AMERICA'S INSURANCE INDUSTRY: KEEPING THE PROMISE

HEARING

BEFORE THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

SEPTEMBER 26, 2001

Printed for the use of the Committee on Financial Services

Serial No. 107–45

U.S. GOVERNMENT PRINTING OFFICE

75–519 PS WASHINGTON : 2001

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

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CONTENTS

	Page
Hearing held on:	
September 26, 2001	1
Appendix:	
September 26, 2001	65

WITNESSES

Wednesday, September 26, 2001

Benmosche, Robert H., Chairman and CEO, MetLife, Inc.	36
Ferguson, Ronald E., Chairman, General Re Corporation, on behalf of the Reinsurance Association of America	40
Mosher, Matthew C., FCAS, MAAA, Group Vice President-Property/Casualty Ratings, A.M. Best Company, Oldwick, NJ	39
O'Hare, Dean R., Chairman and CEO, The Chubb Corporation	38
Pitt, Hon. Harvey L., Chairman, U.S. Securities and Exchange Commission	7
Sebelius, Hon. Kathleen, Commissioner of Insurance, State of Kansas; President, National Association of Insurance Commissioners, on behalf of the National Association of Insurance Commissioners	32
Serio, Hon. Gregory V., Superintendent of Insurance, New York State Insurance Department	30
Sternberg, Sy, Chairman, President and CEO, New York Life Insurance Company	29

APPENDIX

Prepared statements:	
Oxley, Hon. Michael G.	66
Baker, Hon. Richard H.	71
Bachus, Hon. Spencer	68
Carson, Hon. Julia	73
Ford, Hon. Harold E.	75
Grucci, Hon. Felix J., Jr.	76
Kanjorski, Hon. Paul E.	78
Kelly, Hon. Sue W.	80
Benmosche, Robert H.	181
Ferguson, Ronald E.	207
Mosher, Matthew C.	198
O'Hare, Dean R.	190
Pitt, Hon. Harvey L.	85
Sebelius, Hon. Kathleen	156
Serio, Hon. Gregory V. (with attachments)	106
Sternberg, Sy	103

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

	Page
Bachus, Hon. Spencer:	
"Oil Money is Fueling Sudan's War," *The Washington Post*, June 11, 2001	69
Maloney, Hon. Carolyn:	
"A Nation Challenged: The Insurance," *New York Times*, September 20, 2001	82
Benmosche, Robert H.:	
Written response to questions from Hon. Michael G. Oxley	188
Mosher, Matthew C.:	
Written response to questions from Hon. Michael G. Oxley	203
O'Hare, Dean R.:	
Written response to questions from Hon. Michael G. Oxley	196
Pitt, Hon. Harvey L.:	
Written response to questions from Hon. Paul E. Kanjorski	99
Written response to questions from Hon. John J. LaFalce	101
Sternberg, Sy:	
Written response to questions from Hon. Michael G. Oxley	105

AMERICA'S INSURANCE INDUSTRY: KEEPING THE PROMISE

WEDNESDAY, SEPTEMBER 26, 2001

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC.

The committee met, pursuant to call, at 9:39 a.m., in room 2128, Rayburn House Office Building, Hon. Michael G. Oxley, [chairman of the committee], presiding.

Present: Chairman Oxley; Representatives Roukema, Baker, Bachus, Royce, Kelly, Weldon, Ose, Biggert, Shays, Grucci, Hart, Capito, Ferguson, Rogers, Tiberi, LaFalce, Kanjorski, Waters, C. Maloney of New York, Watt, Bentsen, Hooley, Carson, Sandlin, Inslee, Moore, Capuano, Ford, Hinojosa, Lucas, and Shows.

Chairman OXLEY. The hearing will come to order.

My friends and fellow committee Members, today as I speak before you I believe that our country is undergoing a great metamorphoses. While the tragedy of September 11 will forever stain our Nation's history, it has also been a great awakening for our country. We will never forget the pain and loss of life of innocent civilians from all parts of the world that worked in the World Trade Center. But these cowardly attacks have also brought our country together, renewing our focus on American's priorities. The American people stand united in their faith. We will become stronger than we were ever before.

In trying to cripple the long-term foundations of our Nation's economy, this attack will inevitably be viewed historically as an abject failure. Last week, the stock markets opened back up and handled a record volume of trading. While the market lost enormous value during that tumultuous week of trading, the most important thing was that it was working and working well. The free market, that which is the underpinning of this country's economy, was touched, but not stopped by the terrorists. And Monday of this week showed us the power and the beauty of those free markets with the fifth largest ever point increase in the Dow Jones Industrial Average.

The banking industry also cast off any lingering effects of the damage, helping the Fed pump hundreds of billions of new liquidity into the economy, new resources that will help our country recover from the economic lethargy; and the insurance industry is coming through with flying colors, expediting the processing of individual claims to provide immediate comfort to injured victims and their families in this time of need.

Some of the worst-hit companies have been the first to step forward with commitments to fulfill their policyholder obligations. In fact, I would like to publicly commend all of our company witnesses before us today for their good faith in responding to this attack.

The September 11 attack will exceed Hurricane Andrew as the most expensive disaster on American soil. But our country's financial sector has absorbed the most egregious attack in history and remains strong for now and the future, and for that we should all be proud. Reports from A.M. Best, Standard & Poor's and other rating firms have proclaimed that the insurance industry was well capitalized and is financially strong. In fact, today we will hear from A.M. Best, a company that has been providing analysis of the insurance industry for over 100 years.

The short-term profitability of insurance companies may have been hit, but not the industry's fundamental soundness and safety. This Committee is dedicated to working with the financial industry to keep the promise alive for all Americans. We are strong and will continue to build on that strength well into the future.

This morning we will first hear from the distinguished new Chairman of the SEC, Harvey Pitt, who is making his first appearance before our committee.

I want to commend Chairman Pitt for his leadership in these trying times. He and the Commission acted swiftly and wisely to use for the first time their emergency authority to reduce regulatory restrictions that might have dampened liquidity and otherwise impeded the marketplace. The Commission was also careful not to impose new rules in the name of reducing market volatility that would have harmed rather than helped the marketplace. The remarkable success of the U.S. securities markets reopening is due in no small part to the leadership and vision of Chairman Pitt and the commissioners.

Today Chairman Pitt will offer the Commission's perspectives on the state of our capital markets in the aftermath of the terrorist attacks. He will also discuss how money laundering enforcement affects our securities markets and how money laundering regulation might be used in the context of those markets to track, block, and freeze funding of terrorist activities.

I would like to welcome Chairman Pitt and our distinguished panel of insurance industry regulators and CEOs. We are especially grateful that Superintendent Serio from New York could take the time to speak with us here today. Thank you all for joining us, and I look forward to all of your testimony.

That completes the Chair's opening statement.

I now yield to the gentleman from New York, the Ranking Member, Mr. LaFalce.

[The prepared statement of Hon. Michael G. Oxley can be found on page 66 in the appendix.]

Mr. LAFALCE. Thank you, Mr. Chairman.

The events of September 11 have rippled through every aspect of our lives. The wounds are deep, and the long-term financial effects will only be known over time. What we do know is that all Americans owe a great debt of gratitude to the efforts of Harvey Pitt, Dick Grasso, Wick Simmons, the Treasury Department, the Fed, amongst many, many others, for their heroic work to get our markets on line and functioning efficiently.

Mr. Pitt, when the President asked you to serve your country, I suspect you never imagined that you would be facing the issues you are facing today. Thank you for your efforts and your steady hand during this unbelievably difficult time.

I would also like to thank Greg Serio, the Superintendent of New York Insurance, for his efforts in moving quickly to address the enormous human needs of this tragedy.

I spoke both with Harvey and Greg as soon as possible, and I was relieved at how steady they were. I was relieved when Greg told me that every insurance company he had spoken to was going to be extremely forthcoming. That was a great solace.

In the face of enormous obstacles, the SEC worked with other financial regulators, other Federal agencies and New York State and New York City officials to bring our markets on line, but, recognizing the operational challenges, I shared the New York Stock exchange and other stock exchanges' view that the market should not open until the necessary infrastructure was in place to allow the markets to operate efficiently and meet investor demand. I think it was very, very wise and prudent to have sequential opening of the diverse markets, very wise to have a test run the Saturday after the 11th.

In spite of enormous volume and considerable investor anxiety when the markets did open, they functioned very well. In particular, I applaud the SEC's actions under Section 12-K to, amongst other steps, to permit public companies to repurchase their own shares, injecting needed liquidity into the market.

That was one side of the coin. On the other side of the coin, I am a bit concerned about the coordinated short selling that may have been taking place, perhaps putting those who are responding to your exercise of authority of 12-K particularly in jeopardy; and I am sure you will comment on that in your opening statements.

I am also eager to hear from you, Mr. Pitt, whether you believe that the SEC has all of the clearcut authority it needs to be active and vigilant to protect our future markets from future volatility.

When you were in the train going to New York and we chatted, we had a conversation; and it was my thought at the time that it might have been advisable to have more explicit authority. But, again, I will be interested in your comments on that.

Of course, as I have expressed to you in conversation and in writing, I am very concerned about the reports that affiliates of Mr. bin Ladin may have used the capital markets to fund terrorist operations. So I want to be assured that the SEC has the resources it needs to open this new front on the war on terrorism and to cope with volatility such as this.

With regard to the insurance industry, given current estimates I believe the industry has the resources to weather this crisis and make the injured whole and remain a vibrant, vital industry. I have been encouraged by the strong statements that the industry has made that they will, in fact, honor their commitments and put New York, the families of the victims, businesses and our economy on the road to healing.

Having said that, I also recognize that loss estimates have been very uncertain and that they may move higher because of unknowns like measuring business interruption. Our committee should be vigilant in exercising our oversight responsibility as the contours of this crisis become better known over time.

In my meeting with industry officials and experts, I am also aware of the need to study ways to ensure that affordable insurance coverage remains available for citizens and businesses to protect them financially at least against any future incidents of terrorism; and we might need to give serious consideration to proposals in which Government and industry can partner to provide critical insurance coverage for future terrorism catastrophic acts.

Some have suggested looking at Great Britain as a model for terrorism insurance. That is one possibility we should look at. Maybe there are a number of others. Maybe it is not necessary, but it is something we should look at and look at seriously.

I look forward to working with all of you in all those endeavors. Thank you.

Chairman OXLEY. I thank the gentleman.

The Chair would, before recognizing the subcommittee Chair and Ranking Member, the appropriate subcommittee Chair and Ranking Member, would announce without objection that all Members' opening statements will be made a part of the record. The Chair strongly encourages Members to submit opening statements, given the time constraints and also our witnesses.

I now recognize the gentleman from Louisiana, Mr. Baker.

Mr. BAKER. Thank you, Mr. Chairman. I want to thank you and the witnesses for appearing here today.

I know this is a difficult time indeed, when they have many pressing matters before them. The World Trade Center was a demonic assault, but I dare say that the actions of those who will testify today were incredibly responsive to unbelievable circumstances. In my view, they may be described as inspirational to us, more so than any well-intentioned assistance we might attempt to devise.

It really is the resiliency and spirit of the private enterprise marketplace that has made the country prosperous and able to recover in these difficult hours. It will inevitably lead us to full recovery from the current difficult circumstance.

Just brief examples, Mr. Chairman, for the record of what has transpired since that morning.

PaineWebber provided the employees of Lehman Brothers, their competitors, office space from which to work.

The New York Exchange allowed the American Exchange, its competitor, trading platforms and all necessary equipment in order to conduct necessary activities and then to allow the revenue generated from that activity to be maintained by that Exchange.

Verizon and Con Edison went to really inexhaustible efforts to provide material and electrical resources to ensure not only the systems were functional, but redundancy was there to ensure there will be no failure.

New York Life's Foundation contributed $4 million to the relief fund at a time they were making extraordinary progress in paying off countless claims, and other insurance companies followed this practice.

I point out these actions to my fellow Members because of my cautionary note against imposing additional rules or restrictions at the precise time when our capital markets are in dire need of expanded freedom to use their capacity to recuperate. Instead, perhaps we can make it our goal to show the same level of restraint within the public/private partnership that helped bring the markets back open.

Sometimes the most meaningful contribution a Congress can make is simply to stand aside and let those in the market perform. I believe this is truly one of those times to support our President and the executive branch, allow them to use their authority and resources to stimulate the market and get America working.

I certainly don't need to remind Chairman Pitt of the SEC along with protecting investors a secondary mission is promoting and facilitating capital formation. We know there has been much conversation in recent days about how to regain consumer investor confidence. To that end, at the appropriate time I would ask you, Mr. Pitt, and the staff to evaluate the concept of extraordinary incentives for investors to return to the market. Perhaps the elimination of any gains made on investments before year end, if the investment is held for some terminal period of time, 18 months perhaps, the idea being that that 20 percent net benefit would enure to the benefit of the broader market, bringing additional liquidity and capital to the marketplace. But whatever your staff determines is an advisable course of action, I certainly will stand supportive of any recommendation the agency chooses to make.

With regard to the insurance industry's commendable response to these events, every report I have read indicates there is sufficient capital adequacy to meet the projected $70 billion potential list of claims. While we are not here today to discuss potential legislative agenda, there has been much press about how the industry will react to the new underwriting environment, from opening the Fed discount window to making the Federal Government the insurer of last resort.

I would like to offer a general observation in the context of future Federal responsibilities in such catastrophic events. As a general rule, I do not think the Federal Government should intercede to prop up a marketplace unless the President of the United States and in consultation with the Federal Reserve has determined that a failure in that marketplace would lead to a precedent event for a systemic risk result.

In this case, in my capacity of the Chairman of the Oversight Committee, I would be extremely reluctant to look at a plan that puts the taxpayer on the hook for insured losses when there is no Federal office that exercises any real jurisdictional oversight with regard to the solvency of those enterprises.

In other words, I would like to summarize by saying if you are going to throw your saddle on someone else's horse you can't really gripe where that horse may take you. We should exercise extraordinary caution in moving forward in this arena.

Thank you, Mr. Chairman.

[The prepared statement of Hon. Richard H. Baker can be found on page 71 in the appendix.]

Chairman OXLEY. The Chair now recognizes the Ranking Member, the gentleman from Pennsylvania, Mr. Kanjorski.

Mr. KANJORSKI. Mr. Chairman, because I serve as the ranking Democratic Member on the Subcommittee on Capital Markets, which has jurisdiction over securities and insurance matters, I have great interest in today's hearing to examine the consequences to our Nation's financial services system as a result of the September 11 attacks on the World Trade Center and the Pentagon. In my view, our country cannot and shall not allow terrorists to alter the effective functioning of the U.S. securities and insurance markets, the strongest in the world.

Our hearing today will consist of two panels. With our first panel, we will discuss the current state of our Nation's capital markets and the efforts of the Securities and Exchange Commission to facilitate the reopening of our exchanges. While our fixed-income markets successfully resumed trading just 2 days after the terrorist attack, our equities and options exchanges experienced the longest shutdown since World War I. Nevertheless, the successful reopening of the stock markets last week and their subsequent rebound this week has demonstrated to everyone the resiliency and strength of our Nation's financial system.

Our second panel will discuss the state of the insurance industry. Some experts have noted that the September 11 disaster resulted in a clash event. That is, the insurance industry incurred multiple losses in different lines of coverage arising from the same underlying cause. Clash events are riskier for insurers as they give rise to claims from a variety of different customers under different types of policies in a scenario outside of normal assessments for aggregate exposure. Our second panel will help us to understand the magnitude of this clash event and its effects on the marketplace.

Without question, the assaults of September 11 represent the costliest disaster in American history. Estimates of insured losses from these attacks presently range from $20 billion to more than $70 billion. The U.S. insurance industry, however, is a large and dynamic marketplace, accounting for 2.4 percent of our country's gross domestic product.

Additionally, according to some analysts, the property casualty insurance sector already has approximately $300 billion available to respond to this increased demand for claims. Moreover, at this time there are no indications that any major insurer is at risk of default. In the 15 days since the attack on the World Trade Center, we have received numerous assurances that the insurance industry will rise to meet the occasion and pay their claims. Many have also assured us that they will not attempt to invoke the acts of war exclusions contained in their policies.

These public pledges by the industry's leaders are promising. I therefore hope and expect that the entire insurance marketplace will work in good faith and with due diligence to honor its obligations. In the long run, the American insurance industry will prosper if it follows this course.

Mr. Chairman, I am also pleased that we worked together to invite a balanced set of witnesses to today's hearing. As a result, regulators, insurers, reinsurers and industry analysts will all have an opportunity to inform us about their concerns. Each witness will provide us with a valuable perspective in understanding the health of the financial services industry and the need for any changes in the public policy in the wake of September 11.

In recent days I have heard and read about a variety of proposals to assist the insurance and securities industries in their efforts to respond to the collapse of the World Trade Center. From my perspective, we must move cautiously and methodically when considering any legislative proposal to assist these important sectors of our economy. These industries are complex and could experience unintended consequences if we move too hastily. To the extent possible, we must also consider allowing market discipline to respond to these events without Government intervention.

Nevertheless, Mr. Chairman, we may ultimately determine that we need to provide the insurance industry with some flexibility in terms of meeting its capital requirements, increasing its liquidity, and providing terrorism reinsurance coverage. We may also need to take steps to modify our Nation's securities laws with respect to money laundering. If we decide to continue to pursue legislative reforms of the securities and insurance industries during the 107th Congress, I hope we will follow a prudent course and continue to act on a bipartisan basis.

Mr. Chairman, thank you again for the opportunity to comment on these matters and for calling this hearing today.

[The prepared statement of Hon. Paul E. Kanjorski can be found on page 78 in the appendix.]

Chairman OXLEY. The gentleman's time has expired.

The Chair will now turn to our first witness, the distinguished Chairman of the Securities and Exchange Commission, Harvey Pitt. Again, Mr. Pitt, welcome to the committee for your first appearance; and we look forward to your testimony.

STATEMENT OF HON. HARVEY L. PITT, CHAIRMAN, SECURITIES AND EXCHANGE COMMISSION

Mr. PITT. Thank you, Chairman Oxley.

I appreciate the opportunity to be here, and I want to thank Chairman Oxley for these timely and important hearings and the enormous amount of support that you have provided to the Commission and to me personally.

I would also like to thank Ranking Member LaFalce, who has been in frequent contact with us and has been of enormous support and encouragement.

With respect to the oversight subcommittee, I would like to also express my thanks to Chairman Baker, who has been an effective partner for the SEC, and also to thank Mr. Kanjorski for his support as well.

So this is, for me, the first appearance, and I regret that the subject matter of this appearance is something as tragic as the terrorist attacks. But I think it is important for this committee in its oversight functions to understand what the philosophy of the SEC is, how we intend to try to solve problems when they come up, and how we intend to work with you very closely to make sure you are always aware of what we are planning, what our reasons are, and what information we can share with you. We view our relationship as a partnership.

The attacks of September 11, as we all know, caused irreparable loss of innocent life and untold physical damage. I cannot in any way, shape, or form minimize the impact of that. In fact, as I am sure is true of many, people whom I was close to were killed or are missing in the aftermath of that destructive effort, both on highjacked planes and in lost buildings. But, although we grieve for the lost friends and relatives, I think we can be proud that the Nation's extraordinary responses to these events demonstrate, among other things, that our capital markets are the world's strongest and most resilient.

I think that the efforts that we went through reflect exceedingly well on our national character, and I hope it is not unseemly for me to say I am very proud to be an American. I am very proud to be in the Government at this particular moment, and I am proud of my heritage as a New Yorker, because I think New York responded with unquestionable alacrity and efficiency and competence.

The attacks that arose on the 11th did not arise in a vacuum. So we at the SEC coordinated our efforts with the larger Federal Government of which we are a part, and we also worked cooperatively with the industry we oversee.

We embraced two critical roles: first, to assist in implementing national policy and, second, to evaluate and facilitate the industry's planned responses, ensuring fidelity to the protection of investors and national interests. We sought to provide certainty to facilitate the reopening of fair and orderly markets and to restore public confidence. We reached out to major market participants to determine whether we could provide appropriate temporary regulatory relief. And for the first time, as has been noted, we invoked our emergency powers that this committee was instrumental in providing to the Commission; and we issued several orders and interpretive releases.

We also provided relief from certain filing deadlines and issued guidance on how the market closures affect the application of certain Commission rules. We considered many things. One of the things, as Congressman LaFalce indicated, that we did not do was ban short selling, although it had been proposed to us and it was carefully considered. We did not do so because, in the final analysis, we thought that short selling has a legitimate place in market activities. It is used as a hedging device, and it can help make more efficient markets.

We think that our rule regarding short selling—Rule 10A-1 under the Securities and Exchange Act—prevents improper short selling to push a market downward. We considered that, in the history of this country going back even to the attack on Pearl Harbor and the Kennedy assassination, there has never been a ban on short selling; and, finally, we thought that when the markets reopened we wanted investors to be met with the same markets that they had seen before the catastrophe.

Mr. Chairman, I am still in the middle of my remarks, and I don't want to use up my welcome here. If I can, I would go on with my statement, but if that is not acceptable I would be happy to answer questions.

Chairman OXLEY. No. Go ahead and finish your statement, and we will have plenty of time for questions.

Mr. PITT. One of the things we believe very strongly is that Government is and must be a service industry, so we made certain we would be accessible to investors and market participants. We set up telephone and Internet hotlines and placed additional information for investors and market participants on our website.

Many of the things we did for investors we have done before, but for the first time in our history we established dedicated telephone lines for inquiries for market participants and for firms seeking additional relief. We received over 100 calls every day last week, and we have found that reaching out to those who have to practice their trade in this industry has been a successful way of assisting investors. It is a device that we intend to use frequently in the future.

The decision to reopen the markets was made by the private sector, the markets, and major market participants in consultation with the SEC. On Thursday, the 13th of September, the fixed-income markets and the futures markets successfully resumed trading; and on Monday, September 17, all U.S. securities markets resumed trading without incident.

The markets did not give way to panic selling. They simply did what they do best. They assessed and responded to the crisis rationally, and the time that we took to allow the markets to regroup worked to the advantage of investors in this country.

The measures that we adopted pursuant to our emergency authority will expire at the end of this week. Under Section 12(K)(2) of the Exchange Act, we can impose emergency measures for 10 business days or 2 weeks. We are monitoring the markets closely, and we have solicited the input of market participants. We are considering whether we should take additional steps to ensure that our markets remain orderly, to remove regulatory restraints that, in light of current conditions, inappropriately slowed down the capital-raising process, and to further the program recently enacted by the Congress to assist distressed industries.

One of the things that we are doing is trying to expedite the ability of airlines and insurance companies to reach our capital markets without any significant delay that would come from the normal operation of the regulatory process, and we have reached out to representatives of those industries to find out whether there are other things that the Commission can do to facilitate the ability of those industries to reach the markets with alacrity.

I must say that one of the items on my personal agenda is to speed up and make more efficient the capital-raising process for all industries, but I think that, at this particular time, paying special attention to the airline and insurance industries makes sense and follows the examples set both by the Administration and the Congress.

As you know, our Northeast Regional Office, which was at 7 World Trade Center, was destroyed in the aftermath of the attacks. To our tremendous relief, every one of our employees has been accounted for and is safe.

Like many affected businesses, however, we are in the process of rebuilding. The most important part of the rebuilding is to deal with the human issues that affect people who saw this destruction up close, who had to flee their business home, in a sense, and who were left homeless as a result of this destruction with no office to return to. I think we are doing a good job with our people. We have taken pains to assure everyone that the most important thing is their well-being and secure feeling, as opposed to any particular item that they may have been working on.

We have just signed a lease for new office space that will also be in the financial district, and we expect to be in our new offices by mid-October. In the interim, we are very grateful to the U.S. attorney's Office for the Eastern District of New York, which has made space available to our people.

We have also brought our enforcement resources to bear in the wake of the September 11 attacks. Although any securities violation is minor in relation to the atrocities that were perpetrated, we, along with Federal and State authorities, must canvass all possible evidence to identify the perpetrators. Because of the extraordinary circumstances of the current situation, we made an exception to our longstanding policy on not commenting on investigations. We, along with other U.S. and international authorities, are providing all assistance requested of us and possible to the FBI as they track down those responsible for these heinous attacks; and we are working with foreign market regulators as well.

The September 11 terrorist attacks also bring a new impetus to the Commission's and the securities industry's participation in the Government's anti-money laundering efforts. I am confident that the securities industry and the SROs stand as one with the Commission and our partners in Government, including Congress, in our firm resolve to deny criminals the use of the Nation's financial institutions, including broker dealers, to launder the proceeds of crime for profit, or for the furtherance of their criminal activities and especially terrorism.

As the events of last week demonstrate, it is not possible to destroy our free markets. They are not located in any one building or city or place. They are an amalgamation of people and ideas and, above all else, freedom. They are emblematic of our great Nation. I think we can all be justifiably proud of our Government and market participants in the way they have performed in this crisis. These are extraordinary times, and all Americans have responded and performed extraordinarily.

On behalf of the Commission, I appreciate this opportunity to submit our views on the state of the securities markets in the wake of the recent terrorist attacks; and I will be happy to try to respond to any questions that the committee may have.

[The prepared statement of Hon. Harvey L. Pitt can be found on page 85 in the appendix.]

Chairman OXLEY. Thank you, Mr. Chairman; and, once again, our congratulations for a job well done.

You and I both witnessed the markets performing very, very well last Monday in New York; and it was a gratifying feeling, I think for all of us, to understand the resiliency of that marketplace, which brings me to my first question. That is that some commentators suggested that the bombings brought to the surface what has been apparent for quite some time, namely the capital markets' overreliance on physical location in lower Manhattan. What can be done or should be done to ensure that no future attack on a physical location can disrupt the U.S. capital markets for several days?

Mr. PITT. One of the most important things that enabled the markets to get up to speed was the ability to replicate existing records and to do so quickly and to have alternate trading sites.

There is no question that when the dust settles, both literally and figuratively, on this terrible incident that we intend to sit down with the securities industry to review the preparedness of the industry, which I think was remarkable in the face of these events, to satisfy all of us that there are alternative mechanisms and that vital institutions like the New York Stock Exchange and the Nasdaq market are protected. Because, far from just being private sector entities, they are of public utility and value and we have an obligation to make sure that they are protected. So we intend to review the state of preparedness of the industry.

From what we saw, we thought all of the major firms had very good duplicative facilities. And the American Stock Exchange was able to move from a physical location that was made unusable for a time to a different physical location in a matter of days, both with respect to equities and with respect to options: their equities were moved to the New York Stock Exchange and their options were moved to the Philadelphia Stock Exchange. It gives me a great sense of comfort that the industry had the foresight to have appropriate duplicative facilities.

But in the wake of this, I think we will owe you a much more detailed report, and we intend to sit down with the industry to make certain that the American investing public is satisfied that we have looked at the problem and have left it in a good position.

Chairman OXLEY. There have been some reports that there are still some telecommunications problems regarding some firms and the inability of some investors to access their brokers. Can you bring us up to speed as to where that is right now, particularly in regard to the firms?

Mr. PITT. There were some incidents, although our experience was that there was not an incredible amount of difficulties. The consumer assistance lines that we created enabled us to put investors in direct contact with their brokerage firms. If they could not reach their brokerage firms, we were quite successful in making certain that we put the investor in touch with the firm and the firm was then responsive.

Chairman OXLEY. Indeed, the initial reports were that I think there were 19 of 32 firms located at the World Trade Center that were not heard from. Was that an initial report or was that the——

Mr. PITT. That was an initial report that Nasdaq put out. Of 32 firms in the World Trade Center, 19 initially had not made contact with Nasdaq, and there were concerns. By the time the markets opened on Monday, there were only a handful of firms that had decided not to open, but almost all had been heard from. And, as you had pointed out in your opening remarks, the ability to test the system on the Saturday before the opening of the markets on the 17th gave us great confidence, because Nasdaq and the New York Stock Exchange were able to make contact with their principal members and everyone who wanted to begin trading on the following Monday.

Chairman OXLEY. Thank you. The Chair's time has expired.

The gentleman from New York, Mr. LaFalce.

Mr. LAFALCE. Thank you very much.

Mr. Pitt, was there any authority that you didn't have that you wish you had? Is there any implicit authority that you feel you clearly have, but would prefer be explicit?

Mr. PITT. I think that we have been given some important tools that we had never used before. The Section 12(K)(2) emergency powers are a good example of that.

I would suggest that it would be very useful to the Commission if we had the ability to extend our emergency relief beyond 10 business days. I recognize that an unlimited authority to change rules and to suspend any of our rules is inappropriate, just as a citizen I don't think Government agencies should be given that broad range of power. But I think that a more logical timeframe would be 30 business days, with the ability to extend beyond that if certain conditions were satisfied that Congress would specify. And we would be willing to work with this committee to develop appropriate legislation to that effect.

I apologize for going on, but there is one other area where I think the SEC can use help. I am not in favor of wanton expansion of Government agencies, even in times of emergencies. However, I do believe we have to be prudent and be able to deal with all of the problems.

The SEC, in my view, has two critical needs that money would be useful in solving.

The first is that the SEC needs infinitely more economists than it presently has and economists of the highest caliber. It strikes me that the SEC is an agency that should have the best economists who can detect market trends and economic trends and be of assistance to this committee and the Congress as a whole as well as to investors.

The second area is technology. I believe that the SEC has to be at the forefront of understanding the capabilities of modern technology. As it stands now, I believe that the SEC is behind the times and that it always trails the industry; and I think that is another place where authority would be helpful.

Mr. LAFALCE. I thank you very much for that response, because I have been advocating that since we assumed jurisdiction over the securities industry. The Customs Department has been advocating for years for what they call ACE, Automated Commercial Environment, but we are talking about a billion dollars or so to do that. And I couldn't agree with you more that you need the human resources such as the economists and the technological resources to see, for example, if certain activity was taking place on September 10 that you might have been able to detect. Do you have a dollar figure for—are you in the process of preparing some estimates of what your additional human resource and technological needs might be?

Mr. PITT. I don't have a number at the moment, and I want to stress that first I would like to see whether there are ways in which we can reduce our existing expenses. I think we have an obligation to use all of the resources we have been given and to use them efficiently.

The second thing I would want to do would be to consult with people in the Office of Management and Budget. I believe that the Commission is an independent agency and ultimately it will be asked for its own view, but I also believe that the Commission is a part of Government and I would not want our agency to be advocating positions that were inconsistent with the national policy.

Mr. LAFALCE. Let me ask my last question. Explain to me Rule 10A that gives you the authority to prevent improper short selling. What would that be?

Mr. PITT. Well, the rule basically is what is known as a "tick test" rule. It was adopted in 1938, and it is largely still in the form in which it was initially conceived. It provides that exchange listed securities can only be sold short at a price above the price at which the immediately preceding sales were affected. That is sort of a plus tick. Or the last sale price, if it is higher than the last different price, that is a zero plus tick, and it prevent sales on minus ticks and zero minus ticks.

Mr. LAFALCE. Is that all it does? That is almost nothing then. I mean, I shouldn't say almost nothing, but——

Mr. PITT. I think it is not almost nothing. One of the things that we did was monitor the extent of short selling on the markets in the week that the markets reopened, and what we found was that the extent of short selling was slightly lower than it had been in the weeks preceding the terrorist attacks.

Mr. LAFALCE. Did you look at it in an industry-by-industry—for example, the airline insurance?

Mr. PITT. We did have that data. I don't have it with me, but we looked at it from an overall market perspective and otherwise.

Mr. LAFALCE. I would like you to give me that data broken down with at least with respect to the airline and insurance industry.

Mr. PITT. I would be happy to supply that to the committee.

[The information can be found on page 101 in the appendix.]

Chairman OXLEY. The gentleman's time has expired.

The gentleman from Louisiana, Mr. Baker.

Mr. BAKER. I want to welcome you, Mr. Pitt. I know this is your first formal committee hearing. I don't know if anyone could have possibly had the ability to forecast what was to follow after your appointment to this position, but I can certainly say that given your experience and knowledge of the SEC, your market experience, that the number of folks who could have stepped into this responsibility in light of the difficult circumstances to follow at least were very limited, and I am very pleased that we had your guidance and knowledge in this capacity during these difficult days and I thank you.

Mr. PITT. Thank you very much.

Mr. BAKER. And that is expressed by the fact that there was very careful and thorough analysis given with consultation in the industry with the reopening of the market. I think there was great anxiety, at least in my part, not what the market performance would result, but whether there would be a momentary glitch, thereby undermining what shaky consumer confidence exists. And the reasoned careful approach ensuring that the system would—I know employees were there over the weekend, even to the extent of putting people on the metro, making sure they could get in on the subway to get into work was an extraordinary level of effort, and for that I want to commend you.

In our last conversation we were engaged in the relocation of some 330 new employees to new space. Has that proceeded as expected?

Mr. PITT. It has. We signed a new lease this week. It is, I think, five or six blocks from where our old offices were, so it is still in the Financial District, which is what the employees in our New York office wanted. And I also think it is useful to show support for the Financial District in New York. So we hope to have the space completely configured and people actually working in it by mid-October.

Mr. BAKER. Should circumstances dictate—I know that no one can predict all the needs at this moment. We are not even sure what the needs are, but in your view, is there anything that is lacking in your ability to reconstruct, organize, make fully operational the agency's activities within the New York arena that this committee should address?

Mr. PITT. I appreciate that question, because there has been some speculation in the press as to whether or not we would lose cases or other matters, and I would like to assure this committee that to the best of our knowledge, we will lose no significant case, investigation or examination. All of the items that we would have wanted to pursue, we will be able to pursue. The ability to replicate records in each of those areas differs. And one of the things that comes out of this event for us, before we turn to the industry, is to make sure that our own recordkeeping gives us all the comfort level that we are not in jeopardy of ever losing any particular matter.

Mr. BAKER. Well, I was of that opinion, but I thought it important for the public record for those affected by pending matters to know that business would proceed as expected. With regard to a whole array of issues, which are certainly appropriate for a review at some point, I would just like to request at a future time from the standpoint of the redundancy of operational systems, review of current form filings and what may be set aside in the current environment, which are done electronically without the necessity of paper filings today, which may be of great help, being aware of whatever investment recommendations that might be made from the agency's perspective to instill consumer confidence, a review and perhaps careful consideration of the employee safety—the structure itself, once fully operational, what are we going to do different today, tomorrow, that is different than today with regard to that issue from an agency perspective. I don't expect any immediate answer. I know you are engaged in frankly much more important work at the moment. I just wanted to leave open the record with future discussion with the agency on any and all matters that would assure consumers and, frankly, taxpayers that anything will be done to assure the sound and safe operations of markets. They are the strongest, deepest and most liquid markets in the world, and we will do everything to assure immediate recovery for our overall economic prosperity.

Mr. PITT. Thank you, Congressman.

Chairman OXLEY. The gentleman from Pennsylvania.

Mr. KANJORSKI. I have not had an opportunity to congratulate you in your first several weeks in office in having met the challenges of this monumental task. You certainly make us proud that the commissions, bureaus and agencies of the Federal Government are manned by exceptional people.

Mr. PITT. Thank you.

Mr. KANJORSKI. I was listening to some of your potential needs. Recently, the Congress enacted some legislation on the House side to reduce transactional fees and other income that could be used by the Securities and Exchange Commission for modernizing or updating or increasing staff of the economists that you mentioned. Would it be wise for us to reexamine that piece of legislation, which passed the House, to perhaps authorize the Commission to use some of these fees at its will to move without using the appropriations that fund the Commission on a regular basis?

Mr. PITT. Well, the question you raise is very pertinent, and I can say speaking for the Commission that the Commission has supported the combined legislation, which provides for the reduction of transaction fees, because they effectively operate as an undeclared tax and, second, pay parity for our employees, which in the light of this tragedy becomes even more significant. I believe that legislation makes sense. I have often thought that if there were some way in which the Commission could be self-funding, but in which it was still required to comport with the national budget policy of the Administration, that would be ideal. But I am an advocate of reducing the transaction costs in the current legislation, and my strong hope would be that the Senate and the House, both of which have now passed legislation that I think is almost identical, could get together and enact that into law, and then we would be happy to work with the Administration and Congress to figure out ways in which the SEC could be put on a self-funding basis.

Mr. KANJORSKI. Thank you. I do not like to sound ghoulish, but what would occur if we have a second terrorism attack? How prepared are the security markets to function properly, and what kind of impact do you see in a second similar or larger attack?

Mr. PITT. I actually think that if, God forbid, there were another attack, all of us would perform even better than we did this time. Let me start by saying, if destruction is attempted, there is no way to predict how devastating that destruction can be. But the one thing that amazed me was that, as unaware as the entire industry and Government was about the onset of this attack, we responded quickly and we responded effectively and our markets came back up as strong as ever. In fact, the New York Stock Exchange had record volume on the first day it opened. We have learned a lot from that. And, in my view, we will do a better job in providing redundancy measures and applications so that we could get back up to speed.

The most important aspect of the recovery effort has been human heart, and that resolve was strengthened, and I believe it will only grow stronger as a result.

Mr. KANJORSKI. Very good. I was just interested in whenever an event like this occurs, there are always those portions of a society that try to take advantage of the situation. There are possibilities that exist which operators within the market would take advantage of it. Now with more than 50 percent of the forces of the Justice Department and the FBI allocated to the terrorist examinations, in my opinion a proper allocation, new challenges arise. The effect could be that some of the prosecutorial talent will not proceed on other second priorities, such as criminal activity within the securities industry.

Do you think it would be wise for us, exercising some authority for the President under national emergency provisions, to have a moratorium on the statute of limitations and institute a hiatus statute, so that pressure isn't there for a period of 6 months, a year, 2 years, at the will of a national executive in a national emergency?

Mr. PITT. I think that is an interesting thought and one I had not considered, and it would be one, with your permission, I would like to reflect on before responding in a definitive way. But I think it would be worth considering the issue.

Chairman OXLEY. The gentleman's time has expired.

The gentlelady from New Jersey, Mrs. Roukema.

Mrs. ROUKEMA. I appreciate you speaking here today. And as a Member who represents a district who, in many districts, is a bedroom community for New York financial services, we have had a lot of loss in our district. But also speaking again on behalf of my constituents and the economy of our region, I am so grateful for the positive presentation you have made here today, and we are going to deal in a very realistic way with keeping the SEC operating and operating well.

Mr. PITT. Thank you.

Mrs. ROUKEMA. But one of my concerns and it has been a concern of mine over the past year-and-a-half, having held hearings in my previous subcommittee on the subject of money laundering, we have had hearings and you have referenced the question of money laundering. I want to ask you to be more explicit in that regard, telling you that I have introduced, with Congressman LaFalce, the bulk cash smuggling bill, which I think will be moving ahead quickly. But more importantly than that is the more comprehensive question that integrates both financial services with the judiciary, and that is a comprehensive money laundering act.

We haven't really looked, as far as I know, and haven't been looking on this for a long time, haven't looked at the SEC potential component of this. We have almost exclusively focused on the banks. By the way, you also mentioned with respect to working with foreign market regulators, and so it seems to me if we are going to really deal comprehensively with money laundering—and the Attorney General Ashcroft is also composing a bill—could you give us help on how we should integrate the SEC or the securities markets with respect to that, both domestic as well as the foreign markets?

Mr. PITT. Yes. Any money laundering has now taken a front and center position, and perhaps it should have had that in the past, but it certainly has it now and appropriately so. We are working closely with the Treasury Department, and we are of the view, as is the Treasury, that there are sufficient differences between securities firms and banks that we have to come up with a program that is tailored to each one. And the principal difference in lay terms, as I gather it, is the banks involve initial acquisition of money to be laundered, but the securities firms involve the subsequent placement. So some of the procedures that work for banks would not make sense in the securities industry.

I am pleased to say that there is an enormous degree of voluntary activity on the part of the securities industry to deal with these issues, and we are working with the Treasury now to make certain that the securities industry is as covered as the banking industry.

Mrs. ROUKEMA. Well, I am glad to hear that, but at the same time it is my understanding that the Administration through the Attorney General will be presenting a piece of legislation in the very near future, if, in fact, it isn't going to be presented this week. But Treasury, Attorney General, the Justice Department, I would hope would be working together with you in that regard, and certainly I would like to be in close communication with you as to how our own piece of legislation can be adjusted and modified appropriately.

Mr. PITT. I would welcome that communication, and we are working closely with all of those agencies at the moment. One of the things that we have stressed is cooperation with other branches of the Government.

Mr. ROUKEMA. Thank you very much. I appreciate that, and we can't leave this loophole out of the bill. Thank you.

Chairman OXLEY. Gentlelady's time has expired.

The gentlelady from New York, Mrs. Maloney.

Mrs. MALONEY. I also want to express my praise to the SEC. I had recently visited your employees at 7 World Trade Center after the passage of the SEC—the individual investors or reduction fee that also included a portion that raised parity payment for the employees with other financial institutions, and they were very appreciative of the work of the committee.

But Mr. Pitt, you, working along with Dick Grasso at the New York Stock Exchange, Wick Simmons at Nasdaq, the ECNs and the entire investment community, the SEC provided the industry with the regulatory flexibility needed to reopen the markets as quickly as possible.

I was personally at the reopening of the New York Mercantile Exchange and I believe it was symbolic of the efforts taking place on Wall Street. The staff and senior executives had worked around the clock to reopen. There were interruptions in power supplies and terrible logistics. They could not even get to the Exchange. They had to bring their own employees by boat, because of the debris and not to mention the great grieving that many in the industry feel, having lost so many of their colleagues.

I can tell you that during this crisis—every day was a crisis, and the day before the markets opened a lot of us couldn't sleep. We were really concerned about what would happen. I truly believe that buying stocks is a patriotic act. We had Liberty Bonds in World War I, War Bonds in World War II. And I think in the terrorist war we have stocks. And many, many Americans went out and did just the opposite of what the terrorists wanted, they invested in the American economy and I believe they are great patriots. I just want to mention that one of my industries that I represent, Metropolitan Life, their Chairman, Mr. Benmosche, who is here with us, they went out and invested $1 billion last Friday during the market's worst week, and I feel that is a great patriotic statement. And many of my colleagues here in Congress and the people that I have the honor of representing are doing the same. Many Members of Congress are going to the site this coming Monday and they expressed what they wanted to do was to buy stocks to also show their support.

In your testimony, you stated—although I didn't see it in the written testimony—that you made a conscious decision not to invoke Section 10(a) that would ban the selling of short stocks, that you wanted investors to see the same market that they saw before it closed. And in New York, there were many reports on this. It was on the radio, television—really a call, a patriotic call not to sell short, not to sell airlines, not to sell tourism. And it was reported that there was a gentlemen's agreement among hedge funds and others not to sell short. And there were other rumors that many companies and individuals had come forward and pledged to do the opposite. I know our State Controller, Carl McCall, said he would do the opposite, and there was a huge effort not to sell short. And I believe in free markets, but I would like you to comment further.

Was there this huge effort that was reported to appeal to Americans not to sell short? Was this gentlemen's agreement honored? Could you expand in that area, because there was concern that there would be tremendous short selling in this particular crisis that would have been problematic?

Mr. PITT. I don't believe there was a gentlemen's or ladies' agreement not to engage in short selling. I think that many institutions gave careful consideration to the impact of their own trading. All of those institutions have a variety of obligations and they received, I thought, very good advice in terms of their ability to restrain themselves in engaging in short selling. So I think people were aware of the issue. I don't know that there was any agreement. We certainly, in the many hours before the markets opened, spoke to many institutional investors and others to make certain that we were in touch with them, that we could answer any questions they have. And they understood the importance of the markets opening as normally as possible.

In my view, notwithstanding the calls for banning short selling, I think that our restraint and allowing our existing rules to take care of that preserved two things. One, it did exactly the right thing for investor confidence and, second, it preserved a free and competitive market and an open market. So my own view was that that was the right decision. I will say that the Commission spent a good deal of time exploring that particular question before we reached a conclusion on it.

Chairman OXLEY. Gentlelady's time has expired.

The gentleman from Alabama, Mr. Bachus.

Mr. BACHUS. I want to first congratulate the way SEC has handled the financial crisis that has faced the Nation. Having said that, you are aware that the Administration has just begun a well publicized assault on the financial resources, and I would suppose that the SEC is a part of that effort.

Mr. PITT. We are.

Mr. BACHUS. Knowing that, are you aware that terrorism and slaughter in Sudan, which has actually led to the loss of over 2 million innocent men, women and children, that is funded by United States venture capital for oil exploration and development?

Mr. PITT. Congressman, I am aware that there are atrocities being committed in Sudan that I think are reprehensible. As to the role of venture capital in American enterprise, I have to say that I have seen some reports regarding that, but I don't have any first-hand direct knowledge of it.

Mr. BACHUS. You don't dispute the fact that the oil is funding the war and the war is resulting in people getting killed. And when I say war, it is a one-sided war. You are aware of that?

Mr. PITT. Again, I am aware of the concerns that have been expressed, and I think that they are legitimate concerns. I do not have, I think, as much information at my disposal as I believe you do. So I have no reason to disagree with you. It is just that I am not personally familiar with it.

Mr. BACHUS. I accept that. I wanted to leave with you and submit for the record an article, June 11 article, in *The Washington Post* entitled "Oil Money Is Fueling Sudan's War: New Arms Used to Drive Southerners From the Land." I would like to supply you also with a copy of that so you will be more aware of that.

Chairman OXLEY. Without objection.

[The information can be found on page 69 in the appendix.]

