Testimony of

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On Behalf of the National Association of Insurance Commissioners

Before the

Subcommittee on Housing, Community Development, and Insurance and the Subcommittee on National Security, International Development, and Monetary Policy

U.S. House Committee on Financial Services

Regarding:

Protecting America: The Reauthorization of the Terrorism Risk Insurance Program

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Chairman Clay, Chairman Cleaver, Ranking Member Stivers, and members of the subcommittees, thank you for the invitation to testify today. My name is Chlora Lindley-Myers. I serve as the Director of the Missouri Department of Commerce and Insurance and I am here on behalf of the National Association of Insurance Commissioners (NAIC).[1]

On behalf of my fellow state insurance regulators, I want to express our support for the Terrorism Risk Insurance Program (TRIP) and urge Congress to pass a long-term Terrorism Risk Insurance Act (TRIA) reauthorization prior to the December 31, 2020 expiration. The U.S. economy remains vulnerable to terrorist attacks and requires this federal backstop to help manage exposure to this unpredictable and volatile risk. My testimony will focus on why Congress needs to renew this crucial program and highlight some of the findings from our state insurance regulator data calls on terrorism risk insurance. I will also share some analysis from the NAIC's Center for Insurance Policy and Research's (CIPR) TRIA Policy Workshop that was held this summer in New York.[2]

Following the tragic September 11, 2001 terrorist attacks, primary insurers and reinsurers pulled back from offering terrorism insurance coverage due to concerns that terrorist acts would become more common and more severe. Compounding this challenge was a lack of historical data or reliable risk modeling necessary to accurately calculate the frequency, severity, and loss costs critical for insurance underwriting, pricing, and solvency. As a result, terrorism risk insurance was unavailable or extremely expensive, and many businesses were no longer able to purchase insurance that would protect them in future terrorist attacks, which hindered their ability to proceed with construction projects or secure commercial loans. Congress responded by passing the Terrorism Risk Insurance Act of 2002 to establish a federal government backstop for terrorism losses. State insurance regulators have supported TRIA since its inception and its subsequent reauthorizations in 2005, 2007, and 2015, and strongly support the continuation of the program.

The NAIC supports a long-term reauthorization of 7-10 years as we have not seen evidence to suggest that the insurance marketplace is capable or willing to voluntarily take on a substantial portion of terrorism risk absent a federal backstop. The potential extreme severity and unpredictable frequency for acts of terrorism makes this coverage one that insurers would likely choose to avoid if given the opportunity. By requiring insurers, through the make-available mechanism, to offer terrorism coverage, we believe the federal backstop has been successful in bringing marketplace confidence and stability where a marketplace for a broad range of

[1] As part of our state-based system of insurance regulation in the United States, the National Association of Insurance Commissioners (NAIC) provides expertise, data, and analysis for insurance commissioners to effectively regulate the industry and protect consumers. The U.S. standard-setting organization is governed by the chief insurance regulators from the 50 states, the District of Columbia and five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer reviews, and coordinate regulatory oversight. NAIC staff supports these efforts and represents the collective views of state regulators domestically and internationally. For more information, visit www.naic.org.

[2] The Center for Insurance Policy and Research is an independent division of the NAIC that provides research and education to drive discussion, and advance knowledge and understanding of insurance issues. Its analysis does not necessarily reflect the views of the NAIC membership.

commercial risks might not otherwise exist. We agree with the U.S. Department of the Treasury's findings in its 2018 Report on the Effectiveness of the Terrorism Risk Insurance Program that "the Program has made terrorism risk insurance available and affordable in the United States, and the market for terrorism risk insurance has been relatively stable for the past decade."[3]

Without TRIP, we believe terrorism risk insurance would become unavailable and unaffordable and we could revisit some of the same market disruptions and economic uncertainties the nation faced in the aftermath of the September 11 attacks. TRIP provides insurers with the security and certainty they need to allow them to offer coverage for acts of terrorism. The availability of this coverage provides economic stability to commercial policyholders, lenders, builders, and businesses, particularly in high-risk areas. The NAIC's Center for Insurance Policy and Research's (CIPR) recent workshop noted take-up rates (i.e. the percentage of commercial policyholders who opt to buy or "take up" terrorism coverage) between 80% and 90% for most high-risk metropolitan areas.[4]

While we support the continuation of the program, we have deferred to the insurance industry in terms of specific program triggers and deductibles and how these variables would impact their prices and willingness to offer coverage.

It is also important to note that TRIP is not a case of the federal government crowding out the private market, but rather it fosters the existence of a broader market for risks that would otherwise be largely uninsured, or more likely, borne by taxpayers. As has been noted by some in Congress in prior reauthorization discussions of TRIP, a terrorist attack is not simply a random act of misfortune and financial loss directed at a singular U.S. business, but rather an attack on what that business represents as part of the American economy – it is in essence an attack on our nation itself and therefore a national response is appropriate. As structured, this program is intended to have minimal cost to taxpayers, given that federal outlays only occur in the event of a certified act of terrorism that meets specified triggering thresholds for total insurance losses, insurer deductibles, and copays, and even then, insurers must reimburse the federal government for its expenditures if these thresholds are in fact met. If losses remain below these thresholds in any particular year, the private market is responsible for the entirety of those losses.

