



Billing code 4810-25-P

DEPARTMENT OF THE TREASURY

Information Collections for Claims Processing and Other Purposes under the Terrorism Risk Insurance Program

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Request for comments.

SUMMARY: The Secretary of the Treasury (Secretary) administers the Terrorism Risk Insurance Program (TRIP or Program), including the issuance of regulations and procedures regarding the Program. The Federal Insurance Office assists the Secretary in the administration of the Program. The Department of the Treasury (Treasury), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on: Approved information collections that are due for extension by the Office of Management and Budget (OMB) (under OMB 1505-0200); the extension of certain additional information collections previously approved by OMB that lapsed pending recent revisions to the Program Rules; and the approval of three new information collections that are authorized under recent revisions to the Program Rules.

DATES: Written comments must be received not later than **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]**.

ADDRESSES: Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>, in accordance with the instructions on that site. Electronic submissions are encouraged; however, comments may also be mailed to the Terrorism Risk Insurance Program, Room 1410, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

All comments, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly. In general, the Department will post all comments to www.regulations.gov without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. The Department will also make such comments available for public inspection and copying in the Department of the Treasury's Library, Freedman's Bank Building, 720 Madison Place NW, Room 1020, Washington, DC 20220, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 622-0990. All visitors to the Treasury must be cleared by the Secret Service. This process requires that requests for appointments must be made a minimum of one business day before a visit.

FOR FURTHER INFORMATION CONTACT:

Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, Room 1410, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, at (202) 622-2922 (this is not a toll-free number), Kevin Meehan, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, Room 1410, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, at (202) 622-7009 (this is not a toll-free number), or Lindsey Baldwin, Senior Policy Analyst, Federal Insurance Office, Room 1410, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, at (202) 622-3220 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Terrorism Risk Insurance Act of 2002, as amended (TRIA),¹ established the Terrorism Risk Insurance Program (TRIP or Program).² The Act establishes a temporary federal program of shared public and private compensation for insured commercial property and casualty losses resulting from an “act of terrorism,” as defined by TRIA. In order for the Program to make payments, the losses from an event must exceed certain thresholds and be in excess of participating insurer deductibles. Only “acts of terrorism” that have been certified as such by the Secretary (in consultation with the Attorney General and the Secretary of Homeland Security) are subject to the compensation provisions of the Program. In the event Treasury does make payments under the Program, it may be required to recoup some or all of the Federal share of payments through surcharges imposed upon all commercial policyholders.

Beginning after the inception of the Program in 2002, Treasury has previously sought and obtained from the Office of Management and Budget (OMB) approvals for certain information collections that will be necessary if Treasury is to process claims from participating insurers for the Federal share of compensation, and potentially to recoup amounts expended as authorized under TRIA. Most of these information collections are managed through forms that have been developed by Treasury to permit participating insurers to demonstrate that they are entitled to payment of the Federal share of compensation.

In January 2015, the Terrorism Risk Insurance Program Reauthorization Act of 2015 (2015 Reauthorization Act)³ extended the Program until December 31, 2020. The 2015 Reauthorization Act reformed various operational matters respecting the Program. Among other

¹ 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 See 31 CFR Part 50.

³ Public Law 114-1, 129 Stat 3.

changes, the 2015 Reauthorization Act mandated that Treasury issue final rules governing the certification process, and that Treasury collect from participating insurers such information and data as considered by the Secretary to be appropriate to analyze the effectiveness of the Program.⁴ In December 2016, Treasury issued revised Program rules incorporating the new financial and operational provisions mandated by the 2015 Reauthorization Act.⁵

The changes to the Program rules require revisions to currently effective Program forms to incorporate terminology and regulatory reference changes, and Treasury seeks to extend these previously approved collections subject to these minor revisions. No additional burdens are imposed by these changes, either in terms of the estimates of the number of insurers affected or time burdens for compliance.⁶ None of the identified information will need to be reported unless there is a certified act of terrorism, and the insurer in question is seeking payment of the Federal share of compensation. The forms are designed to identify elements that insurers already regularly collect in their ordinary course of business when handling insurance claims, which will minimize any burden associated with their completion in the event an insurer submits a claim for payment of the Federal share of compensation.

