

DEPARTMENT OF THE TREASURY**Terrorism Risk Insurance Program 2019 Data Call**

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Request for comments.

SUMMARY: Pursuant to the Terrorism Risk Insurance Act of 2002 (TRIA),¹ the Federal Insurance Office (FIO) requests public feedback on the proposed data collection forms for use in the 2019 Terrorism Risk Insurance Program Data Call (2019 TRIP Data Call). As was the case in connection with the 2018 TRIP Data Call, these forms will be utilized in connection with both the federal and state data calls regarding terrorism risk insurance. Copies of these forms and associated explanatory materials (including a document identifying specific changes to the reporting templates and instructions as previously used by Treasury) are available for electronic review on the Treasury website at https://www.treasury.gov/resource-center/fin-mkts/Pages/TRIP_data.aspx. State insurance regulators, through the National Association of Insurance Commissioners (NAIC), will also be separately seeking comment from stakeholders on the state data call.

DATES: Submit comments on or before January 8, 2019.

ADDRESSES: Submit comments electronically through the Federal eRulemaking Portal: <http://www.regulations.gov>, or by mail to the Federal Insurance Office, Attn: Richard Ifft, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Because postal mail may be subject to processing delays, it is recommended that comments be submitted electronically. If submitting comments by mail, please submit an original version with two copies. Comments concerning the proposed data collection forms and collection process should be captioned with "2019 TRIP Data Call Comments." Please include your name, group affiliation, address, email address, and telephone number(s) in your comment. Where appropriate, a comment should include a short Executive Summary (no more than five single-spaced pages).

FOR FURTHER INFORMATION CONTACT: Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, Room 1410 MT,

Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, at (202) 622-2922 (not a toll-free number), or Lindsey Baldwin, Senior Policy Analyst, Federal Insurance Office, at (202) 622-3220 (not a toll free number). Persons who have difficulty hearing or speaking may access these numbers via TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:**I. Background and Proposed Consolidated Approach**

TRIA created the Terrorism Risk Insurance Program (Program) within the U.S. Department of the Treasury (Treasury) to address disruptions in the market for terrorism risk insurance, to help ensure the continued availability and affordability of commercial property and casualty insurance for terrorism risk, and to allow for the private markets to stabilize and build insurance capacity to absorb any future losses for terrorism events. The Program has been reauthorized on a number of occasions, most recently in the Terrorism Risk Insurance Program Reauthorization Act of 2015 (2015 Reauthorization Act).² Section 111 of the 2015 Reauthorization Act³ (Section 111) requires the Secretary of the Treasury (Secretary) to perform periodic analyses of certain matters concerning the Program. In order to assist the Secretary with this process, Section 111 requires insurers to submit on an annual basis certain insurance data and information regarding their participation in the Program. FIO is authorized to assist the Secretary in the administration of the Program.⁴

Treasury began collecting data from insurers in 2016 on a voluntary basis,⁵ and on a mandatory basis beginning in 2017.⁶ Treasury also arranged in 2017 for workers' compensation rating bureaus to provide most of the workers' compensation insurance data elements.⁷ 31 CFR 50.51 requires insurers to submit the specified data no later than May 15 of each calendar year.⁸ In 2018, Treasury and state insurance regulators

(which also collect information on terrorism risk insurance in separate data calls) agreed on joint reporting templates substantially similar to those used by Treasury in prior years. For 2019, Treasury and state regulators plan on a similar approach to the collection of terrorism risk insurance data, subject to a number of minor changes to the forms utilized in connection with the 2018 TRIP Data Call. Treasury identifies the proposed changes below.

Insurers subject to the consolidated data call will report on a group basis, if part of a group, and otherwise will report on an individual company basis.

II. Changes to Data Collection Templates

Pursuant to Section 111 of the 2015 Reauthorization Act, Treasury has coordinated with publicly available sources to collect information for the 2019 TRIP Data Call. Information relating to workers' compensation exposures is available from the workers' compensation rating bureaus, and those entities have again agreed to provide that information on behalf of participating insurers. Treasury has determined, however, that all other data components remain unavailable from other sources. Accordingly, Treasury will continue to request this remaining data and information directly from insurers. By continuing to collect information on a consolidated basis with state regulators, however, a significant reduction in overall data collection burdens for participating insurers is achieved.

