

08.28.2007

Department of the Treasury
Terrorism Risk Insurance Program (TRIP)

Supporting Statement – Information Collection Requirement

OMB Control Number - 1505-0200

Terrorism Risk Insurance Program (TRIP);
Commercial Property and Casualty Insurers Submission for Federal Share of Compensation

1. Explain the circumstances that make the collection of information necessary.

This information collection is made necessary by the provisions of the Terrorism Risk Insurance Act of 2002, as amended, and the Department of Treasury regulations for its implementation.

On November 26, 2002, the President signed into law the Terrorism Risk Insurance Act of 2002 (Public Law 107-297, 116 Stat. 2322) (the Act). The Act was effective immediately. The Act's purposes are to address market disruptions, ensure the continued widespread availability and affordability of commercial property and casualty insurance for terrorism risk, and to allow for a transition period for the private markets to stabilize and build capacity while preserving state insurance regulation and consumer protections.

Title I of 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. The Act authorizes Treasury to administer and implement the Terrorism Risk Insurance Program (the Program), including the issuance of regulations and procedures. The Program provides a federal backstop for insured losses from an act of terrorism. The Program was originally set to expire on December 31, 2005. On December 22, 2005, the President signed into law the Terrorism Risk Insurance Extension Act of 2005 (Pub. L. 109-144, 119 Stat. 2660) (the Extension Act), which extends the Program through December 31, 2007.

Sections 103(a) and 104 of the Act authorize the Department of the Treasury to administer and implement the Program established by the Act. In 31 CFR part 50, subpart F (Sec. 50.50–50.55) Treasury established requirements and procedures for insurers that file claims for payment of the Federal share of compensation for insured losses resulting from a certified act of terrorism under the Act. Each entity that meets the Act's definition of insurer (over 2000 firms) must participate in the Program. The amount of federal payment for an insured loss resulting from an act of terrorism is to be determined, based upon the insurance company deductibles and excess loss sharing with the Federal Government, as specified by the Act and the implementing regulations contained in Subpart F.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

This information collection is to establish the basis for compensation for an insurer's insured loss and for the submission of information about those losses so that Treasury can determine the extent of its obligation to pay individual insurers under the Act. The information will also be used to review and audit compensation made to insurers to be certain the amounts are proper and in keeping with those authorized by the Act. The information collected will not be disseminated to the public by Treasury or used to support information that will be disseminated.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

It is planned that all responses be submitted electronically, unless otherwise shown to be impractical. The intention is to follow, as appropriate, best insurance/reinsurance industry practices. Exceptions may be required where an insurer lacks the capability to make an electronic submission or where the volume of documentation makes electronic submission impractical.

4. Describe efforts to identify duplication.

The required records do not duplicate any existing records. The information will be required only after there is a certified act of terrorism that exceeds a threshold amount, i.e., *Program Trigger Event(s)*, for which the aggregate industry insured losses exceed \$100 million. There is no submission requirement prior to such an occurrence. After an event the insurer must certify to premium and other procedural matters required by the Act as well as to loss information in order to establish that they may receive compensation, the amount of their deductibles, and any offsets and adjustments to the federal share of loss due to the insurer. While some information, e.g., premium data, may be held by the company it is not normally reported to the federal government. Some of the information is reported to state insurance regulators and will simply need to be adjusted and assembled for these submissions.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

The collection of information does not involve small businesses or other small entities but is expected to impact insurers.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

It would be impossible to comply with the Act or to implement the Terrorism Risk Insurance Program (TRIP) without receipt of the premium, loss data and associated information being requested. Without the required information there is no way to ascertain the compensation payments due, if any, after the certification of an act of terrorism. The information requested is needed to assure the amounts submitted for compensation are as specified by the Act and regulation. The information collected is also required to assure that the amounts paid by Treasury are proper.

