to their size, location and potential impact on the economy as a whole are primary targets for terrorist groups. Terrorists seek to inflict maximum loss,

[1] Conditional exclusions for terrorism are policy endorsements that add terrorist events to the standard war and military action exclusions, in the event the TRIA program is either not reauthorized or undergoes major changes. These exclusion endorsements typically apply to commercial property and liability insurance policies, and to personal lines property insurance in states that have not enacted the New York standard fire policy.

resulting in no limit to the scale of property or casualty loss. Principal U.S. cities such as New York, Boston, Washington, D.C., Chicago, Miami, Houston, San Francisco and Los Angeles are the primary focus of terrorism, making these risks highly concentrated. This leads to adverse selection as the strongest demand for terrorism insurance originates in these geographic areas. If TRIA is not extended, state regulators believe terrorism insurance would become less available and affordable in the areas with the most need for coverage. We also believe that the elimination of the program may negatively impact the availability of insurance in mid-size cities and some types of commercial enterprises as well.

Workers' compensation coverage is a special case since terrorism cannot be excluded from individual workers' compensation policies. An expiration of TRIA would be especially disruptive to the workers' compensation market. It is likely that the size of residual markets would grow. In particular, businesses with large numbers of employees concentrated in a single location would be vulnerable as would businesses located near iconic buildings perceived to be attractive targets for terrorists.

(c) Additional specific effects on commerce in the United States.

As stated above, state regulators believe the expiration of TRIA would lead to terrorism insurance becoming unavailable and unaffordable as the insurance marketplace is not willing to voluntarily take on the risk of providing coverage for acts of terrorism. Insurers are not willing to jeopardize their financial health by accepting the potential unlimited severity and unpredictable frequency. This would lead to many businesses not having proper terrorism risk coverage, leaving them vulnerable to terrorism acts. In the absence of reauthorization, many businesses could not get proper coverage. During past debate over reauthorization of TRIA, regulators report receiving numerous inquiries from policyholders about not being able to obtain construction loans from banks. A slowdown in lending would have a chilling impact on the economy as mortgage lending and securitization of mortgage loans provides a significant portion of the GDP. One rating agency has said it may decline to rate commercial mortgage backed securities on transactions that lack sufficient terrorism insurance.

Insurance regulators in the Northeast have been involved with the rebuilding of infrastructure and communities after the destruction of Superstorm Sandy and they are particularly concerned that the expiration of TRIA would severely harm the rebuilding efforts. Further, building owners in Tier 1 & 2 areas might have difficulty attracting tenants as they might be unable to obtain coverage on the building and the tenants might be unable to obtain coverage on business operations and workers' compensation covering their employees.

Rating agencies have publicly stated they are seeking detailed plans from insurers in the event that the Program is not renewed due to rating concerns over the availability and affordability of terrorism coverage in the absence of a federal backstop. Insurers without a sufficient plan of action to handle terrorism risks may face rating downgrades as the expiration date approaches.

(2) If the Program were to continue beyond December 31, 2014, describe and explain in detail any revisions or modifications to the Program that would promote the availability and affordability of terrorism insurance, including any accompanying challenges that might arise from any proposed revisions or modifications to the Program. All views regarding the appropriate role of the federal government in supporting the availability and affordability of insurance for terrorism risk are welcome.

State insurance regulators encourage the development of a permanent solution to terrorism risk insurance in order to avoid the market disruptions and uncertainty associated with continual short-term reauthorizations. While ideally we would support a permanent solution, we recommend a prompt, ten-year TRIA reauthorization.

State insurance regulators believe that reauthorization of the Program is needed to provide a measure of security in the insurance industry and to enable insurers to extend offers of coverage for acts of terrorism. Regulators have particular concern with the timing of any revisions or modifications to the Program. A delay in the reauthorization of the Program creates uncertainty and deprives insurers of adequate time make necessary changes to systems, potentially leading to issues with policy renewals for policyholders. Regulators have already reported receiving filings that provide conditional exclusions in the event that the Program is revised or does not continue. These conditional filings apply to changes to deductibles, co-pays, limits and other changes in the Program. These exclusions create uncertainty in the marketplace with policyholders.

The commercial insurance business cycle operates in such a way that insurers and their policyholders will be required to make decisions as early as September 2013 for coverage going well into 2015. Annual policy renewals with effective dates of January 2, 2014, or later will have to contemplate no federal backstop for any losses in 2015. As a result, insurance regulators in most states are approving and will have to approve conditional coverage limitations for terrorism coverage for renewal policies on a widespread basis, just as they did in the 2006-2007 time period.

If triggered by the expiration of TRIA, these limitations would greatly reduce or eliminate terrorism coverage in the states that have approved the endorsement. In those states that have rejected these coverage limitations, insurers would have to make the difficult choice of writing the coverage and accepting the potentially catastrophic terrorism exposure or not writing the policy at all. This could lead to availability and affordability problems in the near future. With the 2014 renewal cycle already underway, there is greater uncertainty in the marketplace. For these reasons, insurance regulators encourage action by Congress this fall rather than waiting until 2014 to address the matter.

Insurance Market Considerations

(3) Describe and explain the ability of the insurance industry to model, quantify, and underwrite terrorism risk, and the resulting impact of such analysis on the availability and affordability of terrorism insurance, including an examination of the price (by line of business, location of risk, and other relevant characteristics) and coverage options for terrorism insurance.

Computer modeling of terrorism risk has been developed and refined by risk modelers since Sept. 11, 2001 in an attempt to measure an insurer's risk of loss from acts of terrorism. Many *insurers have begun to use the computer simulation models to assist them in pricing. While these models provide insurers with additional information about their risks and may provide more validity to premium rates in the future, the accuracy of models particularly with respect to frequency remains uncertain.*

While some computer simulation modeling has been introduced, the modeling efforts and their results are untested. The models are based on the opinions of counterintelligence experts along with assumptions regarding the type of damage that would occur if certain weapons were deployed. Insurers have relied upon them because they have no other choice. Insurers continue to express reservations about their ability to measure the risk of loss from acts of terrorism largely because even though modeling might be able to estimate the severity of loss resulting from specific terrorist events, there is no way to determine the frequency of such events. Unlike weather events or seismic events, which are outside human control and which occur with some statistical regularity, terrorist events are solely dependent on the will of those who seek to carry them out and the effectiveness of those who seek to prevent them. Thus, the insurance industry is left with very little on which to base frequency, and even the most sophisticated terrorism models amount to little more than educated guesses.

A recent presentation by a catastrophe modeler before the NAIC Property and Casualty Insurance Committee gave regulators insight into current modeling developments. An interesting comment from the modeler was that the TRIP was needed because insurers are essentially agreeing to provide coverage for government's failure to protect its citizens from terrorist acts. The modelers have learned that the more individuals there are involved in plotting a terrorist act, the more likely they are to be caught through governmental anti-terrorism efforts. They remain uncomfortable with their ability to model the severity of terrorism losses or the frequency. The frequency is dependent on the success of government anti-terrorism activities and the severity is boundless, according to the modeler.

(4) Describe and explain, with supporting information where available, any additional insurance market considerations that could impact the long-term availability and affordability of terrorism insurance (*e.g.* implications for coverage of insurance for nuclear, biological, chemical, and radiological acts of terrorism; cyber acts of terrorism; and terrorism in workers' compensation policies).

The magnitude of potential terrorism risks, for example, those from nuclear, biological, chemical, and radiological (NBCR) losses, is so great that it does not conform to the traditional methods available to insurers to spread and share the risk. Industry representatives consider the limited amount of capital available to insure all commercial losses to be inadequate to cover a large-scale NBCR event. An NBCR event has the potential to affect a large geographic area. This creates a large potential concentration of risk that may have substantial implications for individual insurers. Even with TRIA's loss limitations, the potential of a severe event may dissuade insurers from providing the coverage given their exposure to TRIA's deductible and co-insurance requirements.

Preliminarily, the NAIC would like to provide a general overview of NBCR coverages with the caveat that, as is the case with all causes of loss, coverage for any specific claim will ultimately be governed by the policy provisions, conditions and exclusions of the policy under which the claim is made.

Generally speaking, there is no coverage for nuclear or radiological incidents, terrorist-related or otherwise, because policies contain nuclear and radiological exclusions. This is true even in situations where the insured has purchased TRIA terrorism coverage. A terrorist event involving a nuclear/radiological device would not result in coverage because TRIA terrorism coverage only applies to covered perils under the policy and a nuclear event is not a covered peril. However, in states that mandate use of the New York Standard Fire Policy, and regardless of whether the insured has purchased TRIA terrorism coverage, fire losses following any nuclear event will be covered subject to other policy conditions and requirements. Also, it should be noted that the Price-Anderson Act establishes an insurance mechanism to provide insurance to operators of nuclear reactors in the U.S. in the event of a nuclear accident.

Standard policies generally do not contain a specific exclusion for losses from chemical or biological weapons. However, many policy forms include pollution or contaminant exclusions. Depending on the specifics of the incident in question, these exclusions might eliminate coverage from the policy for chemical or biological events. TRIA terrorism coverage for chemical or biological events would apply, if such events were considered covered perils under the primary policy. As noted above, in states that mandate use of the New York Standard Fire Policy, and regardless of whether the insured has purchased TRIA terrorism coverage, fire following a chemical or biological event will be covered subject to other policy conditions and requirements.

Finally, it is important to note that workers' compensation policies do not permit exclusions for NBCR events.

To the extent that coverage for NBCR events exists in primary policies, as explained above, insurers are required to make it available pursuant to TRIA for certified acts of terrorism. Specific information regarding the affordability of this coverage is not available to the NAIC at this time. Since the policy forms either include or exclude coverage for NBCR events without distinction as to the cause of the event, there should be no difference in the availability of coverage for such events caused by acts of terrorism. Affordability may be impacted to the extent that insurers will consider their exposure to terrorist acts and will ultimately reflect this exposure in the additional premium charged for TRIP coverage.

There is a report by the Government Accountability Office (GAO) on the topic of NBCR coverage (GAO-09-39). The findings in the report are as accurate today as they were when the report was written. The GAO found insurers generally seek to exclude coverage for NBCR events in commercial policies, relying on long-standing standard policy exclusions for nuclear and pollution risks. Further, the GAO found insurers "generally remain unwilling to offer NBCR coverage because of uncertainties about the risk and the potential for catastrophic losses…" Regulators believe these findings accurately describe today's marketplace.

Most standard commercial lines policies do not cover cyber risk. To cover these unique cyber risks through insurance requires the purchase of a special cyber liability policy. The markets for these policies are relatively new with a growing number of insurers offering coverage. Like all new markets, coverage contained in the policy forms is evolving as risks evolve and competitive forces come into play. There are some risks that are commonly covered by cyber liability policies. Generally cyber liability policies cover a business' obligation to protect the personal data of its customers. The data might include personal identifying information, financial or *health information or other critical data that if compromised could create a liability exposure for the business. The policy will cover liability for unauthorized access, theft or use of the data or software contained in a business' network or systems. Many policies also cover unintentional acts, errors, omission or mistakes by employees, unintentional spreading of a virus or malware, computer thefts or extortion attempts by hackers. At this time, insurance regulators do not believe it has been demonstrated that there is a need for acts of cyber terrorism to be included in TRIA.*

(5) Explain and describe in general the demand (or "take-up") of terrorism insurance and provide specific data and information, where available, regarding the take-up rate by line of business, location of the risk, and other relevant characteristics.

The insurance industry is best suited to address this issue.

Reinsurance Considerations

(6) Describe and explain in detail the long-term availability and affordability of private reinsurance for terrorism risk. Analyze, with supporting information, the impact of the Program, and any changes to the Program, on the private reinsurance market for terrorism risk, including any accompanying challenges that might arise from revisions or modifications to the Program.