Mr. BACHUS. Let me turn to a totally different subject. To me, it seems to be clear that the U.S. domestic reinsurance industry will bear the brunt of some pretty extraordinary losses. You would agree, I suppose?

Mr. PITT. I do.

Mr. BACHUS. It appears to me that they are very strong and well capitalized. The top 50 U.S. reinsurers have over $53 billion in surpluses. In addition, they have affiliations with major companies such as Berkshire Hathaway and General Electric, which can provide additional capital if necessary. Do you believe that they are up to the crisis?

Mr. PITT. Congressman, I believe from everything I know that they are up to the crisis and committed to dealing with it. I also believe that this is an extraordinary event. No one could have anticipated this, and it is up to all of us to make certain that the burdens of resolving these problems do not fall disproportionately on the shoulders of any one industry. And that is one of the reasons why in our own way we want to facilitate more instantaneous access to the capital markets by insurance companies and do what we can to make this an easier process.

Mr. BACHUS. Do you think that the U.S. domestic reinsurance market has the strength and financial human capital to meet its obligations to its customers, enabling them in turn to meet their direct obligations to the individuals and businesses that were victims of the September 11 attack?

Mr. PITT. Congressman, I don't have any reason to doubt their ability. But I think on the next panel you will have some very knowledgeable representatives of the industry, and I think it would be more appropriate for me to defer to their statements about their abilities than to surmise for myself what I think they are capable of doing.

Mr. BACHUS. Thank you. I will close simply by saying, Mr. Chairman, I look forward to hearing from Ron Ferguson on the state of our reinsurance market. In times of great crisis, I think we can all be grateful for the critical role played by reinsurance in protecting the solvency of the insurance marketplace and in ensuring that the primary insurance is available to customers, small businesses and commercial property owners. Thank you.

Chairman OXLEY. Gentleman's time has expired.

The gentleman from Texas, Mr. Bentsen.

Mr. BENTSEN. I want to join with my colleagues, you and your staff and your fellow commissioners have done an extraordinary job in this extraordinary event. This is I guess as big as 1929 or 1987, and it must be interesting for you having just become Chairman about 30 days ago.

Mr. PITT. Well, thank you. I do have to say that the notion of on the job training is overrated.

Mr. BENTSEN. Last week, the market lost 13 or 14 percent of its value and some of that is to be expected. One of the reasons for the sells—at least it was reported—was because there were a number of investors, including some rather large investors, that had margin calls and were having to call to raise cash. Is that a problem you think we are going to see going forward in this market and is it something that should raise concerns about the margin lending system? And I know you have some responsibility and the Fed has some responsibility over that.

Mr. PITT. It really is something that needs to be monitored, and you are right. We share authority with the Fed. The Fed sets the policy, and we help implement it. And my view is that the Fed is in incredibly capable hands, and they are, along with our staff, doing a good job of monitoring the situation and making sure that investors are not unduly burdened, but that our economy and the market safety issues are preserved.

Mr. BENTSEN. In your testimony, you said you eased some of the regulations—I think this is right—for firms with their net capital requirement rule of reporting. Have you detected as a result of this any firms that are having trouble meeting their net capital requirements and is this something we need to be concerned about?

Mr. PITT. No, we have not. But that doesn't mean it isn't something we shouldn't be concerned about. We are spending a very large amount of time making certain that we are in contact with firms and that we have a good understanding of what their situations are, and the self-regulatory bodies are even more on the scene than that. So the one thing I can tell you is I don't think it is a problem. I don't believe it will become a problem, but I am confident if there were any movement in that direction we would be able to deal with it instantly.

Mr. BENTSEN. Regulation Fair Disclosure has been controversial and been debated in this committee and I think it is a good reg. But given the huge chaos in the markets after September 11, it is not something you stated in your testimony, but is that something you all are perhaps granting some leeway, or is the position the same post-September 11 as it was pre-September 11?

Mr. PITT. We are reaching out to affected companies as well as representative groups like the National Investor Relations Group and attempting to ascertain how the rule is working in actuality. I testified at my confirmation hearings the underlying concept that no one should have an unfair advantage is unassailable. That part is correct. The issue, however, as you allude to, is whether in operation the rule is having untoward effects. And in connection with the events of September 11, the concern would be to make certain that the rule doesn't contribute to market volatility. We are looking at those issues and trying to monitor it so that we can come up with empirically based data.

Mr. BENTSEN. If I might quickly ask, the Chairman alluded to the fact of the other regional exchanges around here, and how the market operates when you have a crisis like this when New York and Nasdaq were affected and some of its member companies. And we have the Cincinnati Exchange, and others are out there. Is the Commission going forward at how best to structure our exchanges so that markets can operate through this? And to that end, you know, I realize that Nasdaq has had proposals that it wants to expand and change its format. There are some controversies around that, or some questions around that from other participants in the market. But do the events of September 11 and its effect on the markets affect your viewpoint toward the future of the markets and how you are going to address these?

Mr. PITT. I would have to say it absolutely affects my view. September 11 affects my view of almost every issue, including personal issues. The structure, or the potential structure of the markets is a very serious issue and one that I had intended to put at the very top of the Commission's list of priorities upon assuming the chairmanship. I think we have to recognize that we have conflicting goals. One is to promote competition and free and open marketplaces; another is to provide opportunities to investors to get the best execution and the best prices that may be available to them in the market, which means that the SEC should be playing a role with the entire industry to come up with a structure that meets those goals. And we will do that and hopefully do it soon. But I think at the moment we are focused on some more immediate questions. But there is no question that I agree with your concern in that area and that we intend to move on it.

Chairman OXLEY. The Chair would announce that, because of some severe scheduling problems for the panelists on the second panel, the insurance panel, the Chair would like to limit the questions to 2 minutes for each Member. I apologize for that, but we do have some issues with the Jewish holiday that we have to deal with and we would ask the cooperation of the Members that we ask questions for 2 minutes to the SEC Chairman and then we can proceed to the second panel.

Under that constriction, I recognize the gentleman from California, Mr. Royce.

Mr. ROYCE. I want to commend you, Chairman Pitt, and the Securities and Exchange Commission and the industry. You have done an admirable job in the face of this horrendous tragedy. And my question—I am for unencumbered markets, but my question goes only to those who had prior knowledge of this attack. We have been reading and listening to press accounts that describe a plot by some terrorists and their associates to manipulate our capital markets to fund and profit from their terrorist activities. And in particular, it is my understanding that some of the associates of the terrorists have been short selling or purchasing put options on stocks of companies that they felt would be most affected by these terrorists attacks. And two of the examples that have been given are American and United Airlines, where they allegedly made millions. And I understand you may not be able to speak to this issue because of the ongoing investigation; however, I think all Americans would like to better understand how these types of transactions work and what authority the Security and Exchange Commission has to monitor them, and to that end would you explain how short sales and put options work and information that the Commission normally obtains in connection with these activities might help to track down those people associated with acts where they may have had prior knowledge.

And, second, with regard to transactions initiated outside of the United States in foreign countries, I would like to know if the Commission is obtaining all of the information it needs from foreign regulators to track down this activity and what are the legal obligations of foreign authorities to cooperate with the SEC in such cases, and does the Commission need enhanced authority to pursue any of this information to catch the cowards that planned and profited off of this attack?

Thank you, Mr. Chairman.

Mr. PITT. The way in which trading operates on short sales is somebody either sells a security that they don't own, or, if they own it, that they are not going to use, and they borrow securities to complete the transaction. Their hope is at a later point in time they will be able to buy the necessary securities to cover the borrowing at a price lower than the price at which they sold it. So it is an assumption in these situations that the market will go down. Put options involve, in effect, the future ability to put certain securities to the other side of the transaction—the purchaser—at a specified price. The options markets are fairly standardized, certainly on the exchanges. And there are dollar amounts and expiration periods. So mostly every quarter, you have the expiration of puts that have been sold. And one of the most tell-tale examples of potential illegal trading is when somebody buys a security—such as an option that is out of the money—that looks like it never could possibly reach where it is and then suddenly it hits.

The rumors and reports that you have referred to are things that we have been aware of and we have been aware of them from several sources, including a number of the regional exchanges who called us and spotted excessive volume that seemed abnormal to them and referred it to us. We have very good market surveillance techniques. The people who purchase any of these securities in our markets can run, but they cannot hide. We will find whoever the purchasers are. The issues really relate to who the ultimate purchaser is or seller of a security, because people can use nominees and foreign entities and so on. But we get the information. And, once we do, we try to track it down, not only using our own abilities, but we have agreements with most of the major foreign countries. Many of those are referred to as memoranda of understanding in which we agree to mutually assist one another. And indeed, Congress passed legislation a number of years ago that enables the SEC to conduct an investigation at the behest of a foreign securities regulator even though there is no SEC interest.

So there is an enormous amount of authority there, and I do want to assure you that we are not the least bit shy of exercising every bit of it to find anyone who is responsible for this conduct.

Chairman OXLEY. The gentleman's time has expired.

The gentlelady from Oregon, Ms. Hooley.

Ms. HOOLEY. Most of the questions I had were asked or answered in your testimony. I want to thank you and the Commission for the incredible job that you have done.

Mr. PITT. Thank you very much.

Chairman OXLEY. I thank the gentlelady for her courtesy and understanding.

The Chair recognizes the gentlelady from New York. And I understand it is her birthday. Happy birthday.

Mrs. KELLY. Thank you, Mr. Chairman. Thank you very much, Mr. Pitt, for appearing. I just want to be brief and focus on one thing that I am concerned about.

Insurance companies invest the monies that they have in various ways. There are insurance companies who are invested with billions of dollars in municipal bonds, and I am concerned about whether or not it will have an effect on the economy if these insurance companies start selling off the municipal bonds that they owned in order to pay the necessary claims. And I wonder if you would address that and answer whether or not you think anything needs to be done in order to forestall this potential problem.

Mr. PITT. Your analysis of the situation is correct. Because of the large amounts of holdings of both equities and bonds of insurance companies, if they are forced to sell off securities, that could have a distinctly negative impact. Most of the insurance companies have well diversified portfolios and they have prepared for the eventuality of having large claims, although nobody could have forseen this.

Again, I think that the representatives on the next panel will be able to tell you whether they need additional resources, although I have read and seen certain suggestions that anything that would prevent the large sale—selling of securities might be desirable. But I think I would leave that question to the next panel.

Mrs. KELLY. Thank you. And Mr. Pitt, as a New Yorker, I thank you very much for everything you have done to help us get our markets back in order. It was wonderful to stand with Chairman Oxley on September 17 with Richard Grasso and Wick Simmons and people from all over the markets standing there ending the markets that day. Anyone who wanted to trade could trade on September 17, and that is a remarkable resiliency and we thank you very much for your part in that.

Mr. PITT. Thank you.

Chairman OXLEY. The gentlelady's time has expired.

The gentleman from Texas, Mr. Sandlin.

Mr. SANDLIN. My questions revolve around selling short in the securities firms, and I think you have answered those and we appreciate those answers. I want to be clear on the issue of puts and make sure I understood what you said.

Do you have the ability to and do you intend to track every single person and/or entity that had a put, particularly as it involves the airline industry?

Mr. PITT. With any trades that take place in our markets, we have the ability to track down who the immediate purchasers or sellers were through our blue sheet processing. That is not the end of the inquiry, however, as I was trying to indicate, because I might be listed as a seller of a security, but, in fact, I might have been acting for somebody else. So we have to go beyond that. And, once you get past the immediate purchaser or seller, that requires far more detailed investigative techniques.

Mr. SANDLIN. I guess my question is this. I know it is a big job and I know you clearly have the ability, but will you and do you intend to take every single transaction that involved a put and put in that effort and dedicate the resources and time to trace that transaction regardless of the time or effort that it takes to do that?

Mr. PITT. In a technical sense, I suppose the answer to you is yes. In a practical sense, it is not necessarily the case that we would track down every single transaction. We would look at them and try to use the resources available efficiently. But the answer certainly is that with enough time and enough resources, we could track down the purchasers of the securities.

Chairman OXLEY. The gentleman's time has expired.

The gentlelady from Illinois, Mrs. Biggert.

Mrs. BIGGERT. Thank you, Mr. Chairman, and thank you, Chairman Pitt, for being here. This morning in the *Wall Street Journal* there was an article called "Under the Rubble" that said the New York Mercantile Exchange is inaccessible but safe, and also mentions certificates on securities. And I would like to know if any of the securities transactions depended on, or are dependent upon, such certificates and, if so, are there plans to eliminate this kind of antiquated practice now?

Mr. PITT. I read the article with interest, Congresswoman. And I guess I would say the following: About 95 percent of all securities transactions are done without certificates. They are done electronically. But there are some people who like the feel of a stock certificate; and, although there has been an enormous amount of pressure to eliminate all stock certificates so that the entire system is basically recoverable through computers and so on, it has been a somewhat slow process. If you compare it to the checking system, which is 100 percent done through book entries, that is a goal we aspire to. Part of it is educating people that they don't have to have the actual certificate in their possession. It is a cultural issue and we are trying to be sensitive to it as we move toward a completely book entry system.

Mrs. BIGGERT. Thank you. Thank you, Mr. Chairman.

Chairman OXLEY. Thank the gentlelady.

The gentleman from Kansas, Mr. Moore.

Mr. MOORE. Thank you, Mr. Chairman. I want to join my colleagues in congratulating you on the good job you have done in handling this crisis, Chairman Pitt, and other Members of this committee have already asked my questions, so I yield back my time, Mr. Chairman.

Chairman OXLEY. I thank the gentleman.

The gentleman from New York, Mr. Grucci.

Mr. GRUCCI. Thank you, Mr. Chairman, and thank you for bringing us together at this hearing. It has been very enlightening so far. Chairman Pitt, in our desire to try to be helpful in wanting to figure out all the ways we can do so, there has been some discussion among some Members about reverting back to what was done during World War II, which is to float bonds. At that time it was War Bonds, but perhaps something similar to that, not just to fund the war on terrorism, but to also help fund the reconstruction and the rebirth of not only the Pentagon, but of Lower Manhattan. It has always been my understanding when you buy bonds, you take money from the market to do so. And if so, would that be the wise thing to do at this point in time? And could you enlighten me on what your position would be on bonds versus allowing moneys to flow into the marketplace?

Mr. PITT. Well, I would say the following, sir. I think that in a time like this there are two important aspects. One is what you do substantively, and the other is how you appear as a practical matter to people. I support rebuilding New York and its infrastructure. I think that it is very important that these projects be undertaken, because they will stimulate our economy and they will also provide the best defense spiritually against terrorism. As to whether the Government should be issuing bonds to pay for it or not or whether it can happen from the private sector, I think that is a more difficult question. In the first instance, I am always reluctant to see the Government intercede. But, if those responsible for this national policy in the Treasury and to some extent the Fed believe that the Government should step in as well, then I think obviously that would be a very good thing. I guess it is not my province to figure out national policy as to whether or not we should use bonds. I would say though—from my personal opinion, not as an SEC opinion—that, to me, the most important thing is to get these projects underway and preferably as much of it in the private sector as is possible.

Chairman OXLEY. The gentleman's time has expired.

The gentleman from Kentucky, Mr. Lucas.

Mr. LUCAS. Mr. Chairman, we have got a lot of financial industry leaders here today and with busy schedules, so I am going to pass to another day.

Chairman OXLEY. You get a gold star.

The gentleman from Florida, Mr. Weldon.

Mr. WELDON. Mr. Chairman, I would like a gold star as well. I am also really quite interested in the reinsurance issues. I am interested to get to that part of the program.

Chairman OXLEY. Thank you.

The gentleman from Texas, Mr. Hinojosa.

Mr. HINOJOSA. Thank you, Mr. Chairman. I want to ask one question. But prior to that I want to commend you also, as my colleagues, you and your SEC staff, for your excellent work during these difficult times.

Mr. PITT. Thank you.

Mr. HINOJOSA. My question is, following the attack you issued a rule temporarily relaxing SEC regulations governing companies' ability to buy back their own shares. Do you have an idea of the extent to which companies took advantage of this rule and repurchased shares of their own stock and what role you believe this practice may have played in stabilizing the financial markets?

Mr. PITT. Yes. We have been tracking that. And there was a decided upsurge in the amount of repurchasing, first in the number of plans that were announced and then second in the actual repurchasing activities. Companies felt comfortable. One of the things we had to do is give accounting relief, which had never been done before as well, so that companies that did repurchase were not subject to adverse accounting consequences in connection with their acquisitions.

So I believe there was a discernible and significant increase. I think the ability of companies to repurchase, and the willingness of the Government to allow that, had a very positive effect on peoples' attitudes toward the market. They realized that there would not be as emotional a reaction in the marketplace as one might expect. So I believe it was a very successful effort, and that is why we have continued it and may indeed continue it further.

Mr. HINOJOSA. Good work.

Chairman OXLEY. Gentleman's time has expired.

The gentleman from California, Mr. Ose.

Mr. OSE. Thank you, Mr. Chairman.

Mr. Pitt, if I may, you indicated some difficulty in tracking down who the ultimate beneficiary is of selling these put contracts and the like, beyond which you are also confronted with the problem of identifying who the ultimate beneficiary might have been in whole or in part. I just want to reinforce what I am sure the rest of the Members of this committee and this Congress otherwise feel, and that is that if there are people who have perpetrated these acts and profited from them, there is not anything you could ask from us that we would deny you to identify who those people are. And we would even go into the SEC fees that you all collect that we had a long debate about earlier this session to fund that examination. But I just want to make sure you understand that, which I think you do, given the tenor of your comments earlier, and I wanted to reinforce that.

Mr. PITT. Thank you. I want to reassure you that we will use every effort and tool at our disposal in order to bring the responsible parties to justice. This is our number one priority, and to the extent that there was any connection between the terrorists and market trading, we will do everything within our power to track those people down and bring them to justice.

Chairman OXLEY. Gentleman's time has expired.

The gentlelady from California, Ms. Waters.

Ms. WATERS. Thank you very much. I would like to thank you for appearing here today and we do appreciate your work. I would like to just draw your attention to some of what Mr. Bachus said today. I think it is very important. And I also think that what the President did recently in his executive order freezing the assets of individuals who are associated with terrorism groups, nongovernment organizations and even leveraging with some countries that may be harboring terrorists by freezing their assets if they don't cooperate with us, and I like that. I like this war that is being waged in the financial community on these terrorists and these activities. I have long believed that we need to take these kinds of actions as it relates to brutal dictators who send their money to our banks and whose bloodied money finds its way into the capital markets.

So whether it is terrorists, brutal dictators or drug traffickers, we have to do a better job. Everybody is saying we must see the world differently now, and I certainly hope we will get some leadership in doing that. Do you have any role in the implementation of the President's executive order dealing with the freezing of assets and the identification of assets?

Mr. PITT. We are completely committed to the policies that the President has articulated, and one of the things that we have done is to touch base with the Administration upon the issuance of that to make certain that in every way possible we are supportive of national policy in that regard. So I would like you to feel comfortable that we consider ourselves part of one Government, and we intend to do everything we can to buttress the President's policies.

Chairman OXLEY. Gentlelady's time has expired.

The gentleman from New Jersey, Mr. Ferguson.

Mr. FERGUSON. I appreciate the fact you are here and your leadership. We in New Jersey, our families and companies, have been devastated by this situation and are trying to get back on our feet emotionally, physically and financially, and your leadership in making sure our markets remain strong and sure is vital to that. And I know I speak for people across my district and New Jersey when we thank you for your leadership and your strong stewardship.

In the interest of time, Mr. Chairman, I yield back.

Chairman OXLEY. Thank you, gentleman.

Gentlelady from Indiana.

Ms. CARSON. My constituents have reported to me about Osama bin Laden's brother in Boston who has humongous resources, property and structures. Without intruding on any area of secrecy, is there some way to discern whether or not any of those resources actually were filtered in by the terrorists or his brother or may possibly be used for further attacks on this country?

Mr. PITT. From the SEC's point of view, the answer is yes, if those assets were used in any illegal conduct. There are agencies of Government that start with the money and trace where it went. We look at the securities markets and trace it back to the money. Between us and the other agencies we cover 100 percent of the waterfront.

Chairman OXLEY. I thank the gentlelady.

Mr. Chairman, we appreciate your testimony today in your first appearance before our committee, obviously not the last, and look forward to a long and fruitful relationship with you and the rest of the SEC and your very capable staff. I know this is a very difficult time to have your maiden appearance before the committee, but obviously your reassuring words I think are very, very helpful for the committee as well as the Nation, and I thank you for your service.

Mr. PITT. Thank you for having me, and I assure you of our complete cooperation on all of these issues.

Chairman OXLEY. The Chair knows that some Members may have some additional questions for this witness. If anyone wishes to submit in writing, without objection the hearing record will remain open for 30 days, to place their responses in the record. So ordered.

We now would like to call up our second panel, the insurance panel. While we are impaneling the next panel, I know that we have two Members wishing to recognize a particular witness and introduce them, and let me turn now to the gentlelady from New York, Mrs. Maloney, for presentation of a couple of witnesses.

Mrs. MALONEY. Thank you, Mr. Chairman, for granting me a point of personal privilege to welcome the leaders of two major insurance companies based in the district that I represent, Mr. Sy Sternberg of New York Life and Robert Benmosche of MetLife. They have both been working incredibly hard in displaying great leadership in this crisis.

Mr. Sternberg is Chair of the ACLI, who sent out a notice to all of the member organizations right after the crisis, after the tragedy, calling upon all of the companies to pay their claims quickly and thoroughly. I can't tell you how important this is. After the crisis, there were grief centers with the organizations and businesses opened up to gather with their employees. And the day after the crisis, there were many questions about the industry invoking the act of war for exclusions. In fact, one company had been told by their insurance company that they would invoke the act of war and not pay their claims. They have since rescinded. So this statement in support of paying the claims is very, very important, and the industry has followed.

One of my companies lost 700 people, many of whom lived in the district that I represent. One of their CEOs called me before this hearing to say that both of you are absolute angels. And he spoke of his insurer, MetLife. He called Mr. Robert Benmosche a great man, because some of his employees had not opted to renew their group insurance, yet MetLife is honoring their insurance. Thank you very much.

Another friend and colleague, very briefly, is the New York State Insurance Department, Greg Serio. We will hear from him how his office is helping process claims.

And I have to close by saying that our former Superintendent, Neal Levin, is among the missing. He is currently the Chair of the Port Authority and he did a brilliant job prior to Greg Serio as the State Insurance Department Superintendent, and we remember him and everyone else who is lost or missing.

Thank you, Mr. Chairman.

Chairman OXLEY. The gentleman from Kansas.

Mr. MOORE. Thank you, Mr. Chairman.

I have the honor of introducing this morning our Kansas Insurance Commissioner, Kathleen Sebelius. Ms. Sebelius was elected in 1994 and, I believe, is in her second term as Insurance Commissioner of Kansas and is presently President of the National Association of Insurance commissioners. I am very, very proud of her and glad to have her with us this morning.

Thank you, Mr. Chairman.

Chairman OXLEY. I thank the gentleman.

Let me recognize, then, our panel today: The Honorable Gregory V. Serio, Superintendent of the New York Insurance Department; the Honorable Kathleen Sebelius, Commissioner of the Kansas Department of Insurance and President of the National Association of Insurance Commissioners, speaking on behalf of the National Association of Insurance Commissioners; Mr. Sy Sternberg, the Chairman, President and CEO of New York Life Insurance Company; Mr. Robert H. Benmosche, Chairman and CEO of MetLife, Inc.; Mr. Dean O'Hare, Chairman and CEO of the Chubb Corporation; Mr. Matthew C. Mosher, Group Vice President, Property-Casualty Rating from A.M. Best Company; and Mr. Ronald Ferguson, Chairman and CEO of General Reinsurance Corporation.

We thank you profusely for your patience and for waiting.

I am going to recognize Mr. Sternberg first. I understand he has some potential travel and timing problems. So let us begin with Mr. Sternberg as our first witness.

STATEMENT OF SY STERNBERG, CHAIRMAN, PRESIDENT AND CEO, NEW YORK LIFE INSURANCE COMPANY

Mr. STERNBERG. Thank you, Mr. Chairman.

I am Sy Sternberg, Chairman, President and CEO of New York Life Insurance Company. I also serve as Chair of the American Council of Life insurers. However, today I will be speaking solely in my capacity as head of New York Life.

I want to thank Chairman Oxley and Congressman LaFalce for the opportunity to testify on this issue of national importance. I also want to express my appreciation to all Members of Congress for the incredible hard work and bipartisanship demonstrated during this very difficult period.

In the hours and days that followed the September 11 terrorist attacks, people throughout the Nation were looking for ways to offer assistance, to do something constructive in response to this terrible tragedy. At New York Life we summed up our response in one sentence: We will pay our claims quickly and compassionately.

Mr. LAFALCE. Mr. Sternberg, would you please lower the microphone a bit? Thanks.

Mr. STERNBERG. We have been working closely with the New York Insurance Department, and we thank Superintendent Greg Serio for his strong leadership in this crisis. While a death certificate is normally required by life insurers before a claim can be paid, it can be time-consuming or even impossible to obtain one in a disaster of this magnitude. Instead, we are contacting employers, consulting the passenger manifests from airlines, and gathering obituaries and other lists of those presumed dead. We are supplying families with the next-of-kin affidavit developed by the New York Insurance Department, and we are relying on certification from our own agents who in many cases know the families well and can attest to the loss.

As of last Friday, we received 21 claims, but that number will grow as the hope to find thousands of people missing gradually dims. The first of those claims was paid on the life of a young Cantor Fitzgerald employee. The $190,000 death benefit was delivered to the victim's surviving relatives by their New York Life agent this past Saturday.

Analysts have estimated that the total life insurance claims resulting from September 11 could be in the range of $2 to $6 billion. While the amount of these claims is staggering, the monetary exposure is, in fact, a fraction of the $52 billion in death claims paid last year by the life insurance industry as a whole and therefore will not have a material adverse impact. In the case of my company, which pays out almost $1.5 billion in death benefits per year, we expect the total amount of New York Life policyholder claims related to the tragedy to be in the range of $100 million. This is less than a 7 percent increase in total annual claims. Our ability to pay is backed by $40 billion in life reserves and another $8 billion in surplus.

Claims for the September 11 event will not be a problem for our company, nor will I expect it to be a problem for the life insurance industry. I should note, however, that the life insurance companies are major investors in corporate America. We are holders of corporate bonds, real estate mortgages, and a small percentage of our portfolio is in the equity market. If the economy worsens, some life insurers could have problems on the asset side of the balance sheet. I know this committee and the NAIC, led by Commissioner Sebelius, will monitor this closely.

With more than 150 years in the New York City business community, we feel a special obligation to stand at the forefront of the relief effort. The New York Life Foundation is making a contribution of $3 million to the September 11 Fund administered by the New York Community Trust and United Way, and we are matching our employee contributions to the American Red Cross with a minimum contribution of $1 million.

Additionally, we are donating some $1.5 million of television advertising time that was originally intended for New York Life commercials to the American Red Cross.

I am gratified by the way our industry has responded to this ordeal. This is a time for the insurance industry to be visible. This is a time for us to be charitable, and this is a time for us to stand as a pillar of stability in a none too stable world.

Thank you for the opportunity to testify, Mr. Chairman.

[The prepared statement of Sy Sternberg can be found on page 103 in the appendix.]

Chairman OXLEY. Thank you, Mr. Sternberg, for appearing; and, as we say, we understand your time constraints. Please feel free to stay as long as you can. We are hoping we can wrap this up no later than 1 o'clock, if that gives you some idea.

Mr. Serio.

STATEMENT OF HON. GREGORY V. SERIO, SUPERINTENDENT, NEW YORK INSURANCE DEPARTMENT

Mr. SERIO. Good morning, Mr. Chairman, Mr. LaFalce, Members of the committee.

When the Insurance Department was formed in 1860, our seal was inscribed with the motto "Bear ye one another's Burdens." the unprecedented events of September 11 bring new dimensions to that charge for the burdens brought about by the vicious attacks on the World Trade Center go beyond and I will say far beyond the payment of claims and the covering of future risks.

Indeed, at this time, the property, casualty and life industry in New York State and their reinsurers appear to have the resolve and the resources to meet the obligations arising out of the World Trade Center incident. From industry reputations and commitments, many that you will hear today, to the Insurance Department's own initial analysis, all indications are that the insurance industry will bear the financial burden.

The Insurance Department, along with insurance entities, were materially impacted on September 11, as were all businesses in lower Manhattan; and, like many others who witnessed and lived the events of that day, the Insurance Department found itself with the burden of, A, insuring that its work force was safe, B, finding alternative space for relocating operations, and, C, planning for the return to our own main offices.

The Insurance Department, perhaps unique among our neighbors in the financial district, also needed to meet the additional challenge of responding to the disaster immediately to help ease the burden of others. We were also concerned for our friend, as Congresswoman Maloney said, Neil Levin, who was in Trade Center One that day.

I am proud and pleased to say that the New York Insurance Department and its 1,000 dedicated employees met the challenges posed by September 11 through preplanning for disaster responses, through ongoing financial risk assessments, practices and knowledge of the financial condition of our regulative parties and through sheer determination and will to keep our agency on the front lines of the State's and city's unified response to the disaster and to return as quickly as possible to our home in lower Manhattan, which we did on September 17.

The Department has been working since the hours after the disaster to bear the burdens of the others, the victims and their families, as insurance consumers, the dislocated insurers and brokers and the constituencies who call upon us in the course of our normal duties. They will continue to successfully do so in the weeks and months ahead.

The incident of September 11 put into action a disaster plan devised and implemented by the Department in May of this year. The Department's Emergency Operation Center, which houses the major carriers writing in affected areas, is connected to the State emergency managers and the governor's staff by various communications and data links for the purpose of exchanging critical information relating to the incident. Through this real-time exchange of information, emergency managers and Department financial analysts were able to determine the amount of insured versus uninsured loss and take estimate from there, where public assets will be necessary, and where the industry can be best staged to start facilitating claims activity. The insurance industry as it has since the onset of the disaster was very responsive to the call to our emergency operations center.

The industry has also been highly effective at moving assets into New York City, including catastrophe response teams and mobile claim centers. A sizable insurer presence at the Families Services

Center at Pier 94 on Manhattan's west side in conjunction and coordination with the Department's staff at State and City Emergency Operation Centers will allow expedited movement of insurers into areas deemed best for administering to those insureds.

Equally important to the mission of facilitating connection between insurers and insureds is the Department's mission to make certain that claims are, in fact, paid in a timely manner and that there are adequate resources to meet those obligations. Again, on both counts the industry has indicated and exercised a willingness to pay claims without regard to exclusions or other contractual restrictions.

Future challenges await us in the recovery process. Long-term financial analysis, particularly as better data concerning losses is developed, is a critical function. Likewise, planning for gaps or limitations in coverages, gaps brought on not by a reluctance or a recalcitrance of insurers to pay, but rather the sheer unlikelihood of events of these dimensions will need to be anticipated and addressed. Business interruption coverage will be closely monitored to determine if losses brought on by long-term closures in certain areas of lower Manhattan will be covered.

In the meantime, the Department will maintain its 7-day-a-week schedule, its hotline telephone numbers, its outreach centers in Manhattan, Westchester, Nassau, and Suffolk Counties, its 24–7 presence at our standing emergency management office, and our active presence at and near ground zero to make certain that consumers' needs are being met.

The Department will also continue to actively monitor carrier financial conditions, its financial analysis and modeling activities to assure ongoing financial liability, including liquidity and solvency in response to this disaster and future challenges.

Thank you very much for having us here today, and we will answer questions when the time comes.

[The prepared statement of Hon. Gergory V. Serio can be found on page 106 in the appendix.]

Chairman OXLEY. Thank you, Mr. Serio. Spoken very quickly, like a true New Yorker.

Ms. Sebelius.

Mr. LAFALCE. New York or New York City, Mr. Chairman?

Chairman OXLEY. I should have been more specific. New York City.

STATEMENT OF HON. KATHLEEN SEBELIUS, COMMISSIONER, KANSAS DEPARTMENT OF INSURANCE; PRESIDENT, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, ON BEHALF OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Ms. SEBELIUS. Thank you, Mr. Chairman. Good morning to Chairman Oxley and Members of the committee.

Speaking for myself and my fellow insurance commissioners from across America, we appreciate the opportunity to update Congress and the public today regarding the impact on our Nation's insurance system from the September 11 terrorist attacks.

I think you have just seen an example of Director Serio's leadership, and I want to assure you that he has done a magnificent job in the face of this incredible disaster of helping to formulate what I think is very sound policy to move forward.

You heard Chairman Pitt talk about some personal SEC experiences with this disaster, and I wanted to start with the NAIC, the National Association of Insurance Commissioners, personal losses.

Our Securities Valuation Office was in building 7 which, as you know, collapsed at the end of the day on Tuesday. The 44 employees in that agency were all safe from any physical harm, although the trauma of the day's events I think will be with them for probably months and years to come.

In terms of the ongoing operations of the office, we have backup data for that very sophisticated system which was captured immediately in Kansas City. The office was back running the following day. We signed a lease yesterday in Manhattan for new office space that the SVO should be in by the first week in October.

But the operations of evaluating securities, which is critical to companies' portfolios, has really not been interfered with in spite of the terrific loss. My testimony today is going to contain the best estimates of the losses calculated and updated constantly for the last 2 weeks. The estimates have been revised several times and may increase further as the full impact of events are known.

Let me start by saying we do have reassuring news to report. The NAIC believes that the American insurance industry is well capitalized and financially able to withstand the pressures created by these terrible attacks. The United States' insurance industry is a $1 trillion business with assets on the books of more than $3 trillion. Preliminary loss estimates of $30 billion represent just 3 percent of the premiums written in the year 2000.

In addition to the industry's overall strength, the State insurance guarantee funds have another $10 billion of capacity to compensate American consumers in the event of insolvencies.The insurance companies have shown their ability previously to respond to huge disasters such as Hurricane Andrew in 1992 and the Northridge earthquake in 1994.

For some committee perspective in using inflation-adjusted figures, these events, which occurred within a 2-year period of time, resulted in almost $26 billion in insured losses. That gives you some perspective of what we are looking at now; and, as you know, the industry remained alive and well.

We are heartened by the initial response of the Nation's insurers in the current situation, and we anticipate that they will fully meet their responsibilities to victims in terrorist attacks and applaud their stepping forward to do that. As regulators, my colleagues and I will continue monitoring the process.

Mr. Chairman, I think that this hearing is very important, and the terrorist attacks on September 11 are a stark reminder that insurance is different from other financial services, because it is involved in every aspect of our lives when we leave home every day. Insurance products provide the necessary assurance of financial safety that allows Americans to accept daily risks in business, travel, personal activities of every sort that we have come to believe are normal to the American way of life.

Insurance coverage is unique in that it is a product that most people only encounter when they are under the stress of unhappy and often extreme circumstances. Although insurance payments will never fully compensate for personal and emotional losses, they offer one of the first glimpses of hope for those who face the daunting prospects of starting life all over again.

Insurance regulators are keenly aware that people need to know that we will have promised financial resources available quickly to help them begin the process of recovery, and we understand the true role of insurance in America lies as much in rebuilding faith and hope as in rebuilding or replacing offices, homes, and property. The key to delivering on the true promise of insurance is prompt, caring, and effectively handling of policyholders' claims and payments. You have heard from Sy Sternberg and you will hear from the other insurers that that is what they see their commitment is and are in the process of doing.

As regulators, our first responsibility was to find out what happened, determine how it was going to affect policyholders and insurers, and identify gaps or weaknesses; and I want to bring you up to date on what we have done. We have been coordinating reports throughout the community of regulators since September the 13th, which have included financial data calls and special conference calls of the various working groups on financial analysis, reinsurance, and international insurance issues.

We also adopted an action plan unanimously in mid-September which includes three elements: to assess the solvency impact on the global insurance industry, information from insurers, reinsurers and the Lloyds of London syndicates; to identify legal, financial, policyholder and claims issues stemming from the tragedies; and to identify specific insurers that may require regulatory surveillance or specific attention.

The scope of the project right now is focused on roughly 50 insurance groups comprising 275 companies, which account for a substantial part of the affected insurance markets in New York, New Jersey, and Connecticut.

With respect to reinsurance, the project will look at approximately 30 global reinsurance groups, 35 individual companies and 90 syndicates at Lloyds of London. It appears in that nucleus that there are about 12 groups with estimated losses exceeding $500 million and, of those, four groups which have losses in excess of $1 billion.

The action plan will include the following steps:.

To identify the insurance companies with business operations in the Wall Street District, particularly the World Trade Center Towers and buildings 5 and 7, and assess the impact on those insurers with substantial "back-office" operations;

To identify and calculate individual insurers New York, New Jersey and Connecticut books of business in relationship to their total business, break down premium writings by the line of business and evaluate the company's exposure to further decline, as referenced earlier, in the equities market;

Associate all insurers identified with their parent, affiliate and subsidiary insurers because, as you know, withholding companies—a primary company might be in New York, but the subsidiary may be somewhere else, and those assets need to be watched closely;

Identify insurance groups and insurers with potentially heavy loss exposures;

Conduct a survey, which is under way right now, to capture information on each insurer's net and gross estimated losses, as well as general information on the insurer's reinsurance program, reinsurers and anticipated cash flow needs.

State insurance departments are also coordinating their disaster response activities to help New York, Virginia, the District of Columbia.

The affidavit that is being used currently in New York to certify death certificates is actually an affidavit developed in the Oklahoma Department, at least the prototype after the Oklahoma City bombings, and that kind of information is available.

We also stand ready with emergency teams if the flow of consumer complaints becomes excessive for the New York Department to handle and are developing a protocol so that that assistance can be given either in a virtual fashion, through toll-free hotlines, or specially trained examiners around the country.

We have an insurance summit scheduled for mid-October to continue the collaboration with industry, Federal regulators, and Members of Congress on these very key issues.

What can Congress do to help? We think there could be a tendency in the insurance industry to react to the dramatic events of September 11 by taking prospective steps to limit exposure for similar events in the future. This can occur through introducing coverage exclusions or canceling policies most likely to cause a future loss. If that happens, we feel it won't be good for the American economy.

There are a couple of things we would like to put on the radar screen for Congress to think about for the future.

We know the industry can't withstand multiple events of this magnitude in a short period of time without harm to all consumers, and we look forward to working with Congress down the road to look at proposals so that the risk of loss from terrorist activities in the future, should they occur, can be spread as broadly as possible.

Second, we would urge you to continue the dialogue and collaboration with insurance regulators and key members of the industry to ensure that foreign and domestic companies who must work through this tragedy together continue to fulfill the promises made to consumers in America. We need to make sure that the chain of insurance and reinsurance protecting American citizens doesn't falter or fail in meeting its responsibilities.

Finally, Mr. Chairman, insurance regulators believe the insurance industry is strong and that it stands ready to meet its obligations to provide funds where due under the contracts it is issued. State insurance regulators are working together to help ensure that any glitches which do appear don't disrupt the process of getting people's lives back in order and American business back to work.

The NAIC and its members plan to work closely with Congress and its fellow regulators as set forth in the Gramm-Leach-Bliley Act to meet the needs of Americans in a timely and compassionate way.

[The prepared statement of Hon. Kathleen Sebelius can be found on page 156 in the appendix.]

Chairman OXLEY. Thank you very much.

Mr. Benmosche.

STATEMENT OF ROBERT H. BENMOSCHE, CHAIRMAN AND CEO, METLIFE, INC.

Mr. BENMOSCHE. Thank you, Mr. Chairman, Ranking Member LaFalce, and Members of the committee.

Our Nation is still struggling to come to terms with the horrific events of September 11, and the human toll remains foremost in our minds. We all want to do our part to bring comfort to those who lost a loved one.

Just as a comment, and emotionally for me, we lost two people; and it is very hard, as you think about all of the lost lives that went through this tragedy.

Mr. LAFALCE. I am sorry. You lost how many?

Mr. BENMOSCHE. Two.

Mr. LAFALCE. Would you bring the microphone a little bit closer?

Mr. BENMOSCHE. The two that we lost, the devastation for those who survived is emotionally draining for all of us.

We welcome this opportunity to reassure you and the American public that we are fully prepared to meet all of our obligations. In addition, our financial soundness and the dedication of our employees has enabled us not only to assist quickly those directly affected by this tragedy, but also to continue to invest in the economic future of this country.

MetLife was founded in 1868, and today we are the largest U.S. life insurer, with $2.2 trillion of life insurance in force. We are also the largest provider of group insurance, managing programs for 33,000 employers, covering 21 million participants. Included in this total are the 2.6 million participants of the Federal Employees Group life Insurance Program. Approximately 9 million households, or one in every 11 U.S. households, are individual customers of MetLife.

MetLife is headquartered in New York City, and like those of who you live or work in Washington, DC., we feel keenly the shock and the sadness that reverberated throughout the country on September 11.

During this time of crisis, our employees rose to the occasion; and our critical business went on without interruption. We quickly took steps to make it easier for families of victims with MetLife policies to access the needed funds for their families. We waived the traditional requirement for a death certificate, relying on an airplane passenger manifest or communication from the employer. Over $53 million has already been approved for payment to beneficiaries, with the first payment being authorized 3 days after this tragic event.

A significant number of MetLife policyholders in the World Trade Center were insured through group life insurance programs. We are working closely with employers affected by the disaster to process life insurance claims quickly. This includes the FEGLI program, which covers some of the individuals at the Pentagon.

Even before we were contacted by beneficiaries, we began to determine from employers if the individual was at work on September 11. Additionally, our institutional business area, which handles group life claims, is sharing employer certificates of eligibility with our individual business claim team as well as other insurance companies so that we can move as an industry rapidly to get these claims paid to the beneficiaries and the families.

We established 1-800-MET-LIFE as a general number for all affected individuals to call to provide a central gateway on handling all claims related to this tragedy. This will be especially helpful when an individual has both group and individual coverage within MetLife.

As the Nation moves to assess the impact of the attack and plans its recovery, it is understandable that one of the concerns that has risen is the immediate and long-term financial well-being of the insurance industry. We currently estimate MetLife's after-tax losses related to this disaster at $250 to $300 million.

While MetLife's exposure is substantial, we are more than capable of sustaining the losses. We are a strong company, with approximately $255 billion in total assets. We also count as a source of our strength our domestic regulator, the New York State Insurance Department, who you have just heard this morning, which is the finest, I believe, Insurance Department in the country; and their oversight of insurers doing business in this State has created a very strong, financially sound environment for all of us.

I would like to take this opportunity to commend the Department, under the leadership of Superintendent Greg Serio, for their actions during this crisis—getting back to business the day after the disaster, arranging for insurers to be present at the New York Family Assistance Center and generally working with the industry on ways to expedite claims payment.

And I must say parenthetically that we struggle with regulators, but when you want to have something sound it is great to have New York making sure we are all financially sound in times of crisis. So, thank you again.

The attacks of the World Trade Center and the Pentagon have also raised questions about the industry's preparedness to recover from disasters affecting our facilities. MetLife has the people and the process and the systems in place to ensure we will continue to serve our customers even if a natural man-made disaster were to strike one or more of our offices.

During the disaster at the World Trade Center, we implemented a number of elements of our disaster recovery plans. First, we renovated an alternative business site facility, equipped it with computers and telecommunication services, and in the case where we needed to relocate the people in the World Trade Center, we did it the next day.

Our primary focus at this time is on paying claims to the beneficiaries of victims of this horrible attack. However, we have also taken to heart the words of our Government leaders, encouraging us to look to the future and take the necessary steps to heal and strengthen this Nation economically. We believe in the economic future of this great country and the people of this great country and, therefore, we announced last Friday that we invested $1 billion in a broad array of publicly traded stocks as part of a program to increase significantly our investment in the public equity markets. We have made this move because we have enormous confidence in the resilience of the country and its economy, and it is time to put our money where our beliefs are.

Those of us in the insurance industry recognize that the business of processing and paying claims promptly, assisting customers with decisions and continuing to strengthen our companies financially are critical elements in helping our country face this crisis. The foundation of our industry is the promise to our policyholders that we will be there in their time of need. By honoring this commitment, we know that we are doing our share to help our Nation recover.

I would be very happy to answer any questions later on.

[The prepared statement of Robert H. Benmosche can be found on page 181 in the appendix.]

Chairman OXLEY. Thank you very much.

Mr. O'Hare.

STATEMENT OF DEAN R. O'HARE, CHAIRMAN AND CEO, THE CHUBB CORPORATION

Mr. O'HARE. Thank you, Chairman Oxley, Ranking Member LaFalce and distinguished Members of the panel. I am Dean R. O'Hare, Chairman and Chief Executive Office of The Chubb Corporation. Chubb is one of the country's largest providers of property and casualty insurance.

I am pleased to testify today, but deeply regret the circumstances that bring us together. We are outraged by the tragic events of September 11, and we express our deepest sympathy and offer our prayers to all the victims and their grieving families.

Before I continue, allow me to commend you and Ranking Member LaFalce for taking quick action and holding these hearings.

My message for the committee today is straightforward. Chubb will meet its commitments, and the industry will pay its claims and survive. There are serious potential problems going forward, however. Allow me to expand on these points.

First, Chubb will meet its commitments while maintaining a strong balance sheet long term. On September 11, the losses will likely for Chubb be between $500 and $600 million pre-tax, net of reinsurance.

