



DEPARTMENT OF THE TREASURY

Information Collections for Claims Processing and Other Purposes Under the Terrorism Risk Insurance Program (Extension of Currently Approved Data Collections Under OMB No. 1505-0200 and Reinstatement of Lapsed Data Collection Under OMB No. 1505-0190)

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

ACTION: Notice and 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 (1) approved information collections that are due for extension by the Office of Management and Budget (OMB) (under OMB 1505-0200), relating to claims processing and other administrative matters under the Program; and (2) the reinstatement of an additional information collection previously approved by OMB (under OMB 1505-0190) that has lapsed, which Treasury also seeks to extend under OMB-1505-0200.

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 MT 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, 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. Treasury will also make such comments available for public inspection and copying in 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), or Lindsey Baldwin, 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) 622-3220 (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, through surcharges imposed upon all commercial policyholders, to recoup some or all of any amounts expended.

Since the inception of the Program in 2002, Treasury has sought and obtained from the Office of Management and Budget (OMB) approvals for certain information collections that will be necessary if Treasury needs to process claims for the Federal share of compensation, and potentially recoup amounts expended as required under TRIA.³ 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 payments for the Federal share of compensation. In some cases (as explained further in this Notice), the information collection is not subject to a specific form, but is based upon circumstances that may develop in the future, in the event the Program is triggered, or might be triggered, by the Secretary’s certification of an act of terrorism.

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 Annual collections of information and data, outside of the claims process, that are required under TRIA are addressed in a separate notice and comment process published elsewhere in this Federal Register.

In December 2019, the Terrorism Risk Insurance Program Reauthorization Act of 2019 extended the Program until December 31, 2027.⁴ The recent reauthorization of the Program did not incorporate any changes that require revisions to current Program forms and collections, and Treasury seeks to extend these previously approved collections without change. No additional burdens are imposed by the renewal of the existing forms or collections, or in the reinstatement of the lapsed information collection, either in terms of the estimates of the number of insurers affected or time burdens for compliance.⁵ None of the identified information will need to be reported unless there is a certified act of terrorism (including the information that an insurer seeking payment of the Federal share of compensation needs to provide), or in some cases where Treasury is considering certification of an act of terrorism. Treasury has designed the forms 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.

Further information concerning each of these requirements is provided below.

II. Information Collections

A. Existing Information Collections Under 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)

⁴ Public Law 116-94, 133 Stat. 2534.

⁵ The burden estimates set forth below are the same estimates previously used by Treasury when seeking approval of these information collections.

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 02C Schedule C (Bordereau)

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

Current Expiration Date: September 30, 2020.

Affected Public: Business/Financial Institutions.

Estimated Number of Respondents: 100.⁶

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.

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 02C Schedule C: 4 hours x 6 responses = 24 hours.

Estimated Total Annual Burden Hours: 4,200 hours.⁷

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

Regarding Proposed Settlements

⁶ 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 a certified act of terrorism that could lead to potential claims for payment of the Federal share of compensation under the Program.

⁷ The burden estimate includes assumptions as to the number of times each form will need to be completed by an insurer making claims for the Federal share of compensation, as identified above, resulting in total hours for each of the 100 insurers of 42 hours.

Abstract: This information collection addresses settlement approval requirements under the Program that were initially adopted by Treasury by regulation and subsequently incorporated by Congress within TRIA. 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 advance approval. The form identifying the information to be collected is as follows:

Treasury Form TRIP 03 (Notice of Proposed Settlement of Third Party Claim - Request for Approval).

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

Current Expiration Date: September 30, 2020.

Affected Public: Business/Financial Institutions.

Estimated Number of Respondents: 100.

Estimated Average Time per Respondent: 4.0 hours.

Estimated Total Annual Burden Hours: 5,144 hours.⁸

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 relevant to claims for reimbursement by participating insurers and amounts paid by Treasury

⁸ Based upon the assumptions that: (1) each of the 100 insurers will have 100 claims (or 10,000 in total), (2) that 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). This estimate of the number of claims that will require settlement approval reporting of 1,286, multiplied by 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.

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(a) 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: Extension of a currently approved data collection.

Current Expiration Date: September 30, 2020.

Estimated Number of Respondents: 100.

Estimated Average Time per Respondent: 8.33 hours.⁹

Estimated Total Annual Burden Hours: 833 hours.

