CIAT COALITION TO INSURE AGAINST TERRORISM
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ON BEHALF OF
THE COALITION TO INSURE AGAINST TERRORISM

BEFORE A HEARING OF

THE SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE, AND GOVERNMENT SPONSORED ENTERPRISES OF THE HOUSE COMMITTEE ON FINANCIAL SERVICES

ENTITLED

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

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Good morning Chairman Kanjorski, Ranking Member Pryce, and members of the Subcommittee. Thank you for holding this important hearing on the Terrorism Risk Insurance Act (TRIA) and allowing me to testify today. My name is Christopher Nassetta, and I am the CEO of Host Hotels and Resorts, Inc. Host owns or has interests in 128 luxury and upscale hotel properties in eight countries, 28 States and the District of Columbia and is one of the largest owners of hotels in the world. I also serve as Chairman of The Real Estate Roundtable (RER) and the Second Vice Chairman of the National Association of Real Estate Investment Trusts (NAREIT). Today, I am testifying on behalf of the Coalition to Insure Against Terrorism (CIAT).

Executive Summary

CIAT commends the sponsors of the Terrorism Risk Insurance Revision and Extension Act of 2007 (H.R. 2761) for developing a proposal which is responsive to the major issues identified by CIAT and other stakeholders. Although we continue to urge making TRIA permanent, we appreciate the sponsors' willingness to extend the TRIA Program for at least ten years in recognition of the importance of the continuity of such insurance coverage to business planning and construction financing. We also applaud the proposed elimination of the largely artificial distinction between so-called "foreign" and "domestic" acts of terrorism, and we note and appreciate the bill's set of provisions which are designed to encourage greater availability of insurance against NBCR terrorism. As the legislation is considered, we look forward to working with the Committee, Congress as a whole, and other stakeholders, in determining whether the mix of an immediately effective mandate to "make available," lowered deductibles, sliding quota share retentions, and the "hardened" cap on insurers' aggregate liability is the optimum mix to expand market capacity of adequate and affordable insurance protection for the nation's business sector. Above all, we urge Congress to complete TRIA renewal before the current Program expires at year-end.

Who We Are

CIAT is a broad coalition of commercial insurance consumers formed immediately after 9/11 to ensure that American businesses could obtain comprehensive and affordable terrorism insurance. CIAT joined Congress and the Administration in recognizing that only the Federal government could provide the framework to make this coverage available to all those who required it. The diverse CIAT membership represents virtually every sector of the U.S. economy: hotels, banking, energy, construction, entertainment, real estate, stadium owners, manufacturing, transportation, as well as public sector buyers of insurance. In addition to NAREIT and the RER, CIAT members include the U.S. Chamber of Commerce, the National Association of Manufacturers, and the National Retail Federation. CIAT's membership embraces, to name a few sectors, transportation interests (e.g., the Association of American Railroads, the General Aviation Manufacturers Association, and the Taxicab, Limousine and Paratransit Association), utilities (e.g., American Gas Association, American Public Power Association, Edison Electric Institute, and National Rural Electric Cooperative Association), finance (e.g., American Bankers Association, America's Community Bankers, Mortgage Bankers Association of America, Commercial Mortgage-Backed Securities Association), real estate (American Resort Development Association, National Association of Realtors, Building Owners and Manufacturers International, International Council of Shopping Centers, and National Association of Industrial and Office Properties) and sports (e.g., Major League Baseball, NFL, NBA, NHL, and the NCAA). Collectively, the member companies of the 79 trade associations and organizations that form our coalition are the nation's principal consumers of commercial property and casualty insurance in the United States. Simply put, CIAT is the true consumer voice with respect to the subject of terrorism insurance.

The Availability and Affordability of Terrorism Risk Insurance is Vital to National Economic Security

Sometimes the subject of today's hearing is characterized as an insurance industry issue. I respectfully suggest that it is not. Instead, it is an issue of national economic security. It ultimately is an issue of jobs. And, it is an issue of protecting the investments of pensioners, shareholders, bondholders and individuals from across the nation.

