American Property Casualty
Insurance Association
INSURING AMERICA apci.org

April 8, 2020

The Honorable Maxine Waters
Chairwoman
House Financial Services Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable Patrick McHenry
Ranking Member
House Financial Services Committee
U.S. House of Representatives
Washington, DC 20515

Dear Chairwoman Waters and Ranking Member McHenry:

The American Property Casualty Insurance Association (APCIA) thanks you for your leadership in response to one of the most significant health threats and economic disruptions in our nation's history. We are undoubtedly in unprecedented times, with nearly every American industry across the country, including our more than 1000 property casualty insurance company members and their millions of business customers and policyholders, suffering the severe impact of this pandemic. Many of our customers are in desperate need for immediate and ongoing economic support to survive. That is why APCIA and our member companies joined our policyholders in supporting the creation of an additional federal tool - the COVID-19 Business and Employee Continuity and Recovery Fund - to supplement the CARES Act and facilitate the distribution of federal funds and liquidity to impacted businesses and their employees.

Separate from the immediate liquidity support needed for COVID-19, we understand that discussions have begun about the potential creation of a government-backed program to facilitate or support the availability of future pandemic risk coverage similar to the programs associated with terrorism and flood risk. Representing a majority of U.S. commercial lines insurers, we believe that APCIA can play a productive and expert role in these conversations and we appreciate the opportunity to do so. However, we urge Congress not to rush the creation of a program, and to give these discussions the time and attention that they deserve. Similarly, we would caution members from limiting their consideration to the structures of other existing federal programs that were designed to address crises quite different than the one that we now face. We do not want the next pandemic to happen, only to find out that the program fails to provide the coverage or benefits to the businesses it was meant to protect.

Specifically, we have heard from some offices about their interest in formulating a program based on the construct of the Terrorism Risk Insurance Act (TRIA). Enacted more than a year after the September 11th, 2001 terrorist attacks, TRIA addressed a specific market infeasibility where lenders had required terrorism coverage, but insurers realized they were unable to provide such coverage going forward. That is because terrorism was (and remains) extremely hard to model and underwrite due to asymmetry of available information, lack of historical data, and the human element to the peril. The current pandemic risk, however, is quite different, and in some ways, more complex.

Unlike terrorism risk, pandemic exposures are global, much longer lasting, and potentially much more severe in scope and scale. Because of this, if pandemic risk insurance were underwritten in an actuarial and traditional manner, premiums for coverage would be prohibitively expensive. Most small businesses currently have challenges affording the costs of business interruption insurance with pandemic coverage explicitly excluded, and the added costs (particularly in large metropolitan areas) of pandemic coverage needed to maintain an actuarially sound program that protects insurers' financial

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solvency might further discourage the already low take-up rates. Therefore, for a new program to provide the needed future benefit to policyholders, affordability of pandemic coverage must be its primary goal. Unfortunately, a TRIA-type program would likely be unable to make coverage affordable for most businesses.

Additionally, we have concerns that a program based on TRIA could pit policyholders against policyholders, resulting in a loss for everyone. One of the fundamental features of TRIA is an annual cap on insurance liability for the government and insurers (currently $100 billion), which makes sense for acts of terrorism where insurance claims would be limited to a certain geographic region impacted at the same time. By their nature, however, pandemics affect businesses across the country and worldwide to varying degrees and on varying timetables. APCIA estimates that current monthly losses in the United States for all business closures from COVID-19 are close to $1 trillion, with additional catastrophic losses in other countries. In this case, it could be that businesses in some regions could exhaust the national claims capacity before other regions are affected by the pandemic. This could mean that countless businesses who have paid premiums for years, or decades, would be unable to make a claim due to an artificial and ill-fitting cap, or at best, see their claims subject to pro-rata allocation.

Finally, during this current crisis, APCIA's member companies have seen first-hand the need for immediate assistance following the widespread and catastrophic economic impact associated with pandemics. Therefore, any program to provide economic protection from future pandemics should ensure that policyholders are able to receive payment and support in a streamlined and efficient manner. Given the inability of policyholders and claims adjusters to safely access the information that they need to file and adjust the tens of millions of claims we would expect in a relatively short period of time across the country, we do not believe the traditional claims adjustment process associated with programs such as TRIA or commercial coverage would provide the immediate protection the nation's businesses need.

While we have significant concerns with a TRIA-based approach, APCIA believes that there is a path forward to find a proactive prospective solution for providing all businesses pandemic risk protection at an affordable price. However, developing a successful proposal will require the expertise and resources of multiple stakeholder groups and the explicit backing of the full faith and credit of the United States. As this is a unique public policy insurance issue, the discussion should not be constrained by the structure of pre-existing federal programs that were created to address fundamentally different market infeasibility. Therefore, we respectfully urge the Congress to take the time that is needed to work with our industry members and other stakeholders to ensure that any program adopted will provide the desired protection for all customers and is workable in its administration.

Sincerely,

J. Stephen "Stef" Zielezienski
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