Title: Surcharge Records Maintenance

Abstract: This requirement is for the maintenance (recordkeeping) of an insurer's records that are relevant to any surcharges collected and remitted by insurers to Treasury. The recordkeeping is needed for Treasury to conduct investigations, confirmations, and audits, as required. 31 CFR 50.81(b) requires insurers to retain records pertaining to the collection of surcharges. This record retention requirement is not subject to any common form or generalized reporting.

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

Current Expiration Date: September 30, 2020.

Estimated Number of Respondents: 2,000.

Estimated Average Time per Respondent: 4 hours.

Estimated Total Annual Burden Hours: 8,000 hours.

⁹ This calculation 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.

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

Abstract: Section 103(e) of TRIA extends authority to Treasury to conduct mandatory and discretionary recoupment (depending upon the circumstances presented) of federal payments made under the Program through policyholder surcharges. In order to determine the amount of recoupment that may be necessary, as well as implement any recoupment process that is required, Treasury may issue a data call for aggregate loss information. Accordingly, 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. 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: Extension of a currently approved data collection.

Current Expiration Date: September 30, 2020.

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: 04A is 5 hours per month for 11 months, 04B is 5 hours during one month per year (combined, 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).

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.¹⁰ In order to comply with the liability cap provisions of TRIA, Treasury may be required to conduct a data call for insured loss and deductible information to assess aggregate industry losses and determine if the \$100 billion cap may 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 as follows:

Treasury Form TRIP 05 (Terrorism Risk Insurance Program; Data Call).

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

Current Expiration Date: September 30, 2020.

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.

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 need to collect loss data and estimates from affected insurers in order to confirm that losses are above statutory thresholds.

¹⁰ TRIA § 103(e)(3).

The information collection includes both actual loss data, as well as estimates that may be generated in the immediate aftermath of an event that do not constitute loss data but could inform the certification determination. The form identifying the information to be collected is:

Treasury Form TRIP 06 (Certification Data Call).¹¹

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

Current Expiration Date: September 30, 2020.

Affected Public: Business/Financial Institutions.

Estimated Number of Respondents: 20.

Estimated Average Time per Respondent: 15 hours.

Estimated Total Annual Burden Hours: 300 hours.

Title: Terrorism Risk Insurance Program; Monthly Claims Report

Abstract: Treasury payments of the Federal share of compensation require that average 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 the Program Trigger amount has been reached. The form identifying the information to be collected is as follows:

Treasury Form TRIP 07 (Monthly Claims Report).

¹¹ Although potentially available for the collection of information, the Certification Data Call will not need to be utilized if Treasury is able to confirm that statutory thresholds will, or will not, be met through other means. *See* 31 CFR 50.62(b).

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

Current Expiration Date: September 30, 2020.

Affected Public: Business/Financial Institutions.

Estimated Number of Respondents: 100.

Estimated Average Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 9,600 hours.¹²

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

Abstract: Under 31 CFR 50.76(b), 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 the request of a particular insurer 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, which will need to be determined at the time any particular commutation process takes place.

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

Current Expiration Date: September 30, 2020.

Affected Public: Business/Financial Institutions.

Estimated Number of Respondents: 15

¹² The burden estimate includes the assumption that the monthly report will need to be completed each month over a 48-month period as all claims are resolved. Each monthly report will take 2 hours during this 48-month period, resulting in 96 hours per each insurer, or 9,600 hours for all 100 insurers combined.

Estimated Average Time per Respondent: 40 hours.

Estimated Total Annual Burden Hours: 600 hours.

B. Reinstatement of Previously Approved Information Collection

Former OMB Number: 1505–0190.

Title: Terrorism Risk Insurance Program; Rebuttal of Controlling Influence Submissions

Abstract: Treasury has promulgated procedures at 31 CFR 50.7 for an insurer to follow in seeking to rebut a regulatory presumption of “controlling influence” over another insurer (which, because of the way in which the Program operates, would affect the amount of direct earned premium attributable to the insurer’s deductible calculation). These procedures require insurers to provide Treasury necessary information to determine whether a “controlling influence” exists, and if it does, whether it has been rebutted. 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 the “controlling influence” issue presented by a particular insurer. No assurance of confidentiality is provided, although applicable exemptions under the Freedom of Information Act could apply, e.g., to any confidential business or trade secret material submitted.

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

Affected Public: Business/Financial Institutions.

Estimated Number of Respondents: 10.

Estimated Average Time per Respondent: 40 hours.

Estimated Total Annual Burden Hours: 400 hours.

All of the forms and associated instructional materials are available for review on Treasury's website at <https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/federal-insurance-office/terrorism-risk-insurance-program/federal-share-claim-process>.

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.

Steven E. Seitz,
Director, Federal Insurance Office.

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