



2022 Report on the Effectiveness of the Terrorism Risk Insurance Program

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Request for comment.

SUMMARY: The Terrorism Risk Insurance Act of 2002, as amended (TRIA), established the Terrorism Risk Insurance Program (TRIP or Program). TRIA requires the Secretary of the Treasury (Secretary) to submit a report to Congress by June 30, 2022 concerning, in general, the overall effectiveness of TRIP. To assist the Secretary in formulating the report, the Federal Insurance Office (FIO) within the Department of the Treasury (Treasury) is seeking comments from the insurance sector and other stakeholders on the statutory factors to be analyzed in the report, as well as feedback on other issues relating to the effectiveness of TRIP.

DATES: Submit comments on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>, in accordance with the instructions on that site, 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 2022 report on the effectiveness of the Terrorism Risk Insurance Program should be captioned with “2022 TRIP Effectiveness Report.” In general, Treasury 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. 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.

Where appropriate, a comment should include a short Executive Summary (no more than five single-spaced pages).

Additional Instructions. Responses should also include: (1) the data or rationale, including examples, supporting any opinions or conclusions; and (2) any specific legislative, administrative, or regulatory proposals for carrying out recommended approaches or options.

FOR FURTHER INFORMATION CONTACT: Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, (202) 622-2922, Sherry Rowlett, Program Analyst, Federal Insurance Office, (202) 622-1890, Jeremiah Pam, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, (202) 622-7009, or Saurav Banerjee, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, (202) 622-5330. 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

TRIA¹ requires participating insurers to make insurance available for losses resulting from acts of terrorism and provides a federal government backstop for the insurers' resulting financial exposure. TRIA established TRIP within Treasury, and TRIP is administered by the Secretary with the assistance of FIO. TRIA Section 104(h)(2) requires the Secretary to periodically prepare and submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on, among other things, the impact and effectiveness of TRIP (Effectiveness Report). TRIA was reauthorized in December 2019 with an additional requirement that Treasury's Effectiveness Reports analyze the availability and affordability of terrorism risk insurance, including specifically for houses of worship. The Effectiveness Report that is to be submitted by June 30,

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.

2022 will include an analysis of information that is being collected by Treasury through the 2022 TRIP Data Call,² as well as data that Treasury collected in prior TRIP Data Calls. Treasury's data calls are conducted to obtain information to facilitate Treasury's analysis of the effectiveness of TRIP and the competitiveness of small insurers in the terrorism risk insurance marketplace,³ as well as to assist Treasury more generally in the administration of TRIP.

II. Solicitation for Comments

Treasury seeks comments on each of the following factors, which Treasury is required under TRIA Section 104(h)(2) to consider in the Effectiveness Report:

1. The overall effectiveness of TRIP;
2. The availability and affordability of terrorism risk insurance, including specifically for places of worship;
3. Any changes or trends relating to the data Treasury collects in its annual TRIP Data Calls, and the implications of such observations with regard to the effectiveness of TRIP;
4. Whether any aspects of TRIP have the effect of discouraging or impeding insurers from providing one or more lines of commercial property and casualty insurance coverage or coverage for acts of terrorism; and
5. Any impact of TRIP on workers' compensation insurers in particular.

This request for comment will provide stakeholders the opportunity to provide qualitative feedback and analysis that may not be otherwise observable through the results of the TRIP Data Calls. Information and views of stakeholders on the factors listed above will assist Treasury in the formulation of the Effectiveness Report and provide meaningful opportunity for stakeholder engagement. In addition, and more generally, such public input may assist the Secretary in the administration of TRIP.

² Terrorism Risk Insurance Program 2022 Data Call, 86 FR 64600 (November 18, 2021) (identifying proposed changes to 2022 TRIP Data Call).

³ TRIA section 108(h).

In addition to seeking comments on the above factors outlined in Section 104(h)(2) of TRIA, Treasury understands that other issues and factors in the insurance market relating to terrorism risk insurance, in addition to those factors specified in TRIA, could have an impact on the effectiveness of the Program. Treasury accordingly also seeks comments on the following topics:

General Questions

1. Whether any lines of insurance or coverages within certain lines of insurance currently subject to the Program no longer require the support of TRIP to ensure the availability and affordability of terrorism risk insurance;
2. Whether any lines of insurance or coverages within certain lines of insurance currently not subject to the Program should be included within TRIP to promote the availability and affordability of terrorism risk insurance;
3. Whether, and in what fashion, insurance market changes associated with the impact of the COVID-19 pandemic have also affected the market for terrorism risk insurance;
4. The availability of terrorism risk insurance coverage for losses arising from nuclear, biological, chemical, or radiological (NBCR) exposures, and the availability of reinsurance or capital markets support for such terrorism risk insurance;

Cyber-Related Questions

5. The current state of the cyber insurance market, including the scope of coverage available, the availability and affordability of such coverage, and the effect of ransomware-related losses on the market;
6. Terrorism risk insurance issues presented by cyber-related losses, and the impact of TRIP in connection with such exposures, including views on cyber-related terrorism losses that are included within TRIP and those losses outside of TRIP;

7. Any potential changes to TRIA or TRIP that would encourage the take up of insurance for cyber-related losses arising from acts of terrorism as defined under TRIA, including but not limited to the modification of the lines of insurance covered by TRIP and revisions to the current sharing mechanisms for cyber-related losses;
8. The availability of reinsurance or capital markets support for cyber-related losses arising from acts of terrorism as defined under TRIA;

Other Questions

9. The manner in which captive insurers access TRIP, including the extent to which coverage is provided on a standalone versus embedded basis, or for NBCR risks only, and the reasons behind such choices;
10. The current status of terrorism risk modeling capabilities, and the use of those techniques in the placement of terrorism risk insurance;
11. Given the increasing availability of more granular information than state or metropolitan level information (such as ZIP code level or geocoded information), please provide views on how FIO could leverage such information to further augment its analysis of the terrorism risk insurance market and TRIP, particularly since the immediate physical impact of individual terrorism-related events may be localized; and
12. Any other issues relating to TRIP, terrorism risk insurance, or reinsurance that may be relevant to FIO's assessment of the effectiveness of TRIP in the report.

Steven E. Seitz,

Director, Federal Insurance Office.

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