



Consumer Federation of America

October 14, 2019
(Via email)

The Terrorism Risk Insurance Act should not be Extended If Extended, an Actuarially Sound Premium should be Charged

This Information is presented for consideration at the October 16, 2019 Hearing of the Subcommittee on Housing, Community Development and Insurance “Protecting America: The Reauthorization of the Terrorism Risk Insurance Program,”

To the U. S. House Financial Services Committee:

Dear Chairwoman Waters and Ranking Member McHenry,

Consumer Federation of America, a nonpartisan nonprofit organization, urges you to review the extraordinary growth and level of the property/casualty insurance industry’s surplus capital as you contemplate the next steps for the temporary Terrorism Risk Insurance Act (TRIA). It is our assessment that industry has the capacity to insure properties against terrorism losses without continuing the massive taxpayer subsidies it has been provided under TRIA, and we believe the program should not be renewed. As we discuss below, an alternative to ending TRIA would be to charge an actuarially sound premium to insurers for the federal backstop that TRIA makes available. In the event of any extension, a 10-year extension is excessive and will not allow for the private reinsurance market to develop to handle this manageable risk.

By the end of 2018, the surplus of the property/casualty insurance industry (the amount of money backing up the business the insurers write) was \$742 billion, according to data released by the Insurance Services Office and American Property Casualty Insurance Association.¹ In the first quarter of 2019, this surplus rose to an all-time high \$780 billion.² Prior to the 9/11 attacks, the industry’s surplus was \$326 billion, or only 44 percent of the year ended 2018 surplus.³ TRIA was not, of course, in effect at the time of 9/11 and the industry survived that large claim in 2001 without much difficulty.

¹ Property/Casualty Insurance Results: 2018, ISO and APCIA, available [here](#).

² Property/Casualty Insurance results: First-Quarter 2019, ISO and APCIA available at <https://www.verisk.com/siteassets/media/downloads/insuranceresultsreport2019q1.pdf>

³ We are using year-ended 2018 data in our analysis in this letter but note that our findings therefore slightly understate the huge financial capacity of the insurance industry.

The current industry surplus of \$742 billion dwarfs the \$21 billion of insurer losses from 9/11.⁴ In 2019 dollars, the amount a 9/11 event would cost insurers would be \$30.6 billion.⁵ Even in the extremely unlikely event of a claim or series of claims totaling three times larger than 9/11, the industry is financially positioned to handle the losses. Under the current rules of TRIA, we estimate that insurers would be responsible for about \$85 billion of losses before the federal reinsurance kicked in. Without TRIA, the industry would be responsible for an additional \$7 billion, the full \$92 billion of such an extraordinary event or series of events. That is well within the capacity of the insurance industry without any need for a federal bailout.

The key measure of the safety and soundness of the property/casualty industry is its ratio of net written premiums to policyholder surplus. In recent years, because of the increase in weather-related catastrophic events and fear of terrorism, the ratio considered to be safe by experts has been lowered from 2.00 to 1.50. However, at the end of last year, the industry's ratio stood at an extremely safe level only 0.82. The after-tax effects of \$85 billion of industry losses from a terrorist event equivalent to three 9/11s would only increase this ratio to a still extremely safe level of 0.93. If TRIA expired, the ratio, after paying \$92 billion claims from three 9/11 size events would be a mere, and still overcapitalized 0.94. Indeed, the industry could sustain a series of claims 10 times the size of 9/11 and still maintain a safe premium to surplus ratio of 1.40.

It is clear that the industry does not need any taxpayer support for even extreme terrorist events. Since the industry does not need TRIA, why is it urging Congress to renew the act? One explanation for industry insistence that TRIA continue unchanged is that, despite the absence of any significant terrorist losses since 9/11, they have become risk averse on the issue, preferring extreme caution to (a) the risk-taking role that is the purpose of the industry and (b) the loss mitigation role in which the industry develops safeguards to help insureds make properties less vulnerable to loss. As an example of what should be expected of the insurance industry, we note more appropriate responses from the sector in years past. In response to increasing auto accident risks, insurers developed the Institute for Highway Safety to make roads and cars safer; the industry developed Underwriters Labs to make homes safe from electrical appliance risk; and insurers invented lifeboats for cruise lines and developed safe boilers in reaction to increasing claims for those risks. But with limited terrorism exposure, the industry has less incentive to address terror loss mitigation and resilience.