In addition, certain other information collections (relating to such Program administrative matters as the approval of certain settlement, and recoupment of the Federal share of compensation) lapsed pending finalization of the revised Program rules. Now that the revised Program rules are effective, Treasury seeks to reinstate these information collections subject to

⁴ Annual collections of information and data required by the 2015 Reauthorization Act for analyses of the effectiveness of the Program are being addressed in a separate notice and comment process. See 81 FR 95310 (Dec. 27, 2016).

⁵ See 81 FR 88592 (Dec. 7, 2016) (Certification Process Interim Final Rule); 81 FR 93756 (Dec. 21, 2016) (Final Rules governing balance of Program).

⁶ The burden estimates set forth below are the same estimates previously used by Treasury when seeking approval of this information collection.

minor revisions. Again, no additional burdens would be imposed by these changes,⁷ and none of the identified information will need to be reported, if at all, unless there is certification of an act of terrorism. As is the case with the Program claims forms, these forms are designed to identify information that insurers already regularly collect in their ordinary course of business, which will minimize any burden associated with their completion.

Finally, Treasury seeks approval for three additional information collections that are authorized and necessary under the revised Program rules. These collections: (1) will permit (but not require) Treasury to obtain appropriate information directly from participating insurers during a certification process; (2) require claims reporting after certification of an act as an act of terrorism, so that Treasury can determine whether the Program Trigger threshold⁸ has been reached and respond promptly to claims for payment of the Federal share of compensation; and (3) provide for the production of information in connection with a commutation payment after the Secretary determines a final netting date when claims relating to any insured loss or act of terrorism shall become final.⁹ As with the existing Program forms, these forms are designed to identify elements that insurers regularly collect in their ordinary course of business when handling insurance claims, which will minimize any burden associated with their completion. In addition, with respect to the possibility of a certification data call, the Program rules permit Treasury to obtain any necessary data through other means, which may obviate the need for a data call.¹⁰

Further information concerning each of these requirements is provided below.

⁷ The burden estimates set forth below are the same estimates previously used by Treasury when seeking approval of these information collections.

⁸ See 31 CFR 50.4(v).

⁹ The burden estimates for these collections as set forth below were originally identified by Treasury in its Notice of Proposed Rulemaking leading to the recent revision of the Program Rules. See 81 FR 18950, 18958-59 (Apr. 1, 2016). Treasury did not receive any comments concerning these burden estimate figures.

¹⁰ See 31 CFR 50.62(b).

II. Information Collections

A. Existing information collections

OMB Number: 1505–0200.

Title: Terrorism Risk Insurance Program; Commercial Property and Casualty Insurers

Submission for Federal Share of Compensation

Abstract: This information collection addresses information that participating insurers must submit in support of their claims for payment of the Federal share of compensation. The forms identifying the information to be collected are as follows:

Treasury Form TRIP 01 (Notice of Deductible Erosion (formerly Initial Notice of Insured Loss))

Treasury Form TRIP 02 (Certification of Loss (Initial and Supplementary))

Treasury Form TRIP 02A Schedule A (Declaration of Direct Earned Premium and Calculation of Insurer Deductible)

Treasury Form TRIP 02B Schedule B (Certification of Compliance with Section 103(b) of TRIA)

Treasury Form TRIP 02B Schedule C (Bordereau)

Type of Review: Extension of a currently approved data collection.

Current Expiration Date: July 31, 2017.

Affected Public: Business/Financial Institutions.

Estimated Number of Respondents: 100.¹¹

Estimated Average Time per Respondent:

Treasury Form TRIP 01: 1.0 hours x 1 response = 1 hours.

Treasury Form TRIP 02 (Initial and Supplementary): 1.5 hours x 6 responses = 9 hours.

¹¹ Although the number of insurers required to file claims will depend upon the size and nature of the event in question, Treasury has historically used a best estimate of 100 insurers that will have insured losses as a result of an act of terrorism that could lead to potential claims for payment of the Federal share of compensation under the Program.

Treasury Form TRIP 02A Schedule A: 6.5 hours x 1 response = 6.5 hours.

Treasury Form TRIP 02B Schedule B: 0.25 hours x 6 responses = 1.5 hours.

Treasury Form TRIP 02B Schedule C: 4 hours x 6 responses = 24 hours.

Estimated Total Annual Burden Hours: 4,200 hours.¹²

B. Reinstatements of Previously Approved Information Collections

Former OMB Number: 1505–0196.