We have confidence in our reinsurance. Chubb's reinsurers are among the strongest and most reliable in the world. However, we agree with the concerns that you raised in your letter to the NAIC. It is essential that there be close monitoring of individual reinsurance company payments and potential solvency concerns going forward.

Second, I can assure you that Chubb's response after the tragedy began almost immediately. We have already settled claims with some customers, and we have issued significant advanced payments to others.

Our response is being led at the company's highest levels and by our very best people. Our first priority is meeting the human needs of the victims of this tragedy; and we, along with other insurance carriers, are doing everything humanly possible to respond.

Third, as I indicated, I believe strongly that the property and casualty industry as a whole will be able to pay its claims and remain solvent. These losses are spread worldwide, and the bottom line is the industry can certainly absorb them.

Concerning your question about possible changes in coverage going forward, I believe that both insurance buyers and their insurers will alter their behavior significantly. Unfortunately, it is becoming apparent that as current reinsurance treaties expire they will be renewed only with a terrorism exclusion. Therefore, it will become impossible to provide our customers with terrorism coverages.

Apart from this problem, we must also recognize that if the United States were to suffer a series of future attacks or catastrophes of the magnitude of September 11, insurance solvency would be called into question. The industry has a specific amount of capital and cannot insure risks that are infinite and impossible to price. Accordingly, Chubb is very interested in work with you to respond to the insurance needs of all U.S. businesses and citizens.

We do have the ability to meet this crisis. At the same time, we must be realistic about the future; and the future holds serious problems. In fact, as indicated, we are experiencing problems today in providing our customers with coverage for terrorism risk.

I know your staff is focused on this problem but, Mr. Chairman—and this is my fundamental message today—legislation is needed quickly, perhaps patterned after pool re in the United Kingdom for terrorist coverage.

The availability of insurance is absolutely essential to the growth of our economy. The lives lost on September 11 can never be replaced, and their loved ones will forever feel the void, but we can and we will help rebuild lower Manhattan, the financial heart of our country and of the world. Together, we will succeed in our war on terrorism. We will ultimately create a more secure America, one with an even more vibrant economy, but we need to act quickly.

Thank you for this opportunity to address the committee. I am pleased, when appropriate, to respond to your questions.

[The prepared statement of Dean R. O'Hare can be found on page 190 in the appendix.]

Chairman OXLEY. Thank you, Mr. O'Hare.

Mr. Mosher.

STATEMENT OF MATTHEW C. MOSHER, GROUP VICE PRESIDENT, PROPERTY-CASUALTY RATINGS, A.M. BEST COMPANY

Mr. MOSHER. Thank you, Mr. Chairman.

I want to start by thanking you for the opportunity to address the committee on this very important issue.

A.M. Best's mission statement is to perform a constructive and objective role in serving the industry marketplace as a source of reliable information and ratings dedicated to the encouraging of financially sound industry through the prevention and detection of insurer solvency. Given this mission, A.M. Best——

Mr. LAFALCE. Excuse me, sir. Would you please move the microphone closer? Thank you.

Mr. MOSHER. Given this mission, and A.M. Best broad rating coverage of the insurance industry, we are investigating the exposure of all carriers with exposure to this horrible event and stress testing their loss estimates along with their exposure to the financial markets. While the estimates of the cost of these losses continue to grow and financial markets have staggered, A.M. Best Company believes the U.S. and international insurance companies will be able to meet their commitments. However, this assertion is dependent upon the ultimate insured cost of these attacks.

It remains far too early to estimate the insured losses of the attacks. However, as a result of a discussion with insurers and reinsurers, public indications made by those companies potentially most affected and our own analysis, A.M. Best believes the losses are likely to exceed $30 billion, making this the costliest catastrophe in U.S. history.

The nature and location of the tragedy dictate that the majority of losses will ultimately fall with the largest commercial carriers, their reinsurers and the London market. The insurance segments most affected are property, aviation, business interruption, workers' compensation, commercial liability, and life insurance.

Over the past 2 weeks, A.M. Best has been communicating with insurance company managements to gain a better understanding of the exposures they face from these terrorist attacks. We have found the industry estimates to be, for the most part, well-researched and prudent estimates of their loss exposure. As part of our analysis we have stress-tested capitalization to support up to twice these amounts of the loss estimates, the additional credit risk for reinsurance recoverables as well as a 25 percent decline in common stock investments since year end. This stress capital position is then compared to require capital to support ongoing operations in the company's current rating.

While the underwriting losses from the attack are somewhat concentrated with the industry's strong property casualty commercial carriers, the impact of weak financial markets and further economic slowdown will be felt across the insurance industry.

Additionally, a decreased asset base and reduced interest rates will produce lower investment income. Given the lower investment income and more visible underwriting risk, A.M. Best expects to see increased insurance prices in order for insurers to achieve adequate operating returns.

Those lines expected to be most affected are the same lines affected by the attack itself. Personal lines coverages such as personal automobile and homeowners insurance are only expected to be affected to the extent lower investment income and increased reinsurance cost due to decreased reinsurance market capacity must be passed on to insurers.

Thank you, Mr. Chairman.

[The prepared statement of Matthew C. Mosher can be found on page 198 in the appendix.]

Chairman OXLEY. Thank you, Mr. Mosher.

Mr. Ferguson.

STATEMENT OF RONALD E. FERGUSON, CHAIRMAN AND CEO, GENERAL REINSURANCE CORPORATION

Mr. FERGUSON. Good morning, Chairman Oxley, Ranking Member LaFalce, panel members.

I am Ron Ferguson. I am one of the 2,400,000 people that work in the American Insurance industry day-in and day-out; life, health, property, casualty. I am proud of our industry. I am proud of the role we play in our society and in our economy. I am proud of our team, the two-million-four who are working hard, as is everyone else, to get this country back on its feet.

Normally, we work out of the limelight and out of harm's way, but, as you may know, some insurance companies did lose personnel in the terrible attacks on September 11.

We also salute those who do work and walk in harm's way as emergency service personnel and military personnel, and we are awed by their heroism and their patriotism.

As we reflect on the events of September 11, we all have a heavy heart. As I thought about coming here this morning, the picture in my mind was that I was coming here with my heart in my hand, but we are not coming here with our hat in our hand.

I echo the comments of the previous panel members at this table that the insurance industry, the life and property casualty insurance industry can pay all of its claims from this disaster. But as some of the panelists have mentioned and some of the Members of the committee have mentioned, we do at the appropriate time—and I realize it is not today—we do at the appropriate time have to ask: And then what? What do we do to make sure that we have a vital, strong insurance industry in the future to serve our society and our economy?

I thought my brief remarks here, the one thing I could try to do would be to put this disaster in an economic perspective. Clearly, there is no way to put the loss of life into any perspective, and I won't even try. But on the economic side, as Mr. Mosher and others have indicated, we can start to dimension this for you.

If you will bear with me as I throw out a few numbers—I am an actuary by training; I can't help it. I would like to get you to focus on the size of this disaster in economic terms in the capital base that it ultimately rests upon.

Now, credible and knowledgeable analysts, including the one right here to my right, have estimated that the economic loss, including life and health insurance, is likely to run between $30 and $40 billion. That is including life insurance, and that would be pre-tax. My own personal opinion, which should be accorded no special weight, is that it is going to be at the high end of that range.

Of interest to me, and I would imagine to you, is the fact that only about half that amount has been declared. That is to say, if you add up all of the press releases and comments, you get about $18 billion pre-tax that has been acknowledged or declared by companies here as well as around the world. So we still have many precincts to be heard from.But, again, the best estimate would be somewhere between $30 and $40 billion pre-tax, including life insurance.

Now, as Mr. Mosher pointed out, the great bulk of that loss is going to fall on what we call the commercial lines insurers, not the private passenger insurance companies, not the companies that specialize in homeowners and so on. So it is instructive, I think, to kind of look at the business from the top down.

You will hear analysts and commentators compare this loss of $30 to $40 billion to the premium volume for the industry, and that is a useful and interesting way to get a perspective. You will also hear analysts and commentators compare the size of the loss to the asset base of the entire industry or the property casualty industry. And, again, that is an interesting and useful measure as we try to grapple with this and get some perspective on it. But I have to quickly say we have to keep in mind not a single premium dollar was actually collected for terrorist coverage. Not a single asset was ever earmarked to pay claims for terrorist-type losses.

It follows, then, that the industry, and I agree totally with the other panelists, the industry will respond. The industry has broad financial shoulders. The insured losses from this event will be paid. But the point I want to take you to is that this rests on a capital base. It wasn't provided for in the current premiums. It isn't earmarked in the asset account. It comes out of the capital account. The total capital of the U.S. insurance industry, life, health, property, casualty, at June 30 was about $500 billion, by my estimates.

Let's quickly focus on the property casualty business, where 90 percent of this loss is going to come to rest; and as one Member of your committee correctly noted a few minutes ago, the policyholders' surplus or capital account of the property casualty industry was about $300 billion at June 30.

Now, I would like to take you a step further, and that is if we look at that $300 billion capital account from which these losses will effectively be paid, we then have to realize that there are many insurance companies that aren't involved, that write personal automobile, homeowners. State Farm is a great example. Once you start taking those companies out of the capital base—and I talked about this in my written testimony, so I will highlight it here in the interest of time—you can arguably get down to a capital base in the United States of about $120 billion where this loss will rest. That will be the fulcrum for this loss.

I am using rough estimates, and people could and no doubt will argue with my numbers. I myself could argue it is higher. I could argue it is lower. But let us take this as a hypothesis. The point I am coming to here is that with $120 billion of capital in the U.S. supporting this business, it is clear that—two things: number one, the losses will be paid. The $30 billion to $40 billion can be funded out of that capital base. But it brings into sharp relief the question that Commissioner Sebelius put on the table and Dean O'Hare put on the table, what do we do next? How do we safeguard our industry and its important role in our future?

Again, I realize it is a topic for another day, but I simply could not resist the opportunity to make sure we understand that part of the story. So the losses will be paid, the industry can handle it, but the big question is: And then what? Thank you.

[The prepared statement of Ronald E. Ferguson can be found on page 207 in the appendix.]

Chairman OXLEY. Thank you, Mr. Ferguson, and to all of our panel.

Let me just compliment the insurance industry in general for an extraordinary and perhaps unprecedented response in this situation. I know that many of you were at the White House last week, and the message that you brought to the President and to the American people in your news conference afterward was one of positive reinforcement that the insurance industry is prepared to pay these claims, that you are financially sound. The regulators have confirmed that today, and you have performed magnificently.

I had a conversation the Wednesday after the tragedy with Mr. Sternberg. He was very vociferous in saying these claims would be paid and that they would be paid in a timely manner. There was no backtracking. There was no wringing of hands. That is the way the entire industry, both on the life side and the PC side, have responded.

I wanted you to know on behalf of this committee how proud we are of your industry and what a job that you have really done, and this was again further emphasized by the testimony we have had from the regulators.

And I suspect that, Mr. Ferguson, the question you asked is very timely today. Because if we truly are in a position where these claims are going to be paid then we need to look to the future and we need to look, starting right now.

So, basically, my question will be to the panel members the question you asked, Mr. Ferguson, where do we go from here? I am satisfied that the industry is in position as rock solid, as I said about the banking system when we held our news conference with Mr. LaFalce last week; and I am confident that the securities industry and the insurance industry fall into that same category. So now the question is, where do we go from here? That is the ultimate question, and I need to know and I think this committee needs to know what advice you would give us.

How does the re pool work in Great Britain? How much Government involvement will our taxpayers and the public be comfortable with? How effective is the system in Great Britain? Are there similar ones in other countries? Those kinds of things—I am going to kind of make it a free-for-all, which I don't like to do normally in a committee of this size, but I think it is a great way to focus in on the job that we have in front of us, all of you as regulators and members of your industry as well as on our side of the dias.

So, Mr. Serio, let me begin with you and kind of take us through perhaps what we should look for in the not-too-distant future.

Mr. SERIO. There are a couple of issues that we have been focusing on in terms of what is the next stage, particularly for the New York market. Capacity questions, questions about rates, where will they be going?

I will disagree with one thing said here. Maybe, relatively speaking, there is less of an impact upon the personal lines rather than the commercial lines, but as Congresswoman Maloney knows, there are a lot of people who live on Manhattan, Long Island, Westchester, New Jersey, and Connecticut who will have homeowners' and automobile claims. A lot of automobiles that are going to be claimed and totaled, a lot of homeowners' claims. So we don't want to lose sight of that. Because there has been a general hardening of the market over the last year to begin with, maybe even longer, and that certainly exacerbates what we could not have anticipated prior to that.

So we have, from the regulatory side, have to think about how to put that into the mix from the overall market, a market that was hardening, capacity shortages and certainly increasing prices; and we have to monitor the situation so we can estimate and predict where some of those rates are going to go to determine what is going to be the difference and the balance between affordability and availability.

I will put one more thing out on the table. There is a lot of discussion about a terrorism pool or whether terrorism is an insurable or an uninsurable risk and whether some public entity has to come in and cover that, as we have done with other things that we have considered to be uninsurable. But I think from the insurance side I think the analysis really has to go back to a purely insurance analysis, and that is the question of risk management practices on the part of the aviation industry, airport facilities, and the conjunction and the interplay between the insurance industry and some of the others in assuring that there are good risk management practices in place.

That hasn't been in the discussion. The aviation discussions have taken place in a different committee. Insurance discussions have taken place before this committee.

But I think there is a need to bring some traditional risk management discussions back into the dialogue here in Washington, and we perhaps could help in that dialogue, because risk management, in making sure that the insurers are working with their insureds who run aviation facilities and airlines, to make certain that we are not simply going to create a fund that is going to allow for lapses in risk management practices, but that risk management will be built into whatever is built here in Washington and agreed to here and whatever the practices are going forward.

There have been a lot of concerns about the sudden spike in insurance for airport facilities and for airlines. There is a direct correlation between that and the presence of risk and that risk that can be controlled by those groups and those that can't be, and I think that is where we will divide—whatever fund we put together will be based on the risk management that we can expect from the airlines and the aviation community and those that we can't.

Chairman OXLEY. Thank you.

Ms. Sebelius.

Ms. SEBELIUS. Thank you, Mr. Chairman.

The national regulators are at the point of really looking in great depth at the pool re proposal, kind of analyzing that; and initially while that may serve as somewhat of a model to use, it is of such a different scope and kind of a different focus that it is difficult to use that as a platform. Capital in the English plan is relatively limited, compared to what we would need to look at; and I think there is an ongoing fear of what creating a Government mechanism does to the existing private market. I think the worst of all worlds would be to erode the private market or have an uncompetitive system where the Government has advantages or a monopolistic opportunity in this new mechanism that would discourage private market capacity.

So we really stand ready to help analyze any kind of mechanism that—I think it has been under discussion for a number of years.

Following Hurricane Andrew, there was a series of discussions about what about the next hurricane? What if you had a hurricane that came all the way down the East Coast and wiped out a whole series of cities? How can the private industry sustain that and do we need some sort of a reinsurance pool or voluntary reinsurance pool? So there is a lot of background evidence that has been gathered in this country and abroad.

As regulators, we stand ready to help with technical expertise and provide any oversight we can. There certainly are issues with risk management which I think are critical. There are issues with rating bands. Already I think it can be identified that the financial risk potential of terrorist attacks occurs in somewhat limited markets. I mean, Kansas may not rise high on the scale of an area that may be attacked, so how you spread that risk outside of those limited capital areas I think is one concern. What kind of coverage caps are appropriate, how to encourage the private market to move back into this area and what sort of incentives can be there for people who both engage in risk management practice and private market players who are going to provide those insurance are key questions.

So while on one hand I think there is a need to put the issues on the table quickly and begin to study them, I don't think this is an uncomplicated issue. I guess our plea would be to very carefully consider what the unintended consequences of setting up a mechanism are; and we stand ready, willing and able to help in any way we can to walk through this next step of the process.

Chairman OXLEY. We will be looking for your help on that area.

The two Life representatives, is it redundant or irrelevant in terms of the pooling arrangement, Mr. Sternberg?

Mr. STERNBERG. Well, from a property and casualty standpoint, we need to consider that seriously. We have drawn no conclusions at this time.

Chairman OXLEY. Very good.

Mr. BENMOSCHE. I think the only concern we have is the issue of pricing for insurance. We look historically at World War I, World War II and so on. That is basic coverage we have provided as an industry. And keep in mind, we have a 20 percent market share of group life. So we are fairly large here. The issue becomes where people purchase supplemental insurance or accidental death and those kinds of costs and premiums that are charged have certain life expectation, and that is where the exclusions come into play. So what we have to think about is, going forward, whether we can price for some of these things. This go-around we were able to meet the needs, but going forward, if you have a really large disaster, then the company could not afford to pay additional benefits because there were no premiums charged for it. And we have to be careful we don't sink the company in providing coverage for things that we weren't prepared to deal with. So I think it is only a small aspect of the business that we are concerned about.

Chairman OXLEY. Mr. O'Hare.

Mr. O'HARE. I would agree with much of what Commissioner Serio said, especially in terms of risk management. It does seem to me, however, that this Nation right now is at a point where it is addressing issues in terms of airport security and things of that nature, that frankly are far from being resolved. Addressing these issues is at the very beginning of the process, and until that process is completed and until we have the kind of security mechanism in place so we don't have to be concerned about terrorism—and I am picking airport security, but there are hundreds, maybe thousands of other areas that we as a Nation need to address in the war on terrorism—that is certainly a national priority today. Until that occurs, unfortunately, simply as a reality, a commercial insurer like Chubb, who puts together enormous coverages for organizations, much of which is in the financial community, needs to go beyond itself in providing these coverages. We need to be able to obtain reinsurance. And if that reinsurance excludes terrorism, which as of today you cannot buy—if I wanted to go and insure a major investment banking organization with an office in downtown Manhattan, there would be absolutely no place where I could go and buy reinsurance that would cover terrorism. So if the issue of some kind of reinsurer of last resort is not addressed, the effect is very simple, and that effect is you will not have coverages that include terrorism. And if we have another instance like this, companies will not be saying they are going to pay claims. They are not going to pay claims because it wasn't covered.

So we do need an insurer of last resort. I think that has to be something that both the private sector and Government work together to create. I have no desire to have the Government in my business, you can rest assured of that. But I think as a Nation, we need to continue to provide terrorist coverage in order to make this economy work. And if we are not prepared to work together to find a way to do this, then what we are really saying is we are not prepared to have this economy function as it has in the past.

Chairman OXLEY. Thank you.

Mr. Mosher.

Mr. MOSHER. I think one thing is to point back to Hurricane Andrew and the risk management issue and look at the response that came from the industry in terms of the better management they had in terms of dealing with catastrophe risk and exposures they have from that point until now. Obviously this is something that was unforeseen, but I would expect to see a strong response in that regard. The other thing I would echo is Mr. O'Hare's comments in terms of the flexibility that a reinsurer may have in terms of their policy and being able to exclude immediately as opposed to the primary carriers and their lack of ability to change perhaps the forms and policies that they have. And I think that is an important issue in terms of trying to determine how do you deal with this going forward.

Chairman OXLEY. Mr. Ferguson.

Mr. FERGUSON. Big topic.

Chairman OXLEY. You started it.

Mr. FERGUSON. Guilty. I think in your question you articulated some of the principles that we really have to focus on, and the Commissioner did, too, and that is what is the right role of the private sector versus—using Dean O'Hare's words—the reinsurer of last resort. And getting that right, which I think was part of your question, is the difficult task before us. We have ideas on this. I think pool re—and I understand Commissioner Sebelius' reservations about it and those should be taken into account. I think we can engineer around those.

Chairman OXLEY. Could you explain to us how pool re works; what the mechanics of pool re are.

Mr. FERGUSON. As I understand it—and I am right now in the process of getting more details on it myself—it was fashioned in 1993 to cover terrorism losses arising out of the IRA bombings that were occurring in London, and it is basically not unlike what Mr. O'Hare said. You go to the pool, you buy coverage for terrorism—as an insurance company, you would go to the pool if you couldn't find it elsewhere. You buy coverage for terrorism. It is at, as I understand it—it is offered at what is thought to be an actuarially correct price, but let us be honest. No one knows what that is. But it is not intended to be subsidized. It is intended to be a right price over a long sweep of time. But here is the punch line. If at the end of the day pool re runs out of money—which hasn't happened, by the way—the U.K. Government would step up to be the reinsurer of last resort. It is about that simple.

Chairman OXLEY. It would be the reinsurance pool we are talking about now that would have to be depleted.

Mr. FERGUSON. Yeah. Again, it gets back to the right balance between the private sector and Government. As Mr. O'Hare said, we have got a strong, vibrant private sector insurance industry here and we want to allow that to try to adapt to the new environment. If there are companies that want to write terrorist coverage, they should be allowed to do that and not have to go to the pool. I think the idea is to make it voluntary, but to be there as the reinsurer of last resort.

Another thing I started to think about is whether such an arrangement, whatever form it takes, pool re or I am thinking about another little concept I am calling the Homeland Security Mutual Insurance Company—I am trying to think this through—is what do we do about the fact that as of September 11, the line between war and terrorism, at least in my mind, got hopelessly blurred. And to me that suggests that if we are going to come up with an alternative backstop, it may have to cover war and terrorism, because I don't know where you draw that line anymore. Ten years ago, I think we all would have thought we knew how to draw that line. This morning, I am not so sure that we do.

Anyway, the point is I have got some ideas on this. Mr. O'Hare has some ideas. There are trade associations working on it, as Commissioner Sebelius said. The question in my mind, Chairman, is where do we take our ideas? Who should we best work with? I have conversations with Treasury and conversations with Commerce, and it is a little hard to know exactly where we ought to take the ideas and where we can really try to work through some of the things that have been discussed here in the last 15 minutes.

Chairman OXLEY. Thank you, Mr. Ferguson. And I have far exceeded my time, but I do appreciate the first cut at this very difficult issue. I think it has been helpful for the committee. Gentleman from New York.

Mr. LAFALCE. Thank you, Mr. Chairman, and I am going to follow your lead and ask for a free for all with some of the questions and comments that I have. But before I get into that I, too, want to commend everyone not only for their testimony, but for the tremendous response. I can't think of anybody in the United States who hasn't responded magnificently, from the President and Secretary of State, Secretary of Defense to the U.S. Congress, Republicans, Democrats alike, the regulators, insurance industry and this is America at its best. I also was proud when New York State Insurance Department was referred to as the best in America.

Of course, Mrs. Sebelius, I can't imagine anybody being a better spokesperson for the insurance regulators of America than you. And now having given all that praise, it is one thing to be forthcoming and say we are going to cover all acts of terrorism. These are not war exclusions whatsoever. And I would imagine the easiest form of insurance to cover immediately is life insurance. That is something that is quite measurable, definable. I would think that business interruption insurance presents some more difficulties. And whether or not there is a forthcoming response with respect to that, in large part I believe remains to be seen. So everybody from the President to the entire executive branch and the Congress, we have to sustain this forthcomingness, and that could be more difficult.

I am thinking—maybe it is my days as an attorney for the insurance industry—well, what exactly does interruption mean; how do we define interruption? And once we define interruption, can you say that businesses in Kansas were interrupted because of the terrorism in New York City and then how do you measure the damages? I mean, the businesses are going to come in and they are going to say they were damaged to the tune of $1 million. And we know it was only about $100,000. And what about this coinsurance? Are coinsurance provisions going to leap up in all future policies that are written and how are they going to be applied with respect to those that already exist? Some securities analysts have said that business interruption might be somewhere between $5 and roughly $9 billion. I wouldn't be surprised if it is more than that, and I wouldn't be surprised if the upper limits that have been articulated, $40 billion, turn out to be considerably higher than that.

The response of the industry is going to be very interesting, and we have seen a great response so far, but this is the first inning of a 9-inning game and we need great responses over the whole ballgame. And also your response will help shape the future of the economy, too, because your insurance is one of the automatic stabilizers that we need. Your insurance will provide the economic stimulus we need, in part, to rejuvenate our economy.

Also, I am concerned as to what—especially you publicly traded companies—what perspectives you have about the short selling that might have taken place September 10 and then also the short selling that took place once the markets were reopened and any comments you might have on those, too. Jump ball.

Mr. BENMOSCHE. For the life company, I can only share with you that for us—you are right. The commercial insurance aspects of this are going to be huge, and that is one part that MetLife doesn't have a business—we do not have in MetLife a commercial and P and C business. One of the biggest questions here is to what commercial insurance will be available around this entire subject, so it is the other panelists that are going to have to deal with this.

Mr. SERIO. Let me start with the question of business interruption coverage. And I think in their zeal not to disappoint, the industry is actually putting us into the middle of a bit of a conundrum and they are actually expanding coverages beyond those that are provided for in their contracts. That creates an interesting dilemma for the regulators, because everybody wants to see companies do those sorts of things, expand coverages, which simply did not anticipate an event such as this, whether it is business interruption, is it just lack of access to their properties, is it physical damage and you can't get to repair your physical damage, where your markets or customers cannot get to your location, living expenses for homeowner's coverages, likewise, similar coverage. There has been an outpouring of interest on the part of the industry to expand some of those coverages that have had somewhat limited timeframes built into them up to this point.

Mr. LAFALCE. Let me just ask you what you mean by expand. You mean expand the interpretation of the existing contracts or expand the coverage for future contracts?

Mr. SERIO. Actually, in the existing contracts in responding to this incident, numerous companies have told us they are going to expand coverages either in the terms of timeframes for living expenses or for the so-called civil authority coverage, which allow for coverages when a business cannot get into their business, even though they have no physical damage. Let me explain that. In Lower Manhattan, after the incident of September 11, large segments of Lower Manhattan were basically closed off for security and also for emergency response purposes. South of 14th Street was basically inaccessible to businesses and homeowners. Since the 11th, that perimeter has come down to where they now have a smaller affected area. But for all of those people who have been affected, there are timeframes either in business interruption coverages or homeowner's living expense coverages that are triggered by a civil authority action, the action of a police or fire department or local government to make it inaccessible to their businesses or their homes.

Mr. BACHUS. [Presiding.] Ms. Sebelius.

Ms. SEBELIUS. Well, Ranking Member LaFalce, I think it is a very good question on the business insurance and business interruption front. Let me say at the outset, that that is one of the issues that State insurance department regulators deal with every day, not necessarily this kind of coverage, but the dispute between companies and policy holders and what is the appropriate value, how you mediate the claim, how you get it processed in a timely fashion.

Mr. LAFALCE. The only doubt that a business in Kansas whose business was interrupted on account of the terrorist attack on New York City would be eligible for coverage.

Ms. SEBELIUS. Business interruption coverage is typically a separate coverage. It is not automatically loaded onto general property coverage. It has some time limits and has some pretty specific definitions. There are measurement precedents of what you look at before and after, almost like a job discrimination case where loss of wage has a way to be determined in terms of what you are doing afterwards. So there are some precedents of how you look at it.

I have doubt that there will be some disputes and maybe some claims that are denied that departments need to be involved in and monitored, and there may be attempts of fraud on the consumer end who will say my business was interrupted when they are really having a slump season.

So those are the kinds of issues that regulators have to stay on top of and monitor closely. That is what State regulators do on a day-in, day-out basis, and I think we are ready to go to work on these kinds of coverages.

Mr. LAFALCE. Would the business interruption insurance cover the fact that the interruption was caused not by the terrorist attack, but by the FAA decision to shut down the airlines?

Ms. SEBELIUS. I assume—typically indemnifies a business for loss of income for a period that is necessary to restore property damaged by an insured peril. That is typically the contract language. So whether or not an FAA decision would be an insured peril or not——

Mr. LAFALCE. You see, that is my whole point. We have only gone through the first inning and all these issues are extremely important in deciding how forthcoming the industry really is to this unique circumstance.

Ms. SEBELIUS. What Director Serio was referring to is, the regulatory conundrum is to essentially be in a situation where we would be forcing, urging, requiring companies to pay benefits while they may be important to restoring somebody's business or property, but benefits that clearly are not defined in the policy and were not contemplated in the pricing of the policy and were not reserved for in the pricing of the policy. Those are going to have to be looked at very closely, because the regulatory push to do that may render the company insolvent and be public policy damage to all consumers in the future. So the balance of what is required, what it means, what the precedents are, and I think we are going to work on these issues so we have some uniform definitions across the country so everybody is looking at them in the same way.

Mr. BACHUS. Let me say this to the Ranking Member. We have actually gone over now 12 minutes, and if we could ask your indulgence to let other Members ask questions, and then if we have time—I think we have assured the panel we would try to be through by 1:00 o'clock.

Mr. LAFALCE. Could you allow the others to make a brief response?

Mr. BACHUS. Any of you all feel especially compelled to respond? All right, with that, let me go on and ask a few questions. I am going to try to get through mine quickly. I want to say this, and I think it can't be overemphasized, that the insurance industry has had a historic loss as a result of this attack, but it is gratifying and inspiring to see that you have come through it on a sound footing, that you are fully prepared for a catastrophe of this nature, which I think is demonstrated by your response, and in the words of Mr. Sternberg, I think New York Life has summed it up by saying we will pay our claims quickly and compassionately.

So I want to commend all of you for this. I think it inspires new confidence that the American people have in the insurance industry. And there were serious questions raised right after this whether the industry would impose an act of war exclusion, and it was characterized by the news media and many people in Government as an act of war. But you have not seen fit to do that, and I commend you for that.

I also want to commend—I think it was MetLife, the MetLife family—for going to—Mr. Benmosche, you read part of your statement and you didn't have time to read it all. In it you said last Friday—and I don't think you read this part—you said "Last Friday, we invested $1 billion in a broad array of publicly-traded common stock as part of a program to increase significantly our investment in the public equity market." I want to commend you on that. You do things for investment purposes, but you were in there doing that, and I commend the entire MetLife family for taking that action.

Mr. Serio, one thing, we have said that claims are going to be paid promptly and compassionately. One thing you did say in your testimony—and I think I understand this, but I just want to allow you to comment on that—you testified that lawsuits over the September 11 tragedy will take years to reach any resolution. Is there anything Congress can do to expedite or consolidate this in legislation? And I know it is a very complex thing and there are very many complex legal issues to be confronted.

Mr. SERIO. I think we were basing our observation on past experiences, past disasters. Some action has already been taken with the aviation bill that was passed and signed last week to consolidate some of the litigation in the Southern District of New York and to consolidate itself in Federal Court. It is actions like that that need to be evaluated with respect to other suits that are likely to come out of this. Virtually all the parties that are involved with this, property owners, obviously the airlines and others, have to evaluate the litigation risk and allow us as regulators and you as policymakers to decide, based upon that risk, that it could take years for litigation to be completed. I think what we want to do is make sure that it doesn't take 10 years, as it has been in some other cases, for people to be compensated for their loss. Other than the first party benefits, I think Mr. Sternberg and Mr. Benmosche and others were talking about, were those third party liability benefits, and that compensation should not take that long to be received by victims and their families.

Mr. BACHUS. Ms. Sebelius, in your written testimony, you said approximately 40 percent of reinsurance covering American insurers is placed with foreign reinsurers. Is that high number a consequence of our tax policies? And if so, would reinsurance be easier to regulate if policies were to change?

Ms. SEBELIUS. Representative Bachus, I am not sure I can specifically comment on the capacity and what the impact of the tax policies have been on companies. Some of my colleagues to the left may be able to do that more adequately in terms of where the reinsurance market is. I don't feel that American regulators feel we have difficulty regulating the reinsurance market. We do have subsidiaries of most of those major companies here in the United

States. We have regulatory oversight. We have just put in some additional data calls for some of the areas that we need additional information about, but the reinsurance community is very much, I think, in the regulatory scheme and has been very cooperative and forthcoming in terms of where their losses are, what their capacity is, and I think regulators at this point are confident that they can move forward on that. But why exactly many of them are located in Europe might be a question for down the table.

Mr. BACHUS. I noted that on page 25 of your testimony you outlined some things that Congress may do in regard to reinsurance or creating pools. And also, I think this committee, many of the Members are aware that in Britain they have created at least a layer of reinsurance where the Government steps in above that layer. One other legislation that has actually been introduced in this Congress—and I would ask you about this—I hadn't heard a comment on that—is it allows insurers to get to set aside premiums for catastrophic events in a special tax free fund. I don't know if you all are aware of that or if you have any comments on that—in other words, some tax-free account.

Mr. O'Hare.

Mr. O'HARE. This is something that actually, the industry in the early 1970s put forward, and I think it existed for maybe 2 or 3 years. And the accounting profession viewed the catastrophe reserve, as we refer to it, as a mechanism whereby companies would manage earnings even though the specifics, you know, were outlined precisely as to how these contingency funds would be built up. So certainly from my point of view, I view this as a way that the industry could buildup reserves for situations like this and therefore putting the industry in a better position to live up to its promises, if and when the time came. I am very much in favor, but it would take SEC and the accounting profession to go along with it.

Mr. BACHUS. Mr. Ferguson, you were starting to comment. And I am going to follow my own admonition about cutting back.

Mr. FERGUSON. The idea of using tax policy, whether it was the first question or the second question, are certainly things that could be considered. And whether or not that is the right use of tax policy I guess is a philosophical debate for another day.

The only point I want to make here, however, is that both of those things at the margin would have some impact on capacity and the financial strength of the industry. But frankly, they pale in significance compared to the issue we are really facing with the kind of event with the World Trade Center. So I wouldn't say they are bad, but at the margin they really don't solve the problem.

Mr. BACHUS. And if any of you care to give us some specific solutions you think would——

Mr. FERGUSON. Love to.

Mr. BACHUS. You know, I have serious philosophical problems with Government bailouts of private enterprise. At the same time, as we demonstrated last week, when we have a catastrophic event that affected the airline industry like it did, you know, we were compelled to respond. And perhaps there is something in the arena of reinsurance of these things that is appropriate.

Mr. O'HARE. I don't think the industry—certainly I am not asking for a bailout.

Mr. BACHUS. And I should not have used that word in relation to a sound industry. The airline industry was not in sound financial shape. So that is really comparing apples and oranges.

Mr. O'HARE. The airline bill was a bailout. What we are talking about here is looking forward and providing a reinsurer of last resort. And I would point out to you that in the United Kingdom, the reinsurance pool, to the best of my knowledge, was never, ever used.

Mr. FERGUSON. But it is in a profit position.

Mr. BACHUS. I guess what I should have said is to prevent a bailout.

Mr. O'HARE. That would be a good categorization.

Mr. BACHUS. And I apologize for that. You have proved both in insurance and reinsurance that you are very sound.

Mr. Kanjorski.

Mr. KANJORSKI. Thank you very much, Mr. Chairman.

First question, has anyone on the panel asked to consult with the leadership of Congress prior to our bailout bill or airline subsidy program last week?

Mr. O'HARE. Yes.

Mr. KANJORSKI. That is very good. First of all, let me congratulate you, Mr. O'Hare and your company. You were the first one to come forward and clarify that you would not exercise act of war provisions. I thought that was one of the most patriotic commercial activities taken during the entire tragedy. Speaking from the Democratic side, what disturbed me was an overwhelming cavalier attempt by the Congress to compensate the airline industry. I understand the problem with the airline industry. If you follow the logic that the industry was negligent, that they were required to provide security, and they failed to provide it, then as a result, their plane was seized, and people and passengers on that plane were killed, and as a result, 7,000 people on the ground were killed, it is perfectly consistent in tort law to potentially hold the airlines liable for all those deaths and then compensate those parties at the rate of lost compensation and pain and suffering. This liability would have clearly wiped out all of the insurance companies. They would not have been able to meet that burden. We wanted to do something to subsidize them to make the airlines operate. I was particularly worried to support the particular plan passed by Congress because, as I understand it, the insurance industry is one of the major holders of paper on airplanes. Thus, if we have 2,000 airplanes sitting on the ground, and the industry's value is in the range of $200 billion in securities and leases, the airline industry is not very valuable and, therefore, would have a difficult time. That situation would have not only risked the insurance companies, but also would have had a ripple effect to putting the airlines out of business, an underpinning of the insurance industry, which would have further weakened the financial structure. The thing I am most worried about, however, is that we hurried to develop this compensation program, consequently, I am not sure how many people paid attention to what we did. We created a clear strict liability for 7,000 people to recover all their compensatory loss and pain and suffering. I have run through the mathematics and, at a minimum, I would say that we have subjected the Federal Treasury to at least $33 to $35 billion in outright payments. Now that will make some of the families whole if you could ever make anyone whole as a result of a death. I am not suggesting that. That would probably, on average, give about $4 million, of which I consider about $1 million dollars compensatory payment and $3 million for pain and suffering that the master is entitled to a portion.

My problem is what happens with the next occurrence. Obviously, the United States Government cannot constantly award a tort recovery to all people subject to terrorist acts. I do understand it was a peculiarity because of tort law in airlines, but if an energy company, however, is attacked and blown up and there is a radiation leak, there could be hundreds of thousands of people affected. I do not think we are well prepared to think out the need of compensation for all people, or a capping of what amounts will be paid to what individuals.

For instance, one question I have in mind is that there must have been in the World Trade Center towers extraordinary income earners. These people in the bond business may have been making $100 million to $300 million a year in income. Why should the Federal Government take that into the calculation and compensate these families $1 billion or $3 billion when, in fact, at the next terrorist occasion, we will not have the wherewithal, or the ability to afford compensation for the next sufferers? Is the insurance industry capable of coming forth in a relatively short period of time to look at the reasonableness of assisting at least the Government in establishing some compensation program for victims of terrorist attacks and their families to make sure we do not bankrupt the Government by taking this action?

For instance, one of the provisions we had in the bill is that the master is to discharge life insurance payments from the total amount. That provision is sort of counterproductive because it encourages people not to buy life insurance. They can wait until they suffer a disaster in a terrorist event and then get the compensation from the Government. There seems to be countervailing good practices here, getting out of the free market system that holds individuals responsible or pushing the burden of total payment for injury on the Government.

Mr. O'HARE. I think I would comment as follows: Number one, I think the bailout—the airline bailout was really a measure designed to keep the planes in the world continuing to operate. I think if air travel came to a halt, this would not have a very good impact on the economy. So what needed to be done was needed to be done, and it was, in fact, done. I applaud the Administration for that, and Congress for doing that.

As far as putting maximums on liabilities for the airline industry, that had no impact on the insurance industry, because, in essence, what the bill says is that if it was—it is up to the limits of your insurance coverage. So the insurance industry does not benefit one way or the other from that.

Mr. KANJORSKI. I am not suggesting that insurance companies benefit. I am suggesting that what we did has subjected the Treasury to an entitlement program that is unlimited in a way. We do not know what the master's assessment of these damages will be and we have contracted now—or at least passed a law that the Treasury will be open to that amount. Treasury however, may not be so open to a similar program in a future terrorist event. And that is why I am suggesting that we have to find something that is relatively fair here.

One thought I had, is that we are sending these young men into harm's way, and therefore, we have a very limited policy on their death. It is sort of unfair that, because you were a bond trader in the Towers, your State may receive $1 billion dollars in compensation. Yet a young man or young woman may go off and lose his or her life in the protection of the country and they have a limited coverage of whatever that is now. When I was in the service, it was $20,000. I imagine the coverage is $100,000 today, but it is very limited for that sole purpose.

What I am saying is we as a Government have not looked at the impact of terrorism on the Treasury in the realm of fairness and equity in anticipation of possible future terrorist events.

Finally, I will leave you with the following statement, because I am disturbed with what kind of an effect terrorists will have on terrorist insurance in the commercial field. I do not know how we are going to finance large real estate developments in major cities if one cannot get terrorist insurance, particularly after this event, without having the ripple effect further go down to the mortgage market right into the financial institutions. And, as someone said on the panel, the industry is not writing terrorist insurance. I imagine bankers are not going to be far behind you and not write mortgages to finance future targets.

Mr. BACHUS. I thank the gentleman. Two or three Members have advised me they have to catch airplanes very soon. If I could ask the indulgence of the panel, we have five more Members that want to ask questions and they are all very active Members of the committee. They have sat through the testimony and are very interested in asking questions. And any of you that can stay, we very much appreciate that. It is five Members, and we will try to limit it to 5 minutes.

With that, Mr. Weldon.

Mr. WELDON. I thank the Chairman and I certainly want to join the others in thanking you for stepping forward in the ways that you have to help our Nation wrestle with this challenge, and I also want to thank all of you for coming and testifying. We are very concerned as a committee and as a body about the issues that you are discussing with us today.

I am particularly interested in the issue of reinsurance, and I really appreciate all the comments that I have heard. And my question for you is we had a bill in the Congress last year that was introduced by two Members who are no longer on the committee, Mr. Lazio and Mr. McCollum. Are any of you familiar with that legislation, the way it dealt with reinsurance? And if so, can you give me your feedback on maybe what you think may have been some of the problems with that bill and what we could do as a Congress to perhaps draw up a better piece of legislation?

And maybe I will start with you, Mr. Ferguson. You are in this arena, correct?

Mr. FERGUSON. I presume you are talking about H.R. 21 or some version of that?

Mr. WELDON. Yes.

Mr. FERGUSON. I think the issue here is what is the right role for the private sector versus the Government, which I guess in H.R. 21, if I understand it properly—and I realize it may have changed since I looked at it many months ago——

Mr. WELDON. There is no H.R. 21 now.

Mr. FERGUSON. Well, back then, my understanding was that the Government would come in at $2 billion. And my straightforward answer to your question would be that simply is too low a threshold. It is—my opinion—wrong mix of private response and Government response. I think the private sector ought to be able to handle a much larger number than that.

Mr. WELDON. Is there enough capacity right now though in the private reinsurance market? Do you believe that exists?

Mr. FERGUSON. Yes, I do. Yes, I do.

Mr. WELDON. Would all of you in the insurance business agree with that statement that there is enough capacity in the private reinsurance?

Mr. O'HARE. I think there is enough capacity, but I am not going to say there is enough capacity to provide terrorism. I don't think anybody on this panel would agree there is unlimited——

Mr. FERGUSON. I thought we were talking about—your point is taken, Mr. O'Hare. I thought your focus was on natural disasters, hurricanes, and that is what I was responding to.

Mr. WELDON. But I wanted to cover both issues. Number one, your thoughts on the bill as it existed previously, what were the weaknesses, but as well, is there enough capacity for reinsurance today, private reinsurance in the market for natural disasters?

Mr. FERGUSON. I think so.

Mr. O'HARE. And I would agree with Mr. Ferguson that there is sufficient capacity for natural disasters, but I limit my statement to natural disasters. I certainly think we are in a crisis situation in terms of being able to buy reinsurance for terrorism.

Mr. WELDON. Anybody want to add?

Mr. MOSHER. I think the terrorism issue, it is not a capacity issue. It is an issue of not knowing how to price it. There is no way to know what the true cost is. So that is why a reinsurer isn't willing to write it. They don't know what their true exposure is as opposed to a natural disaster where $2 billion probably is too low, because they do have good models and they have a good idea how to price that. There is a willingness there. So it is really an issue of ability to price, not a capacity in terms of what they will and won't write.

Mr. WELDON. Thank you. I yield back.

Mr. BACHUS. I appreciate that.

Mrs. Maloney.

Mrs. MALONEY. Thank you, Mr. Chairman.

In the interest of time, I am going to yield my time to Mr. Bentsen so that some of my colleagues who have not been able to ask questions may ask questions, but not before one brief New York question.

First of all, I thank all of the panelists. You have given us a great deal of information and a great deal to think about, and at a time when the entire country is watching this industry, I have been heartened thus far by the very positive and very fast humane response that all of you have given.

Without objection, I would like to place into the record a *New York Times* article from September 20 that offers a very favorable description of the activities that the industry is taking.

[The information can be found on page 82 in the appendix.]

Mrs. MALONEY. Very briefly, I would like to ask Mr. Sternberg and Mr. Benmosche, I understand that MetLife will pay the largest amount of life insurance claims resulting from this tragic incident. New York Life will also pay a major amount of claims. They have already started paying claims. And I would like to ask, is this because you are New York domiciled companies?

Mr. STERNBERG. Our exposure is generally dependent on the size of our overall national insurance practice. It happens that we have somewhat more insurance in the New York Metropolitan Area. But I would say that, for the most part, our percentage of claims exposure is a function of the size of our book or business, which is quite large and also aimed to the high end of the market. And we have many people in the financial sectors that we insure. We also happen to be the insurer of the American Bar Association. And as you know, there were many lawyers in the World Trade Center. These factors contribute to our claims exposure.

Mr. BENMOSCHE. From MetLife's perspective as well, we do business with 87 of the Fortune 100. Fifty-three companies in the World Trade Center were, in fact, clients. We deal with 33,000 employers. They employ, as I said, 21 million people. This is, basically, if you have 20 percent market share, this is what you would expect to happen. And same thing for MetLife as New York Life, we are New York-based companies. Being able to compete in New York is hard. You have to deal with New York regulation, which is very restrictive, to make sure we stay financially sound. So part of it is you will see us have a little bit more business in New York State than other companies might have.

Mrs. MALONEY. Thank you. I yield to Mr. Bentsen.

Mr. BACHUS. There is 2 minutes and 23 seconds. And by unanimous consent, I would like you to add your 5 minutes to that and just take the full time.

Mr. BENTSEN. Thank you, Mr. Chairman. I thank Mrs. Maloney also for yielding to me.