The reinsurance industry is best suited to address this issue.

Additional Consideration

(8) Describe and explain any other developments, considerations, or market issues that might affect the long-term availability and affordability of terrorism risk insurance.

TRIA provides insurers with the security they need to allow them to offer coverage for acts of terrorism. It gives insurers a boundary on their ultimate costs of insuring the risk, and provides the maximum probable loss statistic for ratemaking and solvency purposes. It is important to note that TRIA requires the private insurance industry to cover losses up to $100 million, and only after that point would the federal government provide assistance. To date, this threshold has never been met and the federal government has never paid claims under TRIA. If the federal government were to pay claims under TRIA, there is a recoupment mechanism so, in most cases, losses paid for by the program would be reimbursed by a surcharge on property and casualty policies in future years. In our view, a permanent solution to insuring for terrorism risks would be ideal, but we urge a prompt, ten-year reauthorization of TRIA to avoid disruptions to the commercial insurance marketplace.

www.naiop.org

NAIOP
COMMERCIAL REAL ESTATE DEVELOPMENT ASSOCIATION

September 18, 2013

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives
B301C Rayburn House Office Building
Washington, DC 20515

Re: Full Committee Hearing on "The Terrorism Risk Insurance Act of 2002"

Dear Chairman Hensarling and Ranking Member Waters:

NAIOP, the Commercial Real Estate Development Association, is the leading organization for developers, owners, investors and related professionals in office, industrial, retail and mixed-use real estate, and comprises 15,000 members and 47 local chapters throughout the United States. On behalf of our members, we want to commend you for holding this full committee hearing to examine the federal terrorism risk insurance program.

The continued availability of terrorism risk insurance is critical to the health of the commercial real estate industry. Terrorism insurance is required by almost every lender for a developer to obtain credit. The federal program created under the Terrorism Risk Insurance Act of 2002 ("TRIA") after the attacks of 9/11 helped avoid economic dislocation and paralysis in our industry by providing a framework whereby the insurance industry could continue to offer terrorism risk insurance. Unfortunately, while private insurance capacity for terrorism risk has improved, private risk capacity remains constrained.

As the policyholders and purchasers of insurance, our members in the commercial real estate development industry are keenly aware that TRIA will expire in 2014, and believe this successful program must be renewed to maintain the continued availability of terrorism risk

2201 Cooperative Way, Suite 300, Herndon, VA 20171-3034 Tel: (703) 904-7100 Fax: (703) 904-7942

NAIOP
COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION

insurance. This is an issue that affects not just New York or other big cities, but all communities throughout our nation where major commercial and industrial development occurs. We urge the Committee to move quickly to renew the terrorism risk insurance program, and look forward to working with you and your committee staff on this effort.

Sincerely,

Thomas J. Bisacquino
President and CEO

NAMIC®
NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

Statement

of

National Association of Mutual Insurance Companies

to the

United States House of Representatives

Committee on Financial Services

Hearing on

The Terrorism Risk Insurance Act of 2002

September 19, 2013

Introduction

The National Association of Mutual Insurance Companies (NAMIC) is pleased to provide testimony on the Terrorism Risk Insurance Act (TRIA) and its vital role in helping protect our country and our economy as we continue to consider how to best handle the ever-present threat of terrorism.

NAMIC is the largest and most diverse property/casualty trade association in the country, with 1,400 regional and local mutual insurance member companies on main streets across America joining many of the country's largest national insurers who also call NAMIC their home. Member companies serve more than 135 million auto, home and business policyholders, writing in excess of $196 billion in annual premiums that account for 50 percent of the automobile/ homeowners market and 31 percent of the business insurance market. More than 200,000 people are employed by NAMIC member companies.

Since the events of September 11, 2001, the federal government has developed a robust and sophisticated counter-terrorism apparatus that has thus far succeeded in preventing large-scale terrorist attacks on the U.S. homeland. That said, the threat of terrorism is continuing to evolve amid a changing, unstable and dangerous international environment. Attacks such as the Boston Marathon bombings were a stark and painful reminder that the United States must remain vigilant. However unfortunate, it will likely never simply be about prevention – response and recovery are also integral pieces of national security apparatus. It is vital that we protect the U.S. economy from financial devastation and help get it back on its feet after an attack.

It is our firm belief that in the absence of a risk-sharing mechanism between the private and public sectors, no self-sustaining private market for terrorism risk coverage is likely to develop. However, the demonstrated success of the program has created the certainty needed for the commercial insurance industry to effectively operate and more importantly policyholders can purchase coverage that would otherwise be unavailable.. Now, all but the largest terrorist attacks are completely borne by the private sector.

Some have characterized the program as another example of corporate welfare. A close examination of the facts reveals this characterization is not only false, but belies the very nature of the program. Indeed, the existence of TRIA *allows* a viable private market to function – rather than providing government assistance to commercial insurers.

It is important to remember that the response of the federal government to a large-scale terrorist attack – particularly in the absence of the risk-sharing mechanism – will not be inaction. The current TRIA program allows the insurance industry to completely cover losses for the far more likely smaller-scale attacks. This results in fewer uninsured losses meaning less government compensation after an attack. Without the program there will be more – not less – exposure to the taxpayers as the government will be under extreme pressure to pay for all or most of the losses. And TRIA does all this at no cost in the absence of an attack (except for negligible annual administrative costs) and with a built-in mechanism to recover every single penny the government pays out if there is a terrorist attack.

Therefore, we believe it is vitally important to our nation's finances, security, and economic strength that we maintain a long-term risk-sharing mechanism for terrorism insurance.

The TRIA Program – History and Structure

Before the events of 9/11, the abstract possibility of a major terrorist attack on the U.S. was known, but largely dismissed by most people. At the time, terrorism was typically included in "all-risk" policies because the risk was deemed so small as to be incalculable. In one morning, the 9/11 attacks caused roughly $40 billion in insured losses.

Soon after the events, reinsurers and then insurers moved to exclude terrorism coverage from their new and renewing policies as this was a poorly understood risk that could potentially produce unimaginable losses. Consequently, the ability of commercial policyholders to purchase adequate coverage at affordable prices was severely constrained. As a result, many were forced to go without coverage or only partly insure their assets. In states which prohibited carriers from excluding coverage for terrorism and with reinsurance companies universally excluding terrorist acts in property/casualty treaties, most carriers' only alternative was to offer less coverage or not write the business at all.

The lack of adequate insurance capacity and significant increases in pricing of commercial multi-peril business resulted in the postponement of many construction projects. It was estimated at the time to have delayed or cancelled $15.5[1] billion in real estate transactions and cost 300,000 construction workers their jobs.[2] Given the economic uncertainty that was created and the insurance industry's serious concern about properly managing this risk, Congress passed and President George W. Bush signed into law the Terrorism Risk Insurance Act of 2002. It was quickly realized that without the program American businesses would be hard pressed to find or afford the coverage they needed and so TRIA was extended for two years in 2005 and again in 2007 for seven years.

Essentially, TRIA placed a ceiling on individual company terrorism losses, which permitted them to quantify their terrorism exposure and make the coverage available.. The program was purposefully designed to force insurers back into a market, with the benefit of knowing their exposure.

---

[1] Real Estate Roundtable, "Survey Confirms Economic Toll of Terrorism Insurance Gap: Over $10 Billion of Real Estate Projects Affected Across U.S.," September 4, 2002.
[2] President George W. Bush, "President Reiterates Need for Terrorism Insurance Agreement," October 3, 2002.

Specifically, the program is a federal backstop for commercial property/casualty insurance that acts as reinsurance in the event of a certified terrorist event. A private insurance company pays for losses up to 20 percent of the prior year's direct earned premium on all lines of business covered in the TRIA program, which for the largest companies is several billion dollars, and then a 15 percent co-pay up to a program cap of $100 billion. After $100 billion, neither the government nor the company is required to pay for excess losses.

There are several other key elements to the program:

- **Program Trigger** – A terrorist event must hit a certain "trigger level" in order for there to be any Federal involvement. The trigger is currently set at $100 million.

- **Mandatory Offer** – The current program requires all insurers selling covered lines to offer terrorism coverage, compelling many insurers that had previously exited that market to return and dramatically reducing the amount of potentially uninsured losses in the event of an attack. Insurers are required to offer coverage for acts of terrorism on the same terms and conditions as other coverages, although this does not include coverage for nuclear, biological, chemical and radiological (NBCR) attacks. Currently policyholders are not required to purchase the offered coverage and in the last few years take-up rates have plateaued in the 60 percent to 65 percent ranges.

- **Recoupment** – Currently, *taxpayers are completely protected under TRIA* – the federal government has the ability to recoup any money that is spent through the program. By law the federal government *must* recoup the difference between insurers' total costs and the industry aggregate retention of $27.5 billion (assuming the total cost of the event with government payments is $27.5 billion or higher) over time through surcharges on every policy covered by TRIA. Since 2007, the government must actually recoup 133 percent of this mandatory recoupment. In the event the insurers' total costs exceed $27.5 billion then the government can still recoup whatever money it pays out, but this is at the discretion of the Treasury Secretary.

  In this way, the federal government can be thought of as a post-funded reinsurer for the catastrophic tail coverage of terrorism risks. This coverage is valuable, but not priced explicitly nor paid for upfront – it is paid for in the event it is used and in effect, pricing is determined after any event. It is common for risks that are more difficult to quantify and where there is great uncertainty as to the range of possible outcomes for benefits and policy limits to be determined up front and premiums after the policy period based on actual experience (nuclear power plant disasters are one example).

It is the structure of the current TRIA program that has created space for a private market to operate under the umbrella of federal participation. The private sector involvement reduces the unaddressed needs of victims which in turn reduces the necessity of government intervention – thus taxpayer exposure – post attack. Importantly, what TRIA does is define the government's role in advance of a catastrophe rather than relying on ad-hoc authorizations after the fact, thus allowing all parties to efficiently plan.

Why is the Program Necessary?

Managing terrorism risk defies the normal underwriting practices of insurers. Terrorism involves strategic human behavior and represents a dynamic threat that is intentional, responsive to countermeasures, and purposefully unpredictable. Immediately following 9/11, there was hope that, given time, more accurate modeling could be developed and utilized to help insurers manage the terror risk. And indeed, much has been done to develop tools to manage aggregate loss exposures that are based on a predetermined event of a certain magnitude in a given area.

That said, the underwriting challenges that remain are numerous and profound:

- **Identical to Acts of War** – Acts of war have always been considered uninsurable events with either an implicit or explicit expectation that financial responsibility resided with the governments involved. War-related damage has never been covered by insurers and no one has suggested that something must be done to maximize private sector capital to be used to provide such coverage. Simply because stateless, transnational groups are perpetrating these acts of terror does not categorically change them.

- **Absence of Meaningful Actuarial Data** – The data that insurers normally rely on when considering whether coverage can be offered and, if so, at what price, either does not exist or is not available. In the case of natural catastrophe risk, a company can rely on decades of relevant event data that can be plugged into mathematical models to quantify risk – there is no comparable historical record on which to draw for large-scale terrorist events. Further, much of the relevant data that might be used by an insurance company is appropriately kept secret by the federal government for national security reasons. Without access to this type of information insurers cannot meaningfully calculate the likelihood, nature, or extent of a potential event, making pricing and reserving virtually impossible. Although in theory access to classified information might paint a more accurate picture of the threat matrix facing targets in the U.S., insurers should not – and are not asking to – be given state secrets in order to write terrorism coverage.

