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AMERICAN ACADEMY *of* ACTUARIES

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October 22, 2019

Hon. Mike Crapo  
Chairman  
U.S. Senate Committee on Banking,  
Housing, and Urban Affairs

Hon. Sherrod Brown  
Ranking Member  
U.S. Senate Committee on Banking,  
Housing, and Urban Affairs

Sent via email

Re: Reauthorization of the Terrorism Risk Insurance Act

Dear Senators Crapo and Brown:

The American Academy of Actuaries'<sup>1</sup> Casualty Practice Council offers the following comments regarding the pending reauthorization of the Terrorism Risk Insurance Act (TRIA). Providing the statutory authority for the Terrorism Risk Insurance Program (TRIP), this law is set to expire on Dec. 31, 2020. This comment letter should serve as a reminder that within the world of commercial insurance, contracts are already being written that extend past that date and assume the continuation of TRIA.

The security and financial concerns that existed at the time this law was created and subsequently reauthorized have not changed significantly. Therefore, the need for the program remains. TRIA provides a needed backstop for extreme losses arising from acts of terrorism, a peril that is very difficult to fully insure in the private market. The program assists insureds by providing an orderly claims settlement process. The program further offers a recoupment mechanism by which the private sector reimburses the federal government for its outlays.

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<sup>1</sup> The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

Overall, this program brings stability to an insurance marketplace that otherwise has difficulty pricing and managing terrorism risk exposure, in part due to very limited historical or experience data. It is a good thing that the nation has not had occasion to develop additional experience and data related to catastrophic losses due to terrorism.

The United States Department of the Treasury issued a “Notice of Guidance” on Dec. 27, 2016, that clarifies that stand-alone “Cyber Liability” insurance policies are included under the Terrorism Risk Insurance Act of 2002, as amended. This decision underscored the importance of maintaining the TRIA program in the face of evolving threats.

While the insurance industry is being urged to cover acts of cyber terrorism under cyber-specific insurance policies, the statute is still relatively new and there has not been a catastrophic event in which TRIA was utilized. In general, the standard commercial property and liability coverages still exclude cyber terrorism and there is not clear coverage guaranteed under cyber-specific policies. There is also a question of coverage for widespread secondary events such as business interruption resulting from a terrorist-caused cyber-attack on public utilities or internet infrastructure. We believe strongly that coverage under TRIA helps fill this gap in the insurance marketplace.

The Federal Insurance Office’s *Report on the Effectiveness of the Terrorism Risk Insurance Program* (June 2018)<sup>2</sup> states that the program has been largely effective in meeting its statutory objectives. See page 16 of report.

A long-term or permanent extension of authorization for TRIA would bring much-needed financial security and stability. A stopgap, temporary extension of the program, on the other hand, would create an environment of uncertainty in which reinsurers will face significant challenges in quantifying their exposure to terrorism losses. This uncertainty can lead to limited underwriting capacity for reinsurers. There is a public interest component to a permanent reauthorization of TRIA; the risk mitigation it would provide would bring stability to the insurance marketplace, facilitating economic growth and development.

Without TRIA, there is little doubt that post-event disruption from terrorist events will increase. Even in the absence of a terrorist attack, failure to renew and extend TRIA would cause serious disruption in the marketplace for various insurance products, including commercial insurance for businesses and workers’ compensation insurance for workplace injury and disease. The consequence of this disruption would be adverse to the U.S. economy.

We conclude by reiterating that the program offers a recoupment mechanism for reimbursing the federal government and should not be perceived as a subsidy to the insurance market. The primary goal of the program is to facilitate the stability of the insurance marketplace, which is an important interest to the public.

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<sup>2</sup> [https://www.treasury.gov/initiatives/fio/reports-and-notice/2018\\_TRIP\\_Effectiveness\\_Report.pdf](https://www.treasury.gov/initiatives/fio/reports-and-notice/2018_TRIP_Effectiveness_Report.pdf)

We appreciate the opportunity to offer these comments. If you have any questions or would like to discuss these issues in more detail, please contact Marc Rosenberg, the Academy's senior casualty policy analyst, at 202-785-7865 or [rosenberg@actuary.org](mailto:rosenberg@actuary.org).

Sincerely,

Lisa Slotznick, MAAA, FCAS  
Vice President, Casualty  
American Academy of Actuaries

cc.: Members of the U.S. Senate Committee on Banking, Housing, and Urban Affairs