Since 9/11, this Subcommittee and the full House Financial Services Committee have worked hard to find solutions to the economic risks associated with terrorism. I should point out that my company owned the World Trade Center Marriott which was destroyed by the collapses of the World Trade Center towers; we lost not only property, but also valued personnel. The terrorism insurance law that you originally enacted following 9/11 certainly has been welcomed and very much appreciated.

In the 14-month period between 9/11 and the enactment of TRIA, over $15 billion in real estate related transactions were stalled or even cancelled because of a lack of terrorism insurance, according to a RER study. Furthermore, the White House Council of Economic Advisors indicated that approximately 300,000 jobs were lost over that period. Congress and the President worked together to enact TRIA, which required insurers to make terrorism coverage available in commercial lines, and in return provided a Federal backstop that allows the economy to recover quickly from a terrorist attack. Without it, not only was the economy slowed and at risk, but economic recovery following any further attack would have been weakened. The same is still true today.

The Need for a Federal Solution to the Economic Threat of Terrorism Continues

Holding this hearing here today demonstrates that you know that the essential facts that caused the Congress to enact TRIA in 2002 have not changed. First, and most unfortunately, the threat of terrorism remains. Terrorists continue to attempt acts against our governmental policies and our way of life. Terrorism continues to be an unpredictable, man-made threat with potentially mammoth losses. Not surprisingly, therefore, insurers and reinsurers have an extremely difficult time assessing and pricing terrorism risk insurance. Insurers continue to say terrorism risk is uninsurable. This will, unfortunately, continue to be the case until we see clear evidence that the overall threat to our society has subsided.

Second, it is a simple, indisputable fact that markets like certainty. Unfortunately, there is almost nothing that can be considered "certain" about terrorism risks. This is why rating agencies such as Moody's and Fitch conclude that there will be numerous market repercussions if the Federal backstop expires. Nowhere is this more evident than the commercial real estate market. For example, commercial mortgage backed security (CMBS) borrowers face the threat of default and potential bond downgrades in the absence of terrorism insurance coverage. In fact, based on its review of the coverage in place and the ongoing loan requirements for coverage, Fitch has declined to rate certain transactions.

What is certain is that our economy continues to need terrorism insurance availability in order to function in the face of the terrorist threat. American businesses must have adequate insurance coverage in order to effectively manage economic risks and protect the economic value of their underlying assets. Without terrorism risk insurance coverage, America’s economic infrastructure would be totally exposed, and

America's businesses, lenders, shareholders, pensioners, and bondholders would be forced to bear the brunt of terrorism risk.

Third, the reinsurance market currently only provides a fraction of the capacity needed to protect the U.S. economy from catastrophic terrorism losses. I support market solutions to problems, but the fact is that a meaningful private market for terrorism risk reinsurance has never existed and is not likely to ever develop. Even with the TRIA backstop, reinsurers are not meeting the capacity demand of primary insurers for their deductible and coinsurance layers. This suggests that private reinsurers simply want very little exposure to terrorism risk, and refutes the notion that the Federal backstop is crowding out the private market.

Fourth, primary insurers remain largely averse to exposing themselves to potentially catastrophic terrorism losses – especially from nuclear, biological, chemical and radiological (NBCR) terrorism – without adequate reinsurance availability or a federal backstop. As the original sunset of TRIA approached in 2005, many policies were issued with "pop-up" or springing exclusions that would have voided terrorism coverage after the termination of the Federal backstop. According to a Moody's report, 50-75% of all policies written prior to TRIEA's enactment included such exclusions. Congress acted again in 2005 by extending the backstop under the Terrorism Risk Insurance Extension Act (TRIEA). However, the current law, as you know, is set to expire at the end of this year – just six months from now. As the program approaches sunset once again, we anticipate again seeing the same types of exclusions that emerged in 2005.

Fifth, even though TRIA, as amended, covers NBCR perils, there is still a big gap in coverage against NCBR terrorism-related risk. Reports by the Government

Accountability Office (GAO) and the President's Working Group on Capital Markets (PWG) confirm that, other than workers' compensation insurance mandated by state law, no meaningful amount of insurance against NBCR perils is available on the market today.