The insurer will then submit forms pertinent to the progressive stages of that information collection. This is patterned after industry practice. The Initial Notice of Loss would be submitted at the initial trigger point. Once an insurer's insured losses surpass the amount of its deductible and it seeks reimbursement from Treasury, it would provide an Initial Certification of Loss, with Schedules A, B and C. The Supplementary Certification of Insured Loss, with Schedules B and C would be required to update the Initial Certification or to request additional compensation, as needed. It is Treasury's intent to be flexible regarding the frequency of submissions of requests for funds. A lesser frequency that inhibits rapid payments to the affected insurers, could have negative economic consequences and would run counter to the purposes of the Act.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

There are no special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines. Moreover, the proposed implementation requirements are consistent with insurance industry and state regulatory practice and are needed to permit orderly processing of requests for payment and for auditing of accounts.

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Public comments were solicited for the extension of the Terrorism Risk Insurance Program – Loss reporting, including the implementing forms. The Notice and Request for Comments, Terrorism Risk Insurance Program; was published at 72 FR 35084 (June 26, 2007). No comments were received. The requirements are unchanged since their previous publication. It should be noted that the requirements and the ultimately approved forms have never been utilized. The forms were, however, revised as needed, to reflect changes required by the Extension Act.

Previously, public comments on the reporting requirements were solicited as an element of the solicitation of comments with respect to the Notice of Proposed Rulemaking, TRIP, Initial Claims Procedures, 69 FR 67100 (December 1, 2003). Extensive efforts were made to obtain the views of insurers and extensive comments on the proposed rule were solicited and received from industry trade groups and others.

The Act establishing TRIP made the Federal backstop for terrorism losses available as of the date of passage. Therefore, in the interest of facilitating the implementation of a claims process as soon as possible, Treasury obtained permission from OMB to substitute a process for obtaining comments on the information collection in lieu of a 60-day notice and comment period in the Federal Register. Draft forms were provided for review and comment to six insurance industry trade associations, whose members make up virtually all of the commercial property and casualty insurers falling under the auspices of the Act. In addition, as part of Treasury's ongoing consultative relationship with the National Association of Insurance Commissioners, the forms were also provided to them. Comments were specifically sought regarding cost and hour burden as well as the necessity and practical utility of information, suggestions for enhancing the quality, utility and clarity, and suggestions for minimizing the burden on the responders.

Comments that were received from the reviewers provided detailed suggestions regarding the data requested. Overall, the cost and burden hour estimates were considered to be reasonable as long as the regulation requiring submission of supplementary loss certifications "monthly, or on a schedule otherwise determined by Treasury" was flexible as to frequency. That remains Treasury's intention, determining a schedule according to an insurer's circumstances. Other suggestions for refining the information to be collected resulted in changes being incorporated into the individual forms. These resulted in clarifying definitions of data and refining instructions for completion of the forms. There were no suggestions to revise the overall scheme for the information collection and how the forms are to be used.

On June 30, 2004, the TRIP claims forms were published in the Federal Register for a 30-day comment period. Two comments were received. One came from an ad hoc industry working group consisting essentially of the trade associations that had previously reviewed the forms with additional insurance agent/broker, reinsurance and financial services associations included. The other came from a single, large commercial property and casualty insurer, Zurich North America. No comments were provided that took issue with the burden hours or overall approach to the data collection.

The ad hoc working group raised only one issue, which involved compliance certification language on one of the forms. The group requests a change in the language or confirmation that the form's language is compatible with a previously issued Treasury regulation. This same issue had been raised in the public comment period for the proposed claims procedures rules. In issuing the final regulation, Treasury had addressed the issue in the preamble and did already confirm that the ad hoc work group's expectation is correct. Since the form's language matches that of the regulation itself, Treasury does not wish to change it.

Zurich also submitted an issue that was extensively addressed in our promulgating the final claims rule. This was with regard to reduction of the Federal share of compensation under TRIA due to duplicate Federal compensation provided through other Federal programs. Again, the preamble to that final rule provides the decision and the rationale for the decision in response to the comment. The forms have been developed to carry out the regulation and the Act.

Zurich raised one substantive issue regarding how insurers would submit information on workers compensation claims. As a result, Treasury double checked its approach with the National Council of Compensation Insurers, the industry's statistical agent for workers compensation insurance. They confirmed that the reporting requirement was reasonable and consistent with industry practices.

