Testimony of the
National Association of Insurance Commissioners

Before the United States House Committee on Financial Services

Regarding:

The Reauthorization of the Terrorism Risk Insurance Act of 2002

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Connecticut Insurance Department on behalf of the

National Association of Insurance Commissioners

Chairman Hill, Ranking Member Waters, and Members of the Committee:

My name is Andrew Mais. I am the Insurance Commissioner for the State of Connecticut and Past President of the National Association of Insurance Commissioners, or NAIC, which represents the primary insurance regulators of the 50 states, the District of Columbia, and the five U.S. territories. I appreciate the opportunity to be here.

Thank you for inviting me to testify today before this Committee and thank you for addressing this important issue over two years before the Terrorism Risk Insurance Act or TRIA is set to expire, on December 31, 2027. Your forethought is appreciated and necessary, as insurance and reinsurance contracts and decisions to deploy capital are made months, if not years, in advance. Furthermore, business decisions that depend on access to commercial insurance, from deciding to break ground on a commercial space, to starting a new business, or building more housing, are often years in the making, so understanding that insurance will be available is critical to supporting the continued growth of our communities and the economy.

State insurance regulators have supported TRIA since its inception. Our job is clear: make sure insurers can pay claims, keep the market stable, and ensure coverage is available.

TRIA is the best type of partnership between the private market and the government. The government's involvement, in this instance, creates the appetite for a private market to exist. To be clear, absent TRIA – or some comparable solution – we do not believe private insurance carriers would make meaningful capacity for affordable commercial terrorism coverage available.[1] This is especially true for smaller and mutual companies.

Insurance is well suited to protect against losses from events where one can make reasonable assumptions about the frequency and severity of loss, for example, car accidents, house fires, and slip-and-fall injuries. However, this basic concept of insurability does not apply to terrorism, where neither the regulators nor the industry possesses the necessary insight or data to anticipate the frequency or severity of a terrorist attack or its impact on the insurance industry's solvency.

[1] Although workers compensation contracts do not allow exclusions for terrorism risk, the loss of TRIA could lead to dramatic price increases in some markets at best, and destabilization of that market at worst.

Furthermore, policyholders lack sufficient knowledge to truly mitigate their risk. You can choose to drive carefully or not, or install smoke alarms or not, but terrorism is ultimately an attack on the values that we all share as Americans, regardless of whether it's a foreign or domestic actor and regardless of where it occurs. If our government is the embodiment of the values that terrorists are attacking, it stands to reason that the government bears some responsibility to absorb the financial impact of such an attack.

The tragic 9/11 attacks resulted in over $40 billion in total insured losses, of which nearly $25 billion was just property losses. At the time of the attack, that was greater than the historic average natural disaster losses of the entire U.S. property casualty industry in a typical year.

Insurers have tremendous capacity to absorb losses, but they are vulnerable to a "tail" event with massive impact. TRIA removes that "tail event" risk. By doing so, the private market can manage at least one variable – severity – and offer coverage at reasonable prices. To keep commercial coverage available, we support a long-term TRIA reauthorization of seven to ten years. We have seen no evidence that the private market is willing or able to take on the extreme tail risk of a major terrorist attack on its own. A longer-term reauthorization provides stability, in line with the commercial insurance business cycle and corporate and commercial decision making, giving insurers the time they need to build capacity and ensure commercial coverage remains in place.

TRIA stabilizes not only the insurance sector, but the broader economy. Businesses and consumers that live, work, and shop in communities in every state benefit from a stable insurance sector, which provides commercial terrorism insurance only because TRIA exists as a backstop. This stability has come at little cost to the federal government, fortunately with no claims paid since its creation, while ensuring a market that takes on billions of dollars in risk that would otherwise go largely uninsured. Further, we expect Americans believe their government will stand behind them, and their communities, in the wake of a terrorist attack, so TRIA meets that expectation while minimizing exposure for the government and taxpayers.

Indeed, insurance regulators around the country will soon be asked to review policy exclusions for 2027 contracts that – based on past TRIA reauthorizations – will dramatically reduce coverage if TRIA is not reauthorized. TRIA's continued and uninterrupted existence is what catalyzes the private market to take on losses they wouldn't otherwise cover.

Before the federal government pays a dime under TRIA, each insurance company must cover losses equal to 20% of what it earned in premiums the year before on eligible commercial policies. For every dollar of terrorism loss above the deductible, the federal government pays 80 cents, and the insurer pays the other 20 cents, keeping the insurer's skin in the game even after the deductible is met. The program only kicks in if total losses across the whole industry pass $200 million, and there's a hard cap at $100 billion per year—anything above that would require Congress to step in. After the government pays out immediately to stabilize the market, it then collects the money back from insurers via a surcharge on commercial policyholders, ensuring taxpayers are not on the hook. So far, TRIA hasn't cost taxpayers a penny aside from some staff work to oversee the program.

It is also worth noting how TRIA handles more exotic terrorism risks, including nuclear, biological, chemical, and radiological events—or NBCR. TRIA doesn't force insurers to cover these extreme risks or override policy exclusions. It only provides a backstop for losses the insurer has already contracted to cover. The one exception is workers' compensation, which under state law can't exclude NBCR—so TRIA covers it automatically. Similarly, insurers can choose to cover cyberterrorism, and if a certified attack happens, TRIA will help pay those losses. This keeps insurers responsible for their coverage choices while ensuring a federal safety net for extreme terrorism events.

While I can't predict Congress's response to the next tragic terrorist attack; without TRIA, the question for you is simple: should taxpayers cover the first dollar of losses or the first dollar *after* the insurance industry has paid out over $53 billion. Thank you for the opportunity to speak and I look forward to any questions you may have.