Looking at everyone's testimony—and I am not going to quote the sentences, but I marked them in just about all the testimony, it would indicate to me that you are saying there needs—and in the previous discussion with Mr. Weldon, there was the question of understanding the risk premium for terrorist insurance and the reinsurance market and whether or not Congress is going to help in making sure that there is sufficient capacity there. And I think Mr. Ferguson with General Re talked about that, while there is sufficient capital in the industry and the reinsurance industry, that capital was originally spread evenly over the market, and obviously now is being disproportionately allocated to this area, and going forward, that could be problematic.

As you may know, in the past this committee has considered legislation that has been brought forth primarily by the property and casualty companies to create some sort of Government backstop in the reinsurance market for natural disasters. Am I incorrect in interpreting the statements in your testimony that while there has been division among the industry over the previous attempts, that there is a consensus building now for the need for some form of Government backstop, Government reinsurance market, if not related solely to terrorism, at least in large part, or maybe perhaps combined with natural disasters?

Mr. BENMOSCHE. Just before they answer that question, I have to apologize to all of you, but I have to get back. It was a pleasure to be here and I hate to leave in the middle of your question.

Mr. O'HARE. Can I comment? My view is that what we are talking about, and there is, I believe, a total consensus within the industry, is a reinsurance pool of last resort dealing solely with terrorist exposures. Irrespective of that, I think a national disaster, H.R. 21 type of arrangement with a much larger than $2 billion base is something that, I think, would be an extremely positive event. So as far as the specific details of H.R. 21 are concerned, it is a little foggy in my memory. I think we were in favor of it. I know we would be a lot more in favor of it if the threshold was higher, but that is not the real issue.

The real issue here—and I want, you know, to keep going over this—the real issue is we have a crisis brewing as we speak, because as we speak we are in the process of negotiating our renewals for next year. Our present reinsurance coverage, which fortunately in our case takes us through for the most part the middle of next year, but most companies are addressing these issues as of January 1. If they do not have terrorist coverage, then the policies they issue will have to exclude terrorism.

Mr. BENTSEN. And I do want to hear Mr. Ferguson because my time is going to run out. But it raises the other question I wanted to get to. And I understand what you are saying. And it makes me think that perhaps we may be seeing you sooner rather than later with respect to this issue, not unlike the airlines. And I am not being critical of this. The market may disappear on you and the reinsurance market may disappear on you.

If I can go to the other question. The P and C companies are going to have to liquidate assets in order to start paying claims at some point in time. That is a normal function. And they are well capitalized, although this is somewhat larger liquidation than usual. This is coming on the heels in my home city of Houston that had a somewhat substantial event back in June. We thought it was substantial at the time, about a $5 billion event, maybe pales in comparison now, with the flooding. And Mrs. Kelly brought this up about the muni bond market where the P and C companies tend to be the bigger players. But as you begin to liquidate assets, and as I read in the testimony, at some point premiums will have to come up because there was already a reduced profitability situation.

Aren't we entering into somewhat of a vicious cycle? I mean, you are going to have to do what you are going to have to do. But the gentleman brought up the issue that you have lines of credit with your banks—both lines—and the ability to roll your commercial paper. Do you believe that there is still sufficient liquidity on that side of the capital markets or have you seen that tighten up at all? Because that would seem to me to both benefit your industry from the ability of having to sell cheap in order to raise capital quick, but also the broader markets of dumping product on the market and further affecting it.

Mr. O'HARE. Number one, I think the capital markets are tremendously liquid. Chubb, right after the event, tested the capital markets just to see if we could sell commercial paper and the liquidity amazed us. So I don't think there is a problem. As far as being concerned about the industry dumping securities in order to pay claims, I think that really is an individual company-by-company situation. In the case of Chubb, I fully expect that we will pay these claims out of our cash flow. Our cash flow for the year 2001 will be about $800 million. We have said we expect our losses to be in the neighborhood of $600 million. So I am not assuming that we are going to have to dump securities on the market in order to pay claims.

I will say, though, that the $800 million that we would have had to put into the market, a good portion of that would have gone into municipal bonds, because they are just more income-effective to an organization like ours. Obviously, there is going to be less money going into that marketplace. And since we, the property and casualty industry, are such a big piece of the municipal bond market, I have to assume that we will affect demand.

Mr. FERGUSON. I don't have too much to add to that. I think it is company by company. Most of the large sophisticated companies have liquidity plans. In our case, we are very much like Mr. O'Hare's situation. We have about a billion-and-a-half in cash. By that, I mean short-term highly marketable Treasuries. So we wouldn't be liquidating other investments. But that is going to vary by company.

Mr. BENTSEN. Is the reinsurance market going to rethink its position with respect to a Federal backstop in the wake of this?

Mr. FERGUSON. Well, back to your first question, I would urge that we not mix together natural disasters and situations like this, the terrorism and the war. I think they have different philosophical and intellectual underpinnings to them. And I hope you won't take this the wrong way, but I have to say it in response to your question. The reason I can get comfortable with the idea that there ought to be a Federal backstop for war and terrorism is that, after all, is that not the basic duty of a country to defend its citizens? And without criticizing anybody—and I hate to even say it, because I know it could be misconstrued, but that is really the underpinning of the idea that it might be legitimate and necessary to have—to use Mr. O'Hare's phrase—a "reinsurer of last resort" for terrorism and war. When you get into natural catastrophes, I think it is a whole different issue and there the private sector should be up front.

Mr. BENTSEN. My time is up, but I would say that debate would go that many would believe that it is a basic function of Government also to come to the aid of its citizens in terms of a natural disaster.

Mr. FERGUSON. But the onus should be on the private sector to come up with that response, I think.

Mr. O'HARE. Natural disasters, the actuaries would tell you, are something that are will fit into an actuarial formula. Terrorism is another question.

Mr. BACHUS. Thank you.

Gentleman from Connecticut.

Mr. SHAYS. Thank you, Mr. Chairman. Mr. Chairman, I would like to state that I was at an Intelligence Subcommittee hearing on terrorism and I was faced with this awkward choice, which sometimes happens, two extraordinary hearings. This has extraordinary implications for the country. Obviously living right next door to New York City, we are seeing this up close and personal.

A great advertisement for life insurance is that sadly some of my constituents who were killed, murdered, have no life insurance of any consequence, and yet they had very high incomes. And it is real tragic what we are seeing happen to a number of people. They simply didn't listen to you, and you all said "you need life insurance."

And it is also important to me obviously, because Connecticut is an insurance State. And in our area, I think it is the reinsurance capital—at least one of them—of the world. So I apologize for not being here. I want to state a few things, and I don't need long answers, just to see if my sense is right.

Technically, legally, life would have to have been paid, but casualty would not have to have been paid for a terrorist act. People with life insurance policies covered for a terrorist act? I am talking legally. You all are going to cover it. That is not the issue.

Mr. FERGUSON. Could I start on that? It is my understanding, Congressman Shays, that very few property-casualty insurance policies have a terrorism exclusion, number one.

Number two, many property-casualty insurance policies do have a war exclusion, and that goes back decades and decades and decades.

Number three, on the life insurance side, it is my understanding—although I am getting out of my area of expertise here a little bit—that very few life insurance policies any more have either a war exclusion or a terrorist exclusion. So the real issue kind of turned on did the war exclusion apply on the property policies, and many of them do have that exclusion. And by and large the industry has said no.

Mr. SHAYS. I make the assumption that one of the challenges is that, one, the right thing to do is to cover it. But even from a business standpoint, I would suspect that some companies would be boycotted if they sought to not participate. I don't say that as a negative to any of you, but I mean, that would have been a reality even from a business standpoint. But what all of you are saying—Chubb a little more aggressively than the rest of you—either you would not have the resources to cover another attack like this or you would simply put people on notice right now that it wouldn't be covered. And I would like to know which is it. Do the rest of you jump in with Chubb in their candidness and say "we can't cover it" or "we won't cover it." First I want to know if it is can't or won't, and then I want to know what the others think.

Mr. O'HARE. When you put together coverage for a commercial client—you may be talking hundreds of billions of dollars for that particular client—you don't take on this coverage by yourself. You go to the reinsurance market and you lay off a portion of the risk. If, in fact, the reinsurance market, which is the case as we speak, is unwilling to give you coverage for terrorism, then the product that you sell cannot cover it, because there is no way on earth that a single company could offer hundreds of millions of dollars on its own. So the fact of the matter is, as much as we would love to, we can't, because in order to put together complex coverages——

Mr. SHAYS. I understand that when you renegotiate it. But a lot of these——

Mr. O'HARE. Where we are today with the coverages that exist, which do provide for terrorism coverage, I will tell you right now, as long as we have a penny's worth of net worth, if they were to be 10 or 20 more such events, we would keep paying until we were bankrupt.

Mr. SHAYS. That is fair. In other words, you are basically saying you would go bankrupt in the bottom line?

Mr. O'HARE. I am saying if, in fact, you have 20 or 30 such World Trade Centers. Chubb has, for example, $7 billion worth of net worth. We are going to spend, after taxes, $350 million on this event. So we could have 20 of them.

Mr. SHAYS. I realize this is a sensitive issue, because everybody listens to how you respond and it impacts your stocks. And I am not trying to sensationalize this. What I am hearing you say is that it wouldn't be one more attack, but a few more could do you in, in essence?

Mr. O'HARE. I am saying that it would have to be a few more this year.

Mr. FERGUSON. But that would, obviously, vary company by company, and there are other companies that could not make literally——

Mr. SHAYS. I mean, I have the general sense that we are going to try to resolve this. I mean, we are all anxious and all dealing with pretty horrific circumstances. But my sense is that this Congress is going to have to find a way to deal with a problem that you are notifying that seems intuitively very easy to understand. So I am not questioning that. And your challenge is how strongly do you state the case without making it a sensational issue and causing other problems. But the bottom line is, you are very clear. You are doing something that technically, legally, you don't have to do right now. You are covering a terrorist attack.

Mr. O'HARE. One second. The policies that Chubb has issued do, in fact, cover terrorist attacks. What they don't cover is if the country had a declared war, and there was a fear in the public, I think principally created by the press, that indicated that some insurance companies were going to rely on the war exclusion, which does, in fact, exist in most policies. I was the first one to come out and say as respects to the property and casualty industry that the World

Trade event was not a war in the traditional sense and we are going to pay our claims.

Mr. SHAYS. Mr. Chairman, do you want me to come back afterwards? Would you like to go and I will come back? I am almost finished, but I think I will yield.

Mr. BACHUS. We have gone over, so I will recognize the gentleman from Kentucky. And let me say this, I do want to commend Mr. O'Hare. Your company was a leader in stepping forward and saying that you were going to fulfill your commitment to the American people, and we are very grateful.

Mr. Lucas.

Mr. LUCAS. Yes. Since I am the last barrier between getting out of here, I would like to say that I have stayed here as a public policymaker to understand and have empathy for your problem so I can more intelligently help you deal with this, because I think we have got some work to do here and I understand that. I appreciate all the informative information. It was very succinct and we had a lot of horsepower here at the table, and I appreciate that and we are here to help you. Thanks.

Mr. BACHUS. I thank the gentleman. I am going to permit Mr. Shays to have 3 more minutes with your indulgence, and then we will adjourn the meeting. I do want to make some remarks very briefly, thanking some folks.

Mr. SHAYS. I thank the gentleman. I don't want to leave it right there. I want to be clear you are saying that an act of terrorism is covered and an act of war is not and we get into the definition of what is a war and all of the ambiguity with that. But are you saying in rewriting your policies, you will have to say we now view an act of terrorism as an act of war and make it clear to your subscribers that that is the case?

Mr. O'HARE. No, I am not saying we would view an act of terrorism as an act of war. What I am telling you is we would be forced to specifically exclude terrorism. The reason has nothing to do with Chubb.

Mr. SHAYS. I understand the reason.

Mr. O'HARE. Is we need to have reinsurance.

Mr. SHAYS. The consequence is almost like an act of war is the bottom line here. Does anyone else want to make a point?

Ms. SEBELIUS. Congressman, just from a regulatory standpoint I think one of the key issues, and it has been identified pretty clearly, though is to have as part of this exercise a very clear, very narrow, very limited definition of what it is. If the Government were to play any role in the reinsurer of last resort, defining what exactly is an act of terrorism and how broadly that is, it could have enormous implications. So while that may be self-evident, I think that may be a lot trickier.

Mr. SHAYS. But it can have enormous implications if we don't jump in and help.

Ms. SEBELIUS. Absolutely. But the definition and how narrowly it is drawn and what it defines is a critical piece of the puzzle.

Mr. SHAYS. I have confidence that this is going to be legislation that would be debated pretty extensively and won't just go through like some of the legislation in the last week or two.

I thank you, Mr. Chairman, and I apologize to some of the witnesses, because I am assuming some of this is redundant.

Mr. O'HARE. If I may respond just to that comment, I am not trying to create a situation that this is a panic, but I am——

Mr. SHAYS. I don't feel it is a panic.

Mr. O'HARE. I am saying very specifically that the reinsurance coverage on what we would call facultative covers is not there today. So as we speak, it is having significant impact on the market. It is having significant impact on what any property and casualty insurer can offer to its customer. So as we speak today, customers are not getting what they could have gotten before September 11.

Mr. SHAYS. Members of Congress need honesty and you can't be reluctant to tell us what you need to tell us. I feel like you feel like you are walking on thin ice here, but this is helpful testimony. I thank you.

Mr. O'HARE. Thank you.

Mr. BACHUS. We did receive testimony earlier and I think Mr. Pitt reassured us that the reinsurance industry is very strong and well capitalized, and I think maybe what we are saying here is on September the 11th, the world changed forever as we know it, and this terrorist attack was unlike anything we had seen in this country. It was impossible, and would have not been proper to have priced in for such an event, to ignore such an event after it has occurred is something that the insurance industry, as any industry, and the American people will not ignore in the future, and that is going to result in some changes in the marketplace.

Let me close by saying this. Ms. Sebelius, I want to thank you and the NAIC for working very closely with this committee as these events unfolded and also, Mr. Ferguson, the Reinsurance Association has worked with the committee. We very much appreciate their professional work. Mr. O'Hare is representing the property-casualty field and also the life insurance field. The leaders that met with the President, the insurance industry, last week at the White House, that was very reassuring for the American people, and I think as the events have unfolded, the commitment and the actions of the insurance industry are exemplary, an extraordinary showing of compassion and concern for their policyholders, and I think the insurance industry has earned a great deal of goodwill from the American people. I hope that is the case.

Mr. O'HARE. Thank you for those comments.

Mr. BACHUS. Thank you.

Mr. Mosher, the only question I was going to ask, and I am going to submit it in writing out of respect for our committee, is you said that the strength in the insurance industry is built on financial market gains as opposed to underwriting profitability. That is something we hadn't really discussed here, but if the insurance industry is to stay strong and it is to remain strong with these even new considerations, we have to look at allowing more favorable pricing by insurers. That is something we didn't get into today and I am going to submit some questions to you about that, and I appreciate your pointing that out. I am very happy that the insurance industry has invested their resources very wisely. If they hadn't, we would be in trouble today, because their pricing certainly has not been sufficient.

The last thing I wanted to say, and this I mean as sincerely as anything and I say this to you, Mr. Serio, as New York Insurance Superintendent, the people of America have been watching New York and we are very proud of the State of New York, very proud to be in union with the State of New York. I would like to personally express my gratitude and the gratitude of the committee for the exceptional efforts by your office and of Governor Pataki to respond to this tragedy. We have all talked about Mayor Giuliani. We know what he has done, but George Pataki has been a pillar of strength.

We also want to express great sorrow at the loss of former New York Superintendent Neal Levin. Having you here today reminds us again how well we worked with him, how much we admired him and how he will be sorely missed. And I would like to express our prayers and sympathy with his family.

Mr. SERIO. Thank you.

Mr. BACHUS. I think that brings the loss home to us all. With that—and this is something I have to do for procedure, but the Chairman not only thanks the witnesses for their testimony, but notes that some Members have additional questions for the panel that they will submit in writing and, without objection, the hearing record will remain open for 30 days to submit written questions to those witnesses and to place their responses in the record. Without objection, that is so ordered.

Again, I thank you all for your attendance. The hearing is now adjourned.

[Whereupon, at 1:39 p.m., the hearing was adjourned.]

APPENDIX

September 26, 2001

Opening Statement

Chairman Michael G. Oxley

Committee on Financial Services

September 26, 2001

"Oxley on the U.S. Securities and Insurance Industries: Keeping the Promise"

My friends and fellow Committee Members, today as I speak before you, I believe that our country is undergoing a great metamorphosis. While the tragedy of September 11 will forever stain our nation's history, it has also been a great awakening for our country.

We will never forget the pain and loss of life of innocent civilians from all parts of the world that worked in the World Trade Center. But these cowardly attacks of have also brought our country together, renewing our focus on America's priorities. The American people stand united in their faith, and we will become stronger than ever before. In trying to cripple the long-term foundations of our nation's economy, this attack will inevitably be viewed, historically, as a failure.

Last week the stock markets opened back up and handled a record volume of trading. While the market lost enormous value during that tumultuous week of trading, the most important thing was that it was working. The free market that is the underpinning of this country's economy was touched, but not stopped, by the terrorists. And Monday of this week showed us the power and the beauty of those free markets with the fifth-largest-ever point increase in the Dow Jones Industrial Average.

The banking industry also cast off any lingering effects of the damage, helping the Fed pump hundreds of billions of dollars of new liquidity into the economy – new resources that will help our country recover from economic lethargy. And the insurance industry is coming through with flying colors, expediting the processing of individual claims to provide immediate comfort to injured victims and their families in this time of need.

Some of the worst hit companies have been the first to step forward with commitments to fulfill their policyholder obligations. In fact, I would like to publicly commend all of our company witnesses before us today for their good faith in responding to this attack.

The September 11th attack will exceed Hurricane Andrew as the most expensive disaster on American soil. But our country's financial sector has absorbed the most egregious attack in history and remained strong for now and the future. And for that, we should be proud.

Reports from A.M. Best, Standard and Poor's, and other rating firms have proclaimed that the insurance industry was well capitalized and is financially strong. In fact, today we will hear from A.M. Best, a company that has been providing analysis of the insurance industry for over a hundred years.

The short-term profitability of insurance companies may have been hit, but not the industry's fundamental soundness and safety. This Committee is dedicated to working with the financial industry to keep the promise alive for all Americans. We are strong, and will continue to build on that strength into the future.

This morning, we will first hear from the distinguished new Chairman of the SEC, Harvey Pitt, who is making his first appearance before the Committee. I want to commend Chairman Pitt for his leadership in these trying times. He, and the Commission, acted swiftly and wisely to use, for the first time, their emergency authority to reduce regulatory restrictions that might have dampened liquidity and otherwise impeded the marketplace. The Commission was also careful not to impose new rules in the name of reducing market volatility that would have harmed, rather than helped, the marketplace.

The remarkable success of the U.S. securities' markets re-opening is due, in no small part, to the leadership and vision of Chairman Pitt and the Commission.

Today Chairman Pitt will offer the Commission's perspectives on the state of our capital markets in the aftermath of the terrorist attacks. He will also discuss how money laundering enforcement affects our securities markets, and how money laundering regulation might be used in the context of those markets to track, block, and freeze funding of terrorist activities.

I would like to welcome Chairman Pitt and our distinguished panel of insurance industry regulators and CEOs. We are especially grateful that Superintendent Serio from New York could take the time to speak with us here today. Thank you all for joining us, I look forward to your testimony.

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Opening Statement of Spencer Bachus
America's Insurance Industry: Keeping the Promis
September 26, 2001

Thank you Mr. Chairman, September 11th, 2001 was just over two weeks ago, and yet, in that brief time our nation, and the entire world has changed in so many ways.

This committee and this Congress and all America must turn to the difficult work of protecting our nation from future attacks, even as we continue to grieve. It has been gratifying to witness the resiliency of our financial markets, open again for business after the heroic efforts of so many, including Chairman Pitt. I join others in thanking Chairman Pitt for his efforts.

It has also encouraging to learn that despite historic losses, our insurance industry remains on solid footing, fully prepared to handle this disaster and to provide critical support to repair shattered lives and property.

The events of September 11th constitute the largest insured losses in U.S. history. It is very clear that the U.S. domestic reinsurance industry - in other words, insurance purchased by the insurance companies themselves to protect against catastrophic losses – will bear the brunt of these extraordinary losses.

Fortunately, the U.S. reinsurance industry is very strong and well capitalized. I understand the top 50 U.S. reinsurers have over $53 billion in surplus. In addition, many reinsurance companies have an additional source of strength through affiliations with major companies such as Berkshire Hathaway and General Electric, which can provide additional capital if necessary.

The Reinsurance Association of America informs me that although the estimated losses are extraordinary, they are well within the ability of the well-capitalized U.S. reinsurers to pay. The reinsurance industry has withstood significant events in the past, most recently and notably Hurricane Andrew, without experiencing financial difficulty. I am confident that the U.S. domestic reinsurance industry has the strength in financial and human capital to meet its obligations to its customers, enabling them in turn to meet their direct obligations to the individual and business victims of September 11th.

I am looking forward to hearing from Ron Ferguson of General Re on the state of our reinsurance marketplace. It is at times of great crisis that we can be grateful for the critical role played by reinsurance in protecting the solvency of the insurance marketplace, and in ensuring that primary insurance is available to consumers, small businesses and commercial property owners.

June 11, 2001

Oil Money Is Fueling Sudan's War

New Arms Used to Drive Southerners From Land

By Karl Vick
Washington Post Foreign Service

BENTIU, Sudan—Oil built the airport at Heglig, the lavishly outfitted hospital next door and the new school at Debap. Oil built the electricity towers stippling the horizon and the tightly packed, all-weather road that runs across the broad savanna to Bentiu, where a thatched roof keeps the sun off Veronica Nyabiele. She is 12 months old, but malnutrition has held her weight to nine pounds.

Oil has a role in that, too.

In a civil war that seems to be fueled by so much—religion, for example, because one side is Muslim and the other side is not, and race, because one side is Arab and the other African—nothing has supercharged the fighting in southern Sudan quite like Nile Blend crude.

Large quantities of oil were discovered under south-central Sudan in the 1970s. Before it was drawn to the surface and piped north two years ago, the slightly waxy, light-grade petroleum was merely one more token of the schism between Sudan's ruling north and neglected south, something for the north to claim and the south to contest.

Today, four oil companies are producing more than 200,000 barrels a day—and more firms are exploring other reserves. Export revenue has doubled the government's defense budget over two years. And a multitude of eyewitness reports say the new guns are being used to drive tens of thousands of southerners—like Veronica and her family—off their land to secure the oil underneath.

"The fighting follows the oil," said John Ryle, an independent investigator who recently released a report that documented a broad government effort to clear the petroleum concessions, sometimes using helicopter gunships stationed at oil-field airports.

"I wouldn't use the term 'scorched earth,'

See SUDAN, A14, Col. 1

BY KARL VICK—THE WASHINGTON POST

Oil Money Enables Sudan To Expand War in South

SUDAN, *From A1*

which implies a kind of systematic campaign," Ryle said. "But they are burning and attacking villages."

Such tactics are nothing new in Sudan's civil war, which has raged for 18 years. Government troops and allied militias have been fighting rebel groups seeking autonomy for the country's southern provinces. Human rights groups and aid workers say the government has razed villages, bombed hospitals and churches and supported the militias' abduction of southerners as slaves. The rebels have been accused of similar atrocities on a lesser scale.

But the presence of oil has brought the fighting to new areas, where it drives local people out of the countryside and into government-held garrisons such as Bentiu. Once it was a town of 15,000; now its population can triple or quadruple depending on the intensity of fighting nearby. A handful of U.N. and private agencies stand by with food and medical care. The worst cases end up, like Veronica, as stick figures in the therapeutic feeding center run by Action Against Hunger, an international charity.

"They all say the same thing," an aid worker said. "People came and destroyed their homes and they had to flee."

The situation has further stoked Western outrage over the Sudanese government's human rights record. While no American companies are involved—U.S. law prohibits them from doing business in Sudan—the involvement of Canadian and European firms in extracting Sudanese oil has prompted "disinvestment" campaigns like those directed against firms that did business with apartheid-era South Africa.

"These are war crimes," said Eric Reeves, a Smith College professor who works against companies doing business in Sudan.

The criticism has fallen hardest on Talisman Energy Inc., a Calgary-based firm that was little known outside Canada until it bought a 25 percent stake in Sudan's most promising oil field. The Muglad basin is classic geography for oil, a sedimentary plain exposed by two plates being pulled apart. Unfortunately, the same area roughly defines the boundary between Sudan's north and south.

Except on maps, the country's two halves have never become one. The Muslim Arabs of the arid north historically preyed on the Africans who live in the wetter south and practice Christianity or traditional beliefs. British colonialists actually separated the two. National independence in 1956 was quickly followed by a sporadic war for southern secession. And although the fighting was in abeyance when Chevron Corp., the U.S. oil company, sank wells north of Bentiu in 1978, the discovery of oil helped renew the conflict in 1983.

"It is a problem of uneven distribution of resources and power," said Alfred Taban, a southerner who publishes the independent Khartoum Monitor. "The northerners have taken up all the ground."

Chevron pulled out in 1984, after rebels killed three of its employees. The oil fields stood largely idle until 1997, when the Sudanese government made peace with some of the rebel factions and formed a consortium to renew exploration. The partners included the China National Petroleum Corp., the Malaysian national oil company Petronas and Sudan's own Sudapet Ltd. But Talisman was the show horse.

Not only did the company bring technical expertise to build a 900-mile pipeline from the Heglig oil field to Port Sudan on the Red Sea, it also carried the stature of a Western oil firm, credentials craved by the government, which spent much of the 1990s under U.N. and U.S. sanctions because of its support of terrorism.

"My ultimate goal is to be the biggest oil exporter in the world," said Awad Jaz, Sudan's energy minister. Jaz has said any U.S. oil company could expect favorable terms if the sanctions were lifted.

But Western diplomats say U.S. firms are not lobbying hard to join Talisman and share its image problem. Reeves boasts that the divestment campaign has cost the company every one of its public institutional investors, from the City of New York to the Texas teachers' pension fund.

Campaigners are now pressing Fidelity Investments to divest, as well as pushing to ban oil concerns doing business in Sudan from being listed on U.S. stock exchanges.

Talisman has hired a Sudanese seminary student to buff its image and formed an office of corporate responsibility that points out that the oil areas have an infrastructure unique in this strikingly poor country of 30 million people: new water wells, schools, clinics and the Heglig hospital, extraordinarily well-equipped for rural Africa, complete with operating room and neonatal unit.

"It's kinda neat," said Helmut Gutsche, Talisman's field production manager at Heglig, where foreign employees fly in for 28-day shifts, eating and sleeping in a tidy camp of steel trailers. "There's poverty, on the downside. On the upside, we're trying to improve things."

Talisman also bought satellite photos to try to prove that its oil fields have always been largely vacant, but students of the Sudan war have long watched the fighting overlap with the oil concessions. And, though Talisman's lightly populated operation areas were first cleared perhaps two decades ago, Ryle and a Canadian researcher documented recent helicopter attacks near its fields. They also found deserting soldiers who said their mission was to drive people away from the oil fields.

"It's kind of a raggedy system of harassment, but it does seem to be classic counterinsurgency," Ryle said. "You're trying to get people to come into the towns so you can keep an eye on them, or drive them farther into the swamps."

Today, however, most of the fighting is farther south, nearer a concession leased to Lundin Oil, a Swedish company. Local residents were driven out over the past two years, largely through surrogates: The Sudanese government arms one southern militia, which raids the area, looting along the way.

Still farther south, a much larger bloc has long been held by the French giant TotalFinaElf. In fact, the Sudanese government has chopped much of the south into oil concessions reaching nearly to the Ugandan border. Critics see each bloc as another potential battlefield in a war that has already killed 2 million people.

Sudan's annual take from oil—perhaps $500 million, a figure that will climb steeply after investors recover their risk—has clearly tipped a stalemated war in the government's favor. The oil fields are new government garrisons, with soldiers camped every three miles on the main road, and tanks and helicopters in plain sight around airfields.

And the Sudanese People's Liberation Army, the principal southern rebel force that declared oil installations a target, has managed only scattered raids. In January, rebels hit a drilling derrick operated by China's Great Wall Drilling Co., killing three soldiers in a raid that killed 15 rebels.

"You don't want to be flying around here at night if you don't have to," said a Canadian pilot who flies the Bell 212 helicopter that ferries oil workers around the concession.

Whatever it does to the military equation, however, oil shows no signs of easing the political question at the heart of the war.

"I will say one example," said Thomas Kume, a former governor of the province adjoining the oil fields and a nominal government ally. "The fact that the refinery is moved to Khartoum and there's not even a small refinery in the south—southerners are bitter about it."

EXCHANGE

Subcommittee on Capital Markets

Richard H. Baker, Chairman

Securities Insurance Government Sponsored Enterprises

The News from U.S. Rep. Richard H. Baker
Sixth District, Louisiana
FOR IMMEDIATE RELEASE: September 26, 2001
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Opening Statement
The Honorable Richard H. Baker, Chairman
House Subcommittee on
Capital Markets, Insurance and Government Sponsored Enterprises
Financial Services Committee Hearing, September 26, 2001
"Operations of the securities and insurance industries in the aftermath of the Sept 11 terrorist attacks"

Thank you, Mr. Chairman. I want to thank all of our witnesses for appearing before Congress at a time when they no doubt must attend to incomparably pressing matters.

The World Trade Center attack was a demonic assault on thousands of innocent people but also an act of intolerance, fear, and hatred to vanquish the uncontainable vibrancy of private enterprise and the freedom represented in America's financial system. The professionalism, determination, and integrity demonstrated in the days that followed by the very witnesses appearing here today, however, have sent the clearest signal that the terrorists failed.

In fact, since September 11th the heroic and even selfless acts of private enterprise have shown more clearly than at any time before the inherent goodness and rightness of the "free" in our free-market society. I daresay they also serve as an inspirational reminder to lawmakers that, more than any well-intentioned assistance we might devise, it is the resiliency and spirit of private enterprise that has made our country prosperous and great and will lead us out of our current difficulties.

I want to share briefly with the committee a few anecdotal items following the destruction of the World Trade Center as examples of what I mean:

- Verizon and Con Edison's inexhaustible efforts to rebuild communication and power connections to assist in rescue and recovery at "ground zero" and to assure the smooth and timely reopening of markets;
- Paine Webber providing employees of Lehman Brothers, its competitor, office space;
- The NYSE's allowing the use of trading platforms by the American Stock Exchange and all revenues generated using NYSE equipment;
- NY Life Foundation's contribution of $4 million to relief efforts, on top of that and countless other insurance companies' swift payment of claims.

I point out these actions to illustrate the resourcefulness and resolve of the American entrepreneurial spirit under adversity. But moreover, it's to caution fellow members of our busybody Congress against imposing additional rules and restrictions at the precise time when our capital markets are in direst need of expanded freedom to recuperate.

Instead, perhaps we can make it our goal to show the same level of federal restraint and flexibility within the public-private partnership that helped bring the markets back open. Sometimes the most meaningful contribution we in the legislature can make is to get out of the way. And this is truly one of those times to support the efforts of the executive branch to use existing government resources and facilities that encourage the private sector to do what it does so well and what it alone knows how to do – getting America working, investing, risk-taking and growing again.

I know I don't need to remind the SEC that along with protecting investors, its second mission is promoting and facilitating capital formation. We also know that much talk is circulating over the need to regain consumer and investor confidence and how best to provide stimulus for a stalling economy. To that end, if there's anything I would ask of you today, Mr. Pitt, it is this. That you continue working to assist the executive branch through the powers currently at your disposal and advice about those you deem might be useful to eliminate all unnecessary federal burdens that limit capital formation.

With regard to the insurance industry's commendable response to the tragic events on September 11th, today's testimony and all of the reports I have seen indicate the insurance industry is in a good position to deal with the tremendous losses, estimated as high as $70 billion, associated with these events.

While we are not here today to discuss any particular legislative or policy agenda, there has already been much talk in the press of how the insurance industry will react to the new underwriting environment. These discussions have ranged from opening the Fed discount window to insurers to establishing the federal government as the insurer of last resort with regard to terrorist activity. At this time, I am not taking a position on such proposals and in fact believe any discussion of congressional action at present is premature.

Instead, I would like to offer a general observation in the context of current and possible future federal responsibility to assist industries shaken by catastrophic events, but particularly those like insurance that traditionally have been regulated on the state level. As a general rule I do not believe the federal government should intercede to prop up a marketplace unless the President of the United States in consultation with the Federal Reserve determines that a failure to act would virtually lead to that marketplace being turned upside down.

In this particular case, and in my capacity of subcommittee oversight, I would be extremely reluctant to accept any plan that puts the taxpayer on the hook for insurable losses when there is no federal office that exercises any real jurisdiction over the solvency and business practices of the industry. In other words, consider a friendly southern note of caution about trying to escape an unsettling situation: if you throw a saddle on that horse, you can't gripe about where it takes you.

-30-

www.house.gov/baker

JULIA CARSON
10th District, Indiana

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BANKING AND FINANCIAL
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Subcommittee on Housing and
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Congresswoman Julia Carson
Financial Services Committee
Hearing: "America's Insurance Industry: Keeping the Promise"
Wednesday, September 26, 2001
2128 Rayburn House Office Building

JULIA CARSON

Mr. Chairman, first let me thank you for convening this hearing under such difficult circumstances, and let me thank the witnesses for their attendance today. I look forward to your testimonies.

We are here today in unique circumstances that none of us will ever forget. The tragedy that unfolded before us on September 11th has required all aspects of America to respond, and respond quickly.

The President has responded with his campaign to unite with other countries to stamp out the threat of terrorism. The Congress has responded by appropriating funds to those areas most severely affected, and in the near future will hopefully respond to the needs of those workers dislocated by the attacks. The Federal Aviation Administration (FAA) has responded with new security measures and a review of its operations, and finally, the people of this great nation have responded to the attacks with their compassion, sympathy and quiet strength by donating blood, money and time to help those affected by the events of September 11th.

However, the response of the economy has not been so clear. The stock market at first reacted with the biggest slump since January 1996, then early reports yesterday showed slight gains, only for reports of low consumer confidence to send the market down again. When Securities and Exchange Commission (SEC) Chairman Pitt testified before the Senate Committee on Banking, Housing and Urban Affairs he showed us an economy that had responded with rugged determination not to be disrupted by the cowardly attacks on the United States.

However, as the market opened on Monday, September 17th, and plummeted to their lowest level in 5 years by the end of the week, I'm sure many have wondered whether rugged determination will be enough. Customer confidence is at a low in the economy as a whole, and while the speedy and determined response of the major players in our financial markets showed the terrorists that we will continue with business as usual, we must now look for real ways to reassure people that business is as usual.

The insurance industry also faced down the attacks with determination, but as with our markets, we must look to the real problems that already, or may, face the insurance industry. Not only may companies and corporations face insurance problems, but as we continue to recover from the events of September 11th, it has become clear that many state unemployment insurance programs may be incapable of providing services rapidly to such a large number of applicants who may find themselves unemployed as a result of the attacks.

While the assistance given to the airline industry last week was vital, we must ensure that the men and women who make that industry work are not left behind. This is why I have become a cosponsor along with many of my colleagues of the Displaced Workers Assistance Act whose inception was announced at a press conference yesterday. This initiative is the first step in the road to recovery, but it must not be the last. We must continue to find real solutions for these very real problems that face our nation, and I hope that this hearing today will allow the discussion of useful ideas which will enable us to get down to business.

Congressman Harold Ford, Jr.
Committee on Financial Services
Hearing on "America's Insurance Industry: Keeping the Promise"
September 26, 2001

Mr. Chairman, on September 11, the United States experienced the worst act of terrorism in the history of this nation and the world -- a calculated, murderous strike against thousands of innocent civilians.

This heinous attack was aimed with evil intentions at the heart of the American financial system. The glimmering towers of the World Trade Center were a symbol of all that the terrorists despised: global commerce, free markets, an open society.

The terrorists not only failed to shake our confidence in our institutions and our way of life -- they demonstrated to the world our fundamental resilience. Our love of freedom and of country has never been deeper. And our financial markets -- although disrupted -- were not broken.

The nation's banking system continued to function with few problems. Two days after the attacks, the fixed income markets opened for trading. After a heroic effort on the part of all involved, the equity markets opened after only a four-day interruption.

Chairman Pitt, thank you for appearing before this Committee. And I want to salute you for the work you and the Commission did in restoring our nation's securities markets just days after these terrible events.

As we marvel at the resilience of the financial markets, this nation facing serious challenges ahead. Today this Committee begins what will be a long and arduous effort to address these challenges.

We will hear from several insurance and reinsurance companies today. This Committee should commend those companies that have made public assurances that they will meet their responsibilities for insured losses. We will continue to monitor the situation, to ensure that grieving families and suffering businesses do not suffer additional hardships.

Our society and economy face unprecedented uncertainties as we move forward. Many of the critical questions will come before this Committee.

The Administration is said to be preparing anti-money laundering legislation, an issue on which Ranking Member LaFalce has shown leadership for years. It is my hope that this Committee, in a bipartisan way, will be able to assist law enforcement to crack down on terrorism by following the money.

Another key issue is how to revive our economy, which was slowing before these attacks grounded the airline industry, afflicted related industries, and sapped consumer confidence. In this uncertain time, we must act decisively to boost our economy and help families who are suffering from economic dislocations.

But we cannot afford to lose sight of basic principles such as fiscal responsibility. We cannot allow short-term fixes to derail our long-term goals.

And in moving forward, we must remain united across party lines for the good of our country and our economy. In times of crisis, Americans should band together and close ranks. That spirit of unity must begin in the Congress.

Congressman Felix J. Grucci, Jr.
Opening Statement
Financial Services Hearing – America's Insurance Industry Keeping the Promise
September 26, 2001

Thank you Mr, Chairman.

First of all I want to thank each of the witnesses on both panels for taking the time out of their overwhelmingly hectic schedules to attend this hearing today. I also want to commend leaders of the securities and insurance industries for their outstanding efforts to pull together and support the nation through this tragic crisis.

The horrifying events of September 11th have touch each and everyone's lives in many ways. Our nation will never be the same again.

As a native New Yorker, I have serious concerns that the immediate needs of the victims, their families, the rescue workers, the dislocated workers and dislocated businesses are met. I have been to ground zero and I can honestly say that everyone is working tirelessly to recover remains, make New York City safe again and help the victims in anyway possible.

I recognize that many answers are not available to us today and that much information about the status of claims and losses are still to be determined and may take months even years. I also recognize and appreciate that the insurance industry is committed to fulfilling injury and death claims as quickly as possible.

In the long term, I am also concerned that we, particularly in the New York delegation, make every effort to lend a hand to all of the dislocated businesses in New York. We should make it a priority to maintain New York City's status as the financial heart of the world, particularly by aiding the financial firms in their search for space to relocate within New York State. As a small businessman, I also feel it should be our priority in Congress to provide small business owners with the appropriate assistance to get back on their feet again after this unexpected disaster.

What I am interested in hearing from the panelists today – first and foremost is are the immediate human needs being met? I am also curious about clarification regarding the "act of war" and "act of terrorism" exclusions, reinsurance claims, and what claims are being met immediately versus claims that will need to be litigated – such as business interruption claims. I am also interested to learn if this tragedy has inadvertently encouraged investment in the insurance industry.

Once again, I thank the panelists for making the effort to be here today under these extenuating circumstances.

I yield back the remainder of my time.

OPENING STATEMENT OF
CONGRESSMAN PAUL E. KANJORSKI

COMMITTEE ON FINANCIAL SERVICES

HEARING ON AMERICA'S INSURANCE INDUSTRY:
KEEPING THE PROMISE

WEDNESDAY, SEPTEMBER 26, 2001

Mr. Chairman, because I serve as the Ranking Democratic Member on the Subcommittee on Capital Markets, which has jurisdiction over securities and insurance matters, I have a great interest in today's hearing to examine the consequences to our nation's financial services system of the September 11 attacks on the World Trade Center and the Pentagon. In my view, our country cannot -- and shall not -- allow terrorists to alter the effective functioning of the U.S. securities and insurance markets, the strongest in the world.

Our hearing today will consist of two panels. With our first panel, we will discuss the current state of our nation's capital markets and the efforts of the Securities and Exchange Commission to facilitate the reopening of our exchanges. While our fixed income markets successfully resumed trading just two days after the terrorist attack, our equities and options exchanges experienced the longest shutdown since World War I. Nevertheless, the successful reopening of the stock markets last week and their subsequent rebound this week have demonstrated for everyone the resiliency and strength of our nation's financial system.

Our second panel will focus on the state of the insurance industry. Some experts have noted that the September 11 disaster resulted in a "clash" event. That is, the insurance industry incurred multiple losses in different lines of coverage arising from the same underlying cause. Clash events are riskier for insurers as they give rise to claims from a variety of different customers under different types of policies, in a scenario outside of normal assessments for aggregate exposures. Our second panel will help us to understand the magnitude of this clash event and its effects on the marketplace.

Without question, the assaults of September 11 represent the costliest disaster in American history. Estimates of the insured losses from these attacks presently range from $20 billion to more than $70 billion. The U.S. insurance industry is, however, a large and dynamic marketplace, accounting for 2.4 percent of our country's gross domestic product. Additionally, according to some analysts, the property-casualty insurance sector already has approximately $300 billion available to respond to this increased demand for claims. Moreover, at this time there are no indications that any major U.S. insurer is at risk of failing.

In the fifteen days since the attack on the World Trade Center, we have also received numerous assurances that the insurance industry will rise to meet this occasion and pay their claims. Many have also assured us that they will not attempt to invoke the acts-of-war exclusions contained in their policies. These public pledges by industry leaders are promising. I therefore hope and expect that the entire insurance marketplace will work in good faith and with due diligence to honor its obligations. In the long run, the American insurance industry will prosper if it follows this course.

Mr. Chairman, I am also pleased that we worked together to invite a balanced set of witnesses to today's hearing. As a result, regulators, insurers, reinsurers, and industry analysts will all have an opportunity to inform us about their concerns. Each witness will provide us with a valuable perspective in understanding the health of the financial services industry and the need for any changes in public policy in the wake of the September 11 disaster.

In recent days, I have heard and read about a variety of proposals to assist the insurance and securities industries in their efforts to respond to the collapse of the World Trade Center. From my perspective, we must move cautiously and methodically when considering any legislative proposal to assist these important sectors of our economy. These industries are complex and could experience unintended consequences if we move too hastily. To the extent possible, we must also consider allowing market discipline to respond to these events without government intervention.

Nevertheless, Mr. Chairman, we may ultimately determine that we need to provide the insurance industry with some flexibility in terms of meeting its capital requirements, increasing its liquidity, or providing terrorism reinsurance coverage. We may also need to take steps to modify our nation's securities laws with respect to money laundering. If we decide to continue to pursue any legislative reforms of the securities and insurance industries during the 107th Congress, I hope that we will follow a prudent course and continue to act on a bipartisan basis.

Mr. Chairman, thank you again for the opportunity to comment on these matters. I yield back the balance of my time.

Statement of Congresswoman Sue Kelly House Financial Services Committee Hearing on America's Insurance Industry: Keeping the Promise

September 26, 2001, 9:30 a.m.; 2128 Rayburn

Thank you Chairman Oxley and Mr. LaFalce for holding this hearing on the effects of the September 11 tragedy on our insurance industry and for making our committee's oversight of New York's financial services industry the top priority of our committee and a truly bipartisan effort. As a New Yorker and as the Chairwoman of our Oversight and Investigations Subcommittee, I am concerned about both the short and long-term effects of the destruction of September 11.

Fortunately, our financial markets were able to open and work properly six days later, due to the herculean efforts of Mayor Giuliani, Governor Pataki and many other great New Yorkers. I know Richard Grasso of the NYSE and Wick Simmons of NASAQ worked tirelessly, right along with many dedicated and wonderful men and women who made this opening possible. I stood at NASDQ just last Monday with Chairman Oxley, Secretary O'Neil, Richard Grasso and Wick Simmons to strike the closing bell. The fact that the markets opened on time and functioned without problems gave the investors of the world notice that while the buildings may be destroyed the might of the U.S. economic markets cannot.

Anyone who wanted to trade that day was able to do so. The stock market handled a greater volume than ever before – successfully this should comfort anyone who has a question of whether the U.S. trading markets are a sound investment. They are.

The long-term effects of this tragedy on our insurance industry, however may be much more difficult to quantify. While some reports have estimated losses to insurance companies in the $30 to $40 billion range others have stated that any such estimates are premature. While this loss can be handled by our competitive and sound insurance industry I am concerned about what effect the insurance industry may have in liquidating a portion of their short-term assets in order to pay these claims. It is my understanding that many insurance companies invest their short term assets in bonds and liquidating these bonds, especially municipal savings bonds, may have a secondary hit to both our bond market and our towns and cities which are dependent on these bonds for critical infrastructure projects.

The insurance companies are to be congratulated for their proactive response and their willingness to waive the standard practice of requiring a death certificate to make a claim. I have read news accounts of insurance companies proactively paying claims based on passenger lists. In this time of sadness it is the positive response of these companies to pay claims now, ask questions later that will help the countless families and individuals who have been devastated by these events to put their lives back together again.

I want to briefly thank our distinguished witnesses, and especially our excellent N.Y. Insurance Superintendent, Gregg Serio, who have taken time out of their incredibly busy schedules to join us here today and discuss these issues with us. A top priority for this committee should be to focus on how we rebuild after the damage that was inflicted upon our financial markets. The Oversight and Investigations Subcommittee will continue to diligently examine the issues of the long term effects of this terrorism, considering what we can do to prevent future acts of terrorism and what can be done to reduce the impact of such threats.