We thank you for recognizing that ensuring the continued availability of terrorism risk insurance is a national problem of economic security that requires a Federal solution.

Revision and Extension of the Terrorism Risk Insurance Act is the Right Solution

We commend you for your work in crafting H.R. 2761. I am pleased to announce today that the Coalition to Insure Against Terrorism supports this legislation. This bill includes key provisions proposed by CIAT over these past months. We believe you have made a sincere effort to address the shortcomings which have been identified in the original TRIA program

First, the program term would be extended for ten years, giving policyholders more of the continuity needed for long-term projects and economic activity to move forward. We applaud you for recognizing that long-term extension will enhance the stability of our financial markets.

However, we urge you to consider making the program permanent. As we have previously testified, the threat of terrorism has become a part of our daily lives and there are no signs that this threat is going away. At a minimum, we encourage you to keep the program in place until Congress declares that terrorism is no longer a risk.

Second, the bill ensures that policyholders will continue to have access to terrorism insurance through the "make available" provision. For conventional terrorism losses, the bill would leave in place the existing TRIA backstop, with the insurer deductibles and co-pays unchanged from their 2007 levels for conventional terrorism risks, and the bill would encourage more participation by medium and small insurers by returning the program trigger to its 2006 level of $50 million.

Taxpayers continue to be protected from all but the most catastrophic events because of the post-event surcharges which CIAT member policyholders will pay.

Third, and very importantly, the bill would eliminate the distinction between foreign and domestic acts of terrorism. Retaining this distinction would have forced the Treasury Secretary to make determinations that may not serve our national security needs. Furthermore, the distinction serves no sound policy goal. As the London bombings and the foiled Kennedy Airport plot demonstrate, we must be prepared for “home-grown” terrorism as well as threats from abroad. The distinction makes no difference to the human victims or to a post-terrorist attack economy.

Fourth, the bill features a two-part structure to address NBCR risks in addition to conventional terrorism risks. The bill would give businesses the option to purchase insurance for the most catastrophic conventional terrorism risks - the types of risks our government warns us about repeatedly - while encouraging meaningful insurance coverage against losses resulting from weapons of mass destruction through a mandatory “make available” requirement for NBCR risks. Such coverage would be made available under "same terms and conditions" as “conventional” risks. CIAT believes that this new feature will work best only if the legislation requires the optional NBCR terrorism coverage to be separately priced from conventional terrorism coverage.

The bill would incentivize insurers to write the NBCR coverage by (i) setting the insurer deductible at 7.5% and (ii) giving insurers greater assurance that their ultimate losses will be capped at a manageable level for NBCR events. We look forward to hearing from the insurance industry regarding the projected impact of these and other incentives on the development of meaningful NBCR insurance capacity.

Finally, the bill addresses continuing problems of availability and affordability particularly in perceived high-risk urban areas and the need to enhance the economy's ability to recover quickly and efficiently after some future terrorist attack. Specifically, the bill establishes a "reset" mechanism that would address areas impacted by significant terrorist attacks. We do not know where the next terrorist attack will be – it could be in a location that has already been hit (e.g., lower Manhattan, central Pennsylvania), or it could be a new target in the Midwest or in the Sunbelt. What we know from experience is that insurers can be slow to provide adequate new coverage in those areas that have been hit; the reset mechanism would provide targeted incentives -- lower insurer deductibles and program trigger -- for such areas following a significant attack.

Conclusion

We thank the Subcommittee for developing a proposed long-term solution which focuses the government role on what the private markets have been unwilling or unable to do: enabling policyholders to purchase insurance for the most catastrophic conventional terrorism risks; addressing NBCR risks; and ensuring adequate capacity in high risk, urban areas. By maintaining a terrorism reinsurance program which preserves the public-private partnership, you have recognized that it is appropriate, necessary and vital that the Federal Government continue to play a role in maintaining the stability of our nation's economy. We stand ready to assist this Subcommittee and the Congress in finalizing and enacting this legislation.