Billing Code

DEPARTMENT OF THE TREASURY

IMARA Calculation for Calendar Year 2021 under the Terrorism Risk Insurance Program

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury (Treasury) is providing notice to the public of the insurance marketplace aggregate retention amount (IMARA) for calendar year 2021 for purposes of the Terrorism Risk Insurance Program (TRIP or the Program) under the Terrorism Risk Insurance Act, as amended (TRIA or the Act). As explained below, Treasury has determined that the IMARA for calendar year 2021 is $41,705,989,523.

DATES: The IMARA for calendar year 2021 is effective January 1, 2021 through December 31, 2021.

FOR FURTHER INFORMATION CONTACT: Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, 202-622-2922 or Lindsey Baldwin, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, 202-622-3220.

SUPPLEMENTARY INFORMATION:

I. Background

TRIA—which established TRIP—was signed into law on November 26, 2002, following the attacks of September 11, 2001, 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 the private markets to stabilize and build insurance capacity to absorb any future losses for terrorism events.[1] TRIA requires insurers to "make available" terrorism risk insurance for commercial property and casualty losses resulting from certified acts of terrorism, and provides for shared public and private compensation for such insured losses. The Program has been reauthorized four times, most recently by the Terrorism Risk Insurance Program Reauthorization Act of 2019.[2] The Secretary of the Treasury (Secretary) administers the Program, with assistance from the Federal Insurance Office (FIO).[3]

TRIA provides for an "industry marketplace aggregate retention amount" or "IMARA" to be used for determining whether Treasury must recoup any payments it makes under the Program. Under the Act, if total annual payments by all participating insurers are below the IMARA, then Treasury must recoup all amounts expended by it up to the IMARA threshold. If total annual payments by all participating insurers are above the IMARA, then Treasury has discretionary authority (but not the obligation) to recoup all of the expended amounts that are above the IMARA threshold.[4]

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[1] Public Law 107-297, sec. 101(b), 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 U.S. Code, the provisions of TRIA are identified by the sections of the law.
[2] See Terrorism Risk Insurance Extension Act of 2005, Pub. L. 109-144, 119 Stat. 2660; Terrorism Risk Insurance Program Reauthorization Act of 2007, Pub. L. 110-160, 121 Stat. 1839; Terrorism Risk Insurance Program Reauthorization Act of 2015, Public Law 114-1, 129 Stat. 3 (2015 Reauthorization Act); Terrorism Risk Insurance Program Reauthorization Act of 2019, Public Law 116-94, 133 Stat. 2534.
[3] 31 U.S.C. 313(c)(1)(D).
[4] *See* TRIA, sec. 103(e)(7); see also 31 CFR part 50 subpart J (Recoupment and Surcharge Procedures).

TRIA provides for a schedule of defined IMARA values for calendar year 2015 through calendar year 2019.[5] For calendar year 2020 and beyond, TRIA states that the IMARA "shall be revised to be the amount equal to the annual average of the sum of insurer deductibles for all insurers participating in the Program for the prior 3 calendar years," as such sum is determined pursuant to final rules issued by the Secretary.[6]

On November 15, 2019, Treasury issued a final rule for calculation of the IMARA.[7] This rule, which is codified at 31 CFR 50.4(m)(2), provides that the IMARA will be calculated by averaging the annual industry aggregate deductibles over the prior three calendar years, based upon the direct earned premium (DEP) reported to Treasury by insurers in Treasury's annual data calls. Insurer deductibles under the Program are based upon the DEP of individual insurers reported to Treasury in the prior year (e.g., 2018 DEP for 2019 calendar year).

Accordingly, for purposes of determining the IMARA for calendar 2021, Treasury has averaged the aggregate insurer deductibles for calendar years 2020, 2019, and 2018 (as reported to Treasury in each of these years), which are based on the reported DEP for calendar years 2019, 2018, and 2017, respectively.

FIO's 2020 Report on the Effectiveness of the Terrorism Risk Insurance Program[8] identified the DEP amounts participating insurers reported to Treasury in the TRIP-eligible lines

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[5] In 2015, the IMARA was $29.5 billion; it increased to $31.5 billion in 2016, $33.5 billion in 2017, $35.5 billion in 2018, and $37.5 billion in 2019. *See* TRIA, sec. 103(e)(6)(B).

[6] TRIA, sec. 103(e)(6)(B)(ii) and (e)(6)(C). An insurer's deductible under the Program for any particular year is 20 percent of its direct earned premium subject to the Program during the preceding year. TRIA, sec. 102(7). For example, an insurer's calendar year 2020 Program deductible is 20 percent of its calendar year 2019 direct earned premium.

[7] 84 FR 62450 (November 15, 2019) (Final Rule). On December 18, 2019, Treasury issued a notice that the IMARA calculation for calendar year 2020 was $40,878,630,900. 84 FR 69462 (December 18, 2019).

[8] FIO, Report on the Effectiveness of the Terrorism Risk Insurance Program (June 2020) (2020 Effectiveness Report), 11 (Figure 1), https://home.treasury.gov/system/files/311/2020-TRIP-Effectiveness-Report.pdf.

of insurance in the 2018, 2019, and 2020 TRIP data calls. For purposes of the 2021 IMARA calculation, those figures are as follows:

TRIP-Eligible DEP by Insurer Category[9]

	2018 TRIP Data Call		2019 TRIP Data Call		2020 TRIP Data Call	
	2017 DEP in TRIP-Eligible Lines	% of Total	2018 DEP in TRIP-Eligible Lines	% of Total	2019 DEP in TRIP-Eligible Lines	% of Total
Alien Surplus Lines Ins.	$ 9,492,933,571	5%	$ 7,618,548,358	4%	$ 11,149,972,542	5%
Captive Insurers	9,052,630,571	4%	8,937,119,082	4%	9,083,384,310	4%
Non-Small Insurers	163,891,791,592	80%	166,188,192,378	81%	172,970,757,331	80%
Small Insurers	21,806,195,201	11%	22,516,178,612	11%	22,882,139,290	11%
Total	**$ 204,243,550,936**	**100%**	**$ 205,260,038,430**	**100%**	**$ 216,086,253,473**	**100%**

Source: 2018-2020 TRIP Data Calls

Treasury has used these reported premiums to calculate the IMARA for calendar year 2021. The average annual DEP figure for the combined period of 2017, 2018, and 2019 is $208,529,947,613 [($204,243,550,936 + $205,260,038,430 + $216,086,253,473) / 3 = $208,529,947,613]. The average aggregate deductible for the prior three years is 20 percent of $208,529,947,613, which equals $41,705,989,523.[10] Accordingly, the IMARA for purposes of calendar year 2021 is $41,705,989,523.

Dated: December 15, 2020.

Steven E. Seitz,

Director, Federal Insurance Office.

[9] The figures from the 2019 and 2018 TRIP data calls (some figures may not add up on account of rounding) were previously reported in the IMARA calculation for calendar year 2020. *See* 84 FR 69462 (December 18, 2019). Figures from the 2020 TRIP data call were previously reported in FIO's June 2020 Effectiveness Report, as available at that time and rounded. 2020 Effectiveness Report, 11 (Figure 1). The figures from the 2020 TRIP data call as originally reported in June 2020 have been updated to include data received by FIO after the reporting deadline.

[10] *See* note 6.

[FR Doc. 2020-27996 Filed: 12/18/2020 8:45 am; Publication Date: 12/21/2020]