



Consumer Federation of America

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REPORT FINDS INSURANCE COMPANIES ARE UNDERMINING TERRORISM INSURANCE LAW BY REFUSING TO LOWER RATES —CFA Urges Congress to Hold Immediate Hearings on Law's Failures—

Washington, D.C. — Nearly five months after the Terrorism Risk Insurance Act became law, the Consumer Federation of America (CFA) today released a report concluding that insurers have undermined the law by refusing to significantly lower rates for businesses and facilities that are at risk of future terrorist attacks. Insurers have also offered few, if any, refunds to policyholders who had terror coverage when the Act took effect and insurer projected losses dropped precipitously. The report, *The Terrorism Risk Insurance Act: High Rates, Unmet Expectations*, also concluded that regulators were exacerbating problems by allowing insurers to exclude coverage for chemical, biological and nuclear terrorist attacks, in apparent violation of the law, and by not closely questioning insurance companies about their rate setting policies.

“So far, the terrorism insurance law is a complete failure,” said J. Robert Hunter, CFA’s Director of Insurance. “Taxpayers are now picking up the tab for most terrorist losses, but insurers are still demanding excessive rates from their higher risk customers. Many of the skyscrapers, building projects and public facilities that need terror coverage the most aren’t buying it,” he said. “To make matters worse, insurers are refusing to cover some kinds of terrorist attacks and don’t appear to granting refunds to consumers who deserve them.”

The new law created a three-year program in which taxpayers will cover 90 percent of all terrorism related losses (above \$5 million and up to \$100 billion a year) after individual insurance companies pay an initial deductible. Insurer representatives have claimed that terror insurance rates are high because the law doesn’t require taxpayers to pay for even more losses and that the law’s three-year duration is too short for them to adequately set rates. CFA urged Congress to hold immediate hearings to investigate the problems that are occurring and recommend corrective action.

“What insurance companies have done is nothing more than bait and switch,” said Hunter. “First, insurers exaggerated problems with terrorism coverage in the marketplace in order to goad Congress into action. Now that the law they wanted is on the books, insurers claim that it doesn’t give them enough taxpayer largess to allow them to lower rates. It is time for Congress to get wise to the insurance industry’s tricks and hold tough oversight hearings.”

The report identified several specific problems with the new law:

1. **Insurers have not kept their implicit promise to cover terrorism at affordable rates.** Insurance brokers, company risk managers who buy insurance and some state regulators have

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raised objections about irrational rate setting and high rates. While terror rates for smaller risks appear to be reasonable (ten to twenty percent of the underlying property premium,) higher “target” risks are being priced out of the market with terrorism surcharges of 100 percent or more on the underlying premium. In short, the businesses that can afford terror coverage aren’t buying it because their risk of attack is low, while the businesses that need coverage the most aren’t buying it because they can’t afford it. In some cases, insurers appear to have adopted a deliberate strategy of over pricing for higher risks to ensure that they do not buy terror coverage. Every major metropolitan area in the country has been affected.

2. **Terror coverage is even more unattractive for policyholders because of exclusions for chemical, biological and nuclear terrorist incidents.** Despite the fact that the new law requires that insurers offer terror coverage and has no exemptions for certain types of terrorism, the Treasury Department has said that insurers do not have to cover nuclear, biological or chemical “events” if states permit these exclusions. CFA has urged the Treasury Department to reverse its decision and has called on state insurance commissioners to disapprove any requested exclusions for nuclear, chemical or biological attacks.
3. **Insurers do not appear to be granting refunds to policyholders who deserve them.** By offering generous taxpayer assistance for future terror losses, TRIA lowered insurer exposure and projected costs literally overnight. Many businesses, buildings and public facilities purchased terrorism coverage in the aftermath of the September 11th attacks. A CFA actuarial analysis has found that insurers should offer rate refunds of 40 to 50 percent to these policyholders as a result of projected loss savings. And yet, it appears that very few if any refunds have been offered.

The report recommended that Congress hold immediate oversight hearings to evaluate the state the terror insurance marketplace, insurer behavior since the law took effect and the effectiveness of oversight efforts by the states and the Department of Treasury. A list of questions that Congress should ask insurers and regulators is included in the report.

“We need Congress to step in and find out why rates are so high since the law was enacted, and then give regulators and insurers their marching orders,” said Travis Plunkett, CFA’s Legislative Director. “There was a great deal of hoopla when this law passed about how it would lower insurance rates and energize the economy,” said Plunkett. “It is up to Congress to get to the bottom of why this has not happened and to try to fix the problems that exist.”

CFA is a non-profit association of 300 organizations that, since 1968, has sought to advance the consumer interest through advocacy and education.