

**Testimony**

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**Protecting America: The Reauthorization of the Terrorism Risk Insurance Program**

**Subcommittee on Housing, Community Development and Insurance**

**Subcommittee on National Security, International Development and Monetary Policy**

**Committee on Financial Services**

**United States House of Representatives**

**October 16, 2019**

Chairman Clay, Chairman Cleaver, and Ranking Member Stivers, thank you for the opportunity to testify today on the important need to reauthorize the Terrorism Risk Insurance Act (TRIA). I am Joe Carter, Acting President and CEO of United Educators, an A-rated risk retention group owned by more than 1,600 schools, colleges, and universities through the United States. We insure 341 educational institutions in congressional districts represented by members of this committee, educating over 3.3 million students. I am also testifying on behalf of our trade association, the American Property Casualty Insurance Association (APCIA) -- the primary national trade association for home, auto, and commercial insurers. APCIA's over 1000 members represent all sizes, structures of insurance companies in every region of the United States—protecting families, communities, and businesses in the U.S. and across the globe.

At United Educators, our goal is singular and focused: to offer schools and colleges the protection that they need for liability risks to their institutions, students, and employees; including financial protection needed to recover as quickly as possible if a terrorist event occurs. This is particularly true because the institutions we insure serve as a focal point for their local communities, providing opportunities for students and local residents to assemble for athletic and artistic performances, speaking engagements, and other private and public events where large crowds can gather. Knowing that a program like TRIA is in place to support a speedy economic recovery following a catastrophic terrorist attack is crucial to United Educators and other commercial property-casualty insurance companies. For this reason, APCIA and United Educators strongly support H.R. 4634, which will reauthorize TRIA for 10 years with no changes.

Although United Educators insures institutions in several major metropolitan cities including Los Angeles, Boston, and New York, a large number of our member institutions that we insure are located in small town communities. It is an unfortunate time in our country when colleges and universities, where many of us send our own children for a safe place to learn, are continually seen as growing soft targets to terrorists seeking to insight fear and uncertainty into our way of life. These schools often have open campuses, a high concentration of people in a confined location, and often serve as substantial economic engines in their respective communities. Colleges and universities become potential targets when their stadiums host Saturday afternoon football games during the fall and their arenas host basketball games during the winter and spring. Their research labs are targets, especially for terrorists who would seek to harm the nation's national security apparatus. And they are targets whenever they host major speeches or presidential debates. That is why United Educators is committed to providing the liability insurance that many of these institutions need in order to carry on their important educational and community roles.

### **Need For Reauthorization**

The horrific terrorist attack on September 11<sup>th</sup>, 2001 was the most tragic and devastating event in recent history and the sheer enormity of the losses resulted in financial shockwaves. It became evident that the private insurance market struggled to accurately model, predict, or price the growing terrorist threat that many companies faced. Policyholders were unable to secure terrorism insurance, resulting in a paralysis in the economy. In 2002, Congress enacted the TRIA program in order to provide a liquidity safety net for insurance companies following future terrorist attacks in exchange for insurance companies making terrorism insurance available. It is because of TRIA that companies like United Educators can provide terrorism insurance, which is critical to ensure national economic stability and continued economic and commercial growth. We strongly believe that market needs for terrorism insurance could not be met without the program in place.

Since the original enactment of TRIA, Congress has reauthorized the program three times; examining the terrorism insurance market each time to determine whether market conditions suggest the need to continue the program. United Educators has testified on this topic twice before – in 2006 and 2013. Both times, we stated that the fundamental barriers that originally hindered the accurate modeling of terrorism have not changed and thus, TRIA continued to be a linchpin for insurers to make terrorism risk insurance available. Today, I can definitively state that this continues to be the case. While the private

market does participate heavily in shouldering terrorism risk, it is not prepared to meet the market's need entirely without TRIA. In a recent APCIA survey, 75% of its members said they may need to explicitly exclude terrorism coverage in their commercial policies if TRIA is not reauthorized, while many more responded that they may need to impose sub-limits or exclusions in high-risk regions.

At United Educators, reinsurers are key partners in providing terrorism coverage. They provide us with per-policy limits, and, more importantly, no aggregate annual limit. So, if our policyholders are hit with multiple events in a single calendar year, we have adequate reinsurance coverage to help us pay their claims. This is possible only because of TRIA. If TRIA expired, our reinsurers have said that they would likely place aggregate limits on our coverage. That means the impact on our balance sheet could be unsustainable if there were multiple terrorist attacks in a single year and may force us to make some tough decisions about that exposure. Such a scenario could put some insured educational institutions at risk of looking for other ways to cover these hazards.