The New York Times, September 20, 2001

The New York Times

September 20, 2001, Thursday, Late Edition - Final

SECTION: Section C; Page 4; Column 1; Business/Financial Desk

LENGTH: 1023 words

HEADLINE: A NATION CHALLENGED: THE INSURANCE;
Life Insurers Promise to Speed the Payment of Claims

BYLINE: By **JOSEPH B. TREASTER** with MILT FREUDENHEIM

BODY:
When the first lists of victims in the World Trade Center attack were published, claims specialists at MetLife, one of the nation's biggest life insurers, began searching records to see if they were customers.

"We are not waiting for people to come to us," said Larry Vranka, a vice president at MetLife. "We are looking to expedite the payment of claims." With emotions high and the insurers' reputations on the line, MetLife and many others say they have decided to pay claims swiftly, without insisting on the usual documentation.

Though the bodies of those first confirmed victims have not been recovered, they were listed on passenger manifests for the hijacked jets. MetLife approved payment of the first claims three days after the disaster, one for $15,000, the other for $90,000, both for passengers from Massachusetts.

But the hard part for MetLife and other insurers is yet to come, trying to identify and handle claims for the roughly 5,000 people who are believed to have died as the towers collapsed.

For those victims, there is no passenger manifest. Many records of their coverage, kept by their employers, were destroyed, and it may be months, if ever, before death certificates are issued.

"We're going to work with the families to use other means to determine whether their loved one was in the World Trade Center," said Robert DeFillippo, a spokesman for Prudential Financial, which had many customers in the buildings.

Life insurers have never faced such a deluge of claims; they are expected to run as high as $5 billion. Total insurance claims are expected to be as high as $40 billion. MetLife alone said it expected to pay as much as $460 million.

"People are saying, 'If you're first on line, maybe you'll get paid,' " said Kevin Foley, a spokesman for MetLife. "But, if you're not, are you going to have to wait six months? No. The answer is no."

Colin Devine, an insurance analyst at Salomon Smith Barney, said the life insurers were financially solid.

"They're easily capable of paying these claims," Mr. Devine said. "No company has potential claims of more than 3 percent of their capital."

Most of those who worked in the towers had life insurance paid by their employers. The insurers say they expect to rely on the word of employers and family members that people now missing were last seen in the trade center, or on their way there.

"We're willing to take whatever people have to start the process," said Jim Casey, a senior claims executive at Hartford Life, a unit of the Hartford Financial Services Group, which insured some of those in the buildings.

If some employers' records listing beneficiaries may be lost, many companies have some data elsewhere. The insurers have records of group coverage bought by companies, as well as individual policies. They said that as soon as they were given a name, or found one on their own, they could begin work on a claim.

Where there is no record, the insurers expect to turn to state law, which puts a spouse first in line for the proceeds of a life insurance policy.

Gordon Stewart, the president of the Insurance Information Institute, a trade group in New York, said that talks were under way with state officials to provide legal protections for policyholders and insurers as payments are made without full documentation on claims and beneficiaries.

"No one wants to make it anything but decent and humane," Mr. Stewart said.

Recalling the 1995 bombing in Oklahoma City, Mr. Stewart said: "There they had bodies. Here, in some cases, it's horrible. We have nothing."

In the case of missing visitors to the trade center, MetLife said it would interview employers and family members. For out-of-towners, the insurers said they may ask to see airline and hotel reservations to help confirm where a victim was when the towers were attacked.

MetLife said it had already approved payments -- for $500,000; $800,000; and $1 million -- to the families of three people who worked in the trade center. They were among the roughly 300 people whose bodies have been recovered.

The company said it had also received claims from the families of six firefighters whose bodies were recovered, and approved a $200,000 payment for one of them on Monday.

Many more claims remain to be filed. David Potter, a spokesman for Hartford Financial, said nine client companies with policies covering their employees had reported people missing, but had not filed claims.

"The reason," Mr. Potter said, "is that at a lot of these companies, friends and colleagues are really holding out hope that many people could be found. A lot of people haven't reached the point where they're willing to give up hope."

With reduced requirements for proof of death, some insurers are worried about the filing of fraudulent claims.

"That's always a possibility," said Mr. Casey of the Hartford. But he said the potential was reduced at the trade center because much of the life insurance was provided by employers.

"You'd almost have to have complicity between employers and employees," he said. "Over all, we want to work with the families on the premise that people are honest."

Promises from most insurers to ignore coverage exclusions for war and other extraordinary causes have continued to meet with skepticism by New Yorkers.

But Carroll Fisher, the insurance commissioner in Oklahoma, said that no complaints about failure to pay claims were received after the Oklahoma City bombing.

"Various exclusions in the policies were disregarded," Mr. Fisher said.

Paul A. Heath, a survivor of the Oklahoma bombing, said some companies refused to pay for damage to insured buildings more than eight blocks from the federal building. Mr. Heath, a retired spokesman for the Department of Veterans Affairs, said he had been refused payment for damage to the roof of a building he owned a mile away.

But the life insurance companies were more generous, he said.

One company, he said, paid a death claim for a Federal Employees Credit Union worker who had been on the payroll only eight days even though his policy required at least six months. http://www.nytimes.com

GRAPHIC: Photo: Fliers posted in Union Square yesterday sought information on the missing from the World Trade Center. Life insurance companies say many companies have reported employees missing, but have not filed claims. (Ruth Fremson/The New York Times)

LOAD-DATE: September 20, 2001

TESTIMONY OF

HARVEY L. PITT, CHAIRMAN
U.S. SECURITIES AND EXCHANGE COMMISSION

CONCERNING
THE STATE OF THE NATION'S FINANCIAL MARKETS IN THE WAKE OF RECENT TERRORIST ATTACKS

BEFORE THE COMMITTEE ON FINANCIAL SERVICES

UNITED STATES HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 2001

U. S. Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549

TESTIMONY OF
HARVEY L. PITT, CHAIRMAN
U.S. SECURITIES AND EXCHANGE COMMISSION

CONCERNING THE STATE OF THE NATION'S FINANCIAL MARKETS IN THE WAKE OF RECENT TERRORIST ATTACKS

BEFORE THE COMMITTEE ON FINANCIAL SERVICES

UNITED STATES HOUSE OF REPRESENTATIVES

September 26, 2001

Chairman Oxley, Ranking Member LaFalce, and Members of the Committee:

I am pleased to appear before you on behalf of the Securities and Exchange Commission to testify on the state of the Nation's securities markets in the wake of the recent terrorist attacks in New York and Washington.

September 11th was a terrible, dark day. The terrorists who attacked our Nation's Capital and the World's Financial Capital, inflicted irreparable losses of innocent lives and caused untold physical damage; but they did not destroy or diminish our Nation's strength, courage or resolve. We grieve for our lost friends and relatives; yet the Nation's response to this catastrophe has been extraordinary.

When tragedy struck two weeks ago, our Nation responded by coming together. Police, firefighters, emergency medical personnel, members of the military and civilians participated in rescue efforts to save those injured in the attacks. This same spirit of cooperation imbued the tremendous efforts by so many in the private and public sectors to restore the vitality of all of our securities markets. By Monday September 17, all the Nation's securities markets resumed trading – less than one week after these heinous attacks –a trenchant message to the perpetrators.

As the events of the last two weeks demonstrate, our capital markets are the world's strongest and most resilient. It is not possible to destroy them physically. Our free markets are not located in any one building or city or place. They are an amalgamation of people and ideas and freedom. They are emblematic of our great Nation. Accordingly, getting our markets back up and running was critical to the recovery effort.

An attack of this nature and magnitude cannot be viewed in a vacuum. We coordinated our efforts with the larger federal government of which we are a part, and we worked cooperatively with the industry we oversee. We at the SEC had two critical roles: first, to assist in implementing national policy; and second, to facilitate the responses planned by the securities industry, and ensure that those responses were consistent with the protection of investors and the national interest. We sought to provide certainty – to facilitate the reopening of fair and orderly markets, and to restore public confidence.

In times of crisis, we believe strongly that our obligation is to keep all those with a role as fully informed as possible. Upon learning of the World Trade Center disaster, we established communications with the organized securities markets and participated in frequent telephonic meetings of the President's Working Group on Financial Markets. In addition, we provided information to the White House and members of our House and Senate oversight committees.

Immediately following the attacks of September 11, we, together with our colleagues from Treasury, arranged to meet in Manhattan with the leadership of major markets, securities firms, banks, and clearing agencies, along with the offices of the Governor and Mayor, Con Edison and Verizon, and the New York Fed, to assess the situation and determine readiness for a reopening of the markets. Our role in arranging these meetings was not to dictate a decision, but to facilitate a market solution. We held daily joint press conferences to keep the public fully and timely advised.

The decision on when to reopen the markets was made by the private sector -- the markets and major market participants -- in consultation with the Commission. At meetings on Wednesday, September 12, and Thursday, September 13, this group unanimously agreed that, while every effort should be made to reopen the markets as soon as possible, there should be no interference with rescue efforts or jeopardy to securities industry personnel returning to work. Additional considerations included whether there would be adequate and reliable electric power and telecommunications services. Connectivity among various market participants was a significant concern. As a result, the industry representatives unanimously decided that the fixed income markets and futures markets should resume trading on Thursday, September 13, and equities and options markets on Monday, September 17. Having participated in the discussions that produced these decisions, our agency was confident the right decisions were reached under these extraordinary circumstances.

On Thursday, September 13, the fixed income markets and futures markets successfully resumed trading. Although trading was relatively light and the number of market participants smaller than usual, no major problems were reported. When connectivity problems with clearing banks affected the government securities clearing agency, we closely monitored these problems in conjunction with the Federal Reserve.

Deferring the resumption of equities and options trading until Monday, September 17, permitted extensive testing by market participants of systems operability and connectivity. Throughout the weekend, Commission staff worked with market and industry participants to monitor and coordinate extensive systems testing by the exchanges, clearing agencies and market participants. Fortunately, only minor problems arose and those were readily resolved. The tests ultimately verified that all systems were sound and operational. We wish to acknowledge the invaluable assistance we received from FEMA, the Mayor's Office of Emergency Management, and New York State officials in assuring that market participants needing electrical or communications services received appropriate priority. They also kept us apprised of their assessment of the structural integrity of damaged buildings in the financial district.

From a regulatory perspective, the Commission reached out to major market participants, both directly and through industry groups such as the Securities Industry

Association and the Bond Market Association, to determine whether it could provide appropriate temporary regulatory relief to facilitate the reopening of fair and orderly markets. As a result, the Commission for the first time invoked its emergency powers under Securities Exchange Act Section 12(k) and, on Friday September 14, issued several orders and an interpretive release to ease certain regulatory restrictions temporarily. Last Friday, September 21, we extended this relief for an additional five business days.

A cornerstone of this relief was facilitating the ability of public companies to repurchase their own shares, thereby providing greater liquidity. Specifically, the Commission, for ten business days following the resumption of trading on September 17, has permitted issuers to repurchase their securities without meeting the volume and timing restrictions that ordinarily would apply under our Rule 10b-18 safe harbor, and to do so without adverse accounting consequences under pooling of interests provisions. Announcements by major public companies of significant buy-back programs followed soon after. We also permitted directors, officers and ten percent shareholders to repurchase shares of their companies without certain restrictions contained in Section 16(b) of the Exchange Act. We allowed brokerage firms to calculate net capital without considering days the markets were closed. We provided flexibility to mutual funds to borrow from and lend to related parties.

We also responded to physical ramifications of the World Trade Center attacks. We provided temporary relief permitting Amex specialists to function like floor brokers under certain conditions due to space limitations caused by the Amex's temporary relocation to the NYSE floor. We issued an interpretive release permitting accounting firms to provide bookkeeping services to, and help recover records for, audit clients with offices in and around the World Trade Center. To facilitate mutual fund board meetings, we relaxed in-person meeting requirements.

While we broadly solicited and considered suggestions for appropriate temporary relief, we did not implement all suggestions we received, such as prohibiting all short selling, moving to ten-cent quotation increments, and extending settlement cycles in the equity and corporate debt markets. We did, however, take action -- not intervention -- wherever we could to be responsive to industry concerns and to facilitate a smooth reopening of the markets.

We also made ourselves accessible to investors and market participants. We believe that government is and must be a service industry. The SEC placed additional information for investors and market participants on our website regarding market recovery efforts. Investors were invited to e-mail questions to our staff at our hot line, help@sec.gov. We established a special toll-free investor telephone line. For the first time in our history, we also established dedicated telephone lines for inquiries from market participants and for firms seeking additional relief, and received over 100 calls each day last week. We will continue to staff these hotlines as long as necessary. We want to do anything we can to assure industry participants that, if they come to us with their problems, we will work with them to find solutions, without after-the-fact recriminations, except in cases of venal conduct.

On Monday September 17, all U.S. securities markets resumed trading without incident. The markets did not give way to panic selling. They simply did what they do best: they assessed, and responded to, the crisis rationally. Unlike human beings, capital markets are capable of absorbing great shocks quickly. Last week, our markets also absorbed a tremendous volume of trading.

As an agency, our job is to ensure that our markets are functioning properly so investors can exercise their freedom to buy or to sell. We do not preside over the direction of the markets. That measure is left squarely to investors, whose confidence in the markets we seek to ensure. Although uncertainty existed in our economy before the attacks of September 11th, current indicators show that the American people are ready and willing to use their energies and full resolve to prove that terrorists cannot destroy our Nation's spirit. I am optimistic that investors will recognize this long-term potential and job creation, and that markets will reflect it.

Since trading resumed, our staff and we have continued monitoring developments and assessing the situation. We have continued to make ourselves available to the markets and market participants to address any regulatory issues that arise and to ensure that America's investors once again can rely upon the strength and soundness of our markets. Last Friday, September 21, we took additional actions in response to concerns from market participants. As I mentioned earlier, we extended for five business days – that is, until this Friday, September 28 - the temporary relief that we previously granted.

We also issued three exemption letters to be accommodating of certain regulatory filings and their deadlines. The first letter, to The Nasdaq Stock Market, Inc., changes a deadline under Exchange Act Rule 11Ac1-5, adopted last year. That rule requires market centers that trade national market system securities to report monthly on the quality of trade executions. The first reports for Nasdaq securities, originally due in September, are now due by November 30, 2001, and will cover October trades. We also extended a deadline for reports from broker-dealers on order routing practices. The first reports, for the quarter July through September 2001, will now be due in November 2001. Finally, we granted an exemption from the same order-routing reports to small broker-dealers.

Additionally, we issued an interpretive release explaining how the market closures of the week of September 11 affect the application of two Commission rules. The two rules are Securities Act Rule 144(e), which governs how many shares of stock a corporate insider can sell in the open market, and Securities Exchange Act Rule 10b5-1, which allows people to trade securities pursuant to a pre-existing plan even though they subsequently may learn nonpublic information. Rule 144(e) requires insiders to calculate the average weekly reported volume of trading. The release allows insiders to ignore the week of September 11 in making that calculation. The release also gives insiders greater leeway concerning written plans to purchase or sell securities.

The measures that the Commission adopted pursuant to its emergency authority expire at the end of this week. Before they expire, the Commission will assess whether they are still useful under current conditions. Where appropriate, the Commission will act – either under its emergency authority or pursuant to other authority – to keep these measures in place. We are monitoring the markets closely, and have solicited the input of market participants, to see if there is a need to extend these measures or for additional relief. The Commission is considering whether we should take additional steps to ensure that our markets remain orderly, to remove regulatory measures that, in light of current conditions, inappropriately slow down the capital raising process, and to further the program recently enacted by the Congress to assist distressed industries. We are exploring all possibilities. We appreciate the strong support of Congress for the actions we have taken in the wake of this tragedy. Should we conclude that our efforts to respond to this attack or other major market disturbances would be enhanced by additional authority in these or other areas, we will of course promptly let Congress know.

As you know, our Northeast Regional Office at 7 World Trade Center was destroyed in the aftermath of the attacks. To our tremendous relief, every one of our employees has been accounted for and is safe. Like many affected businesses, however, we now must begin the process of rebuilding. As a first step, the Commission has been supplying the Administration with information it needs to allocate the $40 billion appropriated in H.R. 2888, the emergency supplemental spending measure Congress passed immediately after the attacks. The Commission's needs are many. Most obviously, we will need to relocate and rebuild our Northeast Regional Office. No less important, we must mitigate the effects of these attacks on our regulatory program, and be as prepared as we can for any future attacks. I am deeply grateful to you for your support of this emergency legislation.

As far as the work of the Northeast Regional Office is concerned, we have moved quickly to get things back on track. Within two days of the attack, we had retrieved all documents stored electronically and had commenced a review of every single investigation and case currently underway in the office with the twin aims of ensuring that we do not miss any imminent deadlines and of developing a plan for completing our investigations and cases in timely fashion. While our review has not been completed, we are optimistic that we will not lose any significant investigation or case as a result of the loss of our building. No one whom we have sued or whose conduct we have been investigating should for a single moment doubt our resolve to continue our pursuit of justice in every such matter.

There also will not be any serious long-term impact on the Commission's oversight of securities firms located in the New York area. The Commission's records related to examinations of all securities firms are maintained electronically in a central database, and were unaffected by the tragedy. Electronic copies of examination reports and deficiency letters are maintained off-site for investment advisers, investment companies, broker-dealers and transfer agents. Records relating to open examinations will be reconstructed from records that exist at registrants' offices and from other sources. We are planning to utilize examination staff from other offices (Boston, Philadelphia and Washington, DC) and to work with self-regulatory organizations (the

NYSE and NASDR) to ensure that examination cycles are fulfilled and that appropriate examination oversight is maintained. We are very mindful of the disruption to many firms' operations and records, and are ensuring reasonable accommodation to requests for extensions of time for on-site examinations or to produce records and other information.

We also have brought our enforcement resources to bear in the wake of the September 11th attacks. Although any securities law violation is minor in relation to the atrocities perpetrated, we, along with other federal and state authorities, must canvass all possible evidence to identify the perpetrators. Because of the extraordinary circumstances of the current situation, we made an exception to our standard policy of not commenting on investigations. We, along with other U.S. and international authorities, are providing any assistance possible to the FBI as they track down those responsible for the heinous attacks.

The September 11th terrorist attacks also bring a new impetus to the Commission's, and the securities industry's, participation in the government's anti-money laundering efforts. I am confident that the securities industry and SROs stand as one with the Commission and our partners in government, including Congress, in the firm resolve to deny criminals the use of the nation's financial institutions, including broker dealers, to launder the proceeds of crime for profit, or for the furtherance of their criminal activities, including terrorism.

Commission staff announced this past May that it was conducting, along with the NYSE and NASD, an examination sweep to assess industry best practices for anti-money laundering compliance. While there may be some modification of timing to accommodate firms who are coping with the loss of employees, or whose records or systems are impaired, we expect these examinations to move forward to help shape our understanding of firm practices and challenges in the fight against money laundering.

As the Committee may already know, all but one of the Department of the Treasury's relevant reporting and record-keeping provisions under the basic anti-money laundering statute, the Bank Secrecy Act, have long applied to broker-dealers, and have been included within the Commission's and SROs' examination protocol. The 2001 National Money Laundering Strategy delivered to Congress last week by Treasury and the Department of Justice reports on progress being made to advance Treasury's remaining rulemaking, a rule requiring broker-dealers, like banks, to report suspicious transactions. We support extending suspicious activity reporting to broker-dealers, and have provided Treasury with comprehensive written comments and suggestions on how Treasury rules can address the challenges that confront the securities industry. It is helpful to note that even in the absence of a rule, for at least five years, a group of senior compliance personnel have met to share anti-money laundering approaches with one another, and with government. Our staff continues to be available to assist Treasury, and we look forward to the conclusion of the rulemaking process for broker-dealers.

We can be justifiably proud of our government and market participants and the way they have performed in this crisis. Everyone pulled together to overcome this disaster and successfully reopen the U.S. equities and options markets. We believe that much of the securities industry's success in meeting the demands of this unspeakable horror was due in part to the hard work and effort made to prepare for Y2K. Securities firms had in place contingency plans and emergency procedures designed to manage the conversion to 2000, which saw them through the events of September 11th. With the strength and insight we have gained from this crisis, we will move forward to make our markets even stronger, more transparent and more vibrant. In this way, we will honor the memory of those we lost. As a Nation, and as an agency, we cannot and will not allow terrorists to destroy our spirit or impede our mission.

On behalf of the Commission, I appreciate the opportunity to submit our views on the state of the Nation's securities markets in the wake of the recent terrorist attacks. I am happy to try to respond to any questions the Committee may have.

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

THE CHAIRMAN

November 30, 2001

The Honorable Paul E. Kanjorski
Ranking Member
Subcommittee on Capital Markets, Insurance
and Government Sponsored Enterprises
U.S. House of Representatives
B-301C Rayburn House Office Building
Washington, DC 20515

Dear Congressman Kanjorski:

During my appearance on September 26 before the Financial Services Committee, you asked for my thoughts regarding a possible moratorium or extension of the statute of limitations for securities law violations in times of national emergency, such as that resulting from the terrorist attacks of September 11, 2001. I want to apologize for the amount of time it has taken to respond, but now having considered this issue carefully, I submit this letter in response to your question.

First, I want to emphasize that the Commission aspires to "real time enforcement." We can better protect investors by learning of potential violations quickly and, where investor interests are being harmed, taking immediate action to undo the effects of any violative conduct. Faster enforcement will help prevent continued fleecing of the investing public and the dissipation of assets, while allowing the Commission to use court-supervised methods to learn what other unlawful acts may have been committed.

As you noted in your question, however, there are situations in which some of our resources need to be temporarily diverted from our usual enforcement efforts. Without question, the period after September 11 was such a situation. The Commission devoted substantial resources to ensuring a successful reopening of U.S. markets. As you also know, the Commission has participated in investigating reports that those associated with the terrorist attacks may have sought to profit from those activities through trading in the securities markets. We have also attempted to facilitate the securities industry's cooperation with law enforcement in identifying transactions of certain individuals and entities identified by the FBI and other law enforcement agencies.

Notwithstanding this temporary diversion of resources, the Commission stands ready to enforce the federal securities laws against those who would exploit this period for their financial gain. For example, just recently, the Commission took enforcement action against three companies that had misleadingly claimed to have developed technologies or products to protect people from anthrax and other biological weapons. Thanks to the hard work of our Enforcement Division, we expect to be able to complete investigations and initiate civil or administrative proceedings in a timely manner – like these. Accordingly, at this time, I do not see a need for a moratorium or extension of the statute of limitations as it applies to our work. If this situation changes, the Commission will let Congress know promptly. In regard to the possible effect of this diversion of resources on the criminal enforcement of the securities laws, because these matters are handled by the Department of Justice, they may wish to comment on this question.

I appreciate your raising this issue. Please do not hesitate to let me know if I can be of further assistance.

Yours truly,

Harvey L. Pitt

Harvey L. Pitt

cc: Janice Zanardi, Executive Staff Assistant
Committee on Financial Services

THE CHAIRMAN

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

October 12, 2001

The Honorable John J. LaFalce
Ranking Member
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515-1311

Dear Congressman LaFalce:

I want to respond more directly to your letter of September 24, 2001, concerning short selling, as well as your request (during my testimony at the September 26th House Financial Services Committee hearing) for short selling data in the wake of the attacks of September 11.

Your letter reflects the understandable concern that some market participants may have attempted to profit by short selling stocks in the airline and insurance industries and buying put options. You also asked whether short selling activities contributed to market declines following the resumption of equity trading on September 17th, and you asked us to consider inhibiting short selling under our emergency powers.

As you know, our short selling rule specifically restricts short sellers from accelerating a declining market, as does a related NASD rule. Prior to the reopening of trading on September 17th, we did not restrict short selling further, for two primary reasons: First, we believe there were, and are, sufficient market and investor protections in place to restrict short selling from exacerbating a declining market. Second, we wanted the markets to reopen under normal regulatory conditions, without imposing additional restrictions that might fuel any existing concerns about the status of our markets. As I noted during my testimony before you, the Commission has never prohibited short selling, even after Pearl Harbor or the Kennedy assassination.

Since the markets reopened, we are monitoring short selling activity. Preliminary data indicate that short selling during the first two weeks after the markets reopened (September 17-28) represents approximately the same proportion of the share volume as volume as the two weeks before September 11 (August 27 to September 10).* A majority of this selling activity apparently emanated from owners, not short sellers.

Subsequently we considered banning short selling airline and insurance securities. We examined NYSE and NASDAQ trade data for the two weeks prior to the attack, and for the two weeks after the markets reopened. Short sales of airline securities did not increase on the NYSE; they increased slightly on NASDAQ. For insurance securities, short selling activity stayed the same on the NYSE and NASDAQ.

Specifically, during the two weeks prior to the attack, short sales in 19 NYSE-listed airline industry securities represented 13.80%, on average, of the total NYSE trading volume in those securities, while during the two weeks after the NYSE reopened, short sales represented 11.59%, on average, of the total volume in the same securities. On NASDAQ, in the two weeks before the attack, short sales of 30 airline securities represented 19.57%, on average, of total trading volume in those securities, while during the two weeks after NASDAQ reopened, short sales represented 22.60%, on average, of the total volume in the same securities.

Short selling in insurance industry securities reflected a similar pattern. Two weeks before the 11th, short sales in 92 NYSE insurance industry securities represented, on average, 11.77% of the total volume in those securities, while after the NYSE reopened they represented 9.92% of the total volume in the same securities. During the two weeks before the attack, short sales in 67 NASDAQ insurance industry securities represented 19.65%, on average, of the total trade volume in those insurance related securities, while during the two weeks after NASDAQ reopened, short sales represented 20.22%, on average, of the total volume in the same securities.

We continue to monitor trading to assure that short selling is not abusive, fraudulent or manipulative. And, we continue to evaluate whether other action is appropriate to protect investors and our markets' integrity.

I appreciate your concern about this important issue. And, I hope this adequately addresses your questions. Naturally, if you have further questions, please feel free to contact me.

Yours truly,

Harvey

Harvey L. Pitt

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* Data obtained from the NYSE only relates to "system orders," which represent approximately 60% of total trading activity on the NYSE. It does not include floor trades.

TESTIMONY OF SY STERNBERG, CHAIRMAN, PRESIDENT AND CEO
NEW YORK LIFE INSURANCE COMPANY
HOUSE FINANCIAL SERVICES FULL COMMITTEE HEARING
SEPTEMBER 26, 2001

Good morning. I am Sy Sternberg, the Chairman, President and CEO of the New York Life Insurance Company. I also serve as chair of the American Council of Life Insurers. However, today, I will be speaking solely in my capacity as the head of my company, New York Life.

I want to thank Chairman Oxley and Congressman John LaFalce for the opportunity to testify on this issue of national importance.

New York Life Insurance Company is a *Fortune* 100 company with total revenues of more than $21 billion. It ranks as the fifth largest life insurance company in the United States. Founded in 1845 and headquartered in New York City, New York Life has operations in all 50 states through a network of over 7,300 employees and 9,900 agents. New York Life and its affiliates' products and services include insurance products (life, annuities and long-term care) and asset accumulation products, such as mutual funds. Through its overseas subsidiary, New York Life International, the company has operations in nine countries (Argentina, Hong Kong, India, Indonesia, Mexico, Philippines, South Korea, Taiwan and Thailand) with over 4,500 employees and 10,700 agents. The Company also has representative offices in China and Vietnam. Through New York Life Investment Management, New York Life's affiliates provide institutional asset management and trust services and an array of securities products and services such as institutional and retail mutual funds, including 401(k) products.

In the hours and days that followed the September 11 terrorist attacks, people throughout the nation were looking for ways to offer assistance . . . to do something constructive in response to this terrible tragedy.

At New York Life, we have summed up our response in one sentence: <u>We will pay our claims quickly and compassionately.</u>

We have been working closely with the New York Insurance Department, and we thank Superintendent Greg Serio for his strong leadership in this crisis. While a death certificate is normally required by life insurers before a claim can be paid, it can be time-consuming or, even impossible to obtain one in a disaster of this magnitude. Instead, we are contacting employers to certify those whom they know were lost. We are using the passenger manifests from the airlines. We are using obituaries and published lists of those presumed to be dead. We will use a next of kin affidavit, developed by the New York Insurance Department. And, most effective of all, we are relying on certification from our own agents, who in many cases, knew the victims and their families well and can personally attest to their loss.

Incidentally, it is impossible to overstate the important role agents can play in this process. They often are among the first to provide counseling and support for bereaved families. Not only can they save people from having to do the legwork and phone calling involved in putting a claim in motion, they can also speed up the delivery of benefits and help people prudently manage the monies they receive.

Some have questioned whether the claims arising from these attacks will have an adverse financial impact on the life insurance industry. Analysts have estimated that total life insurance claims resulting from September 11 could be in the range of \$2 to \$5 billion. While the amount of these claims is staggering, the monetary exposure is, in fact, a fraction of the \$52 billion in death claims paid last year by the life insurance industry as a whole, and therefore, will not have a material adverse impact on the industry. In the case of my company, which pays out almost \$1.5 billion in death benefits per year, we expect the total amount of New York Life policyholder claims related to this tragedy to be in the range of \$100 million. This is less than a 7% increase in the total annual death claims. Our ability to pay is backed by \$40 billion in life reserves and another \$8 billion in surplus.

As of last Friday, we had received 21 claims – but that number will grow as the hope to find the thousands of people missing gradually dims. The first of those claims was paid on September 22nd. It was for a young Cantor Fitzgerald employee. The \$190,000 death benefit was delivered to his surviving relatives on Saturday by their New York Life agent.

That is the situation with regard to claims liabilities. However, we also must keep in mind that life insurance companies are major investors in corporate America. We are holders of corporate bonds, real estate, mortgages and a small percentage of our portfolio is in the equity market. If the economy worsens, and the quality of assets deteriorates, life insurers could have problems on the asset side of the balance sheet. This could have longer-term solvency implications, especially for weaker companies. I know that this Committee and the NAIC, so ably led by Commissioner Sebelius, will monitor this closely and we will assist you in that effort.

Throughout our history, New York Life has helped individuals, families and business owners rebound from times of national crisis. From the Civil War . . . to the 1906 San Francisco earthquake . . . to the Great Depression . . . we have consistently met our obligations to policyholders. Given our history and heritage, we feel a special obligation to stand at the forefront of the relief effort. The New York Life Foundation is making a contribution of \$3 million to the September 11th Fund administered by the New York Community Trust and United Way, and we are matching dollar for dollar our employees' contributions to the American Red Cross for a minimum contribution of \$1 million. Additionally, we are donating some \$1.5 million of television advertising time, originally intended for New York Life commercials, to the American Red Cross.

I am gratified by the way in which my company – and other companies in our industry – have responded to this national ordeal. This is a time for the insurance industry to be visible. This is a time for us to be charitable. And this is a time for us to stand as a pillar of stability in a none-too-stable world.

Thank you for this opportunity to testify. I am ready to answer any questions you may have.

Monday, September 24, 2001

Questions for the Record for Mr. Sy Sternberg
Submitted by Chairman Michael Oxley
Hearing – America's Insurance Industry: Keeping the Promise
September 26, 2001

1) **Will the life insurance industry be able to pay the claims arising out of the September 11th disaster in a timely fashion without government assistance?**

A) Yes

2) **Are they any solvency issues whatsoever in the life industry, or for consumers of life insurance, health insurance or annuities?**

A) While there are not immediate solvency issues, some companies may find it difficult to offer life insurance without some limitation of loss from terrorism/acts of war if the cycle of terrorist activity continues.

3) **Do life insurance policies generally include exclusions for "acts of war"?**

A) No, however, there are typically "acts of war" exclusions in 2 riders – 1) Waiver of Premium Rider and 2) Accidental Death Benefit Rider

4) **What procedures are in place to ensure that beneficiaries receive prompt payments?**

A) Under state law, companies have a specific obligation to pay promptly once proof of death is received. Therefore, administrative procedures have been put in place. Upon receipt of all required materials, New York Life requires that payment be made within 7 days. Over 90% of our claims are paid within 3 days and a significant percentage is paid the same or the next day.

5) **Who keeps the names of the beneficiaries of group life contracts, and what happens when there are no remaining records of beneficiary names?**

A) At New York Life, we typically sell group life policies to associations through 3rd party administration who maintain the beneficiary records.

6) **Are death certificates normally required for the payment of life insurance death benefits, and if so, can this be suspended for expeditious payment of claims related to the World Trade Center disaster?**

A) Yes, proof of death normally is a death certificate, but we have suspended this requirement and are accepting alternative proof of death, such as The New York Insurance Department affidavits and passenger manifests.

7) **The September 11 tragedy was a terrible loss of life and human resources. Many employees of the industry itself were injured or killed. But to help us put it into perspective in terms of the solvency of the life insurance industry, how many deaths does the life insurance industry provide coverage for on a typical day?**

A) According to the NAIC, in 2000, the life insurance industry paid over 3.8 million death claims for a total of over $52 billion.

TESTIMONY OF
NEW YORK STATE INSURANCE DEPARTMENT

BEFORE
U.S. HOUSE COMMITTEE ON FINANCIAL SERVICES

SEPTEMBER 26, 2001

TESTIMONY BY GREGORY V. SERIO
SUPERINTENDENT OF INSURANCE
NEW YORK STATE INSURANCE DEPARTMENT

I. INTRODUCTION

In 1860, the original seal of the New York State Insurance Department – "Alter Alterius Onera Portate" or "Bear ye one another's Burdens" – eloquently expressed the fundamental public interest that is the very essence of insurance. At no time in the history of this country has that phrase been more important – or more reassuring. While none of us will ever be the same as a result of the events of September 11th, I have no doubt that insurance will be one of the life preservers that keeps us afloat.

Insurance touches all of our lives in a multitude of ways. It is an essential element in everyday life that secures our standard of living and the stability of our families as well as our property rights. All Americans feel the protecting arm of some form of insurance and find great solace that, when adversity strikes, their insurance policy is there to help them with their financial recovery.

On September 11th a disaster struck that neither our country nor the insurance industry had dared to contemplate. In its aftermath the industry and its regulators have faced a daunting challenge that cuts across virtually all lines of insurance in an unprecedented manner. It has been estimated that the insurance industry provides between 70 and 95 % of the recovery dollars that are provided for victims and communities struck by a natural disaster – in this unnatural disaster the risk and the burden on the industry might grow even larger.

For the New York State Insurance Department ("Department") this challenge was made even more difficult by the proximity of the Department's downtown Manhattan office to "Ground Zero" as well as the personal loss of one of our own – former Superintendent Neil D. Levin.

When Governor Pataki nominated me for the position of Superintendent on April 10th of this year, I began the process of succeeding Neil who led the Department for over four years. Neil left to become the Executive Director of the Port Authority of New York and New Jersey and he was excited about the new challenges he would be facing in this position. Sadly, Neil was attending a meeting at Windows on the World on the 107th floor of Tower One on September 11th. Personally, I lost a valued colleague and a good friend on that day – I will miss Neil's guidance and insight regarding the rapid changes in financial services regulation. But, I am comforted with the knowledge that the vision and leadership that Neil brought to the Department, including the creation of our Capital Markets Bureau, have not only improved our regulation of the insurance industry but have served as the foundation we have used to respond to this crisis. The Department's response to this disaster, in so many ways, is Neil Levin's true legacy.

II. THE DEVASTATION

The attack on the World Trade Center's ("WTC") twin towers impacted virtually all lines of insurance – property, life, business interruption, health, workers' compensation, and liability are some of the many insurance products that have and will be impacted. Total insured losses will include the destruction of the WTC towers and other WTC properties; business and personal property of tenants and their employees; workers' compensation for injured workers; claims for lost business income; the cost of establishing alternative, temporary operations at off-site locations; loss of life; and liability for negligent acts. The most recent total loss estimates have ranged from $30 billion to $58 billion on a combined basis for all lines of insurance. This estimate is well above Hurricane Andrew's total loss of approximately $20 billion, and is almost certain to increase.

I cite loss estimates with respect to this disaster with a degree of trepidation. Historically, early estimates of catastrophic losses have been low with substantial revisions upward as more information becomes available. In addition, I would characterize our present status as information gathering and early assessment. I would, therefore caution the committee to not rely on these estimates as the final word of the Department with respect to the disaster.

Property Coverage

Property insurance policies generally cover damage from fire, explosion, smoke, or other property or liability losses that occur. Such insurance policies may exclude war, but this is generally defined as an action by a sovereign nation. In light of increased global terrorism, some commercial insurance policies may have exclusions for damage caused by terrorist attacks.

The Department's research and discussions with the individual insurers, have determined that these exclusions are not applicable to this disaster and/or that the exclusions will not be invoked to avoid payment in this instance.

It is estimated that the WTC complex itself was worth between $5 billion and $5.5 billion. The owner, the Port Authority of New York and New Jersey, had, pursuant to a 99-year lease, recently rented the majority of the complex to a real estate consortium called WTC Partners. The total available insurance coverage is yet to be determined, but, clearly, early indications are that insurers will be reimbursing claimants for a large percentage of this property loss and that limits in property policies may be reached.

Several buildings surrounding the WTC are also total losses either because they collapsed along with or in the immediate aftermath of the collapse of the WTC towers. There is also substantial property damage to many of the surrounding buildings. I would note, however, that this is a dynamic situation as access to the area is still restricted and inspections of some sites still need to be completed. The buildings that have collapsed include One WTC, Two WTC, Five WTC, and Seven WTC. Other buildings that have major damage or partial collapses include One Liberty Plaza, Four WTC, Six WTC, One World Financial Center, Two World Financial Center, Three World Financial Center, the Federal Building, 140 West Street, East River Savings Bank and the Millennium Hotel.

It is a fundamental concept of insurance for insurers to spread the risk of adverse events among number of reinsurers. All indicators are that all losses resulting from the disaster were shared by a large number of reinsurers.

Homeowners Property Coverage and Additional Living Expenses

Homeowners, condominium and cooperative apartment owners residing in the vicinity of the WTC complex have suffered damage to their homes or apartments. Others in the evacuated area, while not having direct damage to their buildings or apartment's contents, have been forced to find alternative housing and will incur other costs.

Damage to buildings is in many cases evident but remains to be completely assessed. Physical damage to apartment complexes such as Battery Park City and those north of the WTC on neighboring Greenwich Street may be significant. Condominium and cooperative owners share in the losses to the building. They, as well as apartment renters, may have damage to personal property and contents. The true measure of such losses will not be known until the occupants are allowed back into their homes and insurance adjusters can assess the damage. The area impacted included 9,000 residents of Battery Park City, all of whom suffered damage to their residences and/or were forced to evacuate their homes for weeks after the disaster.

Coverage is available in the standard homeowners, condominium, co-op and tenants policies for Additional Living Expenses. Where there is a loss from a covered peril which makes that part of the premises where the insured resides unfit to live in, the policies provide coverage for Additional Living Expense. This means that any reasonable necessary increase in living expenses incurred by the insured to maintain a normal standard of living for the household will be covered.

Furthermore, many in the area that were forced to evacuate because of the order of a civil authority, are covered for the Additional Living Expenses as described above for no more than two weeks, even if there is no actual damage to the premises. Payment will be for the shortest time required to repair or replace the damage or, if the insured permanently relocates, the shortest time required for the household to settle elsewhere.

Workers' Compensation Coverage

Any employee injured on the job -- except firefighters and police officers -- will benefit from mandatory workers' compensation coverage. Workers' compensation claims have been estimated to be as high as $5 billion. This $5 billion estimate, indeed any estimate, is extremely preliminary since a maximum payout or maximum benefit per-claim will depend on many variables, such as the number of dependents and their ages. Under New York law the family of a worker killed on the job is entitled to $10,000 for funeral expenses. A surviving spouse would be entitled to up to $400 a week for the rest of his/her life, unless they remarry, in which case, the benefit is cut off after two years. Surviving children will receive up to $400 a week until the age of 21, but the benefit would continue under certain exceptions, such as if the surviving child is in school or is disabled.

New York's Workers' Compensation law defines any injury in the workplace as arising out of and occurring during employment. The law would also provide workers' compensation coverage for employees fleeing imminent peril in the workplace and employees commuting to work at the time provided that they worked in the WTC complex. New York City's police and fire departments have their own compensation system with benefits that will be accorded pursuant to that system. Accidental Death Benefits and Accidental Disability benefits available to the heroic members of our City's police and fire departments are as follows:

Accidental Death Benefit - If death results as the result of an accident in the performance of duty, a life annuity to the spouse of ½ the member's final salary, but in no case less than ½ the full salary of a full grade firefighter or police officer.

Accidental Disability - 75% of final salary plus the return of the member's accumulated contributions paid in a lump sum. In addition Tier 1 members receive an annuity based on 1/60 of average salary earned in the period after completing the 20 or 25 years minimum service.

The Department has a key role in ensuring the ability of the New York City pension funds to pay these claims. Since the disaster, the Department has been closely monitoring the funds to ensure expedited payments.

Business Interruption Coverage

Business owners within the WTC complex may have Business Interruption Coverage for business income losses caused by physical damage to property at their premises. Business owners in the surrounding areas also may have such coverage. This coverage can mean the difference between staying in business and not staying in business for many small businesses that do not have the financial strength to withstand multiple weeks without customers. In the large area west of Broadway and south of 14th street and then Canal Street in lower Manhattan (the restricted zone), many of the businesses, while not physically damaged by the destruction, were unable to reopen due to access restrictions imposed under civil authority. The standard form in New York for Business Interruption Coverage also provides for reimbursement for loss of business income suffered as a result of actions taken by civil authorities that prevent access to the insured's premises. The standard form provides coverage for up to three weeks after the first seventy-two hours after the action by the civil authorities, but those coverages may vary.

Many businesses in the surrounding areas also may have experienced business income losses that were unrelated to the denial of access by the civil authorities or occurred after the civil authority restrictions were lifted. Unfortunately, the standard form of Business Interruption Coverage in New York requires that the business suffer direct physical damage to property at the insured's premises in order to trigger coverage. Losses caused directly or indirectly by the interruption of utility services are also excluded by the standard policy but can be purchased as additional coverage. It is not known at this time how many businesses purchased such endorsements or how many claims will be made under this coverage.

It should be noted that many businesses will not have obtained coverage under the standard form and that there are several other available coverages aside from the standard form, which may provide coverage to the affected businesses. Each situation must be addressed on a case by case basis. It is clear, however, that many businesses will not be protected by the safety net afforded by Business Interruption Coverage or Civil Authority Insurance.

Liability Coverage

As a general matter, Liability Coverage provides protection for negligent acts or omissions. The full extent and nature of liability arising out of the disaster can not be determined at present due to the long-tail nature of such exposure. The inevitable lawsuits have yet to be filed and experience has shown that such lawsuits can take years to reach any resolution. Multiple parties including the Port Authority, WTC Partners, United and American Airlines, individual business and building management, as well as state and federal governments will likely face lawsuits for acts or omissions that resulted in damages, injuries or death. The property/casualty insurance industry will bear the lion's share of the cost of defending these lawsuits as well as the payment of damages. Some industry experts have estimated that the liability costs could constitute one-third of the industry total for reimbursement of all damages arising out of the disaster.

It should be noted that, in New York, punitive damages, if awarded, are generally not covered pursuant to a contract of insurance. Whether such damages will, or can, be awarded in connection with the disaster is yet to be determined.

Life Insurance Coverage

The stress of this disaster on the property insurance industry was exacerbated by the dramatic loss of life and the significant exposure imposed on the life insurance industry. Those killed in the disaster were covered by the same kinds of policies all Americans use: both individual and group policies. Individual policies are typically obtained according to individual circumstance. Group coverage typically is generally obtained as part of an employee's benefits package. Many employers provided coverage with death benefit protection equal to a worker's salary or twice their salary. The total claims that will be presented as a result of the disaster can not be determined at the present time although industry analysts have estimated life insurance claims will total $4-$6 billion.

Fortunately, the life insurance industry in New York is financially strong and diverse, with $3.1 trillion in assets and liquid reserves ready to respond to this tragedy. To put the life insurance industry's exposure from the September 11th terrorist attacks into perspective: in the year 2000, the life insurance industry nationally paid a total of $44.1 billion dollars in death benefits on 3.8 million life insurance policies. Put another way: on average, the life insurance industry paid death benefits on nearly 10,500 life policy claims nationally every day last year.

A key issue with respect to life insurance relates to proof of claim. A death certificate is normally used in submitting a claim for life insurance benefits. Due to the circumstances surrounding the disaster there will, in many instances, be difficulty in securing the necessary death certificate. The Department has worked with the life insurance industry to overcome this difficulty by providing for a standardized affidavit to be used in lieu of a death certificate. This affidavit will streamline the payment process for consumers in their time of need. (See Appendix I)

The latest claim estimates are well within the capacity of the life insurance industry. However, it is still too early to determine the ultimate death claim exposure. In addition to not knowing the actual number of victims involved, the amount and different types of life coverage (individual, group, COLI, accidental death, etc.) on each victim and the amount and collectability of reinsurance is unknown.

Health & Disability Insurance Coverage

The impact on the health insurance market will be significantly less than that felt by the property/casualty and life insurance industries. Although a great number of people were injured in the WTC tragedy, many of the health claims will be covered by workers' compensation. For the claims falling outside of workers' compensation, the Department does not believe that any one insurer will bear an unusually high financial burden.

