October 15, 2001

MEMORANDUM TO: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield

FROM: Dennis K. Rathbun, Director **/RA/**
Office of Congressional Affairs

SUBJECT: HOUSE HEARING ON TERRORISM INSURANCE

The NRC has been asked to provide a staff witness to explain the Price-Anderson Act at a hearing before the House Committee on Financial Services' Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises. The hearing will be held at 1:00 p.m., Thursday, October 18, 2001. The Subcommittee is exploring options for ensuring that insurance is available to businesses in high risk enterprises as a result of the September 11 events.

There will be two panels, the first of which will be comprised of individuals and businesses that are having difficulty obtaining private insurance. The General Accounting Office will also present the results of its findings. NRC will testify as part of the second panel along with academics and others seeking a nontraditional method for ensuring these high risk businesses.

Attached is the transcript of an October 15, 2001, White House press briefing by Senior Administration Officials that outlines the Administration's plans to establish an insurance system in response to concerns expressed by businesses that are unable to secure liability insurance.

Attachment:
As stated

cc: OEDO	RES	OIG	NMSS
OGC	NRR	ACNW SECY	
OGC (Cyr)	OPA	OCFO	OCAA

Contact: Tom Combs, 415-1776

Office of the Press Secretary
For Immediate Release
October 15, 2001

BACKGROUND BRIEFING BY SENIOR ADMINISTRATION OFFICIALS ON TERRORISM INSURANCE

The James S. Brady Briefing Room

12:37 P.M. EDT

SENIOR ADMINISTRATION OFFICIAL: Thank you very much. We want to speak with you a little bit today about insurance. We've been working with members of the Hill to make sure that there is adequate insurance coverage for people in case of terrorist events.

One of the things that we have seen that has happened since September 11th is that major reinsurers are no longer providing insurance against terrorist acts for property and casualty insurance. This is a problem because most of these policies expire on 12/31 of this year and once the reinsurance policies expire, it will be difficult for the property and casualty primary insurers to provide coverage.

Without coverage against terrorist acts, banks will not lend to new construction; it will be difficult to sell major projects such as new pipelines, new power plants, skyscrapers. So we do think that there is a problem that needs to be addressed. And we have been working with members of Congress to work on this.

We have an approach that we're going to describe to you today. It's based on several principles that we're trying to balance throughout. One of the first ones is that we don't want any symbol of the nation to have exceptionally high rates during this period of disruption. The attacks that took place on September 11th were against the physical structure of the World Trade Center, but they were really against the nation as a whole. So there's some logic and rationale that, to the extent that they are attacks ongoing to the nation as a wole, that there is a role for the federal government to make sure that other symbols, such as the Empire State Building and stuff, do not have to pay exceptionally high rates.

We also want to make sure, while there is a government role, that there is also a role for the private sector. We think this is important so that there continue to be market-based incentives for property owners to upgrade security, for them to also provide adequate backup facilities and the other things that the market-based incentives will give us.

We also think it is very important that the government roll recede over time, fairly quickly. If you look at the way insurance is developed for other new events, it's taken a little bit of time up front, but then the insurance -- the private sector has proven its ability to price very difficult things.

There's a private market right now for political risk insurance, where if you're a multi-national company operating abroad you can insure those against losses. There's insurance against satellite launches. And so we believe that over time the private sector will be able to expand its coverage. So we would like the government's role to be temporary, and to recede as this develops.

I'm going to turn it over to my colleague right now, who's going to describe kind of the nuts and bolts of our approach that we're working on.

SENIOR ADMINISTRATION OFFICIAL: Under the programs, individuals, businesses and other entities who currently have property and casualty insurance would continue to obtain their coverage from private insurers. We foresee that the terms of the coverage would remain unchanged, and would be the same as losses from other risks. If there is a future terrorist act, losses -- that's covered by this bill -- losses from that terrorist act would be filed with the insurance company. The insurance company would pay their portion of the loss, under this program. And I will get into the ratios and the shared losses in a moment.

Then they would file their balance of the claim with the federal government, with the Department of Treasury, along with verification that they had paid their portion of the claim. And then the Secretary of Treasury would pay the balance of the policy coverage.