- **Intentional Acts** – A related point is that terrorist acts are caused deliberately and do not occur randomly. Because of this, there is no way to determine the probability that a particular property or asset will experience a terrorism-related loss. Part of the difficulty in assessing terrorism risk stems from the fact that, because of response measures taken in the wake of an attack, the next event is unlikely to follow a similar pattern. Unlike criminal acts such as robbery where the goals are predictably targeted, the goal of maximizing death and destruction can be accomplished in countless ways, anywhere, and at any time. Terrorism is not comparable to a random event – a hurricane cannot study wind-damage mitigation efforts and then think up new ways to get around them. The only truly effective mitigation tools – if there are any -- reside within the government's national security apparatus, and as noted above, these are understandably kept secret.

- **Risk Concentration** – Terrorism risk is highly concentrated and incredibly difficult to effectively pool across geographical locations and policyholder type, particularly in an age of mass-casualty terror. Acts of terrorism on the scale of 9/11 are what are known as a "clash events" meaning they cause significant losses across multiple lines of insurance. These types of events directly threaten the solvency of both insurers and reinsurers and are not typically covered risks. In a fully free market, it would likely be the case that highly concentrated urban areas in particular would find it difficult to find or afford coverage for terrorism.

- **Interdependencies** – At the very highest level, the nation's foreign policy decisions and the effectiveness of its homeland defense have a direct impact on the likelihood and success of an attack. At the policyholder level, the vulnerability of one organization is not simply dependent on its own security decisions, but also on the decisions of other organizations and agents beyond its control.

In the end, it is more accurate to think of the TRIA program's purpose not as providing reinsurance for losses resulting from "acts of terrorism," but as protection against from losses that result from a failure in the government's systems for detecting and preventing acts of terrorism. With respect to natural catastrophe risk, it would be absurd to assign to a government agency the task of preventing hurricanes, tornadoes, and earthquakes. But it makes perfect sense for citizens to expect their government to prevent attacks by America's enemies, and that is precisely what Americans have come to expect from their government in the aftermath of 9/11. It is now widely recognized that one of the federal government's fundamental duties is to prevent terrorist attacks through the use of effective counter-terrorism measures. Only if the government does not fulfill its responsibility to protect Americans from terrorist attacks will Americans incur terrorism losses. "Terrorism risk" in 2013 and beyond is better understood as the risk of government counter-terrorism failure.

Accordingly, while the private insurance industry is willing to assume a substantial portion of this risk within the limits of its capability, the ultimate responsibility for managing the risk of government counter-terrorism failure does and should rest with the federal government itself.

What Would Happen if TRIA Expired or Was Materially Changed?

Termination of the program threatens the space in which a viable private market for terrorism insurance has grown. In considering what is likely to happen if the Terrorism Risk Insurance Program is terminated on December 31, 2014, the immediate aftermath of 9/11 in commercial property/casualty markets for terrorism coverage as described above is instructive.

Most insurers would likely not offer terrorism coverage in the absence of a federal risk-sharing mechanism like TRIA. To offer coverage for a risk that could result in a 9/11-size loss is a "bet the company" risk for insurers and they understandably withdrew from this segment of the market following 9/11. It was only with a program in place that put some structure around an ill-defined catastrophic risk that allowed insurers to participate. By providing more definitive loss parameters, TRIA has facilitated the participation of the private sector at current levels. We cannot hastily conclude that because the private sector can handle a portion of the risk, it could figure out a way to handle all of it.

Assuming that allowing the program to expire or drastically changing the federal government's role will simply result in private market innovation that has heretofore failed to materialize is unwise. State insurance regulators indicate that they have not seen evidence suggesting that the insurance marketplace is capable or willing to voluntarily take on a substantial portion of the risk of providing coverage for acts of terrorism in the absence of the program.

If TRIA is allowed to expire, it would create a particular disruption to worker's compensation system. Without a federal backstop, workers' compensation insurers will bear the entire financial burden of losses due to a terrorist attack. Reinsurers have shown an unwillingness to accept this potentially devastating risk or to offer affordable limits to protect the solvency of the workers' compensation insurers.

The workers' compensation benefit delivery system operates very differently from other property casualty insurance and should be given special attention in the debate to extend the program. Workers' compensation insurers are not allowed to exclude losses due to terrorism. The expiration of TRIA could result in disaster for workers' compensation insurers, and the businesses they serve, should a catastrophic terrorist event, occur. A migration of business currently being offered by private workers' compensation carriers to public state funds, residual markets and guaranty funds for large segments of metropolitan areas would be expected. These public options for workers' compensation are not designed to handle a catastrophic terrorist event. Injured workers and their families would face potential disruption in benefits. If the workers' compensation system fails, taxpayers could still be responsible for compensating victims – the very scenario that some policymakers want to avoid by letting TRIA expire. There would be delays in payment and hardship for those injured because of the lack of an efficient compensation system. These disruptions can be averted. Extending TRIA is more than a federal backstop for insurers -- it is a social and economic imperative.

The effects of a termination of the TRIA program extend beyond the property/casualty insurance industry. As we saw, commercial development can grind to a halt in the absence of terrorism coverage if the financial institutions financing projects require the coverage as a condition of their loans. In fact, many outstanding loans that require developers to maintain coverage would be thrown into technical default if the program were terminated and insurers had made arrangements to exclude or limit coverage in the absence of TRIA. The impact on the broader economy was one of the key reasons that the program was first put into place and why it has continued to be reauthorized and nothing has fundamentally altered this dynamic.

A more pedestrian point involves the fact that private insurance companies, including mutual companies, are return-seeking operations. Therefore, if they believe there is an opportunity to earn an economic return and it is possible to do so in accordance with an overall successful business model, then they will. In other words, if there was money to be made in insuring against terrorism risk, coverage would be offered without government intervention. To that point, the companies would be arguing for less—not more—government intervention to increase that earning potential. The fact that they are uniformly not doing so and in fact suggesting that without the TRIA program private coverage would not expand and instead retract, is telling.

In seeking to accomplish the goal of increasing private sector participation in the terrorism insurance market, it is important to recognize that the entire marketplace as it stands today has grown up in the presence of the TRIA program. Insurance industry capital remains insufficient to absorb the cost of a large-scale terrorist attack on its own – simply put, the insurance industry's capacity is dwarfed for most modeled long-tail, high severity, catastrophic terrorism events. That capacity cannot be exposed beyond a reasonable level without failing in its primary purpose - supporting the economy by protecting against non-terrorism related losses and events. In the event of a major attack, substantially depleted reserves and surpluses, and insolvencies could mean that policyholders of non-covered lines could go unprotected. A company that engages in business that endangers the ability to pay on existing or future policies is violating its duties to existing policyholders.

Moreover, even if the overall industry capacity was significantly greater, serious concern about terrorism risk would remain for individual insurance companies. For a catastrophic event, the losses are not likely to be spread evenly among a large number of insurers. Thus terrorism risk is a situation in which no firm will be the "average" company. Insurance companies may either suffer no losses or else they could suffer losses sufficient to threaten their very existence. This dynamic lends itself to very strict underwriting and would severely constrain the private market in the absence of TRIA.

NAMIC would also caution policymakers not to assume that they can increase private sector participation by fiat. Increasing the nominal amount of private sector involvement in the current TRIA structure does not immediately translate into an increase in private sector capital in the marketplace. In fact, altering trigger levels or individual company retentions may cause market participants – particularly small and medium-sized companies – to exit, thereby reducing total private capital. An effective public-private partnership also depends on participation by insurers of all sizes and structures.

It is not at all clear that eliminating or scaling-back the TRIA program would lead to more involvement in the market by private insurers. In fact the opposite is likely true.

Improving the Program

The current TRIA program has worked very well. In large part this is because it has provided some certainty and predictability to a difficult risk. That said, NAMIC has suggestions to help improve the operation of TRIA in the event of an attack.

- **Streamlining Functionality of Program** – The TRIA program is capped at \$100 billion dollars, a level above which neither the insurance companies nor the federal government is responsible for further payment. What is not clear is how proration would work for either the insurers or the policyholders. Which companies get to stop paying when, and which policyholders have to take how many cents on the dollar remains unclear. Providing clear guidance on how an event of this magnitude would work would provide more certainty for market participants.

- **Certification of Terrorist Event** – Although the Boston Marathon bombing did not come close to losses that would have hit the \$100 million trigger, the debate surrounding certifying the event as a terrorist attack, which ultimately led to no certification, has led to significant concern in the industry. Insurance contracts are written and priced with specific terms and exclusions in mind and to the extent that a Treasury certification can become an uncertain political process that impacts a company's claims, it sets a bad precedent. To continue to encourage insurers to write covered TRIA lines – or to write any lines in markets perceived to have a higher terrorism risk – strengthening the predictability of the certification process, including imposing a deadline for certification, should be a part of the reauthorization process.

Conclusion

Since the passage of TRIA in 2002, the U.S. has been fortunate not to have suffered another event like 9/11. Therefore the program has not demonstrated its ability to help the nation recover in the aftermath of such a disaster. What we can and have seen is the market that has formed in the space created by the program, almost certainly drawing in more private capital than had the program been structured differently. TRIA was able to accomplish this without paying out a dime to the private sector and without creating a new fund or revenue stream or bureaucratic structure, all while creating a system that will reduce taxpayer exposure in the event of a massive terrorist attack.

In the end, the purpose of the program is not to protect insurers, but to make sure that the economy can recover in as orderly a fashion as possible from a terrorist event. In order to encourage private sector involvement in the terrorism insurance marketplace – and thereby protect and promote our nation's finances, security, and economic strength – we must maintain a long-term private/public partnership for terrorism risk insurance.

NATIONAL ASSOCIATION OF REAL ESTATE INVESTMENT TRUSTS®

♦ ♦ ♦

REITS: BUILDING DIVIDENDS AND DIVERSIFICATION®

September 19, 2013

Chairman Jeb Hensarling Committee on Financial Services 2129 Rayburn House Office Building Washington, DC 20515	Ranking Member Maxine Waters Committee on Financial Services B301C Rayburn House Office Building Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

The National Association of Real Estate Investment Trusts (NAREIT)® is the worldwide representative voice for REITs and publicly traded real estate companies with an interest in U.S. real estate and capital markets. NAREIT's members are REITs and other businesses throughout the world that own, operate, and finance income-producing real estate, as well as those firms and individuals who advise, study and service those businesses.

On behalf of NAREIT's members, thank you for holding today's hearing entitled, "The Terrorism Risk Insurance Act of 2002." NAREIT appreciates that you are educating the members of the Committee on the Terrorism Risk Insurance Act (TRIA). We urge you to work together in a bipartisan way to extend TRIA well before its expiration at the end of 2014 in order to minimize the potentially significant negative economic consequences of uncertainty in the insurance marketplace.

As you know, in the wake of the attacks on 9/11, insurers began to exclude terrorism coverage from commercial policies because terrorism losses cannot be predictably and reliably underwritten. However, commercial lenders required terrorism coverage as a condition of financing, just as they do today. The result in the months after 9/11 was an economic paralysis felt particularly in real estate construction, ownership and development.

The enactment of TRIA – and subsequent Congressional extensions and refinements to the law – has ensured that businesses continue to have access to the terrorism risk coverage they need to obtain financing for their operations. Importantly, by establishing a mechanism by which policy holders and insurers are in the initial loss positions and are required to repay federal share payments in all but the most catastrophic events, TRIA has also ensured that taxpayers are insulated against the cost of a government intervention in this market that would almost certainly result from an act of terrorism.

♦ ♦ ♦

1875 I Street, NW, Suite 600, Washington, DC 20006-5413
Phone 202-739-9400 Fax 202-739-9401 REIT.com

Chairman Jeb Hensarling
Ranking Member Maxine Waters
September 19, 2013
Page 2

Thank you for holding this hearing today. NAREIT looks forward to working constructively with you as the Committee continues to consider an extension of this vital law.

