



Consumer Federation of America

June 25, 2004

The Honorable Bill Frist
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Thomas A. Daschle
Minority Leader
United States Senate
Washington, DC 20510

The Honorable J. Dennis Hastert
Speaker
United States House of Representatives
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
United States House of Representatives
Washington, DC 20515

RE: RUSHING TO RENEW TERROR REINSURANCE LAW WILL HARM TAXPAYERS

Dear Leaders Frist and Daschle, Speaker Hastert and Leader Pelosi:

We write to urge you to oppose efforts by the insurance industry to rush through an extension of the Terrorism Risk Insurance Act more than a year prior to the law's expiration and before a Congressionally mandated study about the necessity of an extension is complete. Legislation that would immediately renew this law has already been introduced in the House and is being contemplated in the Senate.

Renewing TRIA before the Department of the Treasury completes a study about the effectiveness of the law on June 30th of next year could put taxpayers on the hook for billions of dollars in terrorism losses that the insurance industry could otherwise afford, while stymieing the development of a vibrant private market for terrorism insurance. As a recent report on TRIA by the Senate Republican Policy Committee pointed out, TRIA was sold as a "temporary tool during a transition period¹." It would be unconscionable for Congress to renew TRIA without first assessing whether this temporary tool is still necessary, and, if so, how it should be structured in the future. A comprehensive assessment of TRIA released by CFA in April concluded that the law will not be necessary after 2005 to ensure the availability of affordable terrorism coverage for most areas of the country and should be allowed to expire.

The insurance industry claims that Congress must disregard the Treasury study that it wisely included in TRIA because some terror insurance policies will soon be written that might extend beyond the expiration of TRIA on December 31, 2005. Strangely, this objection was not raised by the insurance industry when it lobbied aggressively for enactment of TRIA with the

¹ Federal Terrorism Reinsurance: A Solution or a Problem?, June 15, 2004.

study requirement in 2002. The industry has already begun to address this problem with a straightforward solution. Insurers have convinced a number of states to allow them to exclude terror coverage in policies that extend beyond the date that the law expires, if that occurs. If TRIA expires, these exclusions will be operative. Therefore, Congress does not need to ignore the study it mandated in TRIA.

Section 108 of TRIA clearly intends for the Department of the Treasury to undertake a comprehensive study before TRIA is extended:

SEC. 108. TERMINATION OF PROGRAM

- (d) **STUDY** – The Secretary...shall assess the effectiveness of the Program and the likely capacity of the property and casualty insurance industry to offer insurance for terrorism risk after termination of the Program, and the availability and affordability of such insurance for various policyholders...

How could Congress possibly renew this program and leave taxpayers liable for potential terrorism losses of billions of dollars without knowing the answers to essential questions about how well the law has worked, the ability of the insurance industry to handle terrorism losses if the program expires, and the current availability and affordability of this insurance?

CFA's study of TRIA concluded that the insurance industry does not need TRIA to cover terrorism losses except perhaps in nine cities.² CFA found that the ability of the private market to insure against terrorism is enormous and growing, insurer profits are very substantial and the financial condition of these companies overall is rock solid. (Indeed, the property/casualty insurance industry just reported first quarter 2004 results that were astonishingly profitable, with retained earnings, called "surplus", of \$368.7 billion, up \$78.1 billion from last year. To put the magnitude of these earnings in perspective, the after-tax insured cost to the industry of the September 11th attacks was about \$20 billion.) Moreover, even during the vulnerable period of 2002 before TRIA was enacted, high-risk projects and buildings were able to find and buy terror coverage, such as Sears Tower and the Olympic Games.

Another important question about renewal of TRIA is why should terror reinsurance continue to be given away to insurers without charging a premium for the coverage? It is virtually impossible for private market responses to compete with free reinsurance offered by the government, the cost of which is borne by taxpayers. In fact, insurers have had the audacity, as they pocket record profits, to complain that the proposed two-year extension of *free* reinsurance under TRIA might increase their deductibles a bit, and have insisted that the program be extended "as-is." This reveals just how true were Senator Gramm's words in 2002 when he said, "Two years from now...we are going to be back here, and the same people who are saying today we have to have this bill are going to say: 'You have to extend this bill for another two years, another 10 years, forever,'" because TRIA would "destroy the incentive of the industry to do the things that need to be done to get the government out of this business."

² The Terrorism Risk Insurance Act: Should It Be Renewed?, April 2004.
http://www.consumerfed.org/terrorism_insurance_report.pdf.

It is hard to blame the insurance industry for wanting to continue free reinsurance. What American family wouldn't want free automobile insurance? However, an objective assessment of the market – if it is not preempted -- will almost certainly show that the industry can afford to cover far more terrorism risk than they are required to do under TRIA. Insurers can certainly afford to pay premiums for the reinsurance.

Knowing that they cannot make a valid case for extension of this give-away reinsurance, insurers are now seeking to override the reasoned approach Congress required – and the industry consented to – when TRIA was enacted.

We urge you to reject the insurance industry's "bait-and-switch" maneuver and follow the studious approach you wisely adopted when you passed TRIA into law.

Sincerely,

A handwritten signature in cursive script that reads "J. Robert Hunter".

J. Robert Hunter
Director of Insurance

Travis B. Plunkett
Legislative Director

CC: The Honorable Richard C. Shelby
The Honorable Paul S. Sarbanes
The Honorable Michael G. Oxley
The Honorable Barney Frank