The remaining issues raised by Zurich have been addressed by modifying language on the forms or in accompanying instructions in order to provide additional clarity. Treasury's expectation is that the vast majority, if not all, of insurers submitting claims will do so using electronic submission through the TRIP claims website. The electronic versions of these forms have edits and drop down menus that guide the submission of data and that, along with the text changes that were made, should have resolved the issues raised in the comments.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

There will be no payments or gifts to respondents other than claims payments made to those insurers with losses meeting the criteria set by the Act.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

No assurances of confidentiality have been made to respondents for submissions that constitute the records to be kept by the insurers. (However, submissions would not be disclosed as they are considered to be exempt from the provisions of the Freedom of Information Act (FOIA)).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Responses of a sensitive nature are not required.

12. Provide an estimate in hours of the burden of the collection of information.

The number of respondents, if any, will be determined by the size and nature of the certified act of terrorism. Because of the extreme uncertainty regarding any such event a "best estimate" has been developed based on the considered judgment of staff. This estimate has the information collection being triggered for 100 insurers following a certified act of terrorism.

The aggregate burden hours (4200) shown in item 13 of the 83-1 are for each insurer providing the Initial Notice of Insured Loss (1hour), and the Initial Certification of Loss (1.5 hours) with Schedule A (6.5 hours), Schedule B (.25 hour) and Schedule C (4 hours) for a total of 13.25 hours per insurer. Each insurer is also estimated to submit five Supplementary Notices of Loss (1.5 hours) with Schedule B (.25 hour) and Schedule C (4 hours) for a total of 28.75 hours per insurer. The information being requested is that which would normally be generated and maintained by insurers in the conduct of their business. The burden hours are for the assembly or consolidation of information and its verification and certification. The hours required could be affected by the size and complexity of the insurer's organization and by the size and nature of the certified act of terrorism.

The information collection planned is regarded as a restatement of information normally prepared by insurers for other purposes or information that would normally be collected in the course of processing the underlying claims that constitute the insurers' requests for compensation. For ease of explanation, these costs are described in item 13.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

The assembly, consolidation, review and transmission of the information are expected to present nominal costs to the insurers submitting requests for compensation. The information should be

readily available in company systems and documents. Hence, "start up" costs are estimated at \$10,000 for consolidating information for each of the 100 insurers that might be making a submission in a Program Year. The costs are expected to consist of a limited amount of time for consolidation of accounting records and for their internal review and certification of submissions. No equipment purchases or capital investment should be needed; however, some insurers may elect to perform some amount of incidental systems development to facilitate their initial and subsequent submissions.

Once the insurer has established its internal processes for submission of information to TRIP, there should be negligible marginal costs (perhaps \$1,000 for each) to the estimated 100 insurers for maintaining and operating processes and systems for updating their submissions. Again, the information is normally collected or generated business information.

The nature of the information collection essentially is that which insurers develop and submit in order to achieve compliance with state insurance regulatory requirements, particularly annual statutory reporting requirements. The information collection is also directly extractive of information required for or generated in the course of normal business activity.

As explained previously in response to question 8, the information collection costs and burdens estimated by Treasury were provided to the insurance industry trade associations for comment along with the draft forms.

14. Provide estimates of annualized cost to the Federal government.

The cost to the Federal government will be the costs of review and audit of records, as that becomes necessary. The costs would be commensurate with the severity of the event and the complexity of losses requiring review and audit. Assuming submissions by the estimated 100 insurers, total annual Program operating costs can be estimated between \$5 and \$8.5 million.

15. Explain the reasons for any program changes or adjustments to previously identified annual reporting and recordkeeping burden hours or cost burden.

There are no changes.

16. For collections whose results will be published, outline the plans for tabulation and publication.

There are no plans for publication of the information collected.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

We have and will continue to display the expiration date of OMB approval for this collection.

18. Explain each exception to the certification of compliance with 5 CFR 1320.9 statement.

There are no exceptions to the certification statement.

19. Describe the use of statistical methods such as sampling or imputation.

This collection does not employ statistical methods.