Another explanation is that insurers are profiting from TRIA. In 2007, the Congressional Budget Office estimated that, from 2008 through 2012, the cost to U.S. taxpayers would be \$3.1 billion, with an additional \$3.3 billion expense projected through 2017. CFA

⁴ After federal tax write-offs, the industry claims payments to policyholders cost insurers \$21 billion. The claims paid out were \$32.5 billion before tax considerations (See "9/11 The Tenth Anniversary," Insurance Information Institute)

⁵ Adjusted to 2019 level by CPI inflation of 44.98%.

estimated at that time that the total subsidy from 2002 to 2012 was \$7 billion and now estimates that the corporate welfare to insurers from 2002 to date approaches \$10 billion. The subsidy occurs because the federal reinsurance program in TRIA, which backs up the private insurers, is free – no premiums are charged. Had actuarially sound premiums been charged, the Treasury would have collected nearly \$10 billion in premiums that would be reserved to offset future terrorist attack costs. To this end, the industry appears to support the promise of a permanent government giveaway to surplus-rich insurers, even though TRIA was never intended by Congress to be permanent.

Given the devastating loss of life and property and the social and cultural shock of 9/11, we acknowledge the need to prepare for an event an order of magnitude more destructive than 9/11 could occur. Such a large-scale, widespread act of terror – possibly involving nuclear, biological, chemical, or cyber-attacks – may lead us to, once again, contemplate federal taxpayer assistance for insurers. Therefore, we propose that Congress eliminate TRIA and replace it with a mechanism in FEMA designed to react to the details of any such extreme event and provide taxpayer funded coverage for an act of terror only if, and after the industry surplus is diminished by 30%.

It is not surprising that insurance giants want to keep a free reinsurance program and further expand their profits, but at a time of record-breaking federal budget deficits and all-time high insurer surpluses, we question the wisdom of providing multi-billion dollar subsidies to an industry that can easily afford to insure several terrorist events even larger than 9/11. If there are instances where it has been difficult to obtain insurance coverage, the Federal Insurance Office should work with appropriate state insurance departments to examine and efficiently mitigate these deficiencies.

While it is our view that a reauthorization of TRIA is not necessary and that an alternative backstop for an extreme and unparalleled series of events could be developed, we also offer an alternative to non-renewal of TRIA. TRIA is a reinsurance policy for property and casualty insurers. Its primary difference from reinsurance is that the insurance companies that benefit from this ceding of coverage above a certain amount do not pay any premium for capping their exposure. If Congress feels that insurance companies need access to reinsurance and that it is not available in the private reinsurance market, then taxpayers should receive a premium for that protection. This was the approach used in the Riot Reinsurance Program, which I ran for the federal government.⁶ Under this approach, the government took in actuarially appropriate revenue from the sale of riot reinsurance. In other words, if TRIA is maintained, all insurers that rely on TRIA for coverage above the 20% deductible plus 19% of losses above that deductible – following the current program structure – should pay an

⁶ Mr. Hunter, a certified actuary, was formerly Federal Insurance Administrator under Presidents Ford and Carter and Texas Insurance Commissioner.

actuarially sound reinsurance premium to the Treasury of the United States to spare burdening the public with further corporate welfare to this ultra-rich industry.

As to the timing for legislation, the December 31, 2020 expiration of TRIA allows ample time to craft a more taxpayer- and public-interest approach to terrorism insurance than merely extending this massive giveaway to an industry that is flush with surplus.

We would be happy to discuss our views on TRIA further at your convenience. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "J. Robert Hunter". The signature is written in a cursive style with a large, looped initial "J".

J. Robert Hunter, FCAS, MAAA
Director of Insurance
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