The total number of health insurance and disability claimants are not known with any certainty at this time. The Department believes, however, that there will be relatively few when compared with the property/casualty and life claimants. We expect the disaster to have little impact on premium rates and availability of health insurance and disability insurance in New York State. The approximately 30 HMOs that operate in New York State are active participants in the individual, small group and large group health insurance markets and there are well in excess of 100 insurers that offer long term and/or short term disability insurance on an individual and group basis. The latter type of coverages are readily available throughout New York State with many options for varying degrees and levels of coverage.

Reinsurance

The reinsurance market is, in many ways, the life blood of the insurance market. The spreading and diversification of risks in all lines of insurance is critical to continued availability and affordability. Based on all of my conversations and analysis conducted by the Department, including conversations with Lloyd's, the reinsurance industry has the asset base and the liquidity to pay claims. I am also assured that the reinsurance industry will not invoke exclusions in an effort to avoid obligations. Without question, we expect that the disaster will cause hardening in the reinsurance market. This hardening will be the result of the drain in capital that the disaster will cause as well as the perceived increase in exposure to terrorist related activity. This could be seen in increasing insurance costs, the insertion of terrorism exclusions in reinsurance treaties and, ultimately, difficulty in obtaining certain types of coverage. The aviation market has been the first to see these effects and others are sure to follow.

III. THE DEPARTMENT RESPONDS

The Department's main office, located in New York City's financial district, was evacuated and closed following the WTC disaster. The Department's senior staff operated out of offices in midtown Manhattan, and other functions were transferred to its offices in Albany from September 11^{th} through September 16^{th}. While the date and horrors associated with September 11^{th} will be forever etched in our minds, the Department will also remember another date – September 17^{th}. It was on September 17^{th}, less than one week after the disaster, that the

Department re-opened its Manhattan office. On that day, more than half of the Department staff voluntarily reported to work in our downtown Manhattan offices, located just blocks from the disaster. The Department's ability to continue to protect the public and to ensure the solvency of the industry was the result of prudent disaster preparedness planning undertaken well before September 11th under the leadership of Governor Pataki and a strong commitment by all Department employees to the agency's mission.

In the immediate aftermath of the disaster Governor Pataki directed all state agencies to ease the burdens on all of those personally affected by the tragic event. The Department immediately began assessing how best to facilitate industry response to the affected area, assure the timely payment of claims without dispute, and determine what, if any, solvency implications for insurers might arise.

Under the leadership of Governor Pataki and Mayor Giuliani, coordination among the various public and private sectors began instantly, particularly the New York City's Office of Emergency Management ("OEM") and New York's State Emergency Management Organization ("SEMO"). The Insurance Department was front-and-center in the unified response to this disaster.

Insurance Emergency Operations Center

In early 2001 the Department announced the development of the Insurance Emergency Operations Center (IEOC) to be linked via a multitude of communications channels to the New York State Emergency Management Operations Center in Albany in the event of a disaster. The

IEOC enables the insurance community to provide earlier evaluations of damages arising from such events and to accelerate the payment of claims of disaster victims.

The IEOC was activated within one hour of the disaster and within 24 hours senior executives from 15 major insurance companies were seated in our war room in Albany. The IEOC command center was staffed in Albany by agency personnel and representatives of the largest homeowner and commercial property underwriters in the Greater New York Metropolitan Area. The team began compiling information from the insurance community across the State that included gathering damage assessments and coordinating response efforts. The team expanded operations and continued to provide real-time information to the State in accordance with the IEOC plan. In addition, the team facilitated the provision of claims estimates and the payment of claims as they were presented to individual companies. Videoconferencing and remote satellite video links from the field connected SEMO, the Department's command center and the Office of the Director of State Operations within the Governor's Office.

The IEOC also acts as an information clearinghouse for consumers. Because senior managers from major insurance companies are housed in one room as members of the IEOC, the Department is able to get responses to consumer questions directly from the industry. Conversely, the Department is able to share with the industry concerns and questions that are being received on the dedicated toll-free disaster hotline in order for the industry to better serve the public. Up to the minute Situation Reports from the "bunker" at SEMO were also disbursed via the Department's Web site and confidential information was provided on the "password protected" area of the Web for the insurance companies.

These Situation Reports included the following categories of information:

- Buildings destroyed/damaged
- Building inspections
- Utilities
- Transportation/roadways
- Disaster worker authorization
- Adjuster access
- Records of deceased
- Restricted neighborhoods
- Field office locations
- Catastrophe team/vehicle locations
- Disaster areas defined
- Air quality/worker safety
- Damaged vehicles
- Public information sources
- Shelters, temporary housing locations
- Press releases/notices from Officials
- Claims counts from NY State Insurance Department
- Permits, Licenses, Credentialing
- Reports from NY State Insurance Department

The IEOC was the first critical step in responding to the disaster.

Capital Markets (Solvency Concerns)

Ensuring the solvency and claims-paying ability of our insurers is one of the primary focuses of the Department. With the expanding reach of the capital markets over the past decade, the ability to assess the impact of the capital markets on insurers is critical to carrying out this key function. The Department is one of the few insurance regulators in the country to have a Capital Markets Bureau devoted solely to monitoring and assessing the impact of the capital markets on the insurance industry. The Bureau contains experts in financial risk assessment and management. All members of the Bureau have extensive knowledge of the capital markets drawn from years of experience at leading Wall Street broker-dealers and investment banks. Members of the Bureau work seamlessly with examiners in each of the Department's regulatory bureaus (i.e., property, life and health) to monitor the liquidity and solvency of insurers.

The Bureau was critical in the Department's efforts to assess the impact of the disaster, and the resultant economic fallout, on the financial condition of the insurance industry. On Thursday, September 13, 2001, members of the Bureau, along with their counterparts from the regulatory bureaus, met with outside financial advisors to map out a strategy for assessing the impact of the disaster. Working from lists of the largest writers in the New York metropolitan area the Bureau was able to narrow the focus of their investigation to approximately 10 property, 16 life and 13 reinsurers that would bear the largest losses. Loss and claim information at this early stage was virtually non-existent so the Bureau focused on the impact on these companies of a dramatic downturn in the scheduled Monday opening of the capital markets. Utilizing both private and publicly available information the Bureau developed various scenarios including various combinations of a 15% downturn in equities, a 30% downturn in equities, a decrease in value of bonds in NAIC classes 2-6 of 8% or 16%, and a 4% or 8% increase in the value of bonds in NAIC class 1. The Bureau also used publicly available information to determine possible claims exposure from the disaster.

This analysis had three purposes. First, the Bureau was able to assess the impact of changes in the capital markets on the overall value of the assets held by each company thereby impacting each company's capital, surplus, and reserves. Second, by reviewing each portfolio the Bureau was able to determine the liquidity of the assets held by each company and, therefore, the ability of each company to pay claims on a timely basis. Finally, the Bureau determined the impact of dramatic changes in the capital markets on the Risk Based Capital Ratio of each company. The Risk Based Capital Ratio formula is used universally by state insurance regulators to determine whether a company has the amount of required capital necessary to maintain solvency based on the inherent risks in the insurer's operations.

The hard work of the Bureau throughout the week following the disaster meant that the Department was well prepared to not only assess the impact on each company of negative information regarding increasing claims and downturns in the capital markets but, also, to properly manage and gauge the torrent of information coming out of the rating agencies and financial analysts. Information regarding the capital markets was readily available and could be incorporated into our models as the situation developed. Some selective information regarding the claims and liabilities of individual companies also became available through public releases or private telephone calls. We have found that gathering information with respect to claims and liabilities, however, to be more difficult.

Over the past week the Bureau, working with the pertinent regulatory bureau, has drafted short questionnaires to be sent to insurers designed to elicit information regarding the claims and liabilities of each company. (See Appendix II)

Our ongoing preliminary analyses, however, have been reassuring with respect to the overall health of the insurance industry and its ability to weather these difficult times. The average asset allocation of P&C insurers (licensed in New York State) is 27% in stocks, 47% in NAIC Class 1 bonds, and 6% in NAIC 2-6 bonds. The value of these assets has fallen an estimated 2% since the WTC disaster, on average. Due to a different asset composition (4% in stocks, 58% in NAIC Class 1 bonds, and 19% in NAIC Class 2-6 bonds) for life insurance companies, the market impact of the past weeks' events was negligible; the rise in value of NAIC 1 bonds, due to a fall in interest rates, compensates for the loss in other asset classes. For some individual companies (with larger holdings in equities and high-yield bonds) the market impact is more negative. Combined with the claims from the WTC disaster, their capital levels may fall to a level which causes enhanced monitoring by the department, but in no event do we now foresee a scenario that is likely to lead to insolvency.

Outreach to the Industry

As the Department evacuated its offices in lower Manhattan, disaster preparedness plans had already begun in the Department's Albany offices in upstate New York. As outlined above, the IEOC served as the primary connection between the Department and the industry in assessing the impact of the disaster on the industry and on affected individuals. It soon became apparent, however, that the scope and nature of the disaster required frequent high-level communications.

Outreach commenced with a survey of the CEO's of major insurance institutions that afternoon. In particular, I focused on our licensees that were most directly impacted by the disaster through loss of their offices. Key among these entities was Empire Blue Cross Blue Shield - the largest health insurer in New York. Empire Blue Cross Blue Shield had its headquarters in the WTC. The Department has kept in close contact with Empire regarding the status of employees and business operations. Our latest information is that all but 9 of the 1,847 Empire employees are safe. Senior management has been relocated to their Melville, Long Island office. Operations and Services have been transitioned to alternate locations. All electronic claims are being processed and cash flow is sufficient at this time. Paper claims submitted from September 7-11 were destroyed and must be resubmitted. All other paper claims are being handled in Empire's Albany office.

I also reached out to Marsh USA and Aon, two of this nation's largest brokerage firms. While the human cost has been unacceptably high, I was pleased that both companies' disaster preparedness plans allowed them to continue operations. Other insurance entities that had operations located in WTC Towers One or Two include: AIG Aviation Brokerage, Allstate, Continental Insurance, Fireman's Fund, Guy Carpenter, Hartford Steam Boiler, Kemper, MetLife, SCOR U.S. Corporation and Seabury and Smith. The Department has undertaken efforts, in conjunction with the New York City and New York State Economic Development Offices, to assist insurance entities dislocated by the disaster in finding necessary space so as to continue their operations.

My staff and I then proceeded to arrange conference calls, meetings, and individual telephone calls with senior level personnel at all impacted insurance and reinsurance entities. Calls were arranged with property and life reinsurers, property and life insurers, Lloyds, as well as the insurance brokerage community. Companies contacted in these initial 48 hours included American International Group, Swiss Re, Chubb, Allianz, Traveler's, Allstate, State Farm, Metropolitan Life, and a group of all major property/casualty domestic reinsurers.

In undertaking these communications I had three objectives. First, I wanted to open the lines of communication between the Department and each impacted insurance entity relating specifically to the disaster. Second, I wanted to determine the financial impact on each insurance entity and obtain a general sense of the ability of the industry to pay the expected claims. Finally, I wanted to have the opportunity to remind each individual company, and the industry collectively, of their obligation to the consumer and the expectation of the Department that they would pay claims expeditiously and without raising non-applicable exclusions. Over the two weeks since the disaster I have repeated this process, both on an individual and a group basis so that, as I sit before you today, I can say that the message that I first received—that the industry is financially sound, to weather this disaster and committed to meeting all of its obligations relating to it—is as strong and clear today as it was on September 11.

The response from the industry has been, in one word, extraordinary. Each and every company that I spoke with indicated that they had the solvency and the liquidity to withstand the claims that would result from the disaster. In addition, they all indicated that they would not be relying on any "act of war" or "terrorism" exclusion to avoid paying claims even if such an exclusion would otherwise be applicable to the disaster. The Department's experience has shown that the companies are, indeed, honoring their commitments.

The Department has also worked with the industry on initiatives designed to speed the provision of health care to victims injured in the disaster while on-the-job without the necessity of following traditional workers' compensation claims processes. In addition, the Department has issued over 125 temporary Adjuster licenses to speed the payment of claims by insurers. In this effort I am pleased to report that the Department reached new heights of efficiency. Thanks to the use of the internet, the vast majority of these licenses were issued within one-hour of the application being received. This is important to consumers because adjusters are critical to companies being able to ascertain the extent of the damage and, ultimately, to pay claims.

Industry Directives

The Department also issued a number of directives to the industry. Circular Letters were mailed and posted to the Web site in the ordinary Circular Letter sections and in the special

World Trade Center Disaster Information section to ensure that the industry and consumers could easily access pertinent information. The Department issued the following Circular Letters and directives:

- In compliance with Circular Letter #11, issued May 10, 2001, insurers are required to submit "Disaster Loss Data" reports immediately after an incident. The first report was due September 17 and updated reports are required every two days. Included in the reports are total claims, average dollar value per claim, and total dollar value of claims on both commercial and personal lines. The IEOC collects these reports by both fax and e-mail and I am kept apprised of the contents of the reports on a real-time basis. Information from the reports is transmitted to emergency managers so that they can assess the mix of insured and uninsured losses. (See Appendix III)

- Circular Letter #26, issued on September 12th, directed all authorized insurers to be mindful of the difficulties faced by residents and businesses in the disaster area. The Circular Letter reminded insurers that the Superintendent had the ability to exercise his emergency authority to declare a moratorium precluding the termination or suspension of policies or other adjustments to cancellations and non-renewals. While I have not deemed such emergency action to be necessary, I will invoke such power when, and if, it becomes necessary to protect the public from losing necessary insurance coverage. (See Appendix IV)

- Circular Letter #29, issued on September 22nd, ensured the continuity of health insurance coverage for reservists and their families called to active duty in the protection of our country. Health insurers were reminded that they must continue to provide coverage for the dependents of reservists, at the option of the reservist, and that they must provide for a continuation of coverage, without penalty, once the reservist returns from active duty. (See Appendix V)

- Circular Letter #28, issued on September 24th, requires all insurers to pay death claims, even in the absence of a death certificate, provided that the claimant provides a standardized affidavit in lieu of the death certificate. The issuance of this Circular Letter became necessary in the instant disaster because of the delays in identifying victims of the disaster and the resulting delays in issuance of the death certificate. (See Appendix VI)

Consumer Services

Immediately following the tragic events on September 11th the Department activated additional consumer service centers and hotlines to assist those impacted by the WTC tragedies. The additional services were designed to assist families with questions about their insurance coverage, the process of filing insurance claims and ensuring that claims are paid in a timely fashion. We remain committed to helping in any way we can to ease the burden of this terrible tragedy.

On Wednesday, September 12th a dedicated toll-free disaster hotline was made available to assist all New Yorkers and the insurance community with questions on claims, procedures, and general insurance concerns. The hotline is staffed by Consumer Services Representatives from the Department and available seven days a week between the hours of 8 a.m. and 8 p.m. at 1-800-339-1759. In addition, the Department's Web Site www.ins.state.ny.us is updated on a daily basis to provide the insurance community and the public with up-to-date information on insurance-related issues and contact numbers. Furthermore, the Department's executive, frauds, and consumer services bureaus are operating on a 7-day schedule and Department representatives are at the state's IEOC on a 24-hour a day basis.

In addition to the Albany and New York offices that are available to serve the people of New York State, we opened additional offices to offer personal walk-in services to residents of the Westchester and Long Island areas that may have been impacted by the disaster. These satellite offices act as claim assistance centers to provide those impacted by the disaster with direct contact with, and the assistance of, Department personnel. Department staff are available to answer questions regarding claims, procedures and all disaster-related insurance questions seven days a week from 8am – 8pm at the following locations:

Manhattan

Pier 94

54th Street and 12th Ave.

Cubicle A-15

Westchester County

75 South Broadway (across from the Westchester Mall)

White Plains

Only Open from Monday – Friday

Nassau County

NYS Insurance Department Office

200 Old Country Road

Mineola

516-248-5886

Suffolk County

Suffolk State Office Building

250 Veterans Memorial Highway, 1st. Floor

Hauppauge, New York 11788

In addition to Department staff, representatives from insurance companies are available at Pier 94 in NYC. These company representatives assist New Yorkers as they begin to file claims as a result of the disaster and can issue checks to consumers immediately. Having insurance company representatives representing all lines of insurance as well as consumer service representatives from the Department provides affected New Yorkers with quick and easy access to insurance companies. This center is an effort to ensure the expedited payment of claims.

The Department worked closely with the insurance community to deploy Catastrophe Vehicles in downtown Manhattan. The insurance company "CAT Vans" serve as mobile insurance claim offices that can provide immediate assistance to policyholders, including cutting checks on site.

In fact, only a few days after the disaster I was able to visit many of the CAT Vehicles to offer thanks for the prompt response into the area and to help to garner an effective location for the van. Each van contains computers, onboard databases with necessary policyholder information, photocopiers, fax machines, printers and additional equipment imperative for processing claims instantly. The vans are outfitted with satellite technology through high-speed data communications. This equipment enables the companies to provide service to customers anywhere, and at anytime, without depending on phone lines, towers, or other telecommunication services that may be unavailable during a catastrophe. Generators allow the vehicles to operate in areas without electricity.

At present, insurance companies with CAT locations in Manhattan are as follows:

ALLSTATE INSURANCE COMPANY

SP Parking Corp.

735 6th Avenue, between 24th & 25th Street

STATE FARM

Parking lot of 310 West Broadway

TRAVELERS

388 Greenwich Street

ZURICH AMERICAN

East Side Marriott. (between 48th-49th on Lexington). Zurich is in the process of obtaining office space nearer to "ground zero".

In addition, 72 insurers have provided the Department with Catastrophe Center Hotlines and additional information on claims processing which can be accessed though our Web site. It is also important to note that countless insurers have taken out full-page messages in New York newspapers to announce toll-free numbers.

To date, I am encouraged by the industry 's response and the responsible judgment they are exercising in making determinations regarding claims made against policies insuring those impacted by the disaster. We want to assure insurance consumers that we will continue to assist them in their claims and we will continue to encourage the industry to continue to respond in good faith by making timely claims payments.

As a final matter, the Department has been called upon to assist in facilitating the payment of claims pursuant to the Federal Public Service Officers Death Benefits program. The program provides benefits of up to $150,000 to the families of police officers and firefighters killed in the line of duty. The Department will work with the Fire Department and United States Department of Justice to assure that the families of these heroes receive their benefits in a timely manner.

III. CURRENT STATE OF AFFAIRS

While 15 days has elapsed since that day, the financial impact of the disaster is still evolving. Because of access restrictions at the site, insurance adjusters have been unable to enter the affected area to begin the evaluation process. In the meantime, the Department created an industry task force consisting of nine members including a representative from the Disaster Coalition (member of the IEOC), the Department's Special Counsel to the Frauds Bureau, a Federal Emergency Management Agency's inspection coordinator, a representative from Property Claims Service and adjusters from five of the major insurers affected by this catastrophe.

On September 22nd, the task force was led through the restricted site for a six-hour walk-thru which resulted in the creation of an assessment report. The assessment report, designed by the industry inspectors that participated in the walk-thru, will be shared with the industry, CAT teams and company executives. Additionally, during the walk-thru, photos were taken and interviews with building managers were conducted. Providing access to the site for this task force and the resulting assessment report will result in more efficient claims processing and payment.

While these assessment reports will assist in the efforts of the insurance industry to provide regulators with information regarding claims and losses, reliable numbers may not be known for some time. It is important to realize that lower Manhattan is a crime scene. This alone makes it difficult to determine the true extent of the losses.

As outlined above, our preliminary analyses indicate that the insurance and reinsurance industry, as a whole, have sufficient assets and liquidity to handle claims arising out of the disaster. We also have no reason to believe that the companies will invoke exclusions. There has been much talk in the media of "terrorism" and "act of war" exclusions. We have had no indication from the industry that such exclusions will be invoked. In fact, a number of insurers have stated that they either do not have such exclusions in their policies or that they would not invoke them even if applicable.

The Department is also undertaking a review of the New York City Firefighters Retirement Fund, which is regulated by the Department, for the purposes of assisting the fund's managers in estimating the impact on the fund of such a significantly large loss of life among the ranks of firefighters.

IV. CONCLUSION

In closing, I must state that the Department has been overwhelmed by the response of our fellow state insurance regulators. On a conference call just three days after the disaster, numerous insurance regulators offered us everything from human resources to systems support.

What helped the most, however, was the knowledge that there were other insurance regulators across the country pulling for us and praying for the victims of this senseless tragedy.

Thank you, Mr. Chairman, for the opportunity to appear before this Panel today. I hope my message, which was a simple one, has been received. The Department believes that we have responded to this event in a professional, expedient and compassionate manner. We believe that the insurance industry has acted with their contractual and moral obligations to policyholders, and we believe that our response demonstrates the validity and strength of the state system of insurance regulation.

But we are a long way from the conclusion of this sad chapter in our history. It will take the combined efforts of the public and private sector before the true healing can begin. Thank you.

APPENDICES

APPENDIX I	**Sample Life Affidavit in Lieu of Death Certificate**
APPENDIX II	**Sample Questionnaire for Insurers**
APPENDIX III	**Circular Letter #11**
APPENDIX IV	**Circular Letter #26**
APPENDIX V	**Circular Letter #29**
APPENDIX VI	**Circular Letter #28**

Affidavit in Lieu of Death Certificate

Appendix I

STATE OF)
S.S.:
COUNTY OF)

I, ____, currently residing at

____,

(telephone number: __________________), being first duly sworn, do hereby depose and say as follows:

1. That I am the ____of the Insured,
(Relationship to the Insured)

____.
(Name of the Insured)

2. That the insured was either employed in the World Trade Center or the Pentagon, or was in such buildings or in their immediate vicinity when the events of September 11, 2001, occurred; or was a crew member or passenger on any of the airline flights involved in the disasters on that date; or was a police officer, firefighter, emergency medical service provider, or rescue volunteer at one of those building sites on that date.

3. That I affirm that I have not seen or heard from the Insured since September 11, 2001, and that barring his or her death, he or she would have been in contact with me or someone else.

4. That I affirm that I am unable to secure a death certificate for the Insured from the Chief Medical Examiner or other appropriate authority at this time.

5. That I understand that the ____________________________________
(Name of Insurer)
may secure further information to verify or corroborate my statements herein, relating to these disasters.

6. That I affirm that the statements made herein are true and I make this affidavit under penalties of perjury.

____
AFFIANT

Subscribed and sworn to before me
This _____ day of ______________, 2001.

____
NOTARY

DISASTER LOSS DATA-

Appendix II

CATASTROPHE LOSS # **DATE:**

COMPANY NAME:

CONTACT NAME: **PHONE:**

COUNTY NAME:

CLAIMS INFORMATION:

COMMERCIAL:	**PERSONAL:**
TOTAL CLAIMS:	TOTAL CLAIMS:
AVERAGE DOLLAR VALUE PER CLAIM:	AVERAGE DOLLAR VALUE PER CLAIM:
TOTAL DOLLAR VALUE OF ALL CLAIMS:	TOTAL DOLLAR VALUE OF ALL CLAIMS:

ADJUSTERS IN AREA:

DRAFTING AUTHORITY:
DOLLAR LIMIT:

OTHER CONSIDERATIONS:

AREAS HARDEST HIT:

Appendix III

STATE OF NEW YORK
INSURANCE DEPARTMENT
AGENCY BUILDING ONE
EMPIRE STATE PLAZA
ALBANY, NY 12257

Circular Letter No. 11 (2001)
May 10, 2001

To: All Property/Casualty Insurers Licensed to Do Business in New York State

Re: New York State Insurance Disaster Coalition

In keeping with New York Governor George E. Pataki's mandate to anticipate potential problems for the citizens of New York State, this Circular Letter is intended to identify and organize specific Insurance Department and insurance industry resources to serve victims of natural disasters and other state emergencies. (This letter supercedes Circular Letter 1996-5)

When an emergency or disaster situation occurs, this Department is looked upon to provide the Governor and the State Emergency Management Office (SEMO) with critical information regarding the amount and extent of property losses, as well as other damage assessments. Based on this information the Governor determines whether and when to request a federal disaster declaration and how to prioritize the deployment of state assets.

The insurance community has been identified as a key resource to providing early assessments of damages arising from disasters. Insurers play an important role in quantifying the magnitude of losses - insured and uninsured - and determining both the degree and duration of insurer response to losses. Accordingly, all licensed property/casualty insurers are requested to assist this Department in obtaining the information needed to accomplish the above objective – both before and after disasters strike.

Furthermore, a "New York State Insurance Disaster Response Plan" has been developed by a public-private disaster coalition under the joint direction of the New York Department of Insurance, State Emergency Management Office, and the Institute for Business & Home Safety. The plan provides complete instructions for insurance disaster responders and can be found in the Emergency Disaster Information section of the Insurance Department's web site at **www.ins.state.ny.us/disaster.htm**. Insurance company catastrophe team leaders should be notified of the availability and content of this site.

The success of the New York State Insurance Disaster Response Plan and fulfillment of its critical mission require knowledgeable personnel operating in a partnering environment and within the larger incident command structure. Incorporation of the Insurance Disaster Response Plan into individual company catastrophe plans and a cooperative NYSID/Industry process of continuing evaluation and change are critical to this process, and therefore must be institutionalized.

In order to expedite New York's response time to catastrophes and facilitate the recovery of those who have insured losses, this plan provides the opportunity to forge a new private/public disaster planning team that will result in a comprehensive strategy for cooperation, communication and the leveraging of resources. The Insurance Department urges all property/casualty insurers to read the attached circular letter and participate in the Insurance Disaster Coalition. Broad range participation is essential.

Acknowledgment of this letter and instructions should be sent no later then June 1, 2001 to
Paul Orkwis, Principal Insurance Examiner
New York State Insurance Department
Agency Building 1
Empire State Plaza
Albany, NY 12257
Porkwis@ins.state.ny.us

Acknowledgement should include the respondent's full name and title, company name, telephone number and email address. Any questions concerning this letter may be directed to Mr. Orkwis at (518) 474-9837, or by e-mail.

Very truly yours,

Gregory V. Serio
Superintendent

A. PRE-DISASTER DATA/INFORMATION SURVEY

Accurate, timely and consistent information is of critical importance to the State Emergency Management Office during disasters. To ensure that insurance industry information is readily available during disasters, effective the date of this Circular Letter, the Department requests the following information be provided by insurers:

- Annual Report -- All licensed property/casualty insurers provide to the Department's Market Section of the Property Bureau an annual report listing - by New York county - property exposure information, as of December 31, for personal lines (non-auto) and commercial lines (non-auto) for each licensed member within an insurance company group.

  This information is to be provided for the following categories: total building and contents insurance in force for the lines indicated and total number of policies. Each insurer must provide the information by New York county by completing the reporting diskette.

  The report for the year 2001 is due within sixty (60) days after the publication of this letter, and due thereafter each year on April 1. It is the responsibility of the insurer to honor this annual reporting deadline. The prescribed method for submitting reports can be found in the Department's web site at **www.ins.state.ny.us/disaster.htm.**

- Insurance Company Disaster Liaisons – On or before June 15, 2001, each licensed property insurer shall provide to the Department's Consumer Services Bureau the name of the designated disaster liaison(s), along with that person's telephone and cell phone number(s) (for during business and after business hours), email address and/or pager number, if applicable. Any change in the liaison(s) and/or contact information should be reported immediately to the Consumer Services Bureau. (Appendix B.)

- Communications Network -- Insurance industry representatives of the NYS Insurance Disaster Coalition are requested to provide the Department with Internet links of not-for-profit web sites that are beneficial to the public before, during and after a disaster.

- Insurance Company Disaster Plan – In a subsequent communiqué, the NYS Department of Insurance will be issuing an electronic template for insurers to complete and submit a copy of their Disaster Response Plan. Upon receipt of that notification, insurers will be asked to submit their plan to the Consumer Services Bureau within sixty (60) days.

This plan will ask for such information as: How will the company handle the increase in the number of claims? Will the claims be handled by the local office structure, or through the establishment of a catastrophe claims office/center? Will the company 'import' claim representatives and adjusters from other areas? How will the company train its staff in emergency procedures and New York-specific insurance coverages? How will the company distribute catastrophe claims information, or communicate generally, with its policyholders?

In addition, each insurer will be asked to provide the name and contact information for the person designated to coordinate catastrophe loss response and activity in the State of New York, as well as to name that person's back up. Contact information should include work and cell phone numbers, email addresses, and after hours contact numbers.

Any changes to this plan are to be reported to the Consumer Services Bureau by June 1 of each subsequent year.

All pre-disaster information may be sent by U.S. mail to the Department's Albany Consumer Services Bureau, attention Paul Orkwis, or by email to porkwis@ins.state.ny.us.

POST-DISASTER DATA/INFORMATION

Insurers are requested to notify the Department whenever they activate, or may activate, their Hurricane / Windstorm Deductible as a result of a certain storm or event. When available, they may use the Disaster Coalition e-mail address (**nys_insurance_disaster_coalition@ins.state.ny.us**); or they may notify the Department via facsimile, at (518) 486-1503, attention Salvatore Castiglione or Paul Orkwis.

B. Insurance Adjuster Temporary Permits

Section 2108(n) of the Insurance Law provides that:

"...the superintendent, in order to facilitate the settlement of claims under insurance contracts involving widespread property losses arising out of a conflagration or catastrophe common to all such losses, may issue a temporary permit for a term not exceeding one hundred twenty days to any person whether he be a resident of this state or a non-resident, to act as an independent adjuster on behalf of an authorized insurer, provided any insurer shall execute and file in the office of the superintendent a written application for the permit in the form prescribed by the superintendent, which application shall contain information as he may require and shall certify that the person named therein to be designated in on the temporary permit is qualified by experience and training to adjust claims arising under insurance contracts issued by the insurer. The superintendent may in his discretion renew such permit for an additional term or terms as may be necessary to adjust such claims."

Attached is a copy of the Temporary Adjuster Permit Application. (Appendix C-1, C-2.) Using this application will enable licensed insurers to certify that the application is submitted for the purposes identified in the law.

The Permit application calls for information regarding the occurrence that necessitates the temporary permit. This enables insurers to apply for temporary permits earlier, rather than waiting for a disaster declaration as was previously required.

Completed application(s) should be sent by facsimile to the Department's Licensing Services Bureau at (518) 474-5048, where it will be reviewed and acted upon immediately. Temporary permit(s) will be faxed to the insurer submitting the application(s).

This temporary licensing procedure will facilitate prompt services to those citizens suffering losses. Permit applications may also be downloaded from the Department's web site listed above for completion and submission to the Licensing Services Bureau. In the very near future, insurers will be able complete and submit these applications over the Internet and receive approval likewise.

C. Insurance Company Disaster Liaisons

Upon the Department's activation by SEMO due to a State Emergency Disaster situation (as defined by the SEMO Disaster Emergency Activation Levels listed below), a representative from the Department's Consumer Services Bureau may activate designated Insurance Disaster Liaisons representing the ten largest underwriters in the emergency or disaster areas. Participating companies will be determined based on the above Pre-Disaster Reports.

Subsequently, Liaisons should be prepared to participate in the State's Disaster Response Plan as follows:

- A teleconference will be held following the occurrence of a natural disaster – prior to the activation of the Department of Insurance Emergency Operations Center (IEOC) – to discuss the disaster and activation plans.

- Upon the activation of the IEOC by SEMO, Insurance Disaster Liaisons or their designees will be expected to staff the IEOC at either of its two locations: Empire State Plaza, Agency Building One, Albany, NY; or 25 Beaver Street, NY, NY.

- Consumer Services Bureau will provide a fully equipped IEOC for Liaisons' use at either of the aforementioned locations. Included are data ports and telephone lines, along with electronic and videoconferencing links to the SEMO emergency operations center.

- The Consumer Services Bureau will continue to coordinate communications among company and association contacts through ongoing teleconference calls to plan staffing of the IEOC for the actual or threatening (as in the case of hurricanes) emergency; individually discuss with each insurer's liaison the company's catastrophe operations; individually review each insurer's response plans; and discuss catastrophe operations and emerging issues.

- Liaisons may be expected to remain on duty at the IEOC for as long as SEMO's Emergency Operations Center remains at Level 4 or higher activation.

D. Liaison Duties and Responsibilities
E.

- Liaisons should have a qualified back up. Both will preferably be a member of the insurer's catastrophe team, or a manager-level employee, who are familiar with company protocols and have access to critical information.

- Provide coverage data and loss statistics by New York county that summarizes commercial and personal lines separately.

- Transmit information on the disaster from the insurance industry to emergency response officials and also back to other industry representatives.

- Should be authorized and knowledgeable in company internal information systems and sources, and authorized to access such systems so that applicable, timely information can be provided to SEMO via the Insurance Department.

Emergency Operation Center Hours of Operation

Normal hours of operation when Liaisons will be on duty are 7:00 a.m. to 6:00 p.m., or for such time periods as necessary to assist with the effective management of the disaster. Depending on the level of the disaster this may be a seven-day a week commitment.

Coverage Data and Loss Statistics

In the ensuing days after a disaster, Liaisons will be required to provide specific statistics from each licensed insurer. These statistics will be periodically updated on an as needed basis, but not less than monthly.

Reports will be consolidated by CSB staff for submission to SEMO and the Governor's office only.

- Commercial insurance data -- to include figures for the total number of losses and total claim amount (paid and/or reserved) by New York county.

- Personal insurance data -- to include figures for total number of losses and total claim amounts (paid and/or reserved) under the categories of homeowners, automobile, other and National Flood Insurance Program - Write Your Own by New York county.

- Number of available adjusters.

- Other aspects of catastrophe claim operations and customer service issues. (Appendix D)

F. Confidentiality

All of the above reports and statistics are to be compiled and summarized by Insurance Department personnel for internal Department use. Reports submitted to SEMO and the Governor will be on an aggregate basis with no individual company information identified in those reports.

Insurance Department personnel will be advised by Insurance Department management that all such information provided by publicly-traded insurers must be kept strictly confidential; that such information may be material, non-public information; and that trading in securities on the basis of material, non-public information is prohibited under the federal securities law.

At the time of submission, insurers should request an exception from disclosure under Section 89(5) of the Public Officers Law (Freedom of Information Law- FOIL) for any information or reports they submit to the Insurance Department that they believe are trade secrets or commercial information which, if disclosed, would cause substantial injury to their competitive position.

In the event that a request is received by the Department for the release of information pursuant to FOIL and the insurer requested an exception from disclosure upon submission, the insurer will be notified and given the opportunity to respond to the Department in accordance with FOIL and Regulation 71 (11 NYCRR 241.6).

G. Access to Disaster Areas

In order to facilitate the settlement of claims and gathering of loss information, law enforcement officials working in designated emergency areas will recognize a license issued by this Department to adjusters, agents, and brokers. Insurance company personnel will be recognized by their company ID and photo ID. Law enforcement officials will grant access to emergency areas to those personnel who possess and display appropriate documentation – after SEMO determines that the emergency area is safe for non-emergency personnel.

A. Insurance Personnel Identification

A picture identification document, such as a driver's license or company photo ID tag, should be displayed on the adjuster's person along with the NYS Insurance Department Temporary Adjuster Permit. Agents and brokers will be identified via their agent or brokers license along with their photo ID. All other insurance company personnel will be identified via their insurance company ID or a photo ID.

Law enforcement officials will also recognize a document issued by an insurer to a regular salaried employee designated by that insurer to adjust losses on its behalf in the disaster area. Again, these individuals must display a photo identification document as well.

Names and identifying information for persons receiving temporary permits will be made available to law enforcement officials through SEMO. IEOC personnel will be responsible for notifying SEMO representatives when access to an emergency area that has been declared safe is not granted to an authorized adjuster. Adjusters will request assistance from the IEOC in these instances.

EMERGENCY ACTIVATION LEVELS:
NY STATE EMERGENCY MANAGEMENT OFFICE (SEMO)

The following Emergency Activation Levels have been established for the operation of the New York State Emergency Operations Center (EOC):

LEVEL 1

Normal operations during business hours: 9:00 a.m. to 5:00 p.m. with after-hours calls handled by the State Emergency Coordination Center.

LEVEL 2

This level triggered by weather warnings, identified threats from man-made sources, and emerging local events. SEMO and relevant agencies on standby 24-hours daily. SEMO staff on campus to assist State Emergency Coordination Center staff with local inquiries for technical support.

LEVEL 3

This level triggered when local community or region requests state assistance. Depending on the extent of the state affected, relevant agency's report to the EOC and a State Disaster Declaration is considered. SEMO staff on campus 8:00 a.m. to 6:00 p.m. daily. Select staff available 24-hours daily to assist State Emergency Coordination Center staff with local inquiries for technical support and state resource assistance. All Disaster Preparedness Commission (DPC) Agencies on 24-hour alert.

LEVEL 4

This level triggered by declaration of State Disaster. Relevant state agencies reside at EOC during working hours and after hours, as necessary. All other Disaster Preparedness Commission (DPC) Agencies on-call status for 24-hours daily. Information gathered for possible FEMA Federal Disaster Assistance request. Decision-level SEMO staff at EOC 24-hours daily.

LEVEL 5

This level triggered when event exceeds statewide capacity; significant federal resources mobilized. All DPC agencies active at EOC; center staffed 24-hours daily. SEMO staff 12-hour shifts, seven days a week.

APPENDIX A

Pre Disaster Survey General Instructions

This survey can be completed by downloading the various files in Lotus 123 or Microsoft Excel from the Department's Web Site located at **http://www.ins.state.ny.us/disaster htm**.

Each version of the survey (Lotus 123® or Microsoft Excel®) contains three files:

1. "Readme" – this file contains instructions on how to complete the two required report files. The report files request data on a countywide basis for:

Amount of Insurance In-force (Gross Exposure)
Number of Polices In-force

2. "CommRpt" - contains a table for entering the required information covering the commercial property portion of the premiums, reported on Page 15 of the New York Annual Statement, for the following lines:

01 - Fire
02.1 - Allied Lines
02.2 - Multiple Peril Crop
02.3 - Federal Flood
03 - Farmowners Multiple Peril
05.1 - Commercial Multiple Peril (Non-Liability Portion)
12 - Earthquake

3. "PersRpt" - contains a table for entering the required information covering the personal property portion of the premiums, reported on Page 15 of the New York Annual Statement, for the following lines:

01 - Fire
02.1 - Allied Lines
02.3 - Federal Flood
03 - Farmowners Multiple Peril
04 - Homeowners Multiple Peril
12 - Earthquake

Those insurers unable to download the files from the Web Site may submit the attached sheet to request a diskette by US Mail, or by an e-mail message addressed to vmazzare@ins.state.ny.us to request the files by return e-mail.

Responses must be submitted to the Department in an electronic format. Hardcopy survey responses are not required and any hardcopy survey responses submitted without the required diskette will not be processed. Survey responses should be accurately completed in accordance with the instructions and returned **within 60 days** after publication of the Circular Letter:

New York State Insurance Department
Property Bureau - 2nd Floor
25 Beaver Street
New York, NY 10004
Attn: Vincent Mazzarella

vmazzare@ins.state.ny.us.

Questions as to the content of the survey (coverages, etc.) may be directed to:

Ms. Lucy Cilione
Principal Insurance Examiner
Phone: (212) 480-5501
E-mail: lcilione @ ins.state.ny.us

Any questions as to the technical aspects of the diskette filing may be directed to:

Mr. Vincent Mazzarella
Senior Insurance Examiner
Phone: (212) 480-5590
E-mail: vmazzare@ins.state.ny.us

Your cooperation in furnishing timely and accurate responses is essential to the success of this endeavor and is appreciated by the Department and the people of New York.

B. DISKETTE ORDER FORM

Enter the following information:

Insurer	
Name	
Address	
City	
State	
Zip code	

Contact Person	
Salutation (Mr., Ms., etc.)	
Last name	
First, MI	
Address - (if different from insurer)	
City	
State	
Zip code	
Telephone #	
E-mail address	

Diskette format requested (check one)

Lotus 123® [ ]

Microsoft Excel [ ]

®

NEW YORK STATE INSURANCE DEPARTMENT
INSTRUCTIONS
FOR COMPLETION OF SPECIAL REPORT DISKETTE
(EXCEL VERSION)

1. The "CommRep.xls" an "PersRep.xls" files contain the table for entering information on Commercial and Personal Property Lines, respectively, required to complete this Special Report.

2. It is strongly recommended that you immediately back-up the "CommRep.xls" an "PersRep.xls" files to your hard drive before inputting any data.

3. Please rename the "CommRep.xls" file, by saving it with the five-digit NAIC number of the reporting insurer, followed by the letter "C". For example, if your NAIC number is 12345, you would save the file as "12345C.xls." Similarly, rename the "PersRep.xls" file, by saving it with the five-digit NAIC number of the reporting insurer, followed by the letter "P". Therefore, if your NAIC number is 12345 you would save the file as "12345P.xls." Create as many files and use as many diskettes as necessary to complete reports on all of the entities in your reporting group.

4. After naming and saving the file(s), open one spreadsheet file, and before entering any other data, complete the General Information section. In the highlighted blue cells enter your company's name, NAIC and group number, etc. You should enter information only in the cells highlighted in blue, all other cells in the file are protected, and no entries should be made into them.

5. DO NOT CHANGE THE POSITION OR CONTENT OF ANY CELLS ON THIS DISKETTE.

6. In the next section - Data Required - Your Company Name, NAIC and Group # will be filled-in automatically if you have properly completed "Step 4". In this section (Data Required) you are instructed as to the lines of business that must be included in the data reported (those instructions are repeated below in bold typeface). Please note, when completing the Personal Lines file (PersRep.xls) you should:

Include data on the total building and contents in-force, to reflect the personal lines portion of policies related to the premiums reported on Page 15 of the New York Annual Statement, **for the following lines:**

01 - Fire
02.1 - Allied Lines
02.3 - Federal Flood
03 - Farmowners Multiple Peril
04 - Homeowners Multiple Peril
12 - Earthquake

Please note, when completing the Commercial Lines file (CommRep.xls) you should:

Include data on the total building and contents in-force, to reflect the personal lines portion of policies related to the premiums reported on Page 15 of the New York Annual Statement, for the following lines:

01 - Fire
02.1 - Allied Lines
02.2 - Multiple Peril Crop
02.3 - Federal Flood
03 - Farmowners Multiple Peril
05.1 - Commercial Multiple Peril (Non-Liability Portion)
12 – Earthquake

Also, in this section (for both the Personal and Commercial Lines Files) you will find the main data entry table. The table contains three columns:

County
Amount of Insurance In-force (Gross Exposure)
Number of Polices In-force

The first column, labeled County, has been completed by the Department. This column contains a listing of all the counties in New York State. In the next two columns, highlighted in blue--indicating they are to be completed by you,--the insurer-- you must provide: the Amount of Insurance in Force (the dollar value of your Gross Exposure); and the Number of Policies In-force in each of the counties listed, for all of the respective coverages noted above.

7. The final section of the file (Section 3) contains the Affirmation. The name of the Responsible Corporate Officer should be entered in the blue highlighted space provided. Next, the affirmation should be printed following the instructions in step (8) below. Then, the printed affirmation must be signed by the Responsible Corporate Officer. A separate affirmation must be submitted for each reporting company.

8. The table below contains the range names which will help you to print the various parts of this survey for your records. The Affirmation is the only printed document you should submit to the Department. Use the appropriate range name to select the desired print items, then print as you normally would.

To Print	Hit	Select Range
Section I General Information	F5 (GoTo)	Info
Section II Data Required	F5 (GoTo)	TABLE
Section III Affirmation	F5 (GoTo)	Affirm

9. When saving the files to a diskette, for submission to the Department, please be certain you have used your five-digit NAIC# and the proper letter suffix discussed in step (3) above. **If you have no data to report:**
   You are not required to submit Excel report files for entities having no data to report. Instead, in a cover letter, state which company or companies have nothing to report. Give the Name, NAIC number, and Group number of each company and indicate which reports (Commercial and/or Personal Lines) are not being filed electronically.

10. Please label your diskette in the following manner:
    NYSID - Emergency Response Task Force Report
    Company or Group Name(s)
    Company NAIC Number(s)
    Group Number

11. Diskettes should be addressed to:

    NEW YORK STATE INSURANCE DEPARTMENT
    25 BEAVER STREET
    NEW YORK, NY 10004

    Attn.: Vincent Mazzarella, Senior Examiner
    MARS Unit, 2nd Floor

12. If you experience technical difficulties in using this diskette, please contact Vincent Mazzarella by phone at (212) 480-5590, or by e-mail at vmazzare@ins.state.ny.us

Appendix IV

STATE OF NEW YORK
INSURANCE DEPARTMENT
AGENCY BUILDING ONE
EMPIRE STATE PLAZA
ALBANY, NY 12257

Circular Letter No. 26 (2001)
September 12, 2001

To: All Authorized Insurers

Re: Claims Handling and Cancellation/Non-Renewal of Policies in the New York Metropolitan Area

The loss of life and property at the World Trade Center complex, and the resulting emergency response, has caused considerable hardship and has disrupted the lives of thousands of residents and businesses in the New York Metropolitan Area. The long process of recovery has just begun, but it will be several weeks -- if not months -- before all of the damage can be assessed and the situation returned to some level of normalcy.

Insurers should be mindful of the difficulties the residents and businesses of this area have endured and will continue to endure in the near future. In particular, adjusters and underwriters should exercise care and responsible judgment in making determinations regarding claims, cancellations and non-renewals of policies insuring those impacted by this loss.

