TESTIMONY OF CAROLYN SNOW

ON BEHALF OF THE RISK AND INSURANCE MANAGEMENT SOCIETY, INC. (RIMS)

BEFORE THE

U.S SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

ON

“REAUTHORIZING TRIA: THE STATE OF THE TERRORISM RISK INSURANCE MARKET, PART II”

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Good morning, Chairman Johnson, Ranking Member Crapo, and members of the committee. My name is Carolyn Snow. I am the director of risk management for Humana Inc., based in Louisville, Kentucky, and the current president of the Risk and Insurance Management Society (RIMS), on whose behalf I am testifying today. I want to thank the committee for allowing me the opportunity to speak on this critical policy debate surrounding the reauthorization of the Terrorism Risk Insurance Act (TRIA).

RIMS is a not-for-profit organization dedicated to advancing the theory and practice of risk management for the benefit of our member organizations. We are the largest organization of risk management professionals, representing over 11,000 members worldwide from more than 3,500 entities. Our membership includes public and private entities, both large and small, and spans the economic spectrum from the high-tech sector, real estate, finance, healthcare, energy, transportation, education, and defense.

Effective risk management is the identification of potential risks to an organization and the methods to effectively mitigate those risks. Insurance coverage is a necessary component to risk mitigation, particularly for potentially catastrophic losses, which would include terrorism. Since its inception, TRIA has allowed our member organizations to obtain adequate terrorism coverage at affordable rates. Prior to that, after 9/11 our members were unable to obtain such coverage, which jeopardized many contracts that contained covenants to carry terrorism insurance. For this reason it is vital that the program be extended well beyond its current expiration date of December 31, 2014.

We believe that the availability and affordability of adequate insurance coverage for acts of terrorism is not only an insurance issue, but an economic one. 9/11 proved that the private insurance market alone is unlikely to provide adequate and affordable coverage. In February of 2002, as insurers reassessed their terrorism exposures post-9/11, the Government Accountability Office stated that the "resulting economic drag" from difficulties in obtaining adequate terrorism coverage could "slow economic recovery and growth." In September of 2002, Moody's Investors Services downgraded the rating on $4.5 billion in loans on commercial properties due to lack of terrorism coverage while a survey by the Real Estate Roundtable found that "$15.5 billion of real estate projects in 17 states were stalled or canceled because of a continuing scarcity of terrorism insurance."

The creation of TRIA in 2002 brought stability to this highly volatile situation. By providing a backstop, and assuming some of the market terrorism risk as a reinsurer, the federal government has freed up capacity in the private market that would not otherwise exist. This capacity can then be made available to the consumer at affordable prices, which we have seen in the current marketplace.

A 2013 survey conducted of RIMS membership found that sufficient capacity exists in the current market. Ninety-two percent of respondents to the survey answered that they have had no trouble obtaining adequate terrorism coverage over the past 18 months, up from 84% in a similar 2010 survey.

This availability of adequate coverage is directly linked to the existence of TRIA. If TRIA is allowed to expire, uncertainty will reenter the marketplace which will have a negative impact on the affordability and availability of terrorism coverage. If the private market is forced to assume 100% of terrorism risks, then carriers will look to reduce their exposure, particularly in high-threat areas such as the Northeast and the West Coast. As a result, pricing for this more limited coverage will greatly increase and some carriers may actually exit the market.

The same 2013 RIMS survey, mentioned earlier, found that 69% of respondents expect that their terrorism limits would decrease or that coverage would not be offered at all, should TRIA be allowed to expire. Without adequate coverage, many of these organizations may be forced to self-insure; however, in the event of major attack, most would be unable to absorb the losses. Those that could absorb the losses would do so at the expense of other business growth initiatives, which would have a negative impact on our economy.

Expiration of TRIA would also have a negative impact on captive insurance companies. Many of our larger member organizations utilize captives to insure for potential losses from terrorist events. Under TRIA, captives are eligible for TRIA participation, which provides them with the security of a government backstop. Without TRIA, many captives will be susceptible to failure in the event of a catastrophic loss. This might also result in a domino-effect of failure in other lines of coverage unrelated to terrorist event, but which are also insured through the captive. Few businesses would be able to absorb the resulting uninsured losses.