The ratios -- this is a shared loss, public-private sector program. In the first year, we would begin sharing in compensation for losses with the first dollar lost, assuming that the first year will be 2002. The government would absorb 80 percent of the first $20 billion of insured losses resulting from terrorism, and 90 percent of insured losses above $20 billion. So for the first $20 billion, the private sector would be paying 20 percent of each claim, and 10 percent of claims once we went past the $20 billion threshold.

In the next year, in 2003, the approach changes somewhat. For the first $10 billion of loss, if there is a loss from a terrorist act, the private sector would be responsible for 100 percent. In other words, there would be 100 percent deductible for that first $10 billion. Losses above $10 billion we would share equally, with the government paying 50 percent and the private sector paying 50 percent.

If losses exceed $20 billion, that ratio would drop down to 10 percent for the private sector, 90 percent for the federal government.

In the year 2004, the private sector would be responsible for 100 percent of the first $20 billion; there would be a $20 billion deductible. The next $20 billion of losses, from $20 billion to $40 billion, again it would be shared, 50 percent private sector, 50 percent government. Above $40 billion, the ratio again would drop down to 10 percent private sector, 90 percent government.

To preserve flexibility in the event of an extraordinary attack, there would be an overall cap under this program of public-private total liability at $100 billion. If total losses paid by both the government and private sector exceed $100 billion, the Secretary of the Treasury would submit a request to Congress for guidance as to how any losses above that limit should be paid.

And I would add, this is similar to -- this particular part of the program would be similar to the mechanism that's currently under -- in place under PriceAnderson, which covers nuclear plants.

The legislation would sunset after three years, as you can tell with these gradations, in shared responsibility. The whole point is to recede -- gradually recede the government back out of the private insurance market, with the hope and expectation being that after three years, the private market mechanisms would be reestablished to price losses resulting from terrorist risk and also for the industry to have built sufficient capacity to deal with that risk.

There would be some loss mitigation provisions in the bill, including consolidation of claims into a single form, and a prohibition on punitive damages. And the bill would also -- the approach would also include a definition of act of terrorism, which would be drawn from pre-existing definitions, and would also have a requirement that the Secretary of Treasury certify that a terrorist act has occurred, which -- with resulting losses that qualify for this program.

And that is the nuts and bolts of the program.

Q How do you measure the budget impact of this program?

SENIOR ADMINISTRATION OFFICIAL: Well, there is no budget impact, unless there's a future incident.

Q So you don't have to set aside a reserve or any kind of accounting device in the budget to account for this?

SENIOR ADMINISTRATION OFFICIAL: No. Under current budget rules, you don't do that for insurance programs right now.

Q Is this for all lines of insurance, or just property/casualty?

SENIOR ADMINISTRATION OFFICIAL: This is going to be for property and casualty.

Q If a future incident occurs then would this be funded through an emergency supplemental? How would it be funded --

SENIOR ADMINISTRATION OFFICIAL: It would be -- the Treasury Secretary would have the authority under the law to just make the payments. It would not need an appropriations.

Q From what account?

SENIOR ADMINISTRATION OFFICIAL: General revenue.

SENIOR ADMINISTRATION OFFICIAL: Out of general revenues.

Q What has the reaction been of the insurance market? Is this going to be enough?

SENIOR ADMINISTRATION OFFICIAL: Well, I think the government providing 80 percent coverage in the first year is a substantial amount. And what we've done is the insurance market is very well capitalized and they are paying for the entire September 11th event.

What they had been primarily worried about is the very unlikely case that there are multiple events that the market can't handle. And they're worried about, kind of, the upper bound. So what we're doing is providing them certainty that the federal government will be there in case the exceptional happens.

Q I'm just not -- I mean, we're talking about a lot of money here, potentially. Out of what general revenue account? Out of Treasury's account or -- I just don't understand where, physically, the money is coming from. When you say the general revenues, out of which --

SENIOR ADMINISTRATION OFFICIAL: Well, it would be like any other mandatory program, where the federal government has the authority to spend out of general revenues. There's no -- not every -- some programs have dedicated trust funds, some do not.

Q Up to this point, the American Insurance Association has been proposing a terrorism reinsurance pool, similar to what they have in Great Britain. What is the White House's problem with that approach?

SENIOR ADMINISTRATION OFFICIAL: I think we basically thought it was fairly complex to do in the short period of time. And we didn't think -- given that this is a problem that will take place 12/31, meaning it should be addressed before the Congress leaves town, that setting up a re-insurance pool would provide a lot of complexity, and you don't get a whole lot for it.