Sincerely,

Steven A. Wechsler
President and CEO

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS

Resolution in Support of the Further Extension of the Terrorism Risk Insurance Act of 2002

Adopted by the NCOIL Executive Committee on July 14, 2013, and State-Federal Relations Committee on July 11, 2013. ***Sponsored by Rep. Michael Stinziano, OH***

WHEREAS, the United States continues to be engaged in an ongoing war against terrorism and the threats of future attacks inside the country remains; and

WHEREAS, future attacks could include the use of unconventional (nuclear, biological, chemical or radiological) weapons that could result in a large number of casualties or could involve attacks such as cyber-terrorism that would impact businesses and critical infrastructure across the nation; and

WHEREAS, the Terrorism Risk Insurance Program, created through the enactment of the Terrorism Risk Insurance Act (TRIA) of 2002 and extended in 2005 and 2007, has allowed for a viable and stable terrorism risk insurance market; and

WHEREAS, absent extension by Congress, the Terrorism Risk Insurance Act of 2002 will expire on December 31, 2014; and

WHEREAS, failure by Congress to extend TRIA would likely result in the inability of insurers to offer widespread coverage for future catastrophes resulting from terrorism or would likely create capacity concerns where terrorism coverage must be provided; and

WHEREAS, without adequate terrorism insurance coverage, banks may be unwilling to extend loans for commercial transactions, such as mortgages, construction projects and other capital-intensive initiatives; and

WHEREAS, the lack of private terrorism insurance to cover losses from future terrorist attacks may require the federal government to cover such losses; and

WHEREAS, without the shared public-private responsibility program established by the Terrorism Risk Insurance Act of 2002, a limited availability of insurance against terrorism would have a severe adverse effect on our country's economy as financiers might be reluctant to lend, businesses might be reluctant to invest, and commercial consumers might be unable to afford insurance; and

WHEREAS, the Terrorism Risk Insurance Program is an essential component of effective national economic recovery following a catastrophic terrorist attack in the United States; and

WHEREAS, NCOIL supported the enactment of the Terrorism Risk Insurance Act of 2002 and subsequent extensions in 2005 and 2007;

NOW, THEREFORE, BE IT RESOLVED, that NCOIL supports a long-term extension of the Terrorism Risk Insurance Program; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that NCOIL urges Congress and the Administration to take action as soon as possible to extend that Program.

NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

RESOLUTION IN SUPPORT OF THE FURTHER EXTENSION OF THE TERRORISM RISK INSURANCE ACT OF 2002

NCSL STANDING COMMITTEE ON COMMUNICATIONS, FINANCIAL SERVICES & INTERSTATE COMMERCE

WHEREAS, the United States continues to be engaged in an ongoing war against terrorism and the threats of future attacks inside the country remains; and

WHEREAS, future attacks could include the use of unconventional (nuclear, biological, chemical or radiological) weapons that could result in a large number of casualties or could involve attacks such as cyber-terrorism that would impact businesses and critical infrastructure across the nation; and

WHEREAS, the Terrorism Risk Insurance Program, created through the enactment of the Terrorism Risk Insurance Act (TRIA) of 2002 and extended in 2005 and 2007, has allowed for a viable and stable terrorism risk insurance market; and

WHEREAS, absent extension by Congress, the Terrorism Risk Insurance Act of 2002 will expire on December 31, 2014; and

WHEREAS, failure by Congress to extend TRIA would likely result in the inability of insurers to offer widespread coverage for future catastrophes resulting from terrorism or would likely create capacity concerns where terrorism coverage must be provided; and

WHEREAS, without adequate terrorism insurance coverage, banks may be unwilling to extend loans for commercial transactions, such as mortgages, construction projects and other capital-intensive initiatives; and

WHEREAS, the lack of private terrorism insurance to cover losses from future terrorist attacks may require the federal government to cover such losses; and

WHEREAS, without the shared public-private responsibility program established by the Terrorism Risk Insurance Act of 2002, a limited availability of insurance against terrorism would have a severe adverse effect on our country's economy as financiers might be reluctant to lend, businesses might be reluctant to invest, and commercial consumers might be unable to afford insurance; and

WHEREAS, the Terrorism Risk Insurance Program is an essential component of effective national economic recovery following a catastrophic terrorist attack in the United States; and

WHEREAS, NCSL supported the enactment of the Terrorism Risk Insurance Act of 2002 and subsequent extensions in 2005 and 2007;

NOW, THEREFORE, BE IT RESOLVED, that NCSL supports a long-term extension of the Terrorism Risk Insurance Act of 2002; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, NCSL urges Congress and the Administration to take action as soon as possible to extend the Terrorism Risk Insurance Act of 2002.

Adopted at NCSL General Business Meeting, August 2013.

NMHC National Multi Housing Council®
Apartments: Smart Communities, Smarter Living

NATIONAL APARTMENT ASSOCIATION

September 18, 2013

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Maxine Waters
Ranking Member
Committee of Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Hensarling and Ranking Member Waters:

On behalf of the National Multi Housing Council (NMHC) and the National Apartment Association (NAA) we applaud your leadership in holding this hearing on "The Terrorism Risk Insurance Act of 2002". With the current program set to expire next year, we are encouraged by the Committee's efforts to evaluate the effectiveness of the program as well as legislative proposals to reauthorize the Act.

NMHC/NAA represent the nation's leading firms participating in the multifamily rental housing industry. Our combined memberships engage in all aspects of the apartment industry, including ownership, development, management and finance. NMHC represents the principal officers of the apartment industry's largest and most prominent firms. NAA is a federation of 170 state and local apartment associations comprised of approximately 60,000 multifamily housing companies representing more than 6.6 million apartment homes throughout the United States and Canada.

The Terrorism Risk Insurance Act (TRIA) and subsequent extensions of the program have been the mechanism that provides ready access to affordable terrorism coverage for apartment property owners, developers and managers across the country. The federal government's involvement has been the key factor to ensuring availability of insurance for terrorist events. Terrorism risk does not resemble any other commercial risk. Unlike natural disasters in which insurers have had significant experiences and data to project the risk of damage, terrorism is unpredictable. The impact can be enormous, and insurance modeling for such risks is still not reliable, thus underscoring the importance of continued federal involvement.

The NMHC conducts an annual survey to capture insurance costs, limits, deductibles, etc. for apartment properties. Data is generally collected from approximately 60-70 member companies representing over one million apartment units nationwide. Overall, take up rates for the apartment sector have always been one of the highest reported among commercial property types. The 2011 results report 85% of apartment firms surveyed purchased terrorism coverage

1850 M Street, NW, Suite 540 ■ Washington, DC 20036 ■ 202.974.2300 ■ FAX 202.775.0112 ■ www.nmhc.org ■ info@nmhc.org

as part of their property program. This is not insignificant and demonstrates that certainty in costs and coverage limits are critical components in a multifamily property owner's continued ability to offer safe and affordable housing

As you consider the proposals before you today we ask that you work expeditiously. If TRIA is allowed to lapse, businesses will once again be unable to secure coverage for catastrophic terrorism. The short term interruptions that result with looming expiration dates are harmful to the overall health of the economy.

We believe the federal government should continue in its role to ensure that terrorism risk insurance is available and affordable for all American businesses while continuing to explore options for a future private market solution. We urge you to reauthorize the TRIA beyond its 2014 expiration and we look forward to working with you.

Thank you.

Sincerely,

Douglas M. Bibby
President
National Multi Housing Council

Douglas S. Culkin, CAE
President
National Apartment Association

The Real Estate Roundtable

September 18, 2013

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington DC 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

We are writing to thank you for holding the first in a series of hearings to address the important issue of extending the nation's federal terrorism risk insurance plan, as established by the Terrorism Risk Insurance Act of 2002 (TRIA) and its subsequent extensions.

For more than a decade, TRIA has made it possible for businesses to purchase the terrorism risk coverage they need at almost no cost to the taxpayer. TRIA helps private markets provide the U.S. economy with the coverage it needs, while protecting the taxpayer. While TRIA was originally intended to be a temporary measure – a bridge to a time when reinsurers returned to the market place – there have been no developments over the last 12 years that have permitted the reinsurance industry to improve their ability to effectively quantify the unique and catastrophic risks associated with terrorism. There is no evidence that TRIA is crowding out private insurance players; private markets are just not able to provide the necessary market capacity to sustain the U.S. economy.

Terrorism continues to pose a threat to our nation, to American businesses and to real estate. Real estate plays a dominant role in the nation's economy, and it is the one sector that terrorists have successfully attacked. Real estate is especially vulnerable due to the large inventory of buildings across the nation that are populated by large numbers of people on a daily basis. As taxpayer funds are used to *harden* government targets, more *soft targets* in the private sector become vulnerable – despite the hundreds of millions of dollars spent on enhanced security measures and risk mitigation by the private sector since 9/11. Without adequate terrorism insurance coverage, our economy, our jobs, and our well-being become more vulnerable to the designs of the terrorists who hope to destroy our economic strength. Economic security is central to homeland security. It is what terrorists are targeting.

As 2013 draws to a close, annual commercial insurance policies covering businesses of all sizes and types are set to renew. Those policyholders with terms extending past TRIA's December 31, 2014 sunset date are being told to expect conditional terrorism exclusions – raising grave concerns about potentially devastating gaps in coverage. In fact, the two top headwinds we see to economic growth and job creation concern monetary policy changes – how and when interest rates rise – and the ability to obtain terrorism insurance – without which transactions of all size and product type will be slowed or cancelled.

Market Square West • 801 Pennsylvania Ave., NW • Suite 720 • Washington, DC 20004 • Phone: 202-639-8400 • Fax: 202-639-8442 • www.rer.org

September 18, 2013
Page 2

The staggering economic impact of this market condition must not be forgotten. A Real Estate Roundtable study of the 14-month post-9/11, pre-TRIA period revealed that more than $15 billion in real estate related transactions were either stalled or cancelled because of a lack of terrorism insurance. The White House Council of Economic Advisors concluded that approximately 300,000 jobs were lost during that period. TRIA was intended to ensure that the economy was strong enough to withstand a future attack. That purpose remains as important today as it was in November 2002.

With the nation's terrorism risk insurance plan set to expire in 2014, now is the time for Congress to address the problem and enact a long-term solution. We look forward to working constructively with the Committee to move this measure forward.

Sincerely,

Jeffrey D. DeBoer
President and Chief Executive Officer

cc: Members of the House Financial Services Committee

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
GOVERNMENT AFFAIRS

1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000
202/463-5310

September 18, 2013

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, thanks you for holding a hearing on the Terrorism Risk Insurance Act of 2002 (TRIA).

In the months following the 9/11 terrorist attacks, the inability for insurance policyholders to secure terrorism risk insurance contributed to a paralysis in the economy, especially in the construction, travel and tourism, and real estate finance sectors. Since its initial enactment in 2002, TRIA has served as a vital public-private risk sharing mechanism, ensuring that private terrorism risk insurance coverage remains commercially available and that the U.S. economy would more swiftly recover in the event of a terrorist attack.

Catastrophic terrorism remains an uninsurable risk because its frequency and location cannot be accurately predicted, and its potential scale could be devastating. Without the backstop that TRIA provides, the private insurance market would be unable to provide adequate levels of terrorism risk insurance. TRIA promotes long-term availability of terrorism risk insurance for catastrophic terror events and has provided a standard of stability for financial markets and recovery after such an attack.

While TRIA is currently set to expire at the end of 2014, the Chamber strongly urges Congress to reauthorize this program sooner rather than later. As the Chamber's member companies map out plans for the next 16 months and beyond, the ability to secure terrorism risk insurance is crucial to ensuring that the American business community has the certainty that it needs to continue to move forward with projects and create jobs.