Title: Terrorism Risk Insurance Program; Litigation Management - Information Collection
Regarding Proposed Settlements

Abstract: This information collection addresses settlement approval requirements under the Program that were initially adopted by Treasury by regulation¹³ and subsequently incorporated by Congress as part of TRIA.¹⁴ For third-party claims that are in excess of certain thresholds, Treasury must provide advance approval of the settlement before it is finalized by the participating insurer. The information collection provides Treasury with the necessary information to evaluate claims subject to this advance approval requirement. The form memorializing the collection is Treasury Form TRIP 03 (Notice of Proposed Settlement of Third Party Claim - Request for Approval).

Type of Review: Reinstatement of a previously approved information collection.

Affected Public: Business/Financial Institutions.

Estimated Number of Respondents: 100.

¹² The burden estimate includes assumptions as to the number of times each form will need to be completed by an insurer making claims for payment of the Federal share of compensation, as identified above (e.g., including an estimate that on average the forms relating to specific claims experience will be submitted six times), resulting in total hours for each of the 100 insurers of 42 hours.

¹³ Currently codified at 31 CFR § 50.102.

¹⁴ TRIA § 107(a)(6).

Estimated Average Time per Respondent: 4.0 hours (per proposed settlement based upon likely number of settlements triggering requirement).

Estimated Total Annual Burden Hours: 5,144 hours.¹⁵

Former OMB Number: 1505–0197.

Title: Recordkeeping Requirements for Insurers Compensated Under Terrorism Risk Insurance Program

Abstract: This requirement is for the maintenance (recordkeeping) of an insurer's records that are pertinent to claims for reimbursement by participating insurers and amounts paid by Treasury as the Federal share of compensation for insured losses. The recordkeeping is needed for Treasury to conduct investigations, confirmations, and audits, as required. 31 CFR § 50.81 requires insurers to retain all records necessary to fully disclose material matters pertaining to insured losses. This record retention requirement is not subject to any common form or generalized reporting.

Type of Review: Reinstatement of a previously approved data collection.

Affected Public: Business/Financial Institutions.

Estimated Number of Respondents: 100.

Estimated Average Time per Respondent: 8.33 hours.¹⁶

Estimated Total Annual Burden Hours: 833 hours.

¹⁵ These estimates, like the estimates for the Program claim forms, are based upon assumptions as to the number of times the form will need to be completed. Those assumptions are: (1) each of the 100 insurers will have 100 claims (or 10,000 in total), (2) 1 in 7 claims will involve amounts above the approval threshold (or 1,429 claims), and (3) 90% of those claims will be settled, and thus trigger settlement approval reporting (1,286). That figure, applied against the 4 hours estimated to complete the form, results in the total figure of 5,144 hours. The reporting burden on insurers has not changed, but the numbers have been corrected here due to a previous rounding error.

¹⁶ Includes assumptions as to the number of claims that will be received for which some marginal additional costs (estimated to be 5 minutes per claim) will be incurred by the affected insurer.

Former OMB Number: 1505–0207.

Title: Recoupment Provisions of the Terrorism Risk Insurance Act (TRIA)

Abstract: Section 103(a) of TRIA authorizes Treasury to recoup federal payments made under the Program through policyholder surcharges, as directed in the statute. In order to determine the amount of recoupment necessary, as well as implement any mandatory recoupment process, Treasury may issue a data call for aggregate loss information. If Treasury implements a recoupment process, all insurers subject to TRIA will be required to create and maintain records concerning their direct written premium, surcharges, surcharge amounts collected, and surcharge amounts remitted to Treasury and submit information to Treasury on a monthly basis. The forms identifying the information to be collected are as follows:

Treasury Form TRIP 04A (Direct Written Premium and Monthly Surcharge Calculation)

Treasury Form TRIP 04B (Direct Written Premium and End of Year Calculation)

Treasury Form TRIP 05 (Data Call)

Type of Review: Reinstatement of a previously approved data collection.

Affected Public: Business/Financial Institutions.

Estimated Number of Respondents: 2,000 (TRIP 04A and TRIP 04B recoupment processing) and 200 (TRIP 05 data call)

Estimated Average Time per Respondent:

Treasury Forms TRIP 04A and TRIP 04B: 5 hours per month (60 hours per year).

Treasury Form TRIP 05: 5 hours.

