

THE
SCOTT GROUP

MEMORANDUM

September 13, 2006

TO: COMMERCIAL MORTGAGE SECURITIES ASSOCIATION

**FROM: SCOTT A. SINDER
JOHN FIELDING
DUSTIN J. PAINTER, KELLEY DRYE COLLIER SHANNON**

**RE: HOUSE FINANCIAL SERVICES COMMITTEE SUBCOMMITTEE ON
CAPITAL MARKETS HOLDS HEARING ENTITLED "STABILIZING
INSURANCE MARKETS FOR COASTAL CONSUMERS."**

I. INTRODUCTION

The House Financial Services Committee's Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, held a hearing this morning to assess the state of the natural catastrophic risk insurance market. The hearing focused on the current insurance market in areas prone to natural disasters, like the Gulf region and Florida, and reviewed the economic disruption caused by recent natural disasters. The hearing also looked at current market capacity to handle large catastrophes, as well as the availability and affordability of insurance since the 2005 hurricane season.

Recent losses from natural disaster have provided traction in Congress for legislation dealing with these issues. As the Committee noted, seven of the twelve most costly natural disasters in U.S. history occurred during 2004 and 2005. The total damage caused by Hurricane Katrina alone now reaches \$50 billion in insured losses. As a result many people in areas prone to these events are now unable to find homeowners and commercial insurance.

II. COMMITTEES TO WORK TOGETHER FOR 2007 BILL

Subcommittee Chairman Richard Baker (R-LA) stated his belief that the Financial Services Committee will get a catastrophe insurance bill to the House floor in 2007. He pledged that the Financial Services Committee would work with other committees to ensure that a bill is passed.

That sentiment appears to be shared by other Members. Congressmen Clay Shaw (R-FL) and Mark Foley (R-FL), both members of the House Ways and Means Committee, were in

September 13, 2006

Page 2

attendance at the hearing despite not being members of the Financial Services Committee. Shaw, who is in contention for the Ways and Means Committee chairmanship if the Republicans retain control of the House and he retains his hotly contested House seat, pledged his Committee's support for moving a bill in the coming Congress. Foley has introduced his own bill the "Emergency Reserve Fund Act," which would, if passed, change the tax treatment of catastrophic risk insurance reserves held by private insurers, enabling them to create tax-deductible reserve funds for catastrophes. Representative Foley noted that because the tax free reserves authorized by his bill would take approximately 20 years to develop, it is also necessary for Congress to move legislation like that proposed by Representative Ginny Brown-Waite (R-FL), which would create a federal reinsurance catastrophe fund (HELP fund) that insures against any losses covered (and only those losses covered) by a state's catastrophe fund (CAT fund).

III. TESTIMONY

Witnesses at this morning's hearings were:

- Mr. Kevin M. McCarty, Insurance Commissioner, State of Florida, on behalf of the National Association of Insurance Commissioners;
- Ms. Wendy Baker, President, Lloyd's America, Inc.;
- Mr. J. David Daniel, Daniel & Eustis, on behalf of the Independent Insurance Agents and Brokers of America (IIABA);
- Mr. Franklin W. Nutter, President, Reinsurance Association of America (RAA);
- Mr. Gregory W. Heidrich, Senior Vice President, Policy Development and Research, Property Casualty Insurers Association of America (PCI);
- The Honorable Marc Racicot, President, American Insurance Association (AIA); and
- Mr. Charles Chamness, President and CEO, National Association of Mutual Insurance Companies (NAMIC).

The testimony of each witness is attached to this memorandum.

Testimony varied on all aspects of federal involvement in natural catastrophic risk sharing. Witnesses were not in agreement as to the necessity of a federal disaster fund such as that proposed in Rep. Brown-Waite's bill. For instance, Frank Nutter of the RAA supports temporary market solutions rather than a permanent federal program, while the others expressed recognition of a need for such a program. Charles Chamness of NAMIC stated that a large natural disaster has the potential to exceed private market capacity and may thus necessitate a federal program. Witnesses largely agreed on their support for stronger building codes, tax incentives for tax-exempt disaster protection funds (like Rep. Foley's bill), revisions to the National Flood Insurance Program, and the need for risk based insurance pricing.

The witnesses also raised a number of other insurance industry issues pending before the Congress. Wendy Baker of Lloyds America, Inc. noted that surplus lines regulation reform is necessary to help ensure that the insurance market is well-positioned to handle increasingly

September 13, 2006
Page 3

severe and costly natural disasters in the U.S. She specifically commended the Financial Services Committee for its passage of H.R. 5637, the “Nonadmitted and Reinsurance Reform Act of 2006.” David Daniel of IIABA reiterated the need for passage of H.R. 5637 to help improve the efficiency for the commercial insurance market.

We hope you find this helpful.