After coordinating with state insurance regulators, Treasury again proposes to use four different data collection templates (see 31 CFR 50.51(c)), depending upon the type of insurer involved. Insurers will fill out the template identified "Insurer (Non-Small) Groups or Companies," unless the insurer meets the definition of a small insurer, captive insurer, or alien surplus lines insurer as set forth in 31 CFR 50.4. Such small insurers, captive insurers, and alien surplus lines insurers are required to complete separate tailored templates. Each template will be accompanied by separate instructions providing guidance on each data element.

There are two principal changes to the proposed reporting templates for 2019. First, the exposures worksheet, which is included within all four reporting templates, will now include separate questions seeking information on the limits available under the policies of responding insurers for nuclear, biological, chemical and radiological (NBCR) exposures, as a subset of the

¹ Public Law 107-297, 116 Stat. 2322, codified at 15 U.S.C. 6701, note. Because the provisions of TRIA (as amended) appear in a note, instead of particular sections, of the United States Code, the provisions of TRIA are identified by the sections of the law.

² Public Law 114-1, 129 Stat. 3.

³ TRIA sec. 104(h).

⁴ 31 U.S.C. 313(c)(1)(D).

⁵ 81 FR 11649 (March 4, 2016).

⁶ A reporting exemption was extended to small insurers that wrote less than \$10 million in TRIP-eligible lines premiums in 2016. See 81 FR 95310 (December 27, 2016); 82 FR 20420 (May 1, 2017).

⁷ 82 FR 20420 (May 1, 2017).

⁸ Treasury, through an insurance statistical aggregator, uses a web portal through which insurers must submit the requested data. All information submitted via the web portal is subject to the confidentiality and data protection provisions of applicable federal law.

total reported policy limits. Second, the reinsurance worksheet that is required for non-small insurers, alien surplus lines insurers, and captive insurers will include a new modeled loss question (which includes an NBCR component).⁹ In addition to these changes, the instructions for each reporting template will contain certain clarifications on how to report specific data elements.

Otherwise, the reporting threshold for a small insurer has changed as well. For the 2019 TRIP Data Call (requesting insurer data for calendar year 2018), an insurer will qualify as a small insurer if it had both 2017 policyholder surplus and 2017 direct earned premiums in the TRIP-eligible lines of insurance of less than \$800 million.¹⁰ Insurers above this threshold will report on the non-small insurer template, unless they are otherwise subject to reporting on either the captive insurer template¹¹ or the alien surplus lines insurer¹² template. Small insurers that had TRIP-eligible direct earned premiums of less than \$10 million in 2018 will be exempt from the 2019 TRIP Data Call.¹³ Neither captive

⁹ Small insurers complete a separate reinsurance worksheet that does not contain a modeled loss question.

¹⁰ Small insurers are defined in 31 CFR 50.4(z) as insurers (or an affiliated group of insurers) whose policyholder surplus for the immediately preceding year is less than five times the Program Trigger for the current year, and whose TRIP-eligible lines direct earned premiums for the previous year is also five times less than the Program Trigger. Accordingly, for the 2019 TRIP Data Call, an insurer qualifies as a small insurer if its 2017 policyholder surplus and 2017 direct earned premiums are less than five times the 2018 Program Trigger of \$160 million. The Program Trigger is the amount of aggregate industry insured losses that must be sustained in a calendar year before the Program will make any payments, even in connection with a participating insurer that has otherwise satisfied its individual deductible. TRIA sec. 103(e)(1)(B).

¹¹ Captive insurers are defined in 31 CFR 50.4(g) as insurers licensed under the captive insurance laws or regulations of any state. As in 2018, captive insurers that write policies in TRIP-eligible lines of insurance are required to report in 2019, unless they do not provide their insureds with any terrorism risk insurance subject to the Program.

¹² Alien surplus lines insurers are defined in 31 CFR 50.4(o)(1)(i)(B) as insurers not licensed or admitted to engage in the business of providing primary or excess insurance in any state, but that are eligible surplus line insurers listed on the NAIC Quarterly Listing of Alien Insurers. Alien surplus lines insurers that are part of a larger group classified as a non-small insurer or a small insurer should report as part of the group, using the appropriate template. Therefore, the alien surplus lines insurer template should only be used by an alien surplus lines insurer that is not part of a larger group subject to the 2019 data call.