Estimated Total Annual Burden Hours: 120,000 hours (TRIP 04A and TRIP 04B), and 1,000 hours (TRIP 05).

Former OMB Number: 1505–0208.

Title: Terrorism Risk Insurance Program; Cap on Annual Liability

Abstract: The Program is subject to a total annual cap of aggregate industry losses of \$100 billion, and Treasury is directed under TRIA to advise Congress within 15 days of an “act of terrorism” whether estimated total losses are expected to exceed the cap. In order to comply with the liability cap provisions of TRIA, Treasury may conduct a data call for insured loss and deductible information to accurately assess aggregate industry losses and determine if the \$100 billion cap could be exceeded, as well as to determine and adjust the “pro rata loss percentage” to be applied against claim payments. The form identifying the information to be collected is Treasury Form TRIP 05 (Terrorism Risk Insurance Program; Data Call).

Type of Review: Reinstatement of a previously approved data collection.

Affected Public: Business/Financial Institutions.

Estimated Number of Respondents: 200

Estimated Average Time per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 1,000 hours.

C. New Information Collections

OMB Number: New

Title: Terrorism Risk Insurance Program; Certification Data Call

Abstract: In order for the Secretary to determine whether an event is subject to certification as an “act of terrorism” under TRIA and 31 CFR 50.62, Treasury may collect loss data and estimates from affected insurers in order to confirm that losses are above statutory thresholds. The information collection includes both actual loss data, as well as estimates that may be

generated in the immediate aftermath of an event which do not constitute loss data but which could nonetheless inform the certification determination. The form identifying the information to be collected is Treasury Form TRIP 06 (Certification Data Call).

Type of Review: New data collection.

Affected Public: Business/Financial Institutions.

Estimated Number of Respondents: 20.

Estimated Average Time per Respondent: 15 hours.

Estimated Total Annual Burden Hours: 300 hours.

OMB Number: New

Title: Terrorism Risk Insurance Program; Monthly Claims Report

Abstract: Payments of the Federal share of compensation require that aggregate industry losses reach a certain threshold, even if the losses of a particular insurer are in excess of its deductible.

Pursuant to 31 CFR 50.53, the monthly claims report provides for truncated monthly reporting of losses so that Treasury may evaluate loss experience as it develops, and make timely payments to insurers entitled to the Federal share of compensation. The report will enable payments to smaller insurers that cannot demonstrate, based upon their own losses, that Program Trigger amounts have been reached. The form memorializing the collection is Treasury Form TRIP 07 (Monthly Claims Report). The report has been tailored to seek the minimal amount of information necessary to confirm total industry payment amounts and estimates, and requests far less information than will be necessary for insurers to submit claims for payment of the Federal share of compensation.

Type of Review: New data collection.

Affected Public: Business/Financial Institutions.

Estimated Number of Respondents: 100.

Estimated Average Time per Respondent: 2 hours (each month over a 48-month period).

Estimated Total Annual Burden Hours: 9,600 hours.¹⁷

OMB Number: New

Title: Terrorism Risk Insurance Program; Commutations under Final Netting Rule

Abstract: Under 31 CFR 50.76(d), the Secretary may set a final netting date, at which time all claims relating to an insured loss or act of terrorism become final. As part of a final netting determination, Treasury may require or consider a request for a commutation of an insurer's future claims for the Federal share of compensation. This process could require the insurer to produce information justifying a final payment estimate, including supporting actuarial factors and methodology. This information collection is not subject to any common form or generalized reporting requirement, as it will necessarily be tailored to the circumstances presented by a particular insurer and insured loss, which will need to be determined at the time any particular commutation process takes place.

Type of Review: New data collection.

Affected Public: Business/Financial Institutions.

Estimated Number of Respondents: 15

Estimated Average Time per Respondent: 40 hours.

Estimated Total Annual Burden Hours: 600 hours.

¹⁷ The burden estimate includes the assumption that the monthly report will need to be completed each month over a 48-month period (estimated to be the period over which claims are likely to be reported and resolved), or 96 hours per each insurer and 9,600 hours for all insurers combined.

All of the forms and associated instructional materials are available for review on Treasury's website at <https://www.treasury.gov/resource-center/fin-mkts/Pages/program.aspx>.

Request for Comments: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collections; (d) ways to minimize the burden of the collection of information on respondents, including through the use of 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 provide information.

Dated: March 7, 2017.

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Director,
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