Another area that will feel the negative impact of TRIA's expiration is in commercial lending. Since the 9/11 attacks, most commercial lenders have required terrorism insurance to be purchased to secure commercial construction and mortgage loans. Immediately following 9/11, it was difficult, if not impossible, for commercial policyholders to obtain the coverage necessary to secure or maintain financing. According to testimony before Congress on September 11, 2012 by the Coalition to Insurance Against Terrorism, over $15 billion in real estate transactions were "stalled or even canceled" due to a lack of terrorism coverage in the 14 months following 9/11. Further, CIAT cited a White House Council of Economic Advisors statistic confirming the loss of 300,000 jobs from deferred construction investment.

In 2005, as TRIA approached expiration, many insurers began placing sunset provisions into their policies to address a lack of coverage should TRIA have been allowed to expire. Our members are already reporting a similar circumstance for policies that extend beyond December 31 of this year. Some policyholders are being offered stand-alone policies for the period extending beyond 2014, but with deductibles or premiums that are non-refundable should TRIA be reauthorized at a later date. This situation creates a great deal of uncertainty in the financial and construction markets that we expect will only get worse the closer we get to TRIA's December 31 expiration.

The impact on workers compensation coverage is already being felt as some companies with workforces concentrated in major urban areas are seeing workers comp price increases of 5% to 10% as insurers look to limit their terrorism exposure, should TRIA be allowed to expire. In the 2013 survey of our membership, 20% of respondents anticipated having trouble obtaining coverage if TRIA is not reauthorized. A January 5, 2014 article in *Business Insurance* stated that experts have projected that middle-market firms can expect workers comp premium increases of 5%-10%, while national employers with large deductibles or retentions can expect 2%-4% increases. This increased pricing could force organizations to take on high-deductible programs or to self-insure, which again, places the organization's business future at stake.

As the committee continues to review and study the issue of TRIA reauthorization, we would like to make our recommendations for areas of improvement. The devastating Boston Marathon bombing raised questions about how the certification process is currently handled under TRIA. To date, no formal declaration has been made as to whether the event will or will not be certified as an "act of terror" under the program. Insurers and policyholders remain unsure as to which claims will or will not be paid and/or covered by terrorism insurance. If the event is certified then those policyholders who chose not to obtain coverage may be unable to recoup their losses; however, if the event is not certified, then those who elected to obtain terrorism coverage may find difficulty in having their claims paid.

Under the current program, a terrorist act must be certified by the Secretary of the Treasury in concurrence with the Attorney General and Secretary of State. We recommend streamlining this process by consolidating this decision making authority within one office or department. We also recommend a 60-day deadline, with the possibility for one extension, from the date of the attack, for a determination to be made. This would allow policyholders and carriers to know exactly when to expect a determination and for the claims process to begin. We also believe that the definition for an "act of terror" should be reviewed to ensure that there is a clear definition of what will or will not be considered a terrorist event.

Another area of improvement relates to coverage for nuclear, biological, radiological, and chemical (NBCR) events. The current program neither explicitly includes or excludes NBCR events, which has prompted many insurers to exclude NBCR events from terrorism policies based on long-standing standard exclusions for nuclear and pollution risks. As a result, consumers are generally unable to obtain adequate NBCR coverage. Based on our membership survey, only 23% of respondents currently have NBCR coverage and 58% of those without coverage are unable to obtain coverage because it is not offered, or is simply unaffordable. However, 83% of those respondents believe NBCR coverage should be made available.

For that reason, we support an explicit inclusion of NBCR coverage, under the program's make available provision, in a long-term extension of the program. NBCR events have a high probability of resulting in catastrophic losses for organizations affected by such an attack. Without coverage these organizations are at risk of going under should such an attack occur. In such an event, it is likely that the federal government will step in to provide assistance to these organizations, but without the TRIA style public/private loss sharing mechanism in place. By making NBCR fully covered under TRIA, both sides will know their responsibilities to consumers should such an event occur.

In conclusion, we feel very strongly that a public/private partnership provides the best alternative to addressing the long-term needs of availability and affordability of terrorism insurance. Such a program ensures an orderly and efficient response to acts of terror, which minimizes market disruptions and ensures benefits are available to all victims. Further, we believe that having TRIA in place, should an attack occur, will help avoid the wasteful government spending that so often accompanies an unplanned, haphazard response to such an event.

I, and RIMS, appreciate this opportunity to testify and thank the Committee for continuing this very important discussion in advance of TRIA's expiration. We are committed to serving as a resource as your work continues on the program's potential reauthorization. Should you require additional information or have any questions regarding RIMS policy positions, please do not hesitate to contact Nathan Bacchus, RIMS Sr. Government Affairs Manager, at nbacchus@rims.org.