¹³ To the extent an insurer with less than this level of TRIP-eligible lines direct earned premiums is part of a larger group that is required to report, the insurer must report as part of the group as a whole, even if it is under the \$10,000,000 direct earned premium threshold on an individual basis. Individual company information for such entities must also be reported to state insurance regulators.

insurers nor alien surplus lines insurers are eligible for this reporting exemption.

Reporting insurers can satisfy both the federal and state reporting obligations by completing the proposed collection forms, and separately submitting identical copies to the federal and state reporting portals. State insurance regulators will provide their own guidance regarding the submission of data to the state reporting portal.

III. Submission of Data

Following registration with the data aggregator, all insurers will be provided with the appropriate reporting templates for completion through a secure web portal established by the data aggregator. Insurers will be required to submit the completed reporting templates through the same, secure web portal. All data must be provided no later than May 15, 2019, which will also be the reporting deadline for state insurance regulators. Treasury intends to provide training and provide additional resources throughout the data collection period to facilitate the proper completion of reporting templates. As was the case in 2018, insurers can report information in either Excel format or in .csv file format.

Reporting under the 2019 TRIP Data Call will be mandatory for all commercial property and casualty insurers writing insurance in lines subject to TRIA, unless the insurer falls within the exceptions for certain small insurers and captive insurers identified above.

IV. Request for Comments

To ensure efficient and accurate completion of the forms, Treasury is requesting public feedback on the content of the 2019 TRIP Data Call reporting templates. The proposed forms are available for review at https://www.treasury.gov/resource-center/fin-mkts/Pages/TRIP_data.aspx.

V. Procedural Requirements

Paperwork Reduction Act. The collection of information contained in this notice will be submitted to the Office of Management and Budget (OMB) for review under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3507(d). Comments should be sent to Treasury in the form discussed in the **ADDRESSES** section of this notice. Comments on the collection of information should be received by January 8, 2019.

Comments are being sought with respect to the collection of information in the proposed 2019 TRIP Data Call. *Treasury specifically invites comments on:* (a) Whether the proposed collection

is responsive to the statutory requirement; (b) the accuracy of the estimate of the burden of the collections of information (*see below*); (c) ways to enhance the quality, utility, and clarity of the information collection; (d) ways to use automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to maintain the information.

Treasury has previously analyzed the potential burdens associated with the TRIP Data Calls. See 81 FR 95310, 95312 (December 27, 2016). The information sought by Treasury comprises data elements that insurers currently collect or generate, although not necessarily grouped together the way in which insurers currently collect and evaluate the data. Based upon insurer submissions to the 2018 TRIP Data Call, Treasury estimates that for purposes of the 2019 TRIP Data Call, approximately 100 Program participants will be required to submit the “Insurer (Non-Small) Groups or Companies” data collection form, 200 Program participants will be required to submit the “Small Insurer” form, 550 Program participants will be required to submit the “Captive Insurer” form, and 25 Program participants will be required to submit the “Alien Surplus Lines Insurers” form.

Each set of reporting templates is expected to incur a different level of burden. The changes to the proposed data reporting elements in 2019 are not anticipated to have a material impact on Treasury’s prior burden estimates. Treasury anticipates approximately 75 hours will be required to collect, process, and report the data for each non-small insurer, approximately 25 hours will be required to collect, process, and report data for each small insurer, and 50 hours will be required to collect, process, and report data for each captive insurer and alien surplus lines insurer.

Assuming this breakdown, and when applied to the number of reporting insurers anticipated in light of the experience of the 2018 TRIP Data Call, the estimated annual burden would be 41,250 hours ((100 insurers × 75 hours) + (200 insurers × 25 hours) + (550 insurers × 50 hours) + (25 insurers × 50 hours)). At a blended, fully loaded hourly rate of \$85, the cost would be \$3,506,250 across the industry as a whole, or \$6,375 per non-small insurer, \$2,125 per small insurer, and \$4,250 each per captive insurer or alien surplus lines insurer.

Dated: November 2, 2018.

Steven J. Dreyer,

Director, Federal Insurance Office.

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