The Chamber thanks you again for holding this hearing and looks forward to working with the Committee to secure swift reauthorization of this important program.

Sincerely,

R. Bruce Josten

cc: Members of the House Committee on Financial Services

2002 Annual Meeting
Madison
June 14-18

2002 Adopted Resolutions

uscm home

SUPPORTING TERRORISM INSURANCE

WHEREAS, before September 11 insurance companies provided coverage for terrorism related losses to businesses as part of their general property and casualty policies; and

WHEREAS, after the terrorist attacks which resulted in approximately $50 billion in insurance losses, some insurance companies and reinsurers stopped providing terrorism coverage; and

WHEREAS, when insurance companies and reinsurers provide terrorism insurance the coverage is often very limited and provided at astronomical premiums; and

WHEREAS, the lack of terrorism insurance is resulting in a significant threat to sustain economic growth in cities; and

WHEREAS, the lack of terrorism insurance is stopping some business deals such as real estate and construction projects where terrorism insurance may be necessary to obtain financing; and

WHEREAS, in the event of another terrorist attack insurance payments would not be available to rebuild,

NOW, THEREFORE, BE IT RESOLVED that The U.S. Conference of Mayors urges Congress and the Administration to pass legislation to provide federal help in insuring against a catastrophic terrorist attack in the future.

AMERICAN GAMING ASSOCIATION

GEOFF FREEMAN
President & CEO

September 16, 2013

The Honorable Michael Grimm
United States House of Representatives
Washington, DC 20515

The Honorable Carolyn Maloney
United States House of Representatives
Washington, DC 20515

The Honorable Michael Capuano
United States House of Representatives
Washington, DC 20515

The Honorable Peter King
United States House of Representatives
Washington, DC 20515

Dear Congressman Grimm, Congresswoman Maloney, Congressman Capuano, and Congressman King:

I write on behalf of the American Gaming Association (AGA) to express our strong support for the extension of the Terrorism Risk Insurance Act (TRIA). Your leadership and attention to this important issue within the House Committee on Financial Services is greatly appreciated.

As you know, the federal terrorism risk insurance private/public partnership has been successful for more than a decade by ensuring access to this commercially necessary product for a broad and diverse range of business and economic drivers across the country. The AGA represents one of the many diverse industries that utilizes such protection, including more than 550 commercial casino resorts as well as the largest equipment manufacturers and suppliers across America. Our industry supports more than 800,000 U.S. jobs with operations in 23 states.

The extension of TRIA is important to minimize major national economic fallout, in the unpredictable event of a terrorist attack. U.S. casino resorts, for example, enjoyed nearly 80 million visitors, spending associated with the industry accounted for more than $125 billion, and casino operations paid more than $8.6 billion on tax revenues back to state and local communities in the last year alone.. On the business front, depending on market jurisdictions, gaming resort building/operational costs can range from the tens of millions to billions of dollars, per property.

TRIA helps to balance out costs associated with the unpredictable financial loss potential of a terrorism incident, rather than shifting the cost onto the federal government. Furthermore, while TRIA has cost the government nothing, in the event of a future covered incident the fees built into the legislation help insulate and minimize exposure to financial risk for the taxpayer and the federal government. In actuality, an extension of TRIA likely reduces future financial risk, rather than if the program were to expire.

1299 PENNSYLVANIA AVENUE, NW • SUITE 1175 • WASHINGTON, DC 20004
202-552-2675 Fax 202-552-2676 www.americangaming.org

We look forward to a healthy discussion at Wednesday's committee hearing and fully support your efforts to extend the TRIA program, as it remains vital to our national economy, national security, and continued economic growth. The AGA, and our members across the United States, thanks you for your efforts and pledges to work with you on this critical issue.

Sincerely,

G. Freeman

Geoff Freeman
President and CEO
American Gaming Association

CC: The Honorable Jeb Hensarling, Chair, Committee on Financial Services
The Honorable Maxine Waters, Ranking Member, Committee on Financial Services

September 18, 2013

Rep. Peter King
339 Cannon House Office Building
Washington DC 20510

Rep. Michael Grimm
512 Cannon House Office Building
Washington DC 20510

Rep. Michael Capuano
1414 Longworth Cannon House Office Building
Washington DC 20510

Rep. Carolyn Maloney
2308 Rayburn House Office Building
Washington DC 20510

Dear Reps. King, Grimm, Capuano and Maloney:

We, the undersigned sports leagues and organizations, write to reiterate our strong support for efforts to extend the Terrorism Risk Insurance Act (TRIA) before it expires at the end of next year.

Sports venues are more than just places where professional and amateur athletic teams compete. These iconic buildings are a source of public pride for millions of sports fans, and, with capacities that can exceed 100,000, are the sites of huge public gatherings year-round. In most cases, sports venues are the result of public-private partnerships that involve significant financial commitments from taxpayers. And very often, they serve as anchors for private investment in communities across the country – this issue is clearly national in scope.

It is critical that arenas and stadiums continue to be insured against a terrorist act. The federal backstop established by Congress in 2002 has been a tremendous success, and is the only reason that such insurance remains available to policyholders.

Ensuring minimum economic disruption from a terrorist attack is an important national objective, and guaranteeing the continued availability of terrorism insurance is a key component of that goal. Once again, we are grateful to the Congress for its history of supporting TRIA and strongly support its extension.

Major League Baseball
National Football League
National Basketball Association
National Hockey League
NASCAR
National Collegiate Athletic Association
United States Olympic Committee

cc: Chairman Hensarling, Ranking Member Waters

602568142.1
602587241.1

NEW MEXICO
MUTUAL
COVERAGE AT WORK

September 11, 2013

The Honorable Michael Grimm
United States House of Representatives
Washington, DC 20515

The Honorable Carolyn Maloney
United States House of Representatives
Washington, DC 20515

The Honorable Michael Capuano
United States House of Representatives
Washington, DC 20515

The Honorable Peter King
United States House of Representatives
Washington, DC 20515

Dear Congressman Grimm, Congresswoman Maloney, Congressman Capuano, and Congressman King:

I understand that the Committee on Financial Services will hold a hearing on the extension of the Terrorism Risk Insurance Act (TRIA) on September 19. I want you to know of my strong support and the strong support of New Mexico Mutual for your efforts to extend TRIA.

TRIA is critically important for businesses in New Mexico. The New Mexico Legislature created New Mexico Mutual 20 years ago to provide affordable, predictable workers' compensation insurance to New Mexico businesses, especially higher-risk businesses such as oil and gas exploration and small businesses. Workers' compensation insurance can be a major expense for businesses, and the health of the New Mexico business community depends on the ready availability of that coverage year in and year out. Our company is the largest provider of workers' compensation coverage in New Mexico.

Many other states have established entities like ours – generally termed "state funds" – to serve as stable sources of workers' compensation coverage. Like New Mexico Mutual, other state funds typically sell only workers' compensation insurance – i.e., they are "mono-line" – and typically sell little coverage outside their home states. Almost every state requires all in-state businesses to purchase the insurance and requires workers' compensation carriers to provide comprehensive coverage – i.e., no exclusions for terrorism or other risks.

The effect of these requirements is that state funds and the businesses they serve are particularly vulnerable to acts of terrorism. In other words, because New Mexico Mutual operates as a mono-line carrier and operates almost exclusively in a single state, and because the state requires us to assume terrorism risks and all other risks, a terrorist event targeting a major New Mexico employment center, such as Albuquerque, could create liabilities sufficient to overwhelm our company overnight. In that event, New Mexico businesses could be left without coverage. The ratings firm FitchRatings recently forecasted that workers' compensation carriers would be "particularly vulnerable to large losses" in the absence of TRIA.

Norm Becker
normb@newmexicomutual.com
President & CEO

(505) 343-2802 •

www.newmexicomutual.com

Letter: Congressman Grimm, Congresswoman Maloney, Congressman Capuano, and Congressman King
Page 2

The private reinsurance market appears unable to provide full coverage to insurers for terrorism risks. In the absence of TRIA, state funds like New Mexico Mutual would have to attempt to self-insure; we would need to raise premium rates on the backs of businesses mandated to buy workers compensation in order to build additional capital. For many state funds, the rate hikes could be large, and the effect would be needlessly to hurt the businesses we serve – and we would still be vulnerable to overnight insolvency from a terrorist attack.

TRIA has cost the government nothing. The law also provides for make-up fees to reimburse the government in the event of a covered terrorist event. By contrast, typical federal government disaster assistance comes without strings attached. We think TRIA represents sound federal policy.

Again, we very much appreciate your leadership in extending TRIA. Please let us know if we can assist you in your efforts in any way.

Sincerely,

Norman P. Becker, CLU
President and CEO

CC: The Honorable Jeb Hensarling,
Chair, Committee on Financial Services
The Honorable Maxine Waters
Ranking Member, Committee on Financial Services
The Honorable Steve Pearce, United States Representative
State of New Mexico
The Honorable Ben Ray Lujan, United States Representative
State of New Mexico
The Honorable Michelle Lujan Grisham, United States Representative
State of New Mexico

NATIONAL ASSOCIATION *of* REALTORS®

REALTOR®

Gary Thomas
2013 President

Dale A. Stinton
Chief Executive Officer

GOVERNMENT AFFAIRS DIVISION
Jerry Giovaniello, Senior Vice President
Gary Weaver, Vice President
Scott Reiter, Vice President
Joe Ventrone, Vice President
Jamie Gregory, Deputy Chief Lobbyist

500 New Jersey Ave., NW
Washington, DC 20001-2020
Ph. 202-383-1194 Fax 202-3837580
www.REALTOR.org

September 18, 2013

The Honorable Jeb Hensarling
Chairman, U.S. House Financial Services Committee
2228 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member, U.S. House Financial Services Committee
2221 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

On behalf of the one million members of the National Association of REALTORS® (NAR), thank you for opening the dialogue on the important issue of the future of terrorism risk insurance with the upcoming House Financial Services Committee hearing on the issue.

Terrorism insurance is often vital to the financing of commercial real estate transactions. The availability and affordability of coverage is important not only for property management and brokerage, but can also impact the stability and health of real estate markets. NAR supports the long term extension of the Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA), which provides real estate practitioners the economic certainty needed to more accurately predict property operating expenses and obtain financing over time.

By creating a federal risk-sharing mechanism against losses resulting from a catastrophic terrorist attack, TRIPRA has allowed economic development to flourish and kept the commercial real estate markets strong amidst the ongoing threat of a terror attack. However, we are concerned that the uncertain future of TRIPRA may result in a spike in insurance premiums, and cause coverage to become unavailable in numerous markets. Further, this uncertainty may prompt insurers to drop terrorism coverage if the TRIPRA is allowed to expire at the end of 2014. This became evident in 2005 when private insurers became more reluctant to offer terrorism coverage due to uncertainty regarding the program's extension.

American businesses must have access to affordable terrorism insurance coverage. Without this coverage, the nation's economic infrastructure is totally exposed to large-scale business disruptions after an attack. As our economic interests continue to be targeted by terrorists, it is appropriate, necessary, and vital that Congress reauthorize TRIPRA.

Again, thank you for making discussion of the terrorism risk insurance program a priority. We look forward to working with you on this important issue.

Sincerely,

Gary Thomas
2013 President, National Association of REALTORS®

cc: House Financial Services Committee

EQUAL HOUSING OPPORTUNITY

REBNY®
REAL ESTATE BOARD OF NEW YORK

Steven Spinola
President

September 18, 2013

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Hensarling and Representative Waters:

The Real Estate Board of New York, representing over 14,000 owners, developers, managers, and brokers of real property in New York City, thanks you for the opportunity to express our support for, and stress the urgency of, extending the federal Terrorism Risk Insurance Program.