Pursuant to Insurance Law Section 3425(p) the Superintendent may declare a moratorium precluding termination of policies, or suspend or otherwise adjust the provisions relating to their cancellation or non-renewal, in areas of the State that have been declared by the President or the Governor to be in a state of emergency due to disaster or catastrophe.

The cooperation of all insurers in this matter will assist the Superintendent in his assessment of the situation, and in determining whether or not it will be necessary to exercise the emergency authority granted by Section 3425(p).

Very truly yours,

Gregory V. Serio
Superintendent of Insurance

STATE OF NEW YORK

Appendix V

INSURANCE DEPARTMENT
AGENCY BUILDING ONE
EMPIRE STATE PLAZA
ALBANY, NY 12257

Circular Letter No. 29 (2001)
September 22, 2001

TO: **All Insurers Authorized to Write Accident and Health Insurance in New York State, Including Article 43 Corporations and Health Maintenance Organizations**

RE: **New York Insurance Law Protections for Members of the Reserves Called to Active Duty**

STATUTORY REFERENCES: Insurance Law Sections 3216(c)(13), (14); 3221(n), (o); 4304(i), (j); and 4305(g), (h)

On September 14, 2001, President Bush issued an Executive Order authorizing activation of members of the United States Military Reserves to active duty. The purpose of this Circular Letter is to remind insurers, Article 43 Corporations and Health Maintenance Organizations (HMOs) of their obligations under the New York Insurance Law to afford such military personnel special rights of conversion, continuation and suspension of health insurance coverage. These protections are in addition to the rights of continuation and conversion otherwise available pursuant to the Insurance Law.

I. Individual Coverage Issued Pursuant to Sections 3216 or 4304 of the Insurance Law.

Members of the Reserves, including the National Guard, who hold individual health insurance policies, and who enter active duty or have their active duty extended, are afforded supplemental rights to suspend their coverage during such period of active duty. Commercial insurers should consult Section 3216(c)(13) and (14) of the Insurance Law for the details of these rights. Article 43 Corporations and HMOs should consult Section 4304(i) and (j) of the Insurance Law. In general, the law provides for the following:

1. Upon written request, Reservists are entitled to have coverage suspended during a period of active duty. Furthermore, insurers, Article 43 Corporations and HMOs must refund any unearned premiums for the period of such suspension.

2. Upon termination of active duty Reservists are entitled to resume their coverage. The Reservist must make a written request to resume the coverage and remit the required premium within sixty days of termination of active duty. The resumption of coverage must be with no limitations or conditions imposed as a result of such active duty. However, limitations may be imposed with respect to conditions that arose during active duty and are determined by the Secretary of Veterans Affairs to have been incurred in the line of duty. In addition, if there was a waiting period in place at the time of call to active duty which had not been satisfied, the waiting period balance may be imposed.

3. Resumption of suspended coverage must be retroactive to the date of termination of active duty.

II. Group Coverage Issued Pursuant to Sections 3221 or 4305 of the Insurance Law.

Members of the Reserves, including the National Guard, who are covered under group policies, and who enter active duty or have their active duty extended, are afforded supplemental rights to continue, convert and/or suspend their coverage. Commercial insurers should consult Sections 3221(n) and (o) of the Insurance Law for the details of these rights. Article 43 Corporations and HMOs should consult Sections 4305(g) and (h) of the Insurance Law. In general, the law provides for the following:

1. A Reservist called to active duty may elect to continue his or her group coverage, including family coverage, by making a written request and paying to the group policyholder up to 100% of the premium for the coverage.

2. If a Reservist does not elect continuation rights, group coverage is suspended while the Reservist is on active duty. (It should be noted that an employer may treat Reservists as active employees to maintain coverage under the employer's group plan.)

3. If a Reservist elects continuation of coverage, or if coverage is suspended, and the Reservist dies while on active duty, the surviving spouse and children are entitled to conversion rights. Conversion rights are also available to children upon reaching age limitations for dependent status. Furthermore, conversion rights are also available upon divorce or annulment if occurring while on active duty.

4. Continuation is not available for those who become covered or could be covered by Medicare or other group coverage (except for that available to active duty members of the uniformed services).

5. Reservists who return to work after active duty are entitled to resume participation under the employer's plan without the imposition of limitations or conditions. However, limitations may be imposed with respect to conditions that arose during active duty and are determined by the Secretary of Veterans Affairs to have been incurred in the line of duty. In addition, if there was a waiting period in place at the time of call to active duty which had not been satisfied, the waiting period balance may be imposed.

6. For Reservists who opted for suspension of group coverage and return to employment, coverage is retroactive to the effective date of termination of active duty.

7. For Reservists who do not return to employment upon return to civilian status, the Reservist is entitled to the standard conversion and continuation rights provided by Sections 3221(e) and (m) or 4305(d) and (e) of the Insurance Law.

Please direct all inquiries concerning this Circular Letter to Thomas Fusco, Associate Insurance Attorney, Health Bureau, New York State Insurance Department, Agency Building 1, Empire State Plaza, Albany New York 12257 or by e-mail at tfusco@ins.state.ny.us.

Charles S. Henricks
Co-Chief, Health Bureau

Thomas C. Zyra
Co-Chief, Health Bureau

Appendix VI

STATE OF NEW YORK
INSURANCE DEPARTMENT
AGENCY BUILDING ONE
EMPIRE STATE PLAZA
ALBANY, NY 12257

Circular Letter No. 28 (2001)
September 24, 2001

TO: All licensed life insurers, fraternal benefit societies, employee welfare funds, retirement systems, governmental supplemental annuity funds, and reinsurers (Insurers)

RE: Use of Affidavit in Lieu of a Death Certificate with Respect to Life Insurance Claims Arising Out of the September 11 Disasters in New York City, the Pentagon and Pennsylvania

The tremendous loss of life on September 11th, and the difficult circumstances surrounding such loss, are likely to result in a delay in the ability to obtain death certificates. Normally, Insurers rely on a death certificate when processing claims. Under the present circumstances, however, it is clear that a more expeditious method of certification of death must be developed in order to streamline the payment of needed benefits to family members and other designated beneficiaries.

With respect to death claims arising out of the disasters that occurred in New York City, the Pentagon, and Pennsylvania on September 11, 2001, all Insurers must accept a fully executed affidavit in the form as attached, in lieu of a death certificate if such certificate is not available.

Insurers may utilize other information as well to complete the claim process but they must accept the attached affidavit in lieu of a death certificate in appropriate circumstances.

Gregory V. Serio
Superintendent of Insurance

Testimony of the
National Association of Insurance Commissioners

Before the
Committee on Financial Services
United States House of Representatives

Regarding:
The Impact of the September 11, 2001 Terrorist Attacks
on America's Insurance System

September 26, 2001

Kathleen Sebelius
Commissioner of Insurance
Kansas

Testimony of Kathleen Sebelius, President
National Association of Insurance Commissioners

Introduction

My name is Kathleen Sebelius. I am the Commissioner of Insurance for the State of Kansas, and this year I am serving as President of the National Association of Insurance Commissioners (NAIC). Speaking for myself and my fellow insurance commissioners across America, we appreciate the opportunity to update Congress and the public today regarding the impact upon our Nation's insurance system of the disastrous terrorist attacks that occurred on September 11, 2001.

The United States Insurance System Remains Fundamentally Sound

Let me start by saying that NAIC believes the insurance industry is well-capitalized and financially able to withstand the pressures created by the terrorist attacks, despite monumental losses that may exceed the $30 billion mark. We are heartened by the response to date of our Nation's insurers. We intend to continue working with them closely to ensure their ongoing financial health and stability.

The United States insurance industry is a $1 trillion business with assets of more than $3 trillion. Preliminary loss estimates of $30 billion represent just 3 percent of the premiums written in 2000. In evaluating the industry's health, we should also keep in mind that special federal government assistance programs to help the airlines and other businesses may substantially reduce the amount of claims owed by private insurers. Insurance policies typically specify that direct payments from other sources to reimburse losses will be deducted from the amounts owed by the insurer in order to avoid dual compensation for the same loss.

America's insurance companies have time and again shown their ability to respond to huge disasters and successfully recover. Adjusted for inflation, Hurricane Andrew in

1992 caused $19.7 billion in insured losses, and California's Northridge Earthquake in 1994 cost $16.3 billion in insured losses. As with previous disasters, we believe insurers affected by the recent terrorist attacks will be able to pay projected claims arising from those events.

Insurance is the sale of a promise to pay when bad things happen. During the past two weeks, the Nation's insurance commissioners have been in contact with affected insurance companies to gauge their intentions regarding payment of claims, as well as to assess their financial health. Insurers are telling us they are committed to keeping their promises to policyholders, and that they will pay the resulting claims as quickly as possible.

As regulators, my colleagues and I will continue monitoring the process to make sure that insurance promises are kept. To do our job, we are backed by an impressive array of human and technical resources, including the NAIC and fifty-one state insurance departments that collectively employ more than 10,400 people and spend $910 million annually on insurance supervision. In addition, at this time state insurance guaranty funds have the capacity to provide up to $10 billion to compensate American consumers in the event of insurer insolvencies.

Attacks Spotlight the Special Role of Insurance as Financial Safety Net

Mr. Chairman, I want to commend you for convening this hearing because the terrorist attacks on September 11th are a stark reminder that insurance is different from other financial services products. It is involved in every aspect of our lives when we leave home each day. Insurance products provide the necessary assurance of financial safety that encourages Americans to accept daily risks in business, travel, and personal activities of every sort that we have come to believe are normal to the American way of life. Commercial insurance requirements provide front end incentives that help businesses avoid unnecessary risks, which in turn helps make the products and services we use everyday safer for consumers. Because nobody knows when unexpected tragedies might rob us of life, health, or material well-being, insurance also provides a necessary level of personal comfort in knowing that we and our families will receive the financial backing essential to making a recovery from tragedy.

And so, as the initial shock of seeing the World Trade Center attacked and destroyed began to settle, leaders in business, government, and the media immediately focused their attention on the insurance arrangements backing the persons and commercial firms who inhabited the area of Manhattan directly hit, as well as insurance coverage for the airline industry and those individuals who perished in four horrifying plane crashes. Before long, many other people across America and the world began wondering about the impact of these immense losses upon their own lives. The anguish of coping with what was known to be lost was soon augmented by uncertainty and fears over what might be lost in the future.

Insurance coverage is unique in that it is a product that most people only encounter when they are under the stress of unhappy, often extreme circumstances. Although insurance payments cannot fully compensate for personal and emotional losses, they typically do offer one of the first glimmers of hope for those who face the daunting prospects of starting life over again after disastrous losses.

State insurance regulators are keenly aware that people need assurances they will have promised financial resources available quickly to help them began the process of recovery. We understand the true role of insurance in America lies as much in rebuilding faith and hope as in rebuilding or replacing offices, homes, and property. The key to delivering on the true promise of insurance is prompt, caring, and effective handling of policyholder claims and payments.

The first responsibility of the Nation's insurance regulators on September 11th and the days following was to find out what happened, determine how it might affect American policyholders and insurers, and identify any gaps or weaknesses in the insurance system. Our second responsibility was to take whatever steps are necessary to assure the system is functioning smoothly and properly, and to let government, industry, and the public know that we are there doing our job as expected to ensure a stable, solvent insurance system. We have met those responsibilities and done much more to respond to this emergency.

Measuring the Toll of Terrorism on America's Insurance System

The American insurance system is comprised of insurance companies that issue policies to customers and state regulators who supervise insurer solvency and handling of claims. Both segments of the system took a hard hit on September 11th. I'm pleased to report that both industry and regulators seem to have absorbed these devastating blows without harm to their basic operations.

First and foremost for regulators was the direct toll on NAIC's Securities Valuation Office (SVO) and the New York Insurance Department offices in New York City. SVO's offices in the 7 World Trade Center building were totally destroyed by the fire and ensuing building collapse. Fortunately, the 44 staff members at SVO were all found to be safe, and SVO reopened for business in temporary quarters on Monday, September 17th. The NAIC computer systems that support SVO operations were unaffected by destruction of the New York office. As a result, all SVO computer records were promptly restored. Insurance companies making paper filings with SVO are being notified to resubmit their documentation on investment securities previously filed by not yet reviewed by SVO staff before the office was destroyed.

Measuring the ultimate toll on the insurance industry will take years. Insurance is a unique financial product whose final costs depend on many variables that take time to evolve. Within days of the disaster, various organizations tendered potential damage estimates that ranged from $6 billion to $72 billion. This vast range of possibilities shows the difficulty in estimating potential insurance losses before businesses and individuals have an opportunity to assess the extent of their losses. Much of lower Manhattan has remained closed to facilitate search and rescue efforts, thus restricting the ability of insurance claims investigators to calculate losses.

At present, the number of people believed to be killed in New York, Pennsylvania, and Virginia is approaching 7,000, with a roughly similar number of injured. As time goes on, the number of those injured physically and mentally may rise significantly as the full extent of the human toll becomes clearer.

The total costs to America's insurance industry will thus be huge. Measuring those losses accurately will be an ongoing challenge for both industry and regulators.

Measuring the Amounts of Insurance Damages

While there are still many unknowns, there are some things that we do know about the damage that was done to property in New York. We know the twin towers at the World Trade Center and several other buildings are total losses. We also know there is substantial damage to many of the buildings that surround the World Trade Center in the financial district. We expect that some of them will be damaged so extensively that they must be imploded. Others may be structurally sound, but will require substantial repairs before they are habitable.

At this time, NAIC staff calculates that the property damage losses to the World Trade Center area will be roughly $5.5 billion. Not all of these losses are insured. This loss estimate does not include either contents or business interruption losses.

Building Contents

Most of the buildings that suffered damage in New York were designed for multiple occupancy. The wide variety of businesses that occupied the spaces make it difficult to develop damage estimates. However, we know most of them operated in the financial sector. Financial sector business contents are typical of that found in other offices, but would be expected to have extensive computer hardware and software. Our preliminary estimate for business and personal property damaged or destroyed in New York is between $2 billion and $3 billion.

Business Interruption and Extra Expense

The loss exposure for business interruption and extra expense is generally not included in basic property insurance policies. It is typically provided in a separate policy contract for business owners who choose to purchase it. There are many contractual variations that are classified as business interruption or extra expenses coverage.

Business interruption insurance typically indemnifies a business for loss of income during the period that is necessary to restore property damaged by an insured peril to a condition where the business can resume its operations. It often pays for expenses that continue and profits that would have been earned during the period of interruption. Such policies generally contain a provision that requires the policyholder to resume operations as soon as possible, even on a partial basis. Some policies include provisions for covering extra expenses that are associated with resuming business operations sooner.

To determine the amount of loss, an insurer considers the policyholder's experience before the loss and the probable future experience if no loss had occurred. Virtually all of these contracts have limitations concerning the duration of coverage (12 months would be typical) and are subject to a coinsurance provision so the policyholder shares a portion of the loss with the insurer. This is done to minimize any incentive for the policyholder to delay the recovery process for financial gain.

Business interruption and extra expense exposure is unique to each business. Since there are so many available options and no easy way to figure out what each business has selected, this is a very difficult area for which to estimate losses sustained in the New York disaster. There may also be some business interruption claims in areas outside the World Trade Center and Pentagon areas. A variety of firms have offered estimations that range from $5 billion (Morgan Stanley) to $8.8 billion (Friedman, Billings, Ramsey and

Co.) We believe it is reasonable to expect that these losses will fall somewhere within this range.

Workers' Compensation

Estimating the possible workers' compensation losses as a result of the terrorist attacks is one of the more straightforward exercises. Since the vast majority of injuries and deaths are associated with the fire and collapse of the twin World Trade Center towers and the Seven World Trade Center building, it seems safe to assume that most of the individuals injured or killed were engaged in work-related activities that would trigger a workers' compensation claim. It seems further safe to assume that most of these employees are entitled to benefits under New York law because their employer was operating in that state. There may be some employees from other states who were visiting New York's financial district, however for purposes of estimating overall losses, assuming that New York benefits will be paid provides a reasonable estimate of the overall loss exposure. Early estimates of the total workers' compensation losses attributable to the disaster are approximately $2.4 billion. It should be noted that this estimate does not include any claims involving inhalation of airborne contaminants. Those claims are impossible to estimate at this time.

For purposes of today's report, we are assuming the casualties and injuries suffered at the Pentagon were to federal employees who would not be eligible for benefits under state workers' compensation laws. Although there is a federal equivalent, those costs would be borne by United States taxpayers rather than the insurance industry.

Life Insurance

Many Americans choose to purchase life insurance products, and employers often provide life insurance as part of a comprehensive employee benefits package. Using the latest figures available from New York, the Pentagon, and the plane crash in Pennsylvania, individuals listed as either dead or missing is approaching 7,000. It is reasonable to assume that many of them had life insurance and are entitled to benefits under those policies. Using figures on average wages from the Bureau of Labor Statistics, as well as figures from the American Council of Life Insurers on typical life insurance amounts compared to disposable income, we estimate that life insurance claims will reach approximately $900 million.

To facilitate the payment of life insurance claims when many bodies are not likely to be recovered, states are working to implement a death certification plan similar to the one used for victims of the Oklahoma City bombing, where a similar situation existed. In that case, Oklahoma officials developed an Affidavit of Death that permitted a relative of the deceased to certify the deceased person worked in the destroyed building and would have been in contact with the relative submitting the affidavit if the victim were alive. New York, New Jersey, and Connecticut have developed such affidavits of death, and each of our states will be accepting such proof of death to help expedite the payment of insurance benefits to the heirs of victims.

Auto Insurance

Many cars sustained damage or were destroyed in lower Manhattan and, possibly, near the Pentagon. Using media reports, we estimate that 3,000 cars were damaged or destroyed. Assuming an average value of $30,000 in calculating our estimate, we believe the potential cost to insurers will be around $90 million.

General Liability

There are several types of potential liability for negligence and other damages related to the terrorist attacks that may be seen in the future. It is very difficult for us to estimate the types of legal actions that will be brought or the reactions of courts and juries to the allegations. However, we believe it is prudent to expect that such claims will result in substantial losses for insurers. Various sources have tendered estimates of potential liability losses, typically ranging from $2 billion to $6 billion. Losses within this range seem reasonable to anticipate. It is too early to develop reliable predictions of the ultimate liability losses.

Aviation Insurance

The most common types of insurance for aviation risks are aircraft liability and hull coverage. Aircraft liability coverage is very similar to auto liability insurance, with one important difference. The bodily injury liability is usually divided into two separate coverages: (1) bodily liability for passengers, and (2) bodily injury liability excluding passengers. Some contracts cover bodily injury to passengers, bodily injury excluding passengers, and property damage liability with a single limit to cover all three exposures.

Often insurers offer what is known as "voluntary settlement coverage" in conjunction with aircraft liability insurance. This extra coverage is written on a per-seat basis, and provides a specified sum for loss of life or certain debilitating injuries. The voluntary settlement coverage is offered to the heirs of those who die in exchange for a release of liability. If the heirs refuse to sign the liability release, the voluntary offer is withdrawn and the heirs must bring suit against the airline to seek compensation.

We understand that both American Airlines and United Airlines have coverage for $1.5 billion per event. With four aircraft events, the total insurance coverage limits would be approximately $6 billion. This risk is shared by a number of large insurers. The amounts actually paid by insurers under this coverage may be affected by provisions in the Air Transportation Safety and System Stabilization Act just passed by Congress. As we understand it, the Act limits the liability exposure of the airlines to claims by passengers and employees only.

The second aviation exposure is coverage for damage or destruction of the aircraft itself. This is known as hull coverage. Hull coverage comes in two basic forms. The broader hull insurance provides coverage for many perils, both on the ground and in flight. The more limited form of hull insurance covers limited in-flight damages caused by fire, lightning and explosion, but excluding crash or collision. We believe that American and United had the broad hull coverage. The cost to replace a Boeing 757-300 is $89.5 million, and the cost to replace a Boeing 767-300ER is $127.5 million. Thus, the hull insurance claims should be settled for approximately $434 million.

Act of War Exclusions

Questions have been raised as to whether insurers or reinsurers might deny coverage by asserting "act of war" exclusions that may be included in some insurance policies. State insurance regulators are also concerned about this issue, and will be monitoring the situation closely. Here again, we are very pleased by the responses we have been receiving from our domestic industry leaders who have told us companies will not invoke war exclusions, and that they will fulfill their obligations to policyholders. So far, we are unaware of any insurance or reinsurance company taking the position that it will raise this exclusion as a basis to deny paying claims; however, we will be watching non-U.S. insurers very closely on this point, particularly with respect to the global reinsurance community.

Despite the comments made by President Bush, who at times has referred to the September 11th attacks as "acts of war," courts in the United States appear to be consistent in distinguishing between true acts of war and terrorism. The United States generally regards terrorists as criminals, not soldiers, and therefore makes them subject to this country's criminal laws and justice system.

State insurance regulators will be watching closely to see if insurers try to invoke the act of war exclusion. Most states have laws that govern the handling and processing of claims (these are often referred to as unfair claims settlement laws). These laws provide state regulators with authority to supervise an insurer's claims settlement practices to assure they are fair.

Reinsurance

Like other commercial insurance, the business risks associated with the September 11th terrorist attacks are shared throughout the world by way of reinsurance. In the United States, the solvency and conduct of reinsurance companies licensed here are subject to same level of financial regulation as the primary insurance companies that issue policies to customers. However, regulators leave it to the managers of primary insurance companies to arrange and maintain adequate reinsurance coverage for their companies, subject to state supervision and solvency requirements that apply to primary insurers. Approximately 40 percent of the reinsurance covering American insurers is placed with reinsurers located in other countries. When supervising reinsurance arrangements, state regulators generally strive to balance the availability of adequate amounts of reinsurance protection for United States insurers against the ability to recover payments from reinsurers outside the United States.

State regulators use the following approaches to supervise reinsurance transactions:

- Statutory accounting rules and annual statement reporting requirements are designed to give regulators sufficient information to maintain effective oversight and control over an insurer's reinsurance arrangements, and
- State Credit for Reinsurance laws and regulations are designed to ensure that primary insurers transferring risks to other insurers place their reinsurance

> protection with financially-sound reinsurers that are under regulatory control in the United States, or, in the case of non-U.S. reinsurers, to make sure the obligations of such reinsurers are properly collateralized with trust accounts maintained in the United States.

In general, state regulators can supervise reinsurance by deciding whether or not to allow a primary insurer to take credit on its financial statements for reinsurance recoveries due from reinsurers. In order to receive credit for these recoveries, the gross liabilities transferred to a reinsurer in another country must be funded using United States trust funds or letters of credit.

Additionally, an insolvency clause must be included in every reinsurance agreement. This clause states that payments from a reinsurer must be made in full in the event of an insolvency of the primary insurer. If an offshore reinsurer is unable or unwilling to pay claims, the primary company has the ability to draw down those trust funds held in the United States. In the event of insufficient trust funds, the primary insurer could be liable for those claims.

As a practical business matter, a reinsurer denying claims based upon certain definitions or exclusions would be causing irreparable harm to its reputation. Thus, a reinsurer that chooses to invoke a war or terrorism exclusion to deny reinsurance claims faces the likelihood that primary insurers would bring suit or choose not to do business with the reinsurer in the future.

State regulators receive detailed financial statements that are put into a database and include specific information concerning reinsurance business that has been transferred to reinsurers. The NAIC's Reinsurance Task Force is currently analyzing the database to:

- Reconcile liabilities transferred to Lloyd's of London syndicates with the syndicate's trust fund balance; and

- Summarize the extent of reinsurance coverage for each primary company identified as having possible exposures to losses in the life and health lines of business in New York, New Jersey, and Connecticut, and in the property and casualty lines of business in New York.

The United States Insurance Industry is Financially Strong

The United States insurance industry is recognized by many financial rating agencies, institutional investors and economists as one the strongest in the global economy. The property/casualty and life/health industries boast nearly $3 trillion in invested assets. Much of these investments are in marketable securities, such as government and corporate bonds, publicly traded stocks and commercial paper, which are secure and carry a low degree of liquidity risk. As a measure of solvency, the insurance industry provides policyholders with a capital cushion of more than $550 billion to absorb unexpected downturns in the financial markets and adverse loss experience on its policies. An industry loss of $20 to $30 billion represents less than 6% of this capital cushion.

In terms of premium volume, the property/casualty and life/health industries produced over $300 billion and $700 billion, respectively, in the year 2000. Claims under all forms of property/casualty policies totaled $250 billion in 2000, while death benefits and contractual benefits under life and health policies reached $540 billion. Again, an industry loss of $20 to $30 billion would represent only 3% of industry premiums and less than 4% of total claims in the year 2000. By all measures of financial strength, the insurance industry was sound prior to September 11, 2001, and will remain so in the months and years to come.

We all recognize that the insurance system cannot withstand multiple hits on the scale caused by this terrible tragedy. We hope Congress will do its part to help state insurance regulators assure that adequate financial resources will be available to back the risks associated with terrorism in our economy as America recovers from this crisis and looks to the future.

Monitoring and Supervising Insurer Solvency

The state insurance regulatory system provides an extensive and comprehensive framework for ensuring that policyholder premium dollars are invested prudently and that insurers maintain an appropriate level of additional capital to support those risks which are inherent in the insurance business. In this regard, each state prescribes specific guidelines for insurers' investment holdings and related activities. Investment requirements typically specify the type, credit quality, and limitations of investments to ensure appropriate diversification and preservation of principal. Additionally, the NAIC risk-based capital formulas encourage insurers to invest in high quality issuers and in security issues that provide for appropriate diversification and liquidity. This is generally accomplished by requiring greater amounts of capital be held as the default rate or liquidity risk of a security or investment increases.

As with other financial institutions, periodic fluctuations in market interest rates and security prices affect an insurance company's balance sheet. Identifying and managing interest rate and investment risks, such as credit and market risks, is a core function of any insurance company's operation. Part of this process is keeping an eye on the equity portfolios of insurers. Insurance companies and regulators devote considerable time and resources to manage and regulate these risks, respectively.

Insurance company managers account for external factors by instituting specific policies and practices to help ensure necessary cash flows for claims payments and other benefits through future premium in-flows, as well as interest and dividend receipts under different economic scenarios. Larger insurance groups often employ dynamic financial analysis and purchase derivative instruments to better manage their investment holdings in relation to present and future liabilities. Regulators supervise these risks through actuarial requirements, on-site examinations, and on-going assessments of an insurer's investment policies and internal controls as they relate to the management of asset cash in-flows relative to liability cash out-flows. These risks are further regulated through conservative accounting treatments and extensive disclosures. For example, insurers report bond holdings either at amortized book value or at market value depending on the credit rating of the issuing entity (i.e., below investment grade bonds reported at market value).

An insurer's liabilities under policies and contracts are also recognized on a conservative basis, by requiring that all future liabilities be accounted for in the current period, on an undiscounted basis. Insurers share their underwriting risk with other insurers, known as reinsurers, to further manage the extent of severe policy losses. Under this sharing arrangement, insurance regulators regularly scrutinize the quality of the reinsurer involved, and often require these shared liabilities to be collateralized through trust agreements or letters of credit issued by United States financial institutions.

State Guaranty Funds Protect Consumers

Because the insurance industry is part of the larger United States capital market system that encourages competition, occasional insurer failures will occur. We must recognize the possibility that the events of September 11th could cause an insurer to fail. However, insurance regulators work hard to mitigate failures by identifying insurers operating in an unsound manner as early as possible, through on-going financial reporting, financial analysis, and on-site financial/actuarial examinations. These procedures focus heavily on an insurer's compliance with state investment, reinsurance, and actuarial laws and regulations, as well as compliance with statutory accounting and reporting requirements.

In circumstances where an insurer is unable to meet its claims obligations, the various state guaranty funds provide the necessary funds. These funds are raised through proportional assessments against all licensed insurers operating within a state. State guaranty funds operate on post-funded basis, as opposed to pre-funded basis, such as the Federal Deposit Insurance Corporation (FDIC). When a state court declares an insurer to be insolvent, all states in which the insurer was licensed will activate their respective guaranty funds to make-up the capital shortfall. Based on year 2000 direct premium writings by all insurers, and accounting for the funding requirements of existing insolvencies, the industry presently has a guaranty fund capacity of more than $10 billion.

NAIC Actions in Response to the September 11th Tragedies

Following the tragic events of September 11, 2001, the NAIC quickly moved to understand the magnitude of these events upon the global insurance industry, and in particular upon those insurers that wrote a substantial amount of business in New York, New Jersey, and Connecticut. On September 13, 2001, the NAIC distributed reports to state insurance departments detailing all insurers writing property/casualty business in the State of New York, and life and health policies in New York, New Jersey and Connecticut. In addition to providing premium information, the NAIC reports contained information on insurer stock holdings. The NAIC and state regulators were also in contact with the Treasury Department, federal regulators, White House staff, and industry leaders.

During the week of September 16, 2001, the NAIC convened special conference calls for three of our key response groups – the Financial Analysis Working Group, the International Insurers Department (IID) Plan of Operation Review Group, and the Reinsurance Task Force – to begin organizing the NAIC's efforts for monitoring the impact of the terrorist attacks on the global insurance industry.

The Financial Analysis Working Group monitors the financial condition of approximately 1,350 U.S. insurers and reinsurers. The IID Plan of Operation Review Group is charged with setting policy for qualifying non-U.S. insurers desiring to conduct business in the U.S. surplus lines market, many of which are Lloyd's of London syndicates. The Reinsurance Task Force is charge with monitoring all issues relating to U.S. reinsurance transactions.

A general action plan arose from these conference calls, which was adopted unanimously by the NAIC membership on September 24, 2001.

The NAIC's Action Agenda

NAIC Action Plan to Assess the Financial Impact on the U.S. Insurance and Reinsurance Industries, International Insurers, and Reinsurers and Lloyd's of London Syndicates:

Purpose:

- To develop a collective assessment of the financial impact on the global insurance industry, based on first hand information from insurers, reinsurers, and Lloyd's syndicates. The assessment will focus on the potential impact upon the solvency of these entities.
- To form a consistent and comprehensive message regarding state oversight of the insurance industry in response to the tragedy of September 11, 2001.
- To identify legal, financial, policyholder and claimant issues stemming from the tragedies.
- To identify insurers that may require regulatory surveillance or intervention.

Scope:

The scope of this project will be limited to those insurers, reinsurers and Lloyd's syndicates with material exposure to claims arising from the terrorist attacks. In particular, the Financial Analysis Working Group will address roughly 50 U.S. insurance groups, comprising 275 companies, which account for a substantial part of the affected insurance markets in New York, New Jersey and Connecticut. With respect to the U.S. and international reinsurance industries and Lloyd's syndicates, the IID Plan of Operation (C) Review Group and the Reinsurance

Task Force will jointly look at approximately 30 global reinsurance groups, up to 35 further companies, and 90 syndicates.

Specific Activities and Current Status:

- Identify all insurance companies with business operations in the Wall Street District, in particular the World Trade Center Towers and buildings 5 and 7. Assess impact on those insurers with substantial "back-office" operations.

  Status: Insurers Identified. Assessment underway.

- Identify all life/health insurers writing business in the states of New York, New Jersey and Connecticut, as well as property/casualty insurers in New York. Compute each insurer's New York, New Jersey, and Connecticut books of business to total business. Breakdown premium writings by line of business. In conjunction with these reports, indicate each company's exposure to further decline in the equities market. Obtain company contact information.

  Status: Completed and Distributed to All States.

- Associate all insurers identified with parent, affiliate and subsidiary insurers.

  Status: Completed and Distributed to All States.

- Identify insurance groups and insurers with potentially heavy loss exposures.

  Status: Based on a market share analysis, 50 insurance groups were selected. The market shares of these groups range from 75 to 85% of total premium, depending on the line of business involved.

- Design a limited survey to capture information on each insurer's net and gross estimated losses, as well as general information on the insurer's reinsurance program, reinsurers, and anticipated cash flow needs.

  Status: Discussed on Friday, September 20, 2001, conference call.

- For efficiency reasons, assign each group or insurer a "survey state" to facilitate the completion of the survey. The survey state will be a member of the Financial Analysis Working Group, and survey results will be shared with interested states. From the 50 groups, there are roughly 15 states with key regulatory interests. The states of Connecticut and Indiana will be added to the Financial Analysis Working Group because of certain large insurance groups. Collect survey responses electronically, using e-mail.

  Status: Discussed on Friday, September 20, 2001, conference call.

- IID Plan of Operation Review Group and the Reinsurance Task Force will work jointly in assessing the impact on the global reinsurance industry, international insurance companies, and Lloyd's syndicates.

  Status: The groups met on September 18, 2001, and discussed general reinsurance issues stemming from the September 11 events. NAIC staff, following the plan of the Financial Analysis Working Group, is identifying key reinsurers (companies and syndicates) providing coverage to the top 50 groups described above. The joint groups will also consider a survey form, including the appropriate questions and approach for obtaining information (i.e., through foreign regulatory offices or through direct contact with reinsurers).

- Review the 9/30/01 SEC 10Q filings of pre-identified publicly held groups with insurance or reinsurance operations and report to appropriate NAIC groups.

Review subsequent filings as considered appropriate, based on the completed work of the Financial Analysis Working Group. Monitor SEC 8K filings of such insurers, as well.

Status: Filings due the SEC by November 15th.

Ongoing Evaluation of Insurer Disaster Recovery Plans

State insurance regulators regularly visit insurers to conduct financial and market conduct examinations. During these examinations, one of the items that is reviewed is contingency planning of insurers, including the insurer's plans to restore its operations in the event of a disaster. In this evaluation insurance regulators typically look at a variety of items including, but not limited to the following:

- Evaluation of insurer data processing disaster recovery plans;
- Assuring that the insurer keeps copies of its plan off-site;
- Review of the insurer's identification of mission critical data processing applications;
- Evaluation of the insurer's off-site storage and back-up of critical data files and applications;
- Evaluation of telecommunications disaster recovery plans;
- Evaluation of whether insurer has negotiated the use of either a hot or cold site in the event of a disaster and of contracts with vendors that are involved in the restoration process;
- Determination of whether the insurer uses an uninterruptible power supply;
- Determination of the adequacy of the insurer's periodic disaster recovery testing;
- Determination of whether the insurer has developed a manual processing plan that can be used until their computer data center is restored; and
- Determination of whether the insurer's data center has proper fire protection and moisture sensors.

State Insurance Department Disaster Response Activity

State insurance departments are coordinating their disaster response activities to handle the impact of the September 11 terrorist attacks on America's insurance system. NAIC is assisting in this effort, which is made easier because most state insurance laws are based upon the same NAIC models. For example, unfair claims settlement practices laws are based on common standards of fair and equitable treatment for insurance claimants.

This approach worked well in Florida with Hurricane Andrew. Five months after Hurricane Andrew tore through Dade and Broward Counties, volunteers from insurance departments throughout the country were still helping the Florida Insurance Department's staff. Today, insurance departments in states close to New York, Virginia, and the District of Columbia have already offered their resources and staff as needed. The Oklahoma Insurance Department has shared relevant documents regarding its handling of the Oklahoma City bombing in 1995. These documents include issues such as limitations and exclusions in insurance policies, death certificates, handling of claims, and the recovery service center. In addition, personnel from other state insurance departments have volunteered to travel and do whatever is needed to help regulators and the insurance industry get through this crisis.

The New York Insurance Department itself has one of the best disaster response plans, and New Yorkers are benefiting from its implementation. The NAIC's own Emergency Response and Business Continuation Plan, recently revamped to address Y2K concerns, has proved the value of pre-disaster planning. The NAIC plan was put into use to coordinate the safe evacuation, relocation, and continuation of business in its Federal & International Relations Office in Washington and in its New York City Securities Valuation Office (SVO), which had been located in the now-collapsed Seven World Trade Center.

NAIC staff is working with all its members, federal regulators, and Congress to provide information and assistance as quickly as it becomes available. As unimaginable as these terrorists' attacks may have seemed a few weeks ago, regulatory contingency plans and procedures were already in place that enabled the resumption of normal operations this week.

The NAIC's Model State Disaster Response Plan

The Disaster Response Plan Subgroup of the Catastrophe Insurance Working Group is in the process of updating the NAIC model *State Disaster Response Plan* originally developed in 1996. Its primary objectives are to improve model systems and procedures for coordinating the immediate rescue and relocation of people and business, as well as the assessment of catastrophic loss with insurers, state emergency management agencies, other state agencies, FEMA, and victims' assistance organizations like the Red Cross. The goal is to draw on the best insurance department practices in place in states such as California, Florida, Oklahoma, and Texas where major disasters have occurred or happen more frequently. We aim to incorporate these concepts into an easily accessible reference guide for every state to use whether the disaster is caused by nature or other forces.

The subgroup and its parent Catastrophe Insurance Working Group have established working relationships with state emergency managers, FEMA, the Institute of Business and Home Safety, and the Western States Seismic Council, to name a few. The input of these organizations has been most useful in revising the NAIC's plan. Their expertise on disaster mitigation and recovery is important to insurance regulators who, after a catastrophe, may often be the first line of communication for policyholders having questions or problems with insurance policies or claims. We have also met with natural hazard experts, structural engineers, transportation managers, geographers, geologists, seismologists, and emergency management experts.

NAIC members are looking hard at alternative methods of funding catastrophic risk and accounting for insurer catastrophe reserves. We are working on recommendations for a tax-deferred catastrophe reserve plan, and studying catastrophe modeling and its impact upon catastrophe insurance rates.

Improvements to the NAIC's model disaster response plan include enhancing communication through technological advances in telecommunication services. They also include streamlining the process for emergency licensing of claims adjusters from other states, and allowing claims adjusters to have emergency access to disaster areas to assess damage more quickly. There are recommendations for organizing and staffing department "command posts" and communication networks, both internally and with other state agencies, insurers, consumers and the media. A model for establishing consumer assistance hotlines and use of volunteer resources are also made available.

A claims mediation program modeled after the Oklahoma Insurance Department's "Ending Arguments Gently, Legally and Effectively, (E.A.G.L.E) Program" is also being added to the NAIC's Disaster Response Plan. The Oklahoma Department created this program following the 1999 tornado disaster. The E.A.G.L.E. program uses mediators trained by the Oklahoma Supreme Court to help unhappy consumers and insurance companies work toward an agreement that puts their conflict to rest. The goal is to get disputes resolved before they get out of control, and before the parties have abandoned disputed issues to their respective attorneys. It has been highly praised as an efficient mechanism for resolving claims disputes between policyholders and companies.

The NAIC model plan, as drafted, contains model forms and instructions for regulators to use when asking insurers for special reports of damage estimates from catastrophes. These forms were developed with a great deal of input from the insurance industry. This collaborative effort has helped ensure that meaningful data will be obtained and reported in a timely and efficient manner – without additional costs to industry.

What Can Congress Do to Help?

There is a tendency in the insurance industry to react to traumatic events such as the September 11th disasters by taking steps to limit exposure for similar events in the future. This can occur through introducing coverage exclusions or canceling policies most likely to cause a future loss. If that happens, it will not be good for the American economy.

We believe there are two things that Congress can do to assist:

- We know the insurance industry cannot withstand multiple events of this magnitude without harm to all consumers. For this reason, we encourage Congress to look at proposals to form a terrorism reinsurance pool so that risk of loss from terrorist activities can be spread as broadly as possible.
- Congress should maintain close oversight of all participants – both foreign and domestic – who must work through this tragedy together in order to make sure the chain of insurance and reinsurance protecting American citizens does not falter or fail in meeting its responsibilities.

Conclusion

At this time, insurance regulators believe the insurance industry is strong, and that it stands ready to meet its obligations to provide funds where due under the contracts it has issued. State insurance regulators are working together to help assure that any glitches which occur do not disrupt the process of getting people's lives back in order and America's businesses back to work. The NAIC and its members plan to work closely with Congress and fellow regulators, as set forth in the Gramm-Leach-Bliley Act, so that the needs of Americans are met in a timely and compassionate way.

STATEMENT OF
ROBERT H. BENMOSCHE
CHAIRMAN AND CHIEF EXECUTIVE OFFICER
METLIFE, INC.

before the

HOUSE FINANCIAL SERVICES COMMITTEE

On

"AMERICA'S INSURANCE INDUSTRY: KEEPING THE PROMISE"

SEPTEMBER 26, 2001

Statement of Robert H. Benmosche
Chairman and CEO of MetLife, Inc.

Good morning Mr. Chairman, Ranking member LaFalce, and members of the committee. My name is Bob Benmosche, and I am the Chairman and CEO of MetLife.

Thank you for holding this timely hearing. Our nation is still struggling to come to terms with the horrific events of September 11th, and the human toll remains foremost in our minds. We all want to do our part to bring comfort to those who have lost a loved one. This sentiment has particular resonance for the insurance industry, as it is our most important responsibility to be of assistance to families at this difficult time. We welcome this opportunity to reassure you and the American public that we are fully prepared to meet all of our obligations. In addition, our financial soundness and the dedication of our employees has enabled us not only to assist quickly those directly affected by this tragedy, but also to continue to invest in the economic future of this country.

MetLife was founded in 1868, and today we are the largest U.S. life insurer, with $2.2 trillion of life insurance in force. We are also the largest provider of group life insurance, managing programs for 33,000 employers, covering over 21 million participants. Included in this total are the 2.6 million participants of the Federal Employees Group Life Insurance program (FEGLI). Approximately 9 million households, or 1 of every 11 U.S. households, are individual MetLife customers. The life insurance companies in the MetLife family include Metropolitan Life Insurance Company, New England Life Insurance Company, General American Life Insurance Company, Paragon Life Insurance Company, and Texas Life Insurance Company.

MetLife is headquartered in New York City, with over 3,000 employees in offices in the five boroughs. As a result of the attacks on the World Trade Center, we have suffered the loss of two employees from a sales office located in one of the towers. Other associates have lost family and friends. For all of us, the devastation of lower Manhattan is close to home, and its magnitude is difficult to grasp. Like those of you who live or work in Washington, D.C., we feel keenly the shock and the sadness that reverberated throughout the country on September 11th. To help our employees cope with the emotional aftereffects of the attacks, MetLife arranged for trauma and grief counselors to be available at sites in New York City, Jersey City, New Jersey and Johnstown, Pennsylvania.

During this time of crisis, our employees rose to the occasion, and our critical business went on without interruption. We quickly took steps to make it easier for the families of victims with MetLife policies to access needed funds. We waived the traditional requirement for a death certificate, relying on an airplane passenger manifest or a communication from the employer. Over $53 million has already been approved for payment to beneficiaries, with the first payment being authorized three days after the tragic events.

A significant number of MetLife's policyholders in the World Trade Center were insured through group life insurance programs. We are working closely with employers affected by the disaster to process life insurance claims quickly. This includes the FEGLI program, which covers some of the individuals in the Pentagon. For group life insurance, the employer typically keeps the records of beneficiaries. In the event that an employer's beneficiary designation records are lost or destroyed, there may be alternative sources to verifying beneficiary designations. In addition, many group life insurance policies have what is known as a "facility of payment" clause which permits insurers to pay benefits to the employee's spouse, children or estate (generally in that order) if no beneficiary was designated by the employee.

Even before we were contacted by beneficiaries, we began to determine from employers if the individual was at work on September 11th. Additionally, our Institutional Business area, which handles group life claims, is sharing employer certifications of eligibility with our Individual Business claim team, so they may also process individual claims on behalf of the same insured.

MetLife established 1-800-MET-LIFE as a general number for affected individuals to call to provide a central gateway on handling all claims related to this tragedy. This will be especially helpful when an individual has both group and individual life coverage with MetLife.

MetLife's Institutional Business area has also established a Special Life Claims Center, staffed with a senior team of experienced claims professionals, to process all life claims related to the tragic events of September 11th for our Institutional customers and their employees.

In addition to fulfilling as quickly as possible our financial commitments to our policyholders, as a company and as individuals we are offering our assistance in other ways. In every operation of MetLife, people have extended themselves to customers, their communities and their fellow employees. Like many other Americans, MetLife people have given blood, money, time and supplies in abundant quantities. In fact, as we speak, a blood drive is being conducted at our Home Office in Manhattan.

MetLife has teamed with other insurance companies to have representatives at New York City's Family Assistance Center, providing relatives or loved ones of victims of the tragedy with assistance, support and counseling from 8:00 AM to 12:00 Midnight, seven days per week. Our MetLife Foundation has made a $100,000 contribution to the American Red Cross Disaster Relief Fund, and is matching employee contributions to the fund, up to $5,000 per employee. In addition, in recognition of those who bravely assisted in the rescue and recovery efforts, the Foundation is making a $1 million contribution to the families of the fallen police, firefighters, emergency medical services personnel, and other rescue workers.

As the nation moves to assess the impact of the attacks and plan its recovery, it is understandable that one of the concerns that has arisen is the immediate and long-term financial well-being of the insurance industry. We currently estimate MetLife's after-tax losses related to the disaster at $250 million to $300 million. These losses will reduce our earnings per share by 35 to 40 cents for the third quarter of 2001.

While MetLife's exposure is substantial, we are more than capable of sustaining the losses. We are a strong company, with approximately $255 billion in total assets. We also count as a source of strength our domestic regulator, the New York State Insurance Department, whose ongoing oversight of insurers doing business in the state has created a financially sound marketplace. I would like to take this opportunity to commend the Department under the leadership of Superintendent Greg Serio for their actions during this crisis -- getting back to business the day after the disaster, arranging for insurers to be present at New York City's Family Assistance Center, and generally working with the industry on ways of expediting claims payment.