If TRIA expired, some insurers might place limitations on commercial insurance policies to exclude terrorism coverage or choose to withdraw from the market completely. When TRIA briefly lapsed in early 2015, conditional terrorism exclusions that had been filed with state insurance regulators were activated, which created some uncertainty in commercial markets. Furthermore, an expiration of TRIA would be particularly disruptive to the workers' compensation market as workers' compensation benefits are codified in state law and an employer cannot decline to provide coverage for acts of terrorism. Without TRIA, workers' compensation insurers might

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[3] https://www.treasury.gov/initiatives/fio/reports-and-notices/Documents/2018_TRIP_Effectiveness_Report.pdf

[4] https://www.naic.org/meetings1908/cipr_tria_workshop_2019_summer_nm_materials.pdf?155

raise prices or decline to write coverage for businesses with many employees concentrated in single locations or near iconic properties.

Beginning in 2016, insurance regulators in all states and the District of Columbia agreed to participate in a data call to collect information related to terrorism risk insurance to serve important regulatory objectives, such as monitoring the availability of insurance coverage for acts of terrorism and assessing insurers' financial exposure to terrorism risk. As insurance regulators, our top priority is assessing and regulating the solvency of the industry to ensure they have the means to pay policies, so insight into insurers' exposure to this challenging risk segment is critical. In recent years, we coordinated with Treasury's Federal Insurance Office (FIO) on a consolidated data call that reflects our respective statutory mandates and responsibilities. The NAIC's Terrorism Insurance Implementation Working Group, of which Missouri is a member, reviews and discusses the data collected by the states and collaborates with Treasury on any TRIP-related issues.

Through our state regulator data call, we have collected terrorism risk insurance data related to workers' compensation policies over the past few years. Terrorism coverage is provided within all of workers' compensation policies as it cannot be excluded so there is essentially a 100% take-up rate of this coverage within workers' compensation policies. We have observed that the percentage of workers' compensation policies with an explicit charge for terrorism coverage has fallen slightly from a little over 84% in 2011 to about 83% in 2016 – it has remained essentially the same the last few years. This indicates that about 17% of policies cover workers' compensation terrorism coverage for no additional charge. We have found that states in the Northeast have had the highest percentage of workers' compensation policies with an explicit charge for terrorism risk typically over 90%. This figure fell slightly since 2011. Workers' compensation terrorism risk insurance premium as a percentage of the total earned premium for policies with an explicit charge has fallen slightly from about 1.4% to 1.2% from 2011 to 2016. The average charge for terrorism coverage per workers' compensation policy has risen slightly from $171 to $184 since 2011.

Turning to data received from the consolidated data call that was received in May 2019, I would note that data from several large insurers are still being incorporated within the dataset so this data should be considered preliminary. However, the data includes over $150 billion of TRIP-eligible premium. When looking at total premium with terrorism coverage, we see about $105 billion of the TRIP-eligible premium has terrorism coverage on those policies. Our dataset includes about $2.4 billion in terrorism charges, which is about 2.3% of the total premium with terrorism coverage. Most terrorism premiums are found in commercial multiple peril and other liability coverages. Although insurers are required under TRIP to offer terrorism coverage, there is no requirement for policyholders to purchase terrorism coverage.

In looking at take-up rates for terrorism insurance, we found 80% of large insurer policies had terrorism coverage. These percentages varied by geographic region, with relatively larger percentages in the western and midwestern states. Another way to look at take-up rates is by looking at the percentage of TRIP-eligible premium that has terrorism coverage. For this metric, we found about 67% of the total TRIP-eligible premium has terrorism coverage within those policies. We have observed take-up rates trending upward year over year. In looking at take-up rates by line of business, commercial multiple peril and inland marine are higher compared to ocean marine and aircraft. The data call also found about 71% of property exposures are covered by terrorism insurance and 66% of liability exposures are covered by terrorism insurance.

Some commercial policies explicitly charge for terrorism coverage while other policies include the terrorism coverage implicitly, without a distinct charge. The data call found that about 70% of the premium where policies include terrorism coverage charge for that coverage. When a separate premium is charged for terrorism risk, between 2% and 3% of the total premium is allocated to terrorism risk. Commercial multiple peril, other liability and allied lines have higher portions of premium allocated to terrorism risk. Products liability and inland marine are comparatively lower. Rates varied geographically with New York and the District of Columbia having the highest rates, although this did not factor for higher exposed value. Higher average premiums for terrorism coverage are found in the northeastern states compared to midwestern and western states.

These data collection efforts are critical to providing insurance regulators insights into the exposure that insurers have to terrorism risk and identifying market trends and concentrations. According to CIPR analysis of various conventional terrorist scenarios, it takes relatively large amounts of insured losses prior to TRIP loss sharing being activated beyond the insurers' deductible responsibilities of the program.[5] Understanding this potential exposure is critical for our ongoing regulation of the solvency of insurers.

In conclusion, state insurance regulators strongly urge Congressional action to extend TRIA to avoid market disruptions likely to occur in the absence of a federal backstop program. Prompt action by Congress will help ensure the insurance market's continued role in supporting economic development. The extension of TRIA will provide American businesses with the essential insurance coverage needed to successfully operate in today's uncertain global environment. Thank you for inviting me to testify, and for considering the views of state insurance regulators as you move forward on this crucial issue.

[5] https://www.naic.org/meetings1908/cipr_tria_workshop_2019_summer_nm_materials.pdf?155