New York City's real estate includes icons and structures that can be viewed as symbols of America's identity, such as Times Square, the Empire State Building, our stadiums, the Brooklyn Bridge, Central Park, and of course the reconstructed buildings of the World Trade Complex. But unfortunately in this day and age, every structure in America has a need for protection against terrorism. Although it is commonly acknowledged in the insurance industry that the New York City metropolitan area is in the highest tier of risk in the country (along with Washington DC, San Francisco, and Chicago), the events during the Boston Marathon earlier this year have shown that other areas are equally at risk and terrorism can happen anywhere at any time.

According to a 2013 report by Marsh Global Analytics, the need for terrorism risk insurance isn't specific to the real estate industry; the media, education and financial industries each had insurance take-up rates at or over 75% in 2012—higher than the real estate industry. Additionally, the demand for terrorism risk insurance has remained strong in the years since 9/11, with the overall take-up rate across all industries remaining around 60% since 2005. Which is why with the expiration of TRIA at the end of 2014, it is critical for Congress to renew this important legislation.

Prior to 9/11, insurers generally did not segregate terrorism insurance or charge separately for it. However, when the insured losses from the 9/11 attacks came in around $40 billion, the largest insured losses from a non-natural disaster on record, insurers realized the magnitude of possible losses in the future, and terrorism insurance became prohibitively expensive and insurers began leaving the market. In response, the federal government passed the Terrorism Risk Insurance Act in late 2002, which was then amended and extended in 2005 and 2007.

Currently, TRIA is triggered when (1) a single terrorist act causes $5 million in damage; (2) the aggregate insured loss from certified acts of terrorism are $100 million in a year; and (3) an individual company must meet a deductible of 20% of its annual premiums. Once these thresholds are passed, the government covers 85% of insured losses due to terrorism. If aggregate insured losses due to terrorism do not exceed $27.5 billion, the Secretary of the Treasury is required to recoup 133% of the government coverage by the end of 2017 through surcharges on property/casualty insurance policies.

Because of this structure, to date, TRIA has not caused any cost taxpayers any dollars. In fact, according to a 2007 study by the RAND Corporation, TRIA may even reduce taxpayer cost after a major attack, because government spending through the program would be less than government compensation for those with uninsured losses. Additionally, the availability and the federal backstop has allowed for New York City's real estate industry—valued at $814B in assets—to receive adequate coverage for New Yorkers, for the City's building stock, and for investors who would otherwise not lend for new construction, renovations, or mortgages. Without this protection, New York City real estate transactions—and the businesses and residents it locates and houses—would again stall, providing yet another blow to our recovering economy. A study published by the Real Estate Roundtable points out that in the 14 months between the Sept. 11, 2001 terrorist attacks and the enactment of TRIA, over $15 billion in real estate-related transaction were either stalled or canceled because of lack of terrorism insurance.

The federal Terrorism Risk Insurance Program protects the economic activity of all urban areas—including New York City, the country's largest regional economy—which are increasingly targets for terrorist activity. I urge you to act quickly to reauthorize this program and provide certainty of future coverage for our industry. Please do not hesitate to contact me if you have any questions or need additional information.

Sincerely,

Stephen Spinola
President

WCF
Workers Compensation Fund
100 West Towne Ridge Parkway, Sandy, Utah 84070
800.446.2667 | www.wcfgroup.com

September 11, 2013

The Honorable Michael Grimm
The Honorable Carolyn Maloney
The Honorable Michael Capuano
The Honorable Peter King

United States House of Representatives
Washington, DC 20515

Dear Congressman Grimm, Congresswoman Maloney, Congressman Capuano, and Congressman King:

I am writing to express strong support for an extension of the Terrorism Risk Insurance Act (TRIA). TRIA is critically important for insurers like WCF and for the businesses we insure, and we very much appreciate your leadership on this issue. We are hopeful that Congress will extend TRIA for five years or longer and that Congress will act well in advance of the scheduled expiration of TRIA at the end of next year to avoid the costs and dislocations that would accompany uncertainty over whether Congress will in fact extend TRIA.

As you know, some observers appear to believe that TRIA matters only for large real estate developers and Wall Street, but I want to assure you that TRIA is critically important for Main Street, especially for small businesses.

WCF is the workers' compensation insurer of last resort in Utah. We were originally a creation of the state, and our role is to make sure Utah businesses of all types and size have access to workers' compensation coverage. Many other states have established similar entities – generally termed "state funds." State funds like ours are mono-line, meaning we sell only workers' compensation insurance; we also typically sell only small amounts of insurance, if any, outside our home states.

For WCF and the businesses we insure, TRIA is critically important. Businesses in Utah – and in almost every other state – are required to purchase workers' compensation insurance; states mandate the coverage. And insurers do not have the option to exclude coverage for acts of terrorism; the states require workers' compensation coverage to be comprehensive.

What this means is that state funds and their customers are particularly vulnerable to acts of terrorism. In other words, our limited geographic reach, the limited breadth of our insurance products, and our inability to exclude terrorist events mean that a terrorist attack affecting a major employer in Utah could create liabilities that would make us insolvent in the absence of TRIA. Our insolvency would also affect our 19,000 policyholders, many of whom operate small businesses in Utah.

We believe the private reinsurance market is unable or unwilling to provide full coverage to insurers for terrorism risks, if Congress fails to extend TRIA. In such a situation, the only choice for state funds like WCF would be to attempt to raise our rates in order to build capital and self-insure what is essentially an uninsurable war risk. For many state funds, the rate hikes would have to be substantial to meet actuarial requirements. Higher rates would needlessly hurt the businesses we serve – especially the small businesses that are the innovators and job-creators for our country.

The rating firm FitchRatings recently forecasted that, industry wide, "Workers' compensation insurers could be particularly vulnerable to large losses if an extreme terrorist event takes place" without TRIA. Small state funds like WCF would be particularly vulnerable to terrorism losses that would threaten our viability.

As you know, TRIA has cost the government nothing. Also, in the event of a covered terrorist event, the legislation provides for make-up fees on insurers to reimburse the government. Those make-up fees mean that, realistically, the federal government will probably bear less financial risk over coming decades from extending TRIA than from letting it lapse. As professors at the Wharton School have observed, if the past is any guide, a terrorist attack in the absence of TRIA would trigger federal appropriations for affected individuals and businesses without any make-up fees.

Again, we very much appreciate your leadership in extending TRIA. Please let us know if we can assist you in your efforts in any way.

Sincerely,

Ray Pickup

Ray Pickup
President
Chief Executive Officer

CC:
The Honorable Jeb Hensarling, Chair, Committee on Financial Services
The Honorable Maxine Waters, Ranking Member, Committee on Financial Services

CC Utah delegation:

The Honorable Rob Bishop
The Honorable Chris Stewart
The Honorable Jason Chaffetz
The Honorable Jim Matheson

HILTON
WORLDWIDE

Erica L. Gordon
Director
Government Affairs

Hilton Worldwide
7930 Jones Branch Dr.
McLean, VA 22102

September 20, 2013

The Honorable Jeb Hensarling
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Maxine Waters
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters,

On behalf of Hilton Worldwide's more than 3,400 hotels and 190,000 team members nationwide, I am writing to thank you for holding yesterday's hearing on the Terrorism Risk Insurance Act (TRIA) and to express my strong support for reauthorizing this important program, which is set to expire on December 31, 2014.

TRIA was signed into law on November 26, 2002 in response to the 9/11 terrorist attacks. According to the Real Estate Roundtable, over $15 billion in real estate-related transactions were stalled or canceled because of a lack of terrorism risk insurance in the 14 months between 9/11 and TRIA's enactment. The White House Council of Economic Advisors estimated that this amounted to a direct loss of 300,000 jobs during that period.

The program was reauthorized in 2005 and 2007, as Congress recognized that insurers cannot predict terror-related events, nor can the private reinsurance market develop the capacity to meet the full demands of direct insurers. This remains true today.

TRIA was designed to not only provide stability in the insurance marketplace and protect policyholders, but also to avoid a future taxpayer-funded bailout in the event of another large-scale terrorist attack. Sadly, it remains clear that the threat of terrorism is not going away and the recent bombing at the Boston Marathon has been a sobering reminder that we need to continue to protect our customers and employees, safeguard our economic assets, and encourage business activity to move forward.

Allowing TRIA to expire would leave policyholders and taxpayers exposed and unprotected. I urge your committee to take action sooner rather than later – insurers and policyholders will face increasing uncertainty and questions about renewing coverage each day that Congress delays reauthorization of this critical program. We appreciate your support of TRIA and look forward to working with you to help ensure its reauthorization.

Sincerely,

Erica Gordon

Erica Gordon
Director, Government Affairs

Marriott

Marriott International, Inc.

10400 Fernwood Road
Bethesda, MD 20817

Deborah Marriott Harrison
Senior Vice President
Government Affairs
301/380-4392
301/380-8957 Fax

September 19, 2013

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

On behalf of Marriott International I would like to thank you for holding the recent hearings on the Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA). We would like to encourage Congress to act quickly to continue this important private/ public partnership.

The TRIA program has been very successful. As we saw post-9/11 and prior to extensions of TRIA in 2005 and 2007, the private market alone cannot support the economy's demand for terrorism insurance, causing great disruption in both the capital and property markets.

Without TRIPRA, the hotel industry will face substantial difficulty in obtaining terrorism risk coverage which is often required for securing loans for development projects. TRIPRA also protects American taxpayers as the program mandates that the "first dollar losses" be paid by insurers and policy holders and is only triggered by a major terror event. This program has not cost the taxpayer since being enacted.

As you may remember, the World Trade Center Marriott Hotel was destroyed in the 9/11 attacks in New York City. Two of our managers lost their lives while successfully evacuating the guests from the hotel. The hotel industry remains a credible target for terrorism and it is critical that we have the means to protect our hotels, associates, and guests.

With the TRIPRA program in place, the insurance markets will remain stable. In the absence of any financial protection, a future terrorist attack will have a significant impact on the ability of our nation to recover financially, as businesses will find themselves unable to rebuild their operations.

We would encourage you to re-authorize this important program as soon as possible. Thank you for your consideration of re-authorizing this important piece of legislation.

Sincerely,

Debbie Harrison

Debbie Marriott Harrison
SVP Government Affairs Marriott International

New York Post

OPINION

Congress must move on terror insurance

By Michael Grimm and Carolyn Maloney
September 18, 2013 | 10:38pm

Abandoned construction projects (and the jobs that come with them) are what we have to look forward to if Congress doesn't act on TRIA.
Photo: Reuters

The last thing the US economy needs is something else dragging it down — but we'll all take a big hit unless Congress acts soon on terrorism insurance.

If we blow this, new development throughout the country could come to a screeching halt. This means if the Jets were ever to get their own stadium, construction could stop if Congress fails to act.

The Terrorism Risk Insurance Act of 2002, aka TRIA, expires in less than 16 months. Debate is already heating up on Capitol Hill over whether to extend it — even though it's crucial for large construction projects.

Pre-9/11, US insurance companies routinely covered losses from terrorist attacks. But the attacks that day forced insurers to rethink the risks — and pretty much stop offering terrorism insurance. This left many commercial developments stalled or canceled, as developers and lenders refused to move forward without this insurance.

Let's be clear: Terrorism insurance is not just about protecting New York skyscrapers. It also protects America's sports stadiums, energy and transportation infrastructure and resorts.

TRIA doesn't expire until Dec. 31, 2014, but with Congress badly gridlocked, we need to start moving now to get the job done. Otherwise, large projects could come to a halt. Kiss New York's plans for "The Wheel" and Hudson Yards project goodbye.