MetLife has been paying claims for 133 years without interruption, through other challenging periods of our nation's history, including two World Wars and the Great Depression. The most difficult aspect of this tragedy is our sadness at the significant loss of human life, and not its financial impact. There should be no question of our intent and ability to honor our obligations to our policyholders in this moment of need.

The attacks on the World Trade Center and the Pentagon have also raised questions about the industry's preparedness to recover from a disaster affecting our facilities. MetLife has the people, processes, and systems in place to ensure that we can continue to service our customers even if a natural or manmade disaster were to strike one or more of our offices.

Disaster recovery and business continuity plans are in place for each of our technology centers. This includes our mainframe data center, distributed technology centers, our printing and mail centers, as well as our data and voice networks. These plans are tested regularly at designated offsite locations. Plans have also been completed and tested for all of our core business unit sites as well to ensure the continuity of those operations in the event of the loss of a major business center.

During the disaster at the World Trade Center, we implemented a number of elements of our disaster recovery plans. First, we readied an alternate business site facility, equipping it with computer and telecommunications services, in case we needed to relocate units from the New York area. Additionally, we re-established the sales office in the World Trade Center in an alternate facility.

The safety of our employees is always given the highest priority. After the September 11th attacks, an internal crisis management committee met continuously to ensure that employees were kept safe and fully informed of our contingency and disaster recovery efforts. This committee, comprised of representatives from all business areas, was in constant communication with our Executive Group about the policyholder and employee issues that needed to be addressed.

Our primary focus at this time is on paying claims to the beneficiaries of the victims of the attacks. However, we have also taken to heart the words of our government leaders, encouraging us to look to the future and to take the necessary steps to heal and strengthen this nation economically. We announced last Friday that we invested $1 billion in a broad array of publicly traded common stocks, as part of a program to increase significantly our investment in the public equity markets. We made this move because we have enormous confidence in the resilience of our country and its economy.

Those of us in the insurance industry recognize that the business of processing and paying claims promptly, assisting customers with decisions, and continuing to strengthen our companies financially are critical elements in helping our country face this crisis. The foundation of our industry is the promise to our policyholders that we will be there in their time of need. By honoring this commitment, we hope to do our share to help our nation recover.

Thank you. I will be happy to answer any questions at the appropriate time.

Here, in response to your letter of October 3 to Robert H. Benmosche, Chairman and CEO of MetLife, are the responses to the questions posed for the record of the September 26th Hearing.

1. Will the life insurance industry be able to pay the claims arising out of the September 11th disaster in a timely fashion without government assistance?

We can only answer this question from the standpoint of MetLife. We are fully prepared to meet all of our obligations arising out of the September 11th disaster in a timely fashion without government assistance. MetLife has been paying claims for 133 years without interruption, through other challenging periods of our nation's history, including two World Wars and the Great Depression. There should be no question now or in the future of our intent and ability to honor our obligations to our policyholders.

2. Are there any solvency issues whatsoever in the life industry, or for consumers of life insurance, health insurance, or annuities?

We can only respond to this question from the standpoint of MetLife. It is understandable that one of the concerns that has arisen is the immediate and long-term financial well-being of the insurance industry and the implications for life insurance consumers. We currently estimate our after-tax losses related to the disaster at $250 million to $300 million. These losses will reduce our earnings per share by 35 to 40 cents for the third quarter of 2001. While MetLife's exposure is substantial, we are more than capable of sustaining the losses. We are a strong company, with over $304 billion in assets under management.

3. Do life insurance policies generally include exclusions for "acts of war"?

Generally, life insurance policies provide for payment of specified or basic amounts of insurance upon the death of the insured. There is no war exclusion language in either our individual or group policies that would impact the basic amount of life insurance otherwise payable. Some of our policies, both group and individual, contain an Accidental Death Benefit rider that provides for payment of an additional amount of insurance equal to the life insurance amount if death results from an accident. There are, however, exclusions in this rider. For example, if the insured dies as a result of committing suicide, the benefit is not payable. The rider also excludes deaths resulting from an act of war or warlike action in time of peace. For deaths that resulted from the September 11th events, beneficiaries on policies containing an Accidental Death Benefit rider have been and will be paid the additional insurance amount.

4. What procedures are in place to ensure that beneficiaries receive prompt payments?

During this time of crisis, we quickly took steps to make it easier for the families of victims with MetLife policies to access needed funds. We waived the traditional requirement that a death certificate be submitted for payment of basic life insurance, in many instances relying on an airplane passenger manifest or a communication from a family member or the employer that a person was killed in the attacks.

A significant number of MetLife's policyholders in the World Trade Center were insured through group life insurance programs. We worked closely with employers affected by the disaster to process claims quickly. Even before we were contacted by beneficiaries, we began to determine from employers if the individual was at work on September 11th.

Additionally, our Institutional Business area, which handles group life claims, shared employer certifications of eligibility with the Individual Business claim team, so they could also process claims on behalf of the same individuals.

MetLife established 1-800-MET-LIFE as a general number for affected individuals to call to provide a central gateway on handling all claims related to this tragedy. This was especially helpful when an individual had both group and individual life coverage with MetLife.

5. Who keeps the names of the beneficiaries of group life contracts, and what happens when there are no remaining records of beneficiary names?

In the group life insurance area, beneficiary records are often times kept by the employer's Human Resources or Employee Benefits Department. In some cases the life insurer itself keep the records. Many times copies of beneficiary designations are kept at home by the employee or are given to the beneficiary for safe-keeping. As such, even if the employers' records are destroyed, there may be alternative sources to verifying beneficiary designations. In addition, many group life insurance policies have what is known as a "facility of payment" clause which permits insurers to pay benefits to the employee's spouse, children or estate (generally in that order) if no beneficiary was designated by the employee.

6. Are death certificates normally required for the payment of life insurance death benefits, and if so, can this be suspended for expeditious payment of claims related to the World Trade Center disaster?

This question is answered in the response to question #4.

7. The September 11 tragedy was a terrible loss of life and human resources. Many employees of the industry itself were injured or killed. But to help us put it into perspective in terms of the solvency of the life insurance industry, how many deaths does the life insurance industry provide coverage for on a typical day?

We can only respond to this question with data related to MetLife claims experience. MetLife's total annual claims volume is roughly 410,000 claims for $5.5 billion of payments. This breaks down to about 275,000 claims for individual life insurance policyholders for $2.1 billion, and roughly 135,000 claims for group life insurance certificate holders for $3.4 billion. Based on this data, we estimate that MetLife provides coverage for 1,640 deaths on a typical day (410,000 claims divided by approximately 250 workdays).

TESTIMONY

OF

DEAN R. O'HARE
CHAIRMAN AND CHIEF EXECUTIVE OFFICER
THE CHUBB CORPORATION

BEFORE THE COMMITTEE ON FINANCIAL SERVICES

UNITED STATES HOUSE OF REPRESENTATIVES

ON
RESPONSE TO TERRORISM ATTACKS

"AMERICA'S INSURANCE INDUSTRY: KEEPING THE PROMISE"

WEDNESDAY, SEPTEMBER 26, 2001

AMERICA'S INSURANCE INDUSTRY: KEEPING THE PROMISE

INTRODUCTION

Chairman Oxley, Ranking Member LaFalce and members of the panel, I am Dean R. O'Hare, Chairman and Chief Executive Officer of The Chubb Corporation. The Chubb Corporation provides property/casualty insurance through 135 offices in 32 countries around the world. We specialize in offering a broad range of insurance products and services for many of the world's leading industries, among them marine, electronics, financial services, telecommunications and biotechnology.

While I am pleased to address the Committee today, it is obviously with deep regret for the circumstances. We at Chubb, as all Americans and people around the world, express our deepest sympathy and offer our prayers to all of the victims of the September 11, 2001 tragedy and their families.

Mr. Chairman, you have entitled the hearings **"America's Insurance Industry: Keeping the Promise."** Your choice of title is not only uplifting, it is accurate. Very soon after the tragedy, most of the major insurance companies made it clear: despite any questions or confusions about possible "war" exclusions, we would keep our promise and pay our claims. As the leaders of the property/casualty industry, myself included, told President Bush last Friday: we are not asking for any kind of assistance, help or bailout concerning compensating the victims of this outrageous attack. The risks are spread worldwide. The industry will be able to absorb the losses.

Mr. Chairman, I know the Committee has specific questions it wishes addressed in the course of this hearing and I will do so. Before directly taking those questions, however, let me commend you and Mr. LaFalce for responding swiftly and holding these hearings. Also, we appreciate your noting the industry's positive response to paying its claims as expeditiously as possible.

Additionally, we commend Superintendent Serio for taking the leadership in coordinating the claims process in New York, and for organizing an insurance information center in lower Manhattan to help victims of the attacks answer questions about insurance claims procedures, in which we will participate.

I now address the Committee's specific questions.

THE COMMITTEE'S QUESTIONS

Question 1: How has your company been affected by the September 11 tragedy, and how have you responded? – First, concerning Chubb, I can assure that we are well-equipped financially to respond to this tragedy fully and completely.

Many valued Chubb commercial and personal insurance customers suffered devastating property losses in this tragedy. In addition, other types of claims include payments to businesses whose operations have been interrupted, to cover their ongoing expenses (otherwise known as "business interruption" or "business income" insurance), workers compensation benefit payments, accidental death payments to individuals who died while travelling on business, and personal insurance (homeowners and automobile) losses.

On September 20 Chubb announced that our losses from all coverages related to the terrorists' acts would be $500-600 million pre-tax, net of reinsurance. This translates into $325 to $390 million after taxes. Even after this loss, however, we expect to end the year with a strong balance sheet. We have low debt, strong reserves, strong cash flow and liquidity. And let me reiterate: we are confident in the quality of our reinsurers and that our reinsurance will be paid.

The bottom line is that Chubb will meet its commitments and remain not only financially sound but also well positioned to embrace the future insurance demands of our customers.

In answer to the second part of your first question, regarding how we have responded, I first note we began receiving reports almost immediately after the attacks and began processing claims less than 48 hours later. We were the first insurer to issue a statement making it clear that we were in the business of paying claims and keeping our promises – and that we would not invoke the war risk exclusion.

Chubb, along with the other major insurers, has attempted to facilitate claims handling to the greatest extent possible. We continue to place large, clear ads in the major newspapers directing customers to their agents, brokers and 800 numbers to expedite claims handling.

Chubb is focusing on these claims at the highest level. We have activated our catastrophe center and have dispatched a cadre of our most talented people throughout New York, New Jersey and Connecticut to meet with customers impacted by the tragedy. And we have created a special Workers' Compensation CAT Unit, staffed by employees from around the country, to expedite the processing of work comp-related benefit payments.

Many of the World Trade Center tenants devastated by the tragedy are valued Chubb commercial insurance customers. Beginning September 13, we started wire transferring advance payments to our customers, so they could begin the process of rebuilding their business. And we have designated special teams of claim adjusters dedicated to handling some of our larger customers' workers compensation claims.

Most of our affected customers, at least from the business standpoint, are relatively sophisticated. Businesses typically have procedures in place to facilitate the claims notification process. But we must also be mindful that many homeowners' insurance customers, such as many residents of communities like Battery Park City, are only just now being allowed back to their condominiums and apartments, or their automobiles, to begin assessing the damage they sustained.

For our displaced personal insurance customers, we have authorized advance payments for temporary housing, auto rental and clothing, so that their daily lives can be made as comfortable as possible under these trying circumstances.

We have also made advance payments to both personal and commercial customers, including the families of those customers whose employees are missing, for counseling and medical services.

In many cases, our claim adjusters have not yet been able to assess damage fully and will not be able to do so until they are allowed more access to the area around "ground zero." In such instances, we have been meeting with customers at off-site locations throughout New York, New Jersey and Connecticut as well as, of course, by telephone. We will focus on our obligations to our customers and, together with our agents and brokers, make sure that no client, personal or commercial, is left behind. I believe that each of the other major insurance carriers have the same or very similar processes in effect.

In concert with our claims response to honor our business promises, we also took swift action to remember those personally touched by the tragedy. Though thankfully no Chubb staff members were lost, a number of employees have relatives, friends and neighbors among the missing and the dead. As a corporate family, we mourn their losses, as well as the loss of hundreds of colleagues in the agent and broker community.

In our home office, we granted paid time off for employees who volunteer on EMS units and fire departments, so they could participate in the massive rescue effort. Many employees donated blood as well as critical supplies needed for the rescuers – items like work gloves, socks, t-shirts and facemasks. We donated $1 million to the various September 11 disaster relief funds, and we doubled the Chubb corporate contribution to our employee matching gifts program for these funds as well.

So as you can see, we have been personally touched by the enormity of the situation, on virtually every level.

Question 2: Are the immediate human needs of the victims of the tragedy being met by insurers? – Regarding the human needs of the victims, I refer to the description of the above steps we have taken, particularly regarding the response to our personal insurance customers. Beyond that, I can say, firmly and unequivocally: meeting the immediate human needs is our first and ongoing priority. Throughout the years, insurers have long had experience in responding to the victims of catastrophic events: hurricanes, earthquakes, fires, floods… whatever the calamity, the insurance industry provides for both the financial loss but also the human loss.

When handling a claim, our first priority is to provide immediate cash and facilities for feeding, clothing and housing victims. Our catastrophe claims handlers are our most experienced and I can personally attest that they are doing **everything** humanly possible to carry out their responsibilities swiftly and equitably, as well as compassionately.

Question 3: How do you think that insurers and risk purchasers will change their insurance coverages as a consequence of this tragedy? - Insurers and risk purchasers likely will change insurance coverages as a consequence of this tragedy. I can only speak from Chubb's perspective; but for a glimpse of how things may change we need only look at the immediate problem experienced by the airline industry in obtaining insurance. Thankfully, Congress acted very quickly, on a bipartisan basis, to meet that industry's need for terrorism coverage. The market appears to be responding.

It may be that terrorism risk is no longer insurable. We now know the level of catastrophe that can occur. Timing is absolutely random and thankfully by definition not given to the law of large numbers. If something can't be predicted, or priced in some fashion, it is very difficult for the private market to respond. On the other hand, purchasers are now far more sensitive to the need for this coverage. Consequently, we believe demand will greatly increase. Purchasers will demand specific terrorist coverage.

There is adequate capacity to deal with the September 11 tragedy. However, as an example I remind the Committee that we are currently in Hurricane season. If we fall prey to a catastrophic hurricane another wave of terrorist acts, or any other calamitous event, industry solvency could be called into question. Accordingly, we should work together to make sure all the coverage needs of U.S. businesses are met. We can meet this crisis, but we must prepare for the future. We suggest looking at examples of how other countries deal with terrorism and war risks.

We respectfully suggest that the Committee closely monitor how the U.S. market reacts to this situation and, if necessary, consider mechanisms for covering terrorism and war risk in the event the insurance industry cannot respond. In addition, we believe that state insurance regulators have a role in strengthening the long-term viability of the industry. If terrorism is going to be covered for U.S. citizens, either by government or private insurance, those costs must be spread across the entire country – not just the city of New York. In this situation, state regulators have broad latitude to either facilitate, or inhibit, the availability and affordability of such coverages.

While there may be market dislocation concerning terrorism risks, other changes may be positive in terms of the overall risk management marketplace. We will see an increased focus on security and protection against catastrophe not only from physical terrorism, but other forms of terrorism, such as cyber-terrorism, as well as natural disasters. I believe we will see a much greater emphasis on disaster and contingency planning going forward.

Greater focus should, in particular, be placed on current weaknesses in our economic, information, energy and transportation infrastructures. For example, last week The Association of Certified Fraud Examiners published an alert about potential cyber-terrorism attacks. A heightened sense of urgency regarding risk management will no doubt improve the insurance marketplace in these areas.

All of us must focus on developing loss control measures, redundancy, and protection of our national infrastructure. Teamwork among loss control, risk management and security professionals will greatly enhance our ability to stay one step ahead. This is not only prudent business practice; it may well provide avenues for tracking terrorism. I note the reported evidence that to finance their operations, the terrorist cells used computer networks to communicate, engaged in computer crime, and plotted investment strategies.

Question 4: What kind of disaster recovery plans do insurers have in place? - Insurers are in the business of risk. In addition to counseling customers about how to develop and implement disaster plans, we also have such plans at the ready. Chubb, for example, has a disaster plan in place for each of our offices throughout the United States, for use in the event of either a natural or man-made disaster. The most comprehensive of these plans is for our corporate headquarters, and includes a complete backup of all records at an offsite location to which key employees would report in the event of a catastrophe so we can continue operations while hardly missing a beat. We also have an evacuation plan for our 2,500 home office employees.

CONCLUSION

The insurance industry can meet this crisis.

Regarding the future: we are very interested in working with you to respond to the insurance needs of all U.S. business and citizens. We will help rebuild lower Manhattan, the financial capital of our country and the world, and we will respond to the losses from the Pennsylvania and Virginia attacks. Not only will we do so; we, as well as our nation, will prosper in the long term. Ultimately I envision a more vibrant economy as well as a more secure and free America.

We believe going forward the Committee should continue its focus on claims handling and market reaction to future risks. We should monitor the claims consolidation provisions in the **Air Transportation Safety and System Stabilization Act** to determine if they are having the desired effect of getting compensation out quickly at minimal cost. And we need to monitor whether the insurance market can respond to future terrorist attacks – which, by definition, are impossible to either predict or price.

Thank you for this opportunity to address the Committee. I look forward to answering your questions and working together on these issues in the challenging months ahead.

RESPONSES TO QUESTIONS BY CHAIRMAN OXLEY
HEARINGS: "AMERICAN INSURANCE INDUSTRY: KEEPING THE PROMISE"
SEPTEMBER 26, 2001

Question 1: After Congress took action to address the crisis in airline insurance, you testified that the market is now responding. Does this continue to be the case? Are we past the immediate crisis point with the airline industry?

It is our belief that the airline industry is past the immediate crisis point with respect to the availability of insurance. The market is responding. However, the market response, even with passage of the Air Transportation Safety and System Stabilization Act, is not the level it was prior to September 11. The total available insurance capacity per carrier ($1 billion) is approximately two-thirds of what had previously been available per carrier ($1.5 billion). Moreover, if there is another terrorism event involving the airline industry, that industry, along with their insurance carriers, will face another insurance availability crisis.

Question 2: You testified that your company was making advance payments to personal and commercial customers, including the families of those missing. How does this work, and how do you keep the balance in guarding against fraud while making every effort to reach out and care for the victims of this tragedy?

Within hours of the September 11 attack, we began matching names and addresses of customers in our policy database with names and addresses of businesses and individuals in and around the World Trade Center. This information provided us with an initial list of policyholders that we immediately began contacting in order to assess the magnitude of their losses.

For workers' compensation claims of missing individuals, we verified the individual's employment with the employer and spoke to surviving family members and/or co-workers to obtain affidavits or other reasonable assurance that the individual was at his or her office that day. In some cases, death certificates and obituaries were obtained in the verification process.

For property claims, the procedure was actually more simple: if a customer address fell within the "ground zero" area, it was relatively easy to ascertain that the property and contents were either damaged or destroyed. In the case of personal insurance customers who could not access either their homes or automobiles, this responsiveness extended to authorizing payment for temporary living expenses and the use of rental cars for longer than the typical "30 day" clause found in most homeowners and personal automobile policies.

In all instances, we have erred on the side of reaching out to help our customers proactively, rather than waiting for them to contact us. We firmly consider our customers to be part of the Chubb "family." We realize that many people were displaced and would have difficulty gathering the necessary information to provide us – and in many cases would have difficulty simply trying to contact us, since telephone lines were down and access to the "ground zero" area was restricted. So, rather than wait for our customers to contact us, we reached out to them by establishing a presence in lower Manhattan and, when possible, seeking out customers in the area around "ground zero" on foot.

Addressing the question of how we are guarding against fraud, Chubb has one of the most aggressive reputations in the insurance industry when it comes to fighting fraud. Our Special Investigative Unit (SIU) is an elite part of our claim team. They are specialists in spotting potentially fraudulent claims and, using a variety of protocols, pursuing questionable situations and clarifying the veracity of a loss. We also have been in close contact with the NY Fraud Bureau, utilizing its resources and exchanging information to help guard against fraudulent claims activity.

Question 3: Do you expect that the industry will see any litigation with its reinsurers, and if so, how can Congress and the regulators help ensure that all disagreements are resolved swiftly and expeditiously?

While it is probable that some litigation between primary insurers and their reinsurers will result from the events of September 11, we are taking steps to minimize this potential. Our relationships with many of the reinsurers with whom we work are longstanding and based on mutual trust. We are making every effort to reach out to our reinsurers and share information with them on claims proactively, making decisions together when possible, and obtaining needed verification ahead of time to avoid disagreements in the future.

Further, it has always been our preference to encourage the use of Alternative Dispute Resolution (ADR), and we would expect to rely on ADR should any serious legal disagreements stemming from September 11 arise in the months ahead. I would respectfully request that Congress lend its considerable weight and support to the ADR process in order to avoid costly and protracted lawsuits between insurers and reinsurers over September 11 claims issues.

A.M. Best - Congressional Testimony
Committee on Financial Services
America's Insurance Industry: Keeping the Promise

The horrible events of September 11th caused shocks throughout the world's financial markets. Given A.M. Best's broad rating coverage of the insurance industry, we are investigating the exposure of all carriers and stress testing their loss estimates along with their exposure to the troubled financial markets. While the estimates of the cost of these losses continue to grow and financial markets have staggered, A.M. Best Company believes the U.S. and international insurance companies will be able to meet their commitments, although this assertion is dependent on the ultimate insured cost of the attack.

It remains far too early to accurately estimate the insured losses of the attack. However, as a result of discussions with insurers and reinsurers, public indications made by companies potentially most affected and our own analysis, A.M. Best believes that losses are likely to exceed $30 billion, making this the costliest catastrophe in history. The nature and location of the tragedy dictate that the majority of losses will ultimately fall on the largest commercial carriers, their reinsurers and the London market. The insurance segments most affected will be property, aviation, business interruption, workers' compensation, commercial liability and life insurance.

A.M. Best has included second and third tier insurance companies in our review of exposure to losses from the terrorist attacks and the financial markets. For the purpose of this analysis these tiers are based on policyholder surplus size, with second tier companies ranging from $50 million to $250 million, and third tier companies falling below $50 million. While the decrease in the stock market had an adverse affect on the capital strength of a large percentage of the insurance industry, exposure to losses from the attacks appear to have affected a small number of second and third tier insurance companies. Many of these carriers are selected against by insureds in choosing a financially strong primary insurance carrier.

Those smaller tier carriers that had significant exposure to the terrorist attacks were exposed through non-core reinsurance coverages. Often this reinsurance business was seen as a way to diversify underwriting exposure and as a way to put excess capital to use.

Ability to Absorb Losses

Due to the favorable financial markets during most of the 1990's, the industry as a whole built a strong capital position in excess of the levels required to support ongoing operations. This strong capital position was built despite poor profitability from current underwriting operations over the past five years. As a result of this strong capital position, the industry as a whole can withstand losses equal to the highest estimates to date for this loss alone. The concern going forward is the exposure of a major hurricane making landfall or a major earthquake. Such an event could exhaust all reinstated reinsurance coverage and further weaken reinsurance capacity.

Based on the year-end 1999 financial position of the property/casualty insurance industry, A.M. Best estimated the property/casualty industry as a whole held $88 billion dollars of capital in excess of the amount needed to support their individual A.M. Best Ratings (Special Report: Excess Capital – A Blessing or a Curse, A.M. Best Company, Feb. 2001). The property/casualty industry as a whole maintained $180 billion relative to the level of capital required for the combined insurance industry entity to remain securely capitalized for its financial exposure. This level of excess capital has diminished due to the weak operating profitability of the property/casualty industry over the eighteen months ending June 2001. A.M. Best does not have an estimate of the level of excess capitalization held in the property/casualty industry on September 10, 2001, but it can safely be called substantial relative to the property/casualty industry's $298 billion surplus reported at June, 2001. A.M. Best remains confidant the insurance industry, as a whole, can absorb the losses arising from the September 11th attack.

Unfortunately, this level of excess capitalization is not distributed equally across the property/casualty industry. At the time of our study, A.M. Best estimated that those carriers writing coverage for individuals, such as personal automobile and homeowners coverages, held 60% of the excess capital in the property/casualty industry. These types of carriers sustained minimal losses from the terrorist attacks.

As mentioned earlier, the majority of losses from the attacks are concentrated with the largest and strongest, property/casualty commercial lines insurers, their European based domestic reinsurers and the London Market. While the losses will weaken the capitalization of these carriers, ongoing earnings have been improving and are expected to replenish any capital shortfall over the next twelve months. In addition, many of these carriers also hold substantial assets at the holding company level or are supported by financially strong parent corporations.

There will be those companies whose financial strength is weakened and market viability is in question resulting in rating downgrades. However, this is more a reflection of their relative long-term financial strength than any concern with solvency. A.M. Best is reviewing individual company gross and net loss estimates and stress testing capitalization under higher loss values. Under most of the worst case scenarios, it is expected that individual companies could still pay their pending claims, but future operations of some companies may be curtailed or companies may be forced into mergers or sales not otherwise contemplated.

Given the large number of second and third tier insurers that operate in the property/casualty insurance industry, mergers and acquisitions were inevitable over time. A.M. Best predicted that one-third of the property/casualty organizations operating at year end 1998 would lose their autonomy by 2003 (Special Report: P/C Review/ Preview, Managing the Enterprise, A.M. Best Company, January 2000). Often in the insurance industry, rather than see franchise value whither away, insurers will strike a deal to preserve value, which ultimately strengthens policyholder security. As a result of the losses from the attacks, mergers and acquisitions are expected to increase.

Life Industry

The greatest loss exposure to the life industry will be in individual and group long-term disability, group life policies and corporate life insurance policies written on key executives. A.M. Best believes that life reinsurers will bear the brunt of the mortality risk losses arising from the incident, since they assume the lion's share of such risks from primary carriers. In addition to sharing in mortality losses, a limited number of primary insurers will likely be affected by a surge in stress-related disability claims.

Our analysis of a large number of life insurers shows that individual company exposures are manageable and in most cases are a fraction of their annual earnings capacity. This is because direct writers have sufficient reinsurance protection in place.

Additionally, life primary and reinsurers could be exposed to losses associated with the catastrophic layer of workers' compensation insurance. It is unlikely that health insurers will be materially affected, since many of the large employer groups involved are self-insured, and coverage for the smaller groups is generally distributed among several carriers.

While the losses to the life industry are somewhat concentrated among a group of carriers, these carriers are all strong and well-capitalized. A.M. Best does not expect any problems with these life carriers meeting their claims obligations.

Other Related Issues

There are expected to be additional losses that are not covered by insurance. A.M. Best is not in a position to testify on these loss exposures. However, given the impact of these events on the financial markets, we would expect such losses to be substantial.

Clearly the decline in the financial markets following the terrorist attack will create additional financial issues for insurers. Insurers may be required to accept financial losses in order to generate the cash required to pay losses. A.M. Best does not believe liquidity will create a material problem for the property/casualty insurance industry. Most property/casualty carriers maintain a bank line of credit or a commercial paper program to address any short-term cash needs that arise.

As a result of the projected losses, there will be an enormous amount of cash changing hands within the insurance industry. This does raise concern particularly with regard to reinsurance recoveries that will not necessarily instantaneously reimburse losses paid by primary carriers. As a result of reinsurance disputes or delays, there is potential for liquidity problems. At this time, A.M. Best does not know of any major problems in this area, but we are monitoring those carriers that maintain large recoverables from reinsurers.

There should be no liquidity issues to life insurers directly related to claims from the terrorist attacks. However, potential liquidity problems could possibly arise if policyholders lose confidence in life and annuity insurers and began withdrawing substantial amounts from these insurers. Liquidity problems would further be compounded if companies had to liquidate investments in industries that have been hard hit in the current economic environment. Therefore, insurers with large investment exposures (both fixed income and equity investments) in the airline, travel, automobile and recreation industries could face some liquidity pressures. But it is important to note that A.M. Best is not aware of any companies facing liquidity issues at this time.

As a result of the volatile financial markets, A.M. Best expects to continue its heightened review process to include those companies that are overly exposed to this volatility. This exposure includes large investment leverage in common stocks, holding company liquidity and increased financial leverage brought on by these events. Additionally, the disposition of reinsurance recoverables could take years to ultimately play out.

Insurers will not and do not expect to immediately recoup their losses for the terrorist attacks. Catastrophe losses are contemplated in property/casualty ratemaking and are expected to be accounted for over the long-term. Theoretically, the recoupment of the losses resulting from the terrorist attacks is accounted for through appropriate ratemaking techniques. However, as was the case with Hurricane Andrew, a catastrophic loss serves to highlight the true loss exposure that is being underwritten. This will have an impact on underwriters' willingness to provide pricing credits in response to competition.

A.M. Best expects that primary and reinsurance pricing will increase to reflect the higher level of risk that has been brought to light by this attack. Those lines expected to be most affected are the same lines affected by the attack itself. Personal lines coverage, such as personal automobile and homeowners insurance are only expected to be affected to the extent increased reinsurance costs, due to decreased market capacity, must be passed on to insureds.

It should be noted that primary and reinsurance pricing has been increasing in all property casualty insurance segments over the past eighteen months. This reflects the weak underwriting profitability in the property/casualty industry demonstrated in the late 1990's. Prior to the September 11th attack, A.M. Best anticipated 10-20% price increases to continue in the commercial lines and reinsurance sectors through 2002. Price levels for personal lines coverages were expected to increase at a 5-10% rate through 2002. These increases are believed to be needed to return the property/casualty industry to adequate underwriting loss levels and ultimately adequate levels of profit from operations.

Company Background

Founded in 1899, A.M. Best is the oldest and most widely recognized rating agency dedicated to the insurance industry. Best's Ratings, which indicate the financial strength of insurance companies, cover: property/casualty, life, annuity, health care, reinsurance and title insurance companies. A.M. Best provides the most comprehensive insurance ratings coverage of any rating agency, with reports and ratings maintained on nearly 5,000 insurance entities world-wide, in approximately 65 countries.

A.M. Best's Mission Statement is " To perform a constructive and objective role in serving the insurance marketplace as a source of reliable information and ratings dedicated to encouraging a financially sound industry through the prevention and detection of insurer insolvency." We believe that this proactive role with companies is vital to encourage prudent management of insurance companies and to improve the industry's solvency and financial strength for the benefit of policyholders.

Witness Background

Mr. Mosher is the Group Vice President of the Property/casualty division of the A.M. Best Company, an independent insurance information and rating service.

Mr. Mosher oversees the rating and reporting for nearly 3,000 property/casualty insurance companies. He has been employed at A.M. Best Company since 1995. Prior to assuming the responsibility for the Property/casualty division, Mr. Mosher was responsible for the development and maintenance of most of the property/casualty rating models including the Loss Reserve, Capital Adequacy and Profitability Models. He speaks to many industry groups on property/casualty reserving and capitalization issues.

Prior to joining A.M. Best, Mr. Mosher spent two years in consulting with The Apex Management Group, Inc., Princeton, NJ and seven years with Crum & Forster Insurance, Morristown, NJ, working on property/casualty insurance pricing, reserving and operational planning issues.

Mr. Mosher is a graduate of Lehigh University with a B.S. in Statistics. He is a Fellow of the Casualty Actuarial Society and a member of the American Academy of Actuaries. He also served on several industry committees including, the American Academy of Actuaries Risk Based Capital Task Force.

Submitted by:

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Response to Questions for the Record for Mr. Matthew Mosher
Questions submitted by Chairman Michael Oxley
Responses submitted by Mr. Matthew Mosher
Hearing – America's Insurance Industry: Keeping the Promise
September 26, 2001

1. What are the current, total estimated losses from the September 11th tragedy, and is the insurance industry as a whole strong enough to pay claims within the likely range and remain solvent?

Response: The estimates of total insured losses remain wide, from $30 to $70 billion. Over the past few weeks the consensus has been that the losses will not exceed $50 billion, but it remains too early to estimate losses to the industry as a whole with any precision. To date, A.M. Best has accumulated reported losses of just over $20 billion. This number has risen as companies refine their loss estimates. To date, we have seen no companies lower their loss estimates.

The industry as a whole is well positioned to pay all claims within the $30 to $70 billion insured loss estimates.

2. You testified that the strength of the insurance industry has been built largely on financial market gains, and not underwriting profitability. Why is underwriting profitability so weak? And now that the markets have temporarily slowed, do we need to allow more favorable pricing to allow insurers to recover from this catastrophe?

Response: The property/casualty insurance industry was extremely competitive during the 1990's. During the first part of the decade, the impact of this competitive environment on earnings was mitigated by favorable settlement of losses that occurred in prior years. Additionally, through 1998, the insurance industry rode the strong stock market to offset weak underwriting fundamentals.

Many of these favorable settlements were due to significant statutory and safety efforts to lower loss costs in two major lines, personal automobile and workers compensation. As these statutory and automobile safety standards were incorporated into insurance pricing and old claims were settled, loss cost trends began to increase, but competitive pricing pressures did not allow this to be reflected in insurance pricing.

As a result, during the period of 1997-1999, the property/casualty insurance industry was in a period of rising costs and declining premiums resulting in poor profitability. This industry has proven to be very competitive over the long term when given the opportunity.

Property/casualty insurance prices were already increasing prior to September 11th, as carriers recognized significant losses over the past two years. In our Review/Preview estimates for 2001 and 2002, A.M. Best expected that these price increases to continue through 2002 as carriers shore up their balance sheets and return to acceptable profitability levels. The events of September 11th served to increase the understanding of the level of risk inherent in our society and expedite the price increases for insurance.

Additionally, primary carriers will need to increase pricing to offset lower investment income and higher reinsurance costs. Without these increases, insurance industry profitability will remain weak relative to other industries.

3. As insurance market capacity decreases and insurers can no longer afford to subsidize losses in the personal lines with commercial lines do you expect that price increases across the board will be necessary to help insurers regain their footing and recoup losses – particularly since underwriting has not been profitable and the financial markets have slowed?

Response: I will start by saying that price increases were needed across the board in the property/casualty industry to return to an adequate level of profitability prior to September 11th. I also should clarify that it was personal lines that supported weak commercial lines profitability until 2000 when profitability in all lines was weak. A.M. Best is on record as expecting price increases through 2002, even before September 11th. We do expect higher reinsurance costs will require pricing in both the personal and commercial lines areas to increase. Additionally, lower interest rates will reduce investment income and must be made up in higher prices in all markets.

Higher reinsurance costs are due to greater recognition of the cost of a true catastrophe loss. While Congress continues to review an approach to handling terrorist related losses, natural catastrophes can realistically be expected to reach the $30 to $50 billion level. The September 11th event has reminded everyone of the high cost of such devastation. Further, pricing of commercial exposures that include coverage of terrorist acts will require higher pricing above that already needed to return to profitability.

The issue of insurance industry capacity has been mentioned in the market place, but to date no reinsurers have left the market and, while price levels are increasing, there does not seem to be a lack of capacity for those risks that carriers feel they are able to accurately price.

4. Do you believe the insurance industry will face liquidity difficulties as a result of the September 11th attack?

Response: Clearly the decline in the financial markets following the terrorist attacks have created additional financial issues for insurers. Insurers may be required to accept financial losses in order to generate the cash required to pay losses. A.M. Best does not believe liquidity will create a material problem for the property/casualty insurance industry. Most property/casualty carriers maintain a bank line of credit or a commercial paper program to address any short-term cash needs that arise.

As a result of the projected losses, there will be an enormous amount of cash changing hands within the insurance industry. This does raise concern, particularly with regard to reinsurance recoveries that will not necessarily instantaneously reimburse losses paid by primary carriers. As a result of legitimate reinsurance disputes or delays, there is potential for liquidity problems. At this time, A.M. Best does not know of any major problems in this area, but we are monitoring those carriers that maintain large recoverables from reinsurers.

There should be no liquidity issues to life insurers directly related to claims from the terrorist attacks, given the more stable financial markets. Liquidity problems would further be compounded if companies had to liquidate investments in industries that have been hard hit in the current economic environment. Therefore, insurers with large investment exposures (both fixed income and equity investments) in the airline, travel, automobile and recreation industries could face some liquidity pressures. But it is important to note that A.M. Best is not aware of any companies facing liquidity issues at this time.

5. You testified that some companies might have their ratings downgraded slightly. What exactly does a company's rating mean, and being downgraded one level does not indicate that a company is going insolvent or that consumer claims will not be paid, correct?

Response: A.M. Best's Rating scale is comprised of 16 individual rating levels. There are six Secure rating levels and nine Vulnerable rating levels. These ratings are as follows:

Secure Levels		Vulnerable Levels	
A++	(Superior)	B	(Fair)
A+	(Superior)	B-	(Fair)
A	(Excellent)	C++	(Marginal)
A-	(Excellent)	C+	(Marginal)
B++	(Very Good)	C	(Weak)
B+	(Very Good)	C-	(Weak)
		D	(Poor)
		E	(Under Regulatory Supervision)
		F	(In Liquidation)

The objective of A.M. Best's rating system is to provide an opinion of an insurer's financial strength and ability to meet ongoing obligations to policyholders. Our opinions are derived from the evaluation of a company's balance sheet strength, operating performance and business profile as compared to A.M. Best's quantitative and qualitative standards.

To date, no rating assigned to a company has been lowered from a Secure rating level to a Vulnerable rating level as a result of September 11th losses. A lower rating does indicate that the risk of a company not being able to meet its obligations is higher, but within the Secure category companies still have a good ability to meet their obligations.

Even ratings assigned to companies that are in the vulnerable categories, above "E", do not indicate a certainty of insolvency or claims will not be paid. However, these vulnerable ratings do indicate a higher risk of an insolvency.

6. In your written testimony, you wrote that the majority of losses will fall on the largest commercial carriers and that only a small number of second and third tier carriers have exposure. Could you please explain why this is the case?

The occupants of lower Manhattan, for the most part, are either large commercial entities or sophisticated businesses associated with the financial markets. These entities tend to do business with well-established and financially strong carriers. Additionally, in buying insurance these entities often include a requirement that their insurer maintain a financial strength rating of "A" or higher. The large commercial carriers, in addition to being the largest, tend to maintain the strongest financial position and highest financial strength ratings from all of the major rating agencies.

7. According to press reports, S&P analysts have recently stated that they believe the reinsurers affected by the World Trade Center disaster are capable and willing to pay the claims that will be presented to them by the primary insurers. Do you agree?

Yes. While the estimates of the cost of these losses continue to grow, A.M. Best Company believes the U.S. and international insurance and reinsurance companies will be able to meet their commitments, based on current expectations of loss levels. A.M. Best does expect there will be legitimate disagreements in the settlement of claims over the intentions of coverage or amount of loss, but this should not be viewed as a lack of willingness to pay losses on the part of insurers or reinsurers. To date, the industry's willingness to pay losses and settle claims following September 11th has been exemplary.

STATEMENT

ON

THE IMPACT OF THE SEPTEMBER 11, 2001 TERRORIST ATTACKS ON THE U.S. INSURANCE AND REINSURANCE INDUSTRY

BY

RONALD E. FERGUSON, CHAIRMAN, GENERAL RE CORPORATION

SEPTEMBER 26, 2001

Chairman Oxley and members of the Financial Services committee, it is an honor to appear before you on behalf of General Re Corporation and the Reinsurance Association of America ("RAA").

Our sympathy and condolences go to the families and friends who suffered tragic losses in the September 11 terrorist attacks on our country. We also express our deep gratitude and respect for the courageous emergency services, military personnel and volunteers for their heroic efforts in this time of great national pain.

General Re, a wholly owned subsidiary of Berkshire Hathaway Inc., is among the four largest reinsurers in the world, and a market leader in the U.S. RAA represents United States domestic property and casualty reinsurers.

While General Re is also in the life reinsurance business, I'm here today to talk mainly about the property and casualty insurance and reinsurance business.

As you may know, reinsurance is a sophisticated commercial transaction in which a reinsurer, for a premium, indemnifies another insurer for all or part of a loss that it may sustain. The fundamental objective of insurance – to spread risk of loss – is enhanced by an insurer's ability to further spread that risk through reinsurance.

The key reasons for an insurer to purchase reinsurance are: (1) to reduce liability on a specific risk, (2) to smooth volatility and stabilize loss experience, (3) to protect against large losses, (4) to increase capacity in order to write more business, and (5) to have a thought and risk partner on large or complex risks. The extent to which an insurer or reinsurer will use reinsurance, for one or all of these purposes, is determined by the insurer or reinsurer after assessing its own exposure to loss and its own capital resources.

This system has been very successful over time, enabling the U.S. insurance and reinsurance industry to absorb significant losses while continuing to provide needed insurance protection for American consumers and businesses.

The terrorist attacks of September 11, 2001 resulted in unprecedented losses of life, personal injury and property damage. It is difficult to estimate the losses that the U.S. property and casualty insurance and reinsurance industry will sustain from those terrorist events. In addition to the normal problems involved in estimating large or catastrophic losses, in this case there may be liability issues that may take years to fully resolve.

Assessing the collectibility of some reinsurance may present another difficulty in estimating total losses. If an assuming reinsurer fails or refuses to pay, the ceding insurer remains fully liable for its underlying insurance policy obligations. The important point I am making here is that reinsurance is not a direct offset to the insurer's obligation. Reinsurance is more in the nature of a partial hedge and does not change the size or nature of the ceding insurer's original contractual obligations to its policyholders or claimants.

In the face of these difficulties in estimating losses, some recent analysts' reports have suggested that $25 billion to $40 billion of total insured losses is a reasonable range of estimated total insured losses from the September 11 terrorist attacks. Some analysts have even suggested that the insured losses could exceed the numbers I just mentioned.

The total capital and surplus of the U.S.insurance and reinsurance industry is [about] slightly under $300 billion at June 30, 2001. That capital is made up of required regulatory risk-based capital, as well as the additional capital needed to meet the reasonable expectations of policyholders and claimants – our consumers if you will, rating agencies, stockholders and others.

That industry capital was already allocated to non-terrorist operating and financial risks prior to the September 11 terrorist attacks. None of that industry capital was derived from risk charges for terrorism insurance coverage. To the best of our knowledge and belief, no premiums were collected for terrorist insurance coverages and no reserves were allocated to such claims prior to September 11, 2001. As a result, payment of losses from the attacks will necessarily be funded from the capital that supported insurers' other operating, underwriting and financial risks.

The exposure to loss from the September 11 terrorist attacks is not spread evenly across the total insurance industry capital base. As you can see from Exhibit A, the affected insurers and reinsurers (U.S. and non-U.S.) have a combined total capital base of about $123 billion. That capital, while arguably needed to support other underwriting and balance sheet risks, obviously can fund a total insured loss of $25 billion to $30 billion – or even larger.

I believe that the U.S. insurance and reinsurance industry will be able to meet its policy and contract obligations, and to pay the losses arising out of the September 11 terrorist attacks, without the need for a bailout from the federal government. We're all here today to tell you that so far as we can tell the industry is intent on doing just that. Most knowledgeable observers of the insurance and reinsurance industry (such as the rating agencies and the analyst community) believe that most of the exposures from this event are with large, well capitalized, insurers and reinsurers and that the U.S. insurance and reinsurance industry can and will meet its obligations arising from this event.

However, there are serious issues going forward. The simple fact is that the U.S. insurance and reinsurance industry on its own can't afford to take on the potentially unlimited exposure to loss arising from insuring against terrorist acts. The capital base I've described, while able to absorb the losses from the September 11 attacks, won't be able to sustain multiple events like those attacks.

We support and applaud the steps that the government is taking to combat terrorism. But until those efforts have borne the fruit of significant reduction in the potential for terrorist attacks, it is close to impossible for many insurers and reinsurers to responsibly underwrite or assume terrorism risk. That is why we need to explore alternative reparations or back-up systems to cover losses arising from war and terrorism. As we have all learned from the events of September 11, the line between war and terrorism is increasingly ambiguous.

Monday's Wall Street Journal (9/24/01, p. B1)featured this quote from Warren Buffett, Berkshire's chairman:

> I think in the future, the government is going to have to be the ultimate insurer for acts of terrorism.....An industry with very large, but finite, resources is not equipped to handle infinite losses.

While we're here today to talk about how our industry can and will respond to the losses arising out of the September 11 terrorist attacks, I must at the same time urge the Financial Services Committee and the Congress to take up as soon as possible the important question of how to provide insurance against terrorist acts in a way that assures both the continued financial viability of the U.S. insurance and reinsurance industry and the continued availability and affordability of the wide range of products and services provided by that industry.

While I realize we do not have time today to take up specific proposals on that subject, we do offer you and your staffs our continuing assistance in finding the answer to that important question – so we can all move forward together.

I'm grateful for the opportunity to speak to you today, and would be pleased to answer any questions you may have.

Exhibit A

United States Insurance Industry Capital & Surplus ($US billions)		
	Consolidated Property & Casualty Industry Surplus (June 30, 2001)	$ 298
less	Personal Lines Policyholders' Surplus	(131)
less	Berkshire Hathaway Policyholders' Surplus	(36)
less	Estimated Decrease in Common Stock Values (after-tax)*	0
	Adjusted Commercial U.S. Insurance Property & Casualty Policyholders' Surplus	**$ 131**

* From July 2, 2001 through September 24, 2001