We have some concerns about having a pool that's a monopoly. It would get the Treasury in the business of regulating. If you look at Pool Re in the United Kingdom, the Treasury there does a significant amount of regulation, that's fairly complex, that we wanted to avoid if we could.

Q Is there any chance that you would revisit that topic after the three years expire?

SENIOR ADMINISTRATION OFFICIAL: I think we would be pretty confident about the private sector's ability over time, if you look at how they've reacted to other events that were unexpected at the time, such as very large hurricanes. But we can't say for certain right now what the situation's going to look like in three years.

Q Do you have legislative sponsors for this? Is this a proposal, I presume, you will have to get folks to sign onto in Congress, or --

SENIOR ADMINISTRATION OFFICIAL: That's right. This is an approach of more meeting with a lot of members right now. And so we are going to be this week meeting with the key chairmen, members of the Banking Committees. But we do notat this time.

Q Following up on that, does that mean that your ratios aren't necessarily set in stone, and there might be some wiggle room in some of these numbers?

SENIOR ADMINISTRATION OFFICIAL: I would say this is what we think is the best approach, and what we're going to be working with them.

Q Is there like an association of re-insurers, and are they backing this? Is there an industry trade group that would comment on this?

SENIOR ADMINISTRATION OFFICIAL: I think this will be viewed constructively by the -- both the primary insurers and the re-insurers. No, it's not what they've been looking for. My colleague's given you the reasons why we have significant concerns about the pool. The pool requires setting up a lot of infrastructure, creating a lot of captive capital for an event that we expect and hope will never occur.

It would -- I would also note that if the industry -- there still is obviously a shared responsibility by the private sector, so if they want to, on their own, form a reinsurance pool to reinsure that component of their loss under this program, they're free to do so. But setting up a federal regulatory structure with rate regulations and financial integrity standards along the lines of what exists in the U.K., again, did not seem to be the right approach.

Q   How did you come up with the 80-20 split? Was it involving any sort of analysis of the available capital of the markets, or was it sort of random?

SENIOR ADMINISTRATION OFFICIAL: Well, I mean, if you look at the structure that my colleague described, the maximum losses that the industry would be exposed to would be $12 billion in the first year, $23 billion in the second year, $46 billion in the third year. So we wanted to come up with an approach that provided them with enough certainty against multiple events, and also one that would -- we knew that there are disruptions in the short-run, and by picking up 80 percent, that that's going to significantly limit those.

Q   Have you run this past the National Association of Insurance Commissioners, and what's the reaction?

SENIOR ADMINISTRATION OFFICIAL: We've been talking to them last week, but you all are the first to get the whole specific package. So we're talking with a lot of people on the phone today and this is going to be an ongoing process over the next week or two.

Q   So you expect Mike Oxley or somebody like that would introduce it? Is that --

SENIOR ADMINISTRATION OFFICIAL: I don't want to speculate right now. We're going to be meeting with members all throughout this week and it's going to be an ongoing process.

Q   So you're not going to draft sort of specific legislative language or something like that? This is your proposal -- you're going to talk with them and develop something out of that, is that the idea?

SENIOR ADMINISTRATION OFFICIAL: Yes. We'll be ready to assist in drafting language, but we are beginning the discussions with an approach that we've spent a lot of time on and think is the one that works the best and avoids a lot of the complexities of the industry proposal. And so that's --

Q   And that's this week you'll meet with some of these chairmen, the Banking Committee chairmen, I assume -- anybody else, specifically?

SENIOR ADMINISTRATION OFFICIAL: I can't give you the whole schedule right now.

SENIOR ADMINISTRATION OFFICIAL: I mean, the key members of the House Financial Services and Senate Banking Committee.

Q   Do you have a target date for when ideally this would need to be introduced to meet the time schedule for having this done before Congress recesses?

SENIOR ADMINISTRATION OFFICIAL: I don't have a timetable. I mean, it's obviously by the end of -- before they recess. So our leg affairs people will be working with leadership and others just to discuss timing, like they do every other proposal.

Q I apologize for coming in a little late, so I missed the top of what the proposal is. And I can go back and look at it, but if you can summarize it a bit for me. I'm wondering -- I'm wondering, about a month ago, the insurance company executives came to the White House and said everything is fine in the insurance industry and we're able to deal with the World Trade Center crisis. And so what prompted this?