Goodbye, too, to the jobs that go with such major construction.

TRIA also provides a key backstop to worker's compensation insurers across the country. Without it, many of these insurers could be left in financial ruin in the wake of a major terrorist strike.

To keep our city and country moving forward, and to protect our valuable assets, we've introduced the Terrorism Risk Insurance Act of 2002 Reauthorization Act of 2013, to extend TRIA, in its current form, through 2019.

Some call this a taxpayer bailout. They're wrong. TRIA creates a federal cost-sharing program that ensures that substantial private capital is used to cover losses before any government help is released. With $100 million in industry-wide copayments, TRIA is the most taxpayer-friendly approach to dealing with the costs associated with a terrorist attack.

Others say that, 12 years after 9/11, TRIA is no longer necessary, that the private insurance market is willing and able to once again bear the risk. Wrong again: The problems that caused the industry to retreat from offering terrorism insurance pre-TRIA still exist.

With widespread support from everyone from Disney World to the NFL to the insurance industry, the biggest obstacle to a TRIA extension is bound to be Congress. But we can't afford to drag out this debate — projects can be delayed and even canceled merely on the fear that we won't renew TRIA.

The sooner TRIA is extended, the sooner Americans can be assured that Congress isn't keeping them from their new hockey arena or shopping mall.

Today, the House Financial Services Committee starts debate on TRIA. We'll be urging our colleagues to listen carefully to the merits of extending TRIA and to pass a five-year extension of this critical program without delay.

Reps. Michael Grimm (R-Staten Island/Brooklyn) and Carolyn Maloney (D-Manhattan/Queens) are members of the House Committee on Financial Services.

Education's Own Insurance Company.

United Educators

Two Wisconsin Circle, Fourth Floor
Chevy Chase, MD 20815
phone/301.907.4908
fax/301.907.4830
www.ue.org

Reciprocal Risk Retention Group

Terrie Allison, Editor
Committee on Financial Services
terrie.allison@mail.house.gov

November 12, 2013

Thank you for supplying me with the transcript of the September 19, 2013 House Financial Services Committee on the Terrorism Risk Insurance Act. Please find below my responses to the supplemental questions posed by Representatives Royce and Sinema.

Response to Questions by Representative Royce

You have asked United Educators to state for the record our position on the reauthorization of the Terrorism Risk Insurance Act (TRIA). United Educators strongly supports a long term reauthorization of TRIA. It is important for America's economy to have a terrorism insurance plan in place to ensure large projects can be built in a timely, cost effective manner after an attack occurs which would help keep the economy stable and provide jobs. Having a terrorism risk insurance plan in place helps thwart the devastating economic impacts of a terrorist attack and ultimately helps ensure economic stability for our country. The Terrorism Risk Insurance Act is also a fiscally responsible program that ensures widely available private sector coverage while only triggering a federal backstop for catastrophic terrorist attacks ultimately targeting the United States.

TRIA's effectiveness and success has been based on securing catastrophic loss limits for private sector capital. Insurers' liabilities are capped at responsible levels for both individual underwriters and the marketplace as a whole. While there was some consideration in the initial drafting of TRIA of only including an industry loss limit, policymakers quickly realized that this would severely limit insurer participation, with disastrous consequences for availability and affordability of terrorism insurance.

Ninety-four percent of companies writing TRIA lines of insurance are small or medium-sized. These insurers write over 21 percent of the TRIA-covered lines of business in the nation, including numerous specialty lines and businesses that would otherwise have little coverage availability. Every insurer limits its risk to a probable maximum loss exposure that it can responsibly manage and still fulfill its commitments to policyholders. If TRIA is reauthorized with excessively high thresholds – triggers, deductibles, or co-shares, then the retained risks to smaller and mid-sized insurers and some large insurers would exceed their probable maximum loss limits and they would be driven out of the market. Congress would thus create a significant moral hazard – since only larger insurers would be able toparticipate in the program, smaller and mid-sized insurers would be driven out from markets in higher risk areas, potentially severely constricting capacity and availability of private sector insurance capital for consumers. My response below addresses each individual TRIA threshold separately.

Deductible. A high TRIA deductible means a greater proportion of the terrorism loss is paid out of a company's surplus, putting more of its capital at risk. At the current high 20 percent deductible, the first 20 percent of any TRIA-covered loss is absorbed by the company and not reimbursed by TRIA. Because of their smaller capital base, smaller insurers are less able to absorb large losses. For example, a company with $5 billion in surplus is better able to withstand a loss of $50 million than a company with $100 million in surplus. Larger companies can also more readily access capital markets. A 10 percent or greater surplus hit to a small or medium-sized company may very well be a company-closing event, or more likely risk a downgrade by credit rating agencies below the level required to retain many commercial accounts. In underserved niche markets, fewer players equal higher rates. Indeed, subsequent to the Committee's hearing, the credit rating agency A.M. Best issued a briefing paper suggesting that, even at the current 20% deductible, a number of small to mid-sized companies may be subject to ratings downgrades. The only way many of them could avoid such downgrades is to exit some TRIA-covered lines entirely as the TRIA "make available" requirement prevents them from being able to limit their terrorism exposure in any other way.

The current 20 percent TRIA deductible is greater than 10 percent of company surplus for 40 percent of all TRIA writers (333 companies). Those companies are vulnerable to A.M. Best downgrades and precarious company stability due to the negative impact to their surplus at a 20 percent TRIA deductible. Small and medium-sized insurers are most at risk as they make up 305 of the 333 total companies (92 percent). Very few companies would be willing to be put such a large amount of capital at risk, but they are required to do so under the current law. Increasing the deductible further would have the effect of driving small to mid-size insurers out of the market as they would be unable to responsibly underwrite at current capital levels with that sort of unavoidably large terrorism risk on their books. And the effect of that would be anti-competitive as there would be fewer companies in the market providing less terrorism capacity then is presently available. This is counter to TRIA's initial goal of bringing stability to the market and ensuring that adequate capacity exists to meet the market's need.

Co-Shares. The deductible is not the sole burden to company surplus in the wake of a terrorist event. The impact on surplus is only made worse by the insurer's TRIA retention (coinsurance share) of an additional 15 percent of losses above its deductible. Because smaller companies have less capital to draw on than other writers, coinsurance places a greater burden on the smaller companies.

Triggers. The level of the trigger determines when the program will be activated; that is, whether any of the loss will be paid by the program. The current $100 million trigger means that no insurer will be reimbursed unless the total industry TRIA losses exceed $100 million. Because the trigger is not indexed to an individual insurer's size, a higher trigger makes the program more remote for smaller and mid-sized insurers. For a large percentage of insurers, the $100 million trigger already exceeds their 20% deductible. Increasing that threshold significantly beyond the current level will discriminate against smaller and mid-size insurers, forcing them to exit risks or markets altogether where adequate reinsurance is not available and affordable. Insurance consumers have more choices, prices are lower, and product innovation is enhanced when the greatest possible number of strong, viable competitors serves the market. Conversely, if TRIA is discontinued or reauthorized with excessive triggers that make the program unviable for smaller and mid-sized insurers, then capacity, availability, and affordability will be greatly undermined for consumers – not only for terrorism coverage but the underlying risks as well. In 2012, roughly two-thirds (67 percent) of all TRIA writers had surplus less than the $100 million 2007 program trigger, all of which are small or medium-sized companies.

Potential Program Changes

The Terrorism Risk Insurance Act has worked extremely well, providing economic and national security protection to consumers at nearly no cost to the government. While United Educators is open to working with the Committee on any potential changes, the current structure is largely fulfilling the Members expressed goals. To the extent that Congress wants to improve the Act and increase private sector involvement, this could be best achieved by increasing the certainty of the program. Insurers charge additional risk premium for uncertainty, and there is some uncertainty in TRIA in both its longevity and its process for certifying acts of terrorism covered by the program. Providing a longer term program would create more certainty for the market to positively respond, and providing a clearer more dependable and timely process for certifying terrorism risk could significantly improve the terrorism reinsurance market over time.

Current Market Capacity

You have also asked about the current capacity of the insurance and reinsurance markets to provide terrorism insurance. The capacity of the insurance industry to offer terrorism coverage is heavily depend on the reinsurance capacity available to support that risk. The best and most current information on this may be available from the Reinsurance Association of America (RAA), the Insurance Information Institute (III) or the major commercial insurance brokers. United Educators does not independently track this data. However, we are aware of estimates made by others.

On September 11, 2012, Edward Ryan, Senior Managing Director of AON Benfield, testified on behalf of the Reinsurance Association of America before the Subcommittee on Insurance, Housing and Community Opportunity of the House Subcommittee on Financial Services. Mr. Ryan noted that, should TRIA be allowed to expire, "the private reinsurer marketplace would work productively with insurers to provide reinsurance coverage for terrorism, but capacity would be severely constricted." He estimated that the amount of stand-alone terrorism treaty reinsurance capacity available in the private market is between $6 and $8 billion and noted that that figure has not changed significantly in recent years. (By comparison, the Insurance Information Institute reports that the 9/11 attacks caused over $42 billion of insured losses, in 2012 dollars.) Mr. Ryan's most ominous, but accurate, observation was as follows:

> "Absent a federal backstop for terrorism risk, expectations that the vast majority of the existing insurance market for terrorism risk would disappear are not merely speculative. Aon tracked property insurance market behavior prior to the previous expiration of the various iterations of TRIA and, in each instance, more than 80% of the existing capacity for terrorism risk would have been withdrawn from the market in the absence of TRIA and its mandatory offer of coverage provisions."

Earlier this year, Marsh & McLennan issued a report indicating that stand-alone insurance capacity is about $750 million to $2 billion per risk for policyholders that do not have sizeable exposures in location where stand-alone insures have reached or are approaching aggregation limits. While capacity in excess of $2 billion is sometimes available, it comes at a higher cost. In those locations was insurers do have aggregation issues, capacity is at $850 million or lower per risk. Again, when additional capacity can be accessed, it is at higher rates.

Response to Questions by Representative Sinema

You have asked about the impact of TRIA on the ability of colleges and university to build or expand, and particularly to attract financing for major projects such as new research centers, new libraries, engineering centers, etc. Especially for private schools, the ability to build new projects is often dependent, at least in part, on the availability of financing. As is the case with other major construction projects, lenders often require terrorism insurance as a condition of financing. If TRIA were to be allowed to lapse, or if changes were made that resulted in reduced private sector capacity being committed to the risk, it may become much more difficult, and in some cases impossible for colleges and universities to obtain financing for some projects. Public schools sometimes need insurance for the same reasons, but even for projects that are fully or partially financed by taxpayers, the availability of terrorism insurance can be important to protect taxpayers' investments in higher education from potential disasters.

But universities need terrorism insurance for more than just financing of new projects. They also need it for the responsible management of risks associated with many types of events and activities that frequently take place on college campuses. These include, among other things, presidential and other political debates, controversial speakers, high profile concerts and athletic events, and high-risk work in research laboratories. In addition to meeting commercial lender requirements, universities must also be able to meet the expectations of bondholders. And as in any enterprise, insurance is a key element in any comprehensive risk management plan.

United Educators is owned by its policyholders – schools, colleges and universities – that formed the company to help ensure a constant and reliable source of insurance provided by a company that understands the unique risks faced by colleges and universities. It is vitally important the United Educators be able to continue to provide our policyholders with the terrorism insurance coverage they need to fulfill their mission. We will not be able to do that if TRIA is allowed to lapse, its scope is significantly curtailed, or if threshold numbers are changed to place more risk on our company than we can responsibly tolerate. Our students and learning institutions are relying on Congress to reauthorize TRIA in a workable form, to keep us protected from the risks of terrorism attacks against our country.

