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DEPARTMENT OF THE TREASURY

Report by the President's Working Group on Financial Markets on the Long-Term Availability and Affordability of Insurance for Terrorism Risk

AGENCY: Department of the Treasury, Departmental Offices.

ACTION: Notice; Request for comments.

SUMMARY: The Terrorism Risk Insurance Act of 2002 (TRIA),¹ as amended by Section 5(c) of the Terrorism Risk Insurance Program Reauthorization Act of 2007,² requires the President's Working Group on Financial Markets (President's Working Group) to perform an ongoing analysis of, and to submit a report to Congress³ on, the long-term availability and affordability of insurance for terrorism risk. The Secretary of the Treasury, or his designee, chairs the President's Working Group. The Department of the Treasury (Treasury) issues this notice seeking public comment to assist the President's Working Group in its report.

DATES: Comments must be in writing and received by **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. Early submissions are encouraged.

ADDRESSES: Please submit comments electronically through the Federal eRulemaking Portal: <http://www.regulations.gov>, or by mail (if hard copy, preferably an original and two copies) to the Federal Insurance Office, Attention: Kevin Meehan, Room 1319 MT, Department of the Treasury, 1500 Pennsylvania Avenue, NW, Washington, D.C. 20220. Because postal mail may be subject to processing delay, it is recommended that comments be submitted electronically.

All comments should be captioned with "President's Working Group on Financial Markets:

¹ Pub. L. No. 107-297, 116 Stat. 2322, 15 U.S.C. 6701 note.

² Pub. L. No. 110-160, 121 Stat. 1839, 1842.

³ The report is to be submitted to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

Terrorism Risk Insurance Analysis.” Please include your name, group affiliation, address, e-mail 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).

In general, comments received will be posted on <http://www.regulations.gov> without change, including any business or personal information provided. Comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Kevin Meehan, Policy Advisor, Federal Insurance Office, 202-622-7009 (not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

TRIA was enacted to address disruptions in the market for insurance for terrorism risk, to help ensure the continued widespread 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. Title I of TRIA creates the Terrorism Risk Insurance Program (Program) that provides shared public and private compensation for privately insured commercial property and casualty losses resulting from certified acts of terrorism. Pursuant to TRIA, the Secretary of the Treasury administers the Program. The Federal Insurance Office assists the Secretary in administering the Program, as authorized by the Dodd-Frank Wall Street Reform and Consumer Protection Act.⁴ The Program is scheduled to expire on December 31, 2014.

⁴ 31 U.S.C. 313(c)(1)(D).

TRIA was originally set to terminate on December 31, 2005. The Terrorism Risk Insurance Extension Act of 2005⁵ extended the Program for two additional years, with expiration set for December 31, 2007. Section 108(e) of TRIA, as amended by the Terrorism Risk Insurance Extension Act of 2005, required the President's Working Group to issue a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives about the long-term availability and affordability of terrorism risk, including group life coverage and coverage for nuclear, biological, chemical, and radiological events.⁶ The President's Working Group issued its report in September 2006.⁷

The Terrorism Risk Insurance Program Reauthorization Act of 2007,⁸ in relevant part, further extended the Program through December 31, 2014, and amended section 108 of TRIA to require an ongoing analysis regarding the long-term availability and affordability of insurance for terrorism risk. The President's Working Group subsequently submitted a report updating its analysis in 2010⁹ and is required to submit another report by September 30, 2013. The analysis performed by the President's Working Group is to be done in consultation with the National Association of Insurance Commissioners, representatives of the insurance industry, representatives of the securities industry, and representatives of policy holders.¹⁰ Treasury seeks comment from these

⁵ Pub. L. 109–144, 119 Stat. 2660.

⁶ The President's Working Group is composed of the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Securities and Exchange Commission, and the Chairman of the Commodity Futures Trading Commission (or their respective designees). The Secretary of the Treasury, or his designee, is the Chairman of the President's Working Group. Exec. Order 12,631, 53 FR 9421 (Mar. 18, 1988).

⁷ President's Working Group, Terrorism Risk Insurance (2006), available at <http://www.treasury.gov/resource-center/fin-mkts/Documents/report.pdf>.

⁸ Pub. L. 110–160, 121 Stat. 1839.

⁹ President's Working Group, Market Conditions for Terrorism Risk Insurance (2010), available at <http://www.treasury.gov/resource-center/fin-mkts/Documents/PWG%20Report%20Final%20January%202013.pdf>.

¹⁰ Pub. L. 109–144, 119 Stat. 2662 (adding subsection (e) to section 108 of TRIA).

and any other interested parties to assist the President's Working Group in drafting the forthcoming report.

II. General Solicitation for Comments

Treasury solicits comments on behalf of the President's Working Group, including information in support of such comments where appropriate and available, regarding the long-term availability and affordability of insurance for terrorism risk since 2010, when the President's Working Group issued its last report. Identify and explain any and all factors relating to the availability and affordability of terrorism insurance, and particularly how these factors have affected the availability and affordability of terrorism insurance since 2010.

III. Solicitation for Specific Comments

TRIA Termination Considerations

(1) Describe and explain in detail any and all possible ramifications from the termination of the Program on December 31, 2014, including any available evidence to support the predicted result, regarding:

- (a) The availability and affordability of insurance for terrorism risk in the United States generally;
- (b) The availability and affordability of insurance for terrorism risk in the United States specifically by line of business; geographic location, including the rating tiers defined by the Insurance Services Office, Inc.; and other relevant characteristics; and
- (c) Additional specific effects on commerce in the United States.

(2) If the Program were to continue beyond December 31, 2014, describe and explain in detail any revisions or modifications to the Program that would promote the availability and affordability of terrorism insurance, including any accompanying challenges that might arise from any proposed revisions or modifications to the Program. All views regarding the

appropriate role of the federal government in supporting the availability and affordability of insurance for terrorism risk are welcome.

Insurance Market Considerations

(3) Describe and explain the ability of the insurance industry to model, quantify, and underwrite terrorism risk, and the resulting impact of such analysis on the availability and affordability of terrorism insurance, including an examination of the price (by line of business, location of risk, and other relevant characteristics) and coverage options for terrorism insurance.

(4) Describe and explain, with supporting information where available, any additional insurance market considerations that could impact the long-term availability and affordability of terrorism insurance (*e.g.* implications for coverage of insurance for nuclear, biological, chemical, and radiological acts of terrorism; cyber acts of terrorism; and terrorism in workers' compensation policies).

(5) Explain and describe in general the demand (or "take-up") of terrorism insurance and provide specific data and information, where available, regarding the take-up rate by line of business, location of the risk, and other relevant characteristics.

Reinsurance Considerations

(6) Describe and explain in detail the long-term availability and affordability of private reinsurance for terrorism risk. Analyze, with supporting information, the impact of the Program, and any changes to the Program, on the private reinsurance market for terrorism risk, including any accompanying challenges that might arise from revisions or modifications to the Program.

Additional Consideration

(8) Describe and explain any other developments, considerations, or market issues that might affect the long-term availability and affordability of terrorism risk insurance.

IV. Further Consultation

In addition to the consultation facilitated through this request for comment, the President's Working Group may continue to consult with interested parties through meetings, public discussions, or further written comment.

Dated: July 10, 2013.

Michael T. McRaith
Director, Federal Insurance Office

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