SENIOR ADMINISTRATION OFFICIAL: Okay, let me address the first question. What we're trying to do is make sure that people have access to adequate insurance coverage for terrorist acts. If there are other incidents, we want to make sure that there is an insurance market out there to cover them.

SENIOR ADMINISTRATION OFFICIAL: I would just say -- thank you for asking that question because it's a point we want to keep making. We fully expect private insurers to pay losses resulting from September 11th. This is a prospective program only, that would apply only to future -- it has nothing to do with their responsibilities vis-a-vis September 11th. They've told us all -- our independent information is they're well-capitalized to absorb losses resulting from September 11th and fully expect to meet their contractual obligations with regard to policies in effect on September 11th.

Q Did they ask during that meeting, or subsequently, for the administration to come up with a prospective package?

SENIOR ADMINISTRATION OFFICIAL: I was not at that meeting, so I can't comment. But back to that meeting, the problem is the major reinsurance companies do not feel that they can offer terrorism coverage for property and casualty right now. That it's both a difficulty in pricing it right now, and also worrying about multiple losses in one year. And so it's really kind of a micro-problem of making sure that there is a re-insurance market out there, so that there is coverage for property and casualty insurance.

Q Is this based on an attempt, for example, by the owner of the Empire State Building, to purchase insurance against a terrorist act? Is there --

SENIOR ADMINISTRATION OFFICIAL: I threw that out as an example. I have not had any contact with the owners of the Empire State Building. This is really -- comes from the re-insurance industry saying, no, they will not do this.

Q Saying "no" specifically to people who have requested re-insurance?

SENIOR ADMINISTRATION OFFICIAL: Yes. It's currently covered, saying that when the contracts come up, 12-31, that they will not be --

Q My understanding is that contracts come up either in July or in January. Why are you saying 12/31?

SENIOR ADMINISTRATION OFFICIAL: Well, January 1, or 12/31. It's --

Q Many of them -- most of them are in July as well, no?

SENIOR ADMINISTRATION OFFICIAL: Most of them are January 1, 12/31. There are some that go throughout the year. We saw special cases with the airlines, where each of those contracts that can't -- the insurance could be canceled in seven days. And so after the event, a lot of their insurance contracts were given seven day notice. And that was what part of the airline bill addressed.

Q What would happen if there were incidents between now and the time this legislation is passed, or the end of the year? How stable is the industry to cover possible losses between now and then? Between now and the time your program takes effect.

SENIOR ADMINISTRATION OFFICIAL: The insurance industry is well capitalized right now. Most of the policies are still in effect until the end of the year. I think one of the reasons -- one of the logic to do this is that when there's an extraordinary event, the government tends to take action and come in. And so to the extent that you can have a logical coverage in place beforehand, it makes it easier to deal with an event.

Q Do you suspect that homeowners will be trying to get this type of insurance -- I'm sorry if you've already addressed this -- or is it only targeted towards businesses and owners of big buildings?

SENIOR ADMINISTRATION OFFICIAL: I think that it's mainly the areas where there's dense economic activity, big buildings, power plants. But certain homeowners without this would have difficulty. Homeowners in Manhattan would have more difficulty getting terrorism coverage than a homeowner in a rural area.

Q Do you have any independent estimates for what the losses might be, outside of the insurance industry's, from September 11th?

SENIOR ADMINISTRATION OFFICIAL: You mean how much the losses for -- most of the estimates are in the $30 billion to $50 billion range.

Q That sounds right to you?

SENIOR ADMINISTRATION OFFICIAL: That sounds right to me. Goldman-Sachs was $25 billion. No one knows for sure right now, because it's going to take a while for all the claims. But that's where most of them fall in. So I don't want to give you a definite answer.

Q You mentioned the limitation on punitive damages. Could you discuss that in a little more detail, please?

SENIOR ADMINISTRATION OFFICIAL: I'd actually probably have White House Counsel give you a call on that, because I'm not a lawyer. But there were -- if you look at the airlines bill, there were certain legal provisions in there on punitive damages and on consolidating claims into a single form, so we'd imagine they'd be something similar to those.

THE PRESS: Thank you.

SENIOR ADMINISTRATION OFFICIAL: Just one correction. The third-year industry loss limit is $36 billion. I said $46 billion.

END 12:58 P.M. EDT