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BEFORE A HEARING OF

THE HOUSE FINANCIAL SERVICES COMMITTEE

**SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE,
AND GOVERNMENT SPONSORED ENTERPRISES**

REGARDING

**EXAMINING A LEGISLATIVE SOLUTION TO EXTEND
AND REVISE THE TERRORISM RISK INSURANCE ACT**

WRITTEN TESTIMONY

JUNE 21, 2007

I would like to thank Chairman Kanjorski & other members of the Capital Market Subcommittee of the House Financial Services Committee for inviting me to testify on the extension and revision of the Terrorism Risk Insurance Act.

I am grateful that we are not discussing if there should be an extension of TRIA, but what that extension should look like. Insurance is an essential support for all of the activities of modern life, especially for all commercial activity, such as construction and operation of real estate. We cannot allow terrorist attacks and the threat of attacks to destroy economic activity.

When you are evaluating specific proposals for inclusion in TRIA, I respectfully suggest that the question you should ask is how can we make this program most effective in helping protect against terrorist attacks and in reducing the long-term impact of attacks.

It is important that the bill promote as much private sector involvement as possible to spread risk, to take advantage of risk assessment and claims payment expertise, and because that approach encourages businesses to as much as possible take mitigation steps. We have seen in New York that many private sector buildings have taken security measures, such as installing barriers. Obviously, it is primarily the government's job to prevent terrorists attacks. But just as clearly, to succeed, we must have as much private sector cooperation as possible.

Some concern has been expressed that TRIA crowds out private sector insurers. In fact, we have seen the opposite. The program makes private sector involvement possible. The private sector will not offer insurance without it. On the other hand, with the federal backstop providing a cap, it has been possible for the private sector to price risk and therefore offer coverage.

I know that there is concern that the program should benefit all of the United States, not just New York. I completely agree. All provisions must be available to any place in the U.S., and should provide additional support to any place that actually suffers an attack.

But we must keep in mind that terrorists have already hit the World Trade Center in New York City twice. Why? New York City is the world financial capital. The terrorists saw those attacks as a way to hurt the entire country.

New York is suffering now from the impact of those attacks and, in particular, despite the real benefits of TRIA, insurance and reinsurance are still hard to obtain, especially for Ground Zero. We would hope that you would consider that fact when finalizing the legislation.

Now I would like to discuss our view on key issues regarding the bill.

On duration, we strongly urge 15 years. There is appropriate concern about how this bill affects the private sector. The question of duration is key in that regard. Any business person will tell you that they really need long-term stability, especially from government.

Competition and change in the marketplace engender innovation and creativity. But uncertainty in the rules of government programs can cause costly distractions.

This is especially true in real estate development, where major projects take years to plan, design and build and financing must be in place for the long-term. Fifteen years more closely fits the period needed for planning, completing and financing major projects. For example, it is hard to get a good rating on bonds needed to finance construction if insurance does not match the length of the bond.

I understand that opponents say a long term renewal means you cannot adjust if the market changes. The bill calls for setting up a blue ribbon commission to study long-term solutions. I strongly support that proposal and my Department is available to assist the commission. I believe the commission should be empowered to make recommendations for change when needed by changes in the market. But you are creating a serious problem if you create uncertainty for the businesses that depend on this program.

There is also controversy over the proposal for a reset. I support the reset because it makes the most efficient use of government help by focusing it where it is most needed—locations actually hit by an attack that are having trouble getting insurance as a result.

This is not a theoretical problem. We face it right now in New York. There is not enough insurance being offered to cover current real estate development projects, especially at Ground Zero. I do not think that any American wants to see the World Trade Center site left not rebuilt. That would send the wrong message.

I think there is an easy way to think about the reset. If you have lots of auto accidents, your insurance premium increases. That is appropriate. It is based on the experience that people who have lots of accidents are likely to have more. And the driver can over time reduce his or her premiums by driving carefully and avoiding accidents.

But the victims of a terrorist attack are not bad drivers. They did not do anything wrong. But without this provision, their insurance will cost more or even become unavailable, just when they are faced with paying the costs of the attack. Victims should not be further punished by having insurance premiums increased or insurance unavailable.

Opponents say this reset only helps New York. The fact is that right now, only New York has had two attacks, and only New York has had a major loss on private property. But this provision would apply in the future to any place that is attacked.

Opponents say that insurance rates will go up throughout the nation after another attack, so the reset should apply to all, not just the place targeted. That may be incrementally true, but we have seen that capacity will disappear or rates will go up most and stay up longest in the target area. So it seems appropriate that aid should be focused there.

The point is that a general reset will not work to bring insurance back where it is most needed. The purpose of a reset is to encourage insurers to make insurance available and help an area rebuild after a terrorist attack.

I think it is very important that you added coverage of nuclear, biological, chemical and radiological attacks, known as **NBCR**. It is essential that the industry and regulators begin to learn how to cover these risks. The inclusion of NBCR is structured to leverage the private market's ability to issue policies and settle claims, while recognizing the market's difficulty in underwriting this risk by reducing the threshold of retention. So it is appropriate that you lowered the deductible from 20% to 7.5% for this type of coverage, since the cost of a potential attack is much greater and harder to accurately predict.

There is now no private sector involvement, except for workers compensation. So, again, this does not crowd out the private sector, but makes some potential private sector involvement possible.

There are some reasonable questions being raised about impact of the mandatory make available provision on small insurance companies. That is something we would be happy to work with you on to determine some mitigation.

Again, we support the continued long term extension of TRIA because it will help stabilize the U.S. economy and help keep insurance affordable and available in areas that are terrorist targets.

Before concluding, I would like to thank the subcommittee for including in the current draft of this legislation many of the issues raised by the insurance industry, the business community and regulators, such as continuing TRIA, substantially increasing the time before the next renewal, adding coverage for acts committed by domestic terrorists, adding group life insurance and adding NBCR. I hope that we can continue to work with you to produce a bill that ensures insurance coverage will be available no matter what the terrorists attempt to do.