Consumer Federation of America

November 29, 2005

RE: URGE OPPOSITION TO H.R. 4314's GENEROUS INSURANCE SUBSIDY, WHICH WOULD HARM TAXPAYERS AND CONSUMERS

Dear Representative:

The Consumer Federation of America strongly urges you to vote against legislation that will soon be on the House Floor to extend and broaden the Terrorism Risk Insurance Act (TRIA) for a minimum of two years (H.R. 4314). In spite of a detailed report by the Department of the Treasury recommending that TRIA be eliminated in its current form, this legislation actually expands TRIA to cover group life and domestic terrorism losses. H.R. 4314 would also force taxpayers to pay a greater proportion of many losses in the event of future terrorist attacks.

CFA has calculated that TRIA has already provided a subsidy to the insurance industry of $2.8 billion since it was enacted in 2002. This is because insurers have not had to pay for the reinsurance coverage that they received. **It is inexplicable that the House would vote to expand and extend TRIA when private capacity to insure against terrorism is growing. There is strong evidence that the financially well-off insurance industry is receiving an overly generous and unnecessary subsidy from beleaguered taxpayers and consumers.**

- **Property/ casualty insurers are on track to enjoy one of their most profitable years in history,** despite the negative impact of recent hurricanes on their bottom lines. CFA estimates that after-tax profits for the industry in 2005 will be between $30 and $35 billion, between the third and fifth most profitable year in history. All told, insurers will have gained $100 billion in after-tax earnings since 2003.

- **The financial capacity of insurers to handle future terrorism losses has grown immensely since September 11th.** Retained earnings (surplus) at the end of 2005 are projected to be $413 billion, a growth of more than 40 percent since September 11th.

- **The safety and soundness of the insurance industry is unparalleled**. The key measure of financial strength is the "leverage ratio," which assesses the amount of net premium sold compared to the amount of surplus. The leverage ratio at the end of 2004 for property/ casualty insurers was 1.08 to 1, one of the safest ratios in history.

- **Prices are dropping, making terrorism insurance more affordable**. Commercial rates in the third quarter of this year dropped overall by 5 percent for small accounts and by 9 percent for large accounts compared to a year earlier. This means that even if the terrorism component of premium charges doubled, overall premiums paid by businesses of all sizes would still decline on average. Large businesses would see even sharper reductions.

- **Experience during 2002 without TRIA demonstrated that terrorism coverage was largely available and prices were dropping.** Prior to the passage of TRIA in late November of 2002, insurers were largely adjusting to post-September 11th realities, despite having much lower earnings and reserves that they enjoy today. Studies performed by CFA showed that insurance was largely available and prices were falling.[1] The expiration or significant restructuring of TRIA would not result in serious problems in 2006 because the insurance industry is much more prosperous. At the very least, the expansion of taxpayer-provided free reinsurance to new lines of insurance is not justified.

Despite the evidence that the TRIA subsidy should be eliminated or significantly cut back, H.R. 4314 takes several steps to expand and extend the program.

- **Group life losses would be covered in the event of terrorist attacks <u>and</u> war.** There is no meaningful evidence that justifies expanding TRIA to cover group life insurance losses. Both the Treasury Department and the National Association of Insurance Commissioners have rejected appeals by life insurers for relief, perhaps because these insurers have not attempted to use readily available measures to spread their risk privately. There is no evidence that the group life market is experiencing poor competition or high prices. In fact, the opposite is true. *Best Wire Services* reported in August that "the group life market in the United States has experienced heated competition" in 2004 and 2005. Moreover, group life profits are soaring. The American Council on Life Insurance reports that net profits for group life lines have increased by 7.9 percent a year over the last eight years, compared to only 5.7 percent for individually sold life policies.

- **Taxpayers would pay more for large terrorist attacks.** H.R. 4314 would require federal payment for 95 percent of all losses above $40 billion, instead of the current 90 percent share. Although the bill proposes to require the full repayment of federal losses, this is not a realistic expectation, because the bill strictly limits the surcharge that insurers could charge their policy holders for this repayment to 3 percent a year. At 3 percent, current premiums paid for policies in the covered lines of insurance would only produce $4 billion a year. This means that a $100 billion loss, for example, would take 25 years to recoup. The bill also does not require insurers to pay interest on unpaid funds -- guaranteeing taxpayer losses – or to pay actuarial premiums for this coverage, which will increase taxpayer subsidies paid to insurance companies in the future.

- **Further expansions of TRIA are required or contemplated.** H.R. 4314 would expand TRIA coverage to domestic terrorism losses. Only losses caused by foreign terrorists are currently covered. No testimony was offered in either house of Congress demonstrating that attacks by domestic terrorists might increase or that private insurance for domestic terrorism losses is unavailable. Hundreds of domestic terrorism events have occurred in

---

[1] "How the Lack of Federal Back Up for Terrorism Insurance Has Affected Insurers and Consumers: An Analysis of Market Conditions and Policy Implications," Consumer Federation of America, January 23, 2002, at www.consumerfed.org/pdfs/disaster_terror_insurance_1_02reportdraft.PDF; and "How the Lack of Federal Back Up for Terrorism Insurance Has Affected Insurers and Consumers: An Update," Consumer Federation of America, August 22, 2002, at www.consumerfed.org/pdfs/terror_insurance_report.pdf.

the U.S. The FBI reports 482 events between 1980 and 2001, for instance. These losses have been covered by private insurance with ease. There is no evidence of need for a new handout to the insurance companies. The bill also requires studies on expanding TRIA to cover personal lines of insurance and on setting up a national disaster insurance program. H.R. 4314 also contemplates the likely extension of TRIA for more than two years by detailing the structure of the program after it supposedly expires in 2007. These sections set the stage to shift the costs for a variety of risks insurers want to avoid to taxpayers, while allowing insurers to pocket the profits on the risks they wish to insure.

- **Consumer protections would be rolled back.** The bill would preempt state requirements that ensure that "surplus" lines of insurance are used only rarely to offer terrorism coverage. As surplus lines are offered by off-shore companies, consumer protections for those who purchase these policies are extremely weak. For instance, surplus lines companies are not covered by state guarantee funds, which pay claims if a licensed insurer goes broke (a backstop akin to FDIC deposit insurance). This means that if a surplus lines writer became insolvent, there would be no protection for claimants. Further, there is no regulation of policy language or rates of surplus lines insurers, freeing them to ignore state rules such as mandates for certain coverages. H.R. 4314 would also preempt important state requirements by mandating the creation of a single location for insurers to receive approval of terrorism policies. This requirement would not allow states to approve policy coverage before that coverage is offered. It would also permit insurers to "self certify" that they are in compliance with state laws, and sharply limit the reasons states could use to disapprove terrorism policies. These unwise restrictions are imposed even though no evidence has been offered that state consumer protections have made terrorism coverage less available or more expensive.

We have presented very strong evidence that the insurance industry is flourishing and can well afford to cover more terrorism losses in the future. **We urge you to vote against this bill because it does not protect the nation's taxpayers from unnecessary expense at a time when Congress is seeking to restrain spending. Moreover, by expanding TRIA at a time when it should be scaled back or eliminated, this legislation misses a chance to spur the growth of the private market for terrorism coverage and to enhance mitigation efforts by businesses with terrorism exposure.**

Sincerely,

Travis B. Plunkett
Legislative Director

J. Robert Hunter
Director of Insurance