TRIA is especially important to small insurers like United Educators. Many small and medium-sized insurers would be crippled by a catastrophic terrorism loss without the TRIA program. Additionally, even if TRIA is reauthorized, an increase in some of the TRIA thresholds, such as the insurer deductible, the co-share, and the program trigger would likely subject small and medium-sized insurers to a massive increase in their liability exposures which would likely limit their ability to provide needed insurance coverage to their policyholders.

Additionally, while United Educators does not write workers compensation, many APCIA members do, and TRIA is especially important to that line of business. Unlike traditional property and liability insurance, state laws do not allow workers compensation insurers to exclude terrorism coverage. Changes or alterations to TRIA could expose these insurers to crippling losses. Thus, for workers compensation insurers, TRIA is important to providing private terrorism insurance market stability, and to preventing broader workers compensation availability problems that could result in the absence of the program.

### **Protections for Taxpayers**

In each of the past congressional reauthorizations, members of congress have understandably expressed interest in reducing taxpayer exposure to loss. But it is important to remember that even from its

inception in 2002, TRIA has always been one of the most fiscally responsible government programs. That is true for several reasons. First, the presence of TRIA means that in the event of a terrorist attack, a greater number of losses will be covered by the insurance market than would be the case without TRIA. This, in turn, reduces the pressure on the federal government to provide disaster assistance, which limits taxpayer exposure to loss. Second, TRIA's current insurer deductible, co-share, and program trigger ensure that commercial insurers shoulder a very substantial portion of the financial risk for terrorism. Finally, in the event that the federal government does need to provide financial liquidity to insurers following an attack, the program includes a mechanism by which taxpayer loss expenditures are recouped via a surcharge on policyholders. We believe these facts should provide ample comfort that TRIA is an extremely fiscally responsible program.

In past reauthorizations, legislators have sought to reduce the exposure of taxpayers by increasing the TRIA thresholds, *i.e.*, the insurer deductible, co-share, and program trigger. But it is important to recognize that two of these thresholds will continue to increase on their own with a renewal of TRIA even without the Congress changing them. The insurer deductible is calculated as a percentage of the insurer's prior year direct earned premium in TRIA covered lines. As insurers' premiums grow with normal business growth and inflation, so do their deductibles. And as the value of insured property and potential liability rises, so do the costs to insurers of shouldering their co-shares. So even without statutory changes to the thresholds, industry exposures continue to rise, and taxpayers exposures continue to fall. For this reason, many have begun to recognize that further increases in the thresholds are unnecessary and even inadvisable as the growing exposure of commercial insurers can threaten their solvency and ability to meet the needs of their policyholders responsibly.

### **The Perils of Program Lapses**

In 2014, even though there was a strong bipartisan demonstration of support to reauthorize TRIA, Congress allowed the program to lapse for 12 days before finally passing reauthorization legislation. This led to considerable confusion among insurers and policyholders about the status of in-force terrorism coverage. Many insurers introduced contingent exclusions in their policies, which provided policyholders with terrorism insurance only if the program remained in place. When the program lapsed, those exclusions took effect and, had a major loss occurred, the consequences for the country could have been ominous. Indeed, in light of that past lapse, United Educators is now looking very carefully at what steps we should take to protect our balance sheet in the event the Congress should

allow another lapse. We strongly urge that the program be reauthorized as early as possible and that in no event should it be allowed to lapse.

#### **The Perils of Short-Term Reauthorizations**

Likewise, short-term reauthorizations lead to market instability as insurers and policyholders must grapple with the possibility that the Congress may not renew the program or may allow it to sunset. We understand that the Congress feels a responsibility to reexamine the program periodically. While this is healthy, we do urge that the program be reauthorized for at least ten years in order to avoid the uncertainty and market instability that more frequent reauthorization debates or lapses could cause.

#### **Long-Term Considerations**

TRIA's initial goals were two-fold: (1) to make terrorism coverage available and (2) to ensure market stability in the aftermath of a large scale terrorist event. As every witness here today will tell you, TRIA has successfully achieved both these goals. The U.S. Treasury Department's reports on the program have indicated that the terrorism insurance market is stable, that coverage is available, and that this is due to the presence of the TRIA program. That evidence alone provides ample support for reauthorizing the program. Because of this, United Educators and APCIA strongly urge the committee to pass H.R. 4634 as soon as possible and send it to the full House for consideration.

#### **Conclusion**

The TRIA program has been successful in making much needed terrorism insurance coverage available to meet the needs of the market and protect the nation's economy. Reinsurers' appetite for writing terrorism insurance without the program in place may be limited. Failure to reauthorize the program could have significant economic implications and would expose taxpayers to even greater risk because pressure for federal disaster assistance to compensate for uninsured losses would increase in the aftermath of an attack. For these reasons, United Educators and APCIA strongly urge the Congress to pass H.R. 4634, which would reauthorize the program without significant changes for at least ten years.

We appreciate the opportunity to share our views with you and stand ready to provide any additional information or assistance you may need as you consider this critical national economic security program.