Sincerely,

Janice M. Abraham

Janice M. Abraham
President & CEO

Education's Own Insurance Company

United Educators

Two Wisconsin Circle, Fourth Floor
Chevy Chase, MD 20815
phone/301.907.4908
fax/301.907.4830
www.ue.org

Reciprocal Risk Retention Group

October 11, 2013

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters
Ranking Minority Member
Committee on Financial Services
U.S. House of Representatives
2221 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

Thank you again for the opportunity to testify at the Committee's September 19 hearing on the Terrorism Risk Insurance Act (TRIA). I was pleased to be able to offer my views on the importance of TRIA to the U.S. economy and national security and hope you found the discussion useful and constructive.

Unfortunately time constraints attendant to all congressional hearings sometimes prevent members from getting complete and thorough answers to questions. I therefore want to provide additional information and thoughts on two issues raised by Chairman Hensarling and Representative Pearce.

Chairman Hensarling asked the panel whether we all agreed with the following statement in a recent CBO report: "TRIA does not lower the total cost of terrorism risk, but rather, shifts more of the burden from commercial property owners and their tenants to taxpayers."[1]

I gave a very abbreviated response, stating my view that TRIA actually *would* lower the total cost of a terrorism event by virtue of the fact that it would help to facilitate a more orderly, speedy economic recovery, but I am pleased to be able to provide you with further hard data on that point. In 2004, Glenn Hubbard, the former Chairman of the Council of Economic Advisers in the George W. Bush Administration, issued a report on the economic impact of allowing TRIA to expire. The report found that, if the terrorism risk management plan were not in place, and even without a major terrorist loss, the lack of available terrorism insurance would lead to decreased investment in commercial property and reductions in the value of commercial real estate. It also found that higher terrorism costs for workers compensation could result in job losses as employers are forced to reduce their work force.

Indeed, the Hubbard Report quantified the projected economic costs of not reauthorizing the program in 2005, even in the absence of a major attack. In his recent testimony before the Senate Banking Committee, the President of the Insurance Information Institute, Robert Hartwig, updated Mr. Hubbard's numbers to the current period, and concluded that the

[1] Congressional Budget Office, *Federal Reinsurance for Terrorism Risks: Issues in Reauthorization*, August, 2007.

failure to reauthorize TRIA now would lead to: (1) a reduction of $69 billion in GDP; (2) a reduction of $798 billion in household net worth; and (3) a loss of 290,000 jobs.[2] The Hubbard report went on to note that, "were another attack to occur of the size of 9/11, tens of thousands more jobs could be lost due to the lack of insurance coverage and thousands of additional bankruptcies could occur compared to the 9/11 event, which was covered by the insurance industry."[3]

These findings underscore how the existence of a terrorism risk management plan in fact does significantly reduce the economic costs of terrorism risk. As I noted in my testimony, TRIA also greatly reduces the post-event economic costs of terrorism by ensuring available coverage and protecting the resiliency of our markets and businesses.

Moreover, the same CBO report Chairman Hensarling cited also acknowledged that "increasing the availability of terrorism insurance might also reduce post-event assistance, which has been considerable in recent years." While the CBO does note some difficulty in quantifying the extent to which TRIA might help to reduce federal disaster assistance, it cautions that "when contemplating policy options, lawmakers may still want to take into account the effects that a federal terrorism reinsurance program may have on future assistance." Given the significant private sector participation in the terrorism insurance market, which TRIA makes possible, there is substantial reason to believe that the *lack* of TRIA might work to shift more costs to taxpayers following a loss than the current program would.

Representative Pearce asked at the hearing whether TRIA makes taxpayer funds available to trial lawyers, and whether this works to encourage frivolous lawsuits. This question was considered when Congress first enacted TRIA, and Congress consequently included a provision barring punitive damages from being counted as insured losses under TRIA (Section 107(a)(5)). This prevents taxpayers from paying punitive damages, the potential for which otherwise could provide a significant incentive for trial lawyers to file lawsuits. Section 107 of TRIA also includes a number of other litigation management provisions designed to protect taxpayers, including the creation of an exclusive federal cause of action for claims for property damage, personal injury, or death arising out of a certified act of terrorism, and an expedited procedure for handling multiple nationwide claims. These provisions provide the taxpayer significant protections against the costs of frivolous litigation.

Again, I think you for the opportunity to share my views with you and the Committee. If I may answer any additional questions or provide any further assistance to you and the Committee, please do not hesitate to let me know.

Sincerely,

Janice M Abraham

Janice Abraham
President & CEO

cc: The Honorable Steve Pearce

[2] Testimony of Robert Hartwig, President and Economist, Insurance Information Institute, before the Senate Committee on Banking, Housing and Urban Affairs, September 25, 2013.
[3] The Analysis Group, *The Economic Effects of Federal Participation in Terrorism Risk*, R. Glenn Hubbard, and Bruce Deal, September 14, 2004.

1. If the general structure of TRIA is maintained, where would you place the program trigger, insurer deductible, federal reinsurance co-share, and maximum insurance industry retention for recoupment? If it is your company/organization position to support the current levels with no changes, please state that for the record. If the goal were to decrease potential taxpayer exposure and increase private market "skin in the game" what changes would you propose to the current program level?

Marsh & McLennan Companies considers TRIA to be a model public-private partnership. In 2005 and again in 2007, Congress adopted sensible reforms that appropriately expanded the role of the private insurance market and reduced the exposure of the federal government. If Congress were to reauthorize TRIA and make similar changes to the program as it did during previous reauthorizations, those changes would increase private market participation in TRIA and reduce taxpayer exposure. However, changes to the program may cause some level of market disruption and increase the cost of insurance coverage.

It is important to reiterate, however, that if the program is not reauthorized, there are adverse consequences to keep in mind. First, there is a meaningful risk that, if TRIA is not renewed, many property and casualty carriers will decline to offer coverage. This would be particularly troublesome in the workers' compensation insurance space, where the states require coverage to be provided on an unlimited basis and terrorism cannot be excluded.

Moreover, the federal government and taxpayers theoretically could assume the entire financial burden of a large-scale terrorist attack in the absence of a TRIA-like program.

2. Much has been discussed about the private sector (insurance and reinsurance) capacity to write terrorism coverage. What is the current level of capacity with TRIP in place? What would you estimate the capacity would be absence renewal? How would you calculate these numbers and what sources for information would you use?

As indicated in Marsh & McLennan Companies written testimony for the Committee on Financial Services hearing on the "Terrorism Risk Insurance Act of 2002," according to SNL Financial, the total amount of industry capital for primary insurance companies writing TRIA applicable lines of business, including workers' compensation and commercial property insurance, equaled $589B at year end 2012. In addition, Guy Carpenter estimates that there is $100B in North American reinsurance dedicated capital.

3. I am interested in getting more detail around the take-up rates for terrorism coverage for the western portion of the US, especially in Arizona. Could you provide additional details on how the take up rate has changed in the western US since TRIA's enactment? Further, I noted in Marsh' 2013

report, that educational institutions have a fairly high take up rate. Does that trend hold up for educational institutions in western states, particularly Arizona?

The percentage of companies buying property terrorism insurance – the terrorism take-up rate – has remained consistent since 2005. In 2003, the first full year TRIA was in effect, the take-up rate was 27%, but has since increased steadily, remaining in the low 60% range since 2009 on a nationwide basis. In the western US, the take-up rate has grown appreciably over the years. For instance, the take-up rate in the west grew from 44% in 2008 to 53% in 2012. Specific to the Educational and Public Entity sectors sampled in Marsh's survey, both sectors are in the top five industries that purchased terrorism coverage in 2012 with 75% and 71% property terrorism insurance take-up rates, respectively. All of these figures have been consistent for the last three years (2010, 2011, and 2012).

A sampling of western states that include California, Colorado, Washington, Oregon, Utah, Hawaii, Arizona and Nevada showed an average property terrorism insurance take-up rate of 52% in 2012. Of the public entities measured in our western state survey, Arizona had a higher than average take-up rate in 2012 at 67% versus 52% noted above for all industries.

4. We spend a little time talking about the impact of TRIA on workers' compensation markets. Could you please provide a little bit of detail on large universities ability to maintain adequate workers compensation coverage?

TRIA's future, as it relates to workers' compensation, is a significant concern for large universities and public entities because these entities typically have a large concentration of employees. Due to TRIA reauthorization uncertainty, we have begun to see fewer market choices for workers' compensation insurance for these insurance buyers. This market reaction will worsen if TRIA expires or is significantly modified.

In addition to workers' compensation insurance, universities are very concerned about terrorism exposure across other TRIA exposed lines of business. For instance, universities routinely host athletic events with more than 100,000 fans in attendance and other large events on campus. Universities are concerned with acquiring adequate insurance coverage for these types of exposures if TRIA is not renewed or is significantly changed.

Responses from Eric Smith, President and CEO, Swiss Re Americas
Questions for the Record
Submitted by Rep. Ed Royce (R-CA-39)

Under the current law, the Terrorism Risk Insurance Program (TRIP) has a $100 million annual program trigger, a 20% insurer deductible (calculated using direct earned premium from previous year), a federal government reinsurance co-share of 85% following the deductible payment, and $27.5 billion mandatory insurance industry recoupment.

Q: If the general structure of TRIP is maintained, where would you place the program trigger, insurer deductible, federal reinsurance co-share, and maximum insurance industry retention for recoupment?

A: The trigger, deductible, co-share and recoupment levels in the current program protect taxpayers and meet the needs of policyholders.

Q: If it is your company/organization position to support the current levels with no changes, pleases state that for the record?

A: Swiss Re believes that the program as currently structured includes significant private sector participation, which reduces taxpayer exposure and the impact to the government.

Q: If the goal were to decrease potential taxpayer exposure and increase private sector "skin in the game" what changes would you propose to the current program levels?

A. Swiss Re believes the current program meets the needs of the policyholders and reduces taxpayer exposure, and allows the private market to function. However, as prudent business people, we're always willing discuss options.

Q: Much has been discussed about the private sector (insurance and reinsurance capacity) to write terrorism coverage. What is the current level of capacity with TRIP in place?

A: Reinsurance markets are not willing to provide the same capacity for terrorism as is available for natural catastrophes. Figures released by the Federal Insurance Office place the amount of reinsurance capacity for terrorism between USD 6-10b. That number reflects an incremental increase since the program came into existence in 2002. We would expect that when the 2013 President's Working Group report on the affordability and availability of terrorism risk insurance is released, we will see that number stay the same or be slightly higher. It is important to note that the incremental increases we have seen in reinsurance capacity show that TRIA provides reinsurers with some assurance that the primary companies can manage through a large scale event.

Responses from Eric Smith, President and CEO, Swiss Re Americas
Questions for the Record
Submitted by Rep. Ed Royce (R-CA-39)

Q: What would you estimate the capacity would be absent renewal?

A: In the absence of TRIP, reinsurers would not be able to step into the shoes of the federal government to offer the capacity needed for conventional terrorism risk. We would estimate that the current USD 6-10b in capacity that is offered today would decrease. In addition, there would be little to no capacity available for NCBR risk.

Q: How would you calculate these numbers and what sources of information would you use?

A: We would continue to rely on the Federal Insurance Office and President's Working Group to aggregate the data and provide the information to the industry.

Responses of Dr. Gordon Woo to Representative Royce's Questions

I appreciate the questions raised by Representative Royce. RMS is an independent insurance risk modeling agency. RMS models terrorism risk objectively for the insurance industry, and is neutral about the particular structure of TRIP. This is a matter for insurers. Regarding market capacity absent renewal, this is outside the remit of RMS, but there is a general consensus that the market capacity would be significantly reduced.