Department of the Treasury
Terrorism Risk Insurance Program (TRIP)

Supporting Statement – Information Collection Requirement

OMB Control Number - 1505-XXXX

Final Netting Provisions of the Terrorism Risk Insurance Act

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 (the Act) 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 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. The Program was originally set to expire on December 31, 2005. The Terrorism Risk Insurance Extension Act of 2005 (Pub. L. 109-144, 119 Stat. 2660), extended the Program through December 31, 2007. The Terrorism Risk Insurance Program Reauthorization Act of 2007, subsequently extended the Program through December 31, 2014.

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.

Section 103(e)(4) of the Act gives the Treasury Secretary sole discretion to determine the time at which claims relating to any insured loss or act of terrorism shall become final. Under this authority, Treasury is issuing a notice of proposed rulemaking that would establish procedures by which, after the Secretary has determined that claims for the Federal share of insured losses arising from a particular Program Year shall be considered final, a final netting of payments to or from insurers will be accomplished.

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.

Treasury envisions that in determining a final netting of payments, and closing out its claims operation Treasury would notify insurers of the date by which all insured losses must be reported to Treasury and that insurers would be required to submit information supporting a commutation of claims for the Federal share of remaining open insured losses.

A commutation generally is the payment of a lump sum present value of future loss payments in lieu of making payments for losses as they come due in the future. After the establishment of a Final Netting Date, proposed § 50.56(d) provides that Treasury may require, or consider an insurer's request for, a commutation of an insurer's future claims for the Federal share of compensation based on estimates for the underlying insured losses reported to Treasury on or before the Final Netting Date. Treasury may require additional information to be supplied by the insurer, including an insurer's justification for a final payment amount with necessary actuarial factors and methodology, and pertinent information regarding the insurer's business relationships and other reinsurance recoverables. If Treasury notifies an insurer of a commutation requirement, the insurer will have 90 days from the date of notification to submit material required in the notice or forfeit the right to future payments from Treasury. Treasury does not anticipate mandating the use of specific discount factors in determining final payments for commuted amounts. Insurers will be required to justify the factors from which commutation amounts are derived and Treasury will consider them. Information must be supplied in enough detail to clearly show the expected future loss payments, how the present value amount has been determined, and reconciliation to the last Certification of Loss (a currently approved Treasury form).   Treasury will evaluate the submission in order to determine a final payment amount or (if applicable) an amount owed to the Government.

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.

Treasury has not prescribed that the records be automated, electronic or mechanical for insurers. Treasury will accept any such recordkeeping that meets the regulatory requirements as stated in 31 CFR 50 Subpart G and that enable the insurer to maintain these records. All submissions to Treasury by an insurer seeking the Federal share of compensation for insured losses are fully electronic and web-based. The supplementary information submitted in justification of a commutation would be based on the insurer's existing claims records, but would likely entail additional manual analysis.

4. Describe efforts to identify duplication.

The required records do not duplicate any existing records. However, systems for the generation of these data and the reporting and recordkeeping are usual and customary for insurers.

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

The record keeping is expected to impact insurers rather than small businesses or other small entities. Moreover, the recordkeeping can be accomplished using the entity's normal modes.

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

Failure to collect information supporting an insurer's claimed commutation amount would make it impossible to responsibly use commutation in closing out the claims operation for a given TRIP Program Year and to properly account for final disbursements. Lack of a commutation process would make it impossible to determine a final netting of payments that fairly and equitably considered any remaining open losses.

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. Submission of information in support of a commutation is routine for insurers when finalizing claims with their reinsurers. Generally, Treasury has used the reinsurance model in implementing its responsibilities under TRIA.

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.

Treasury has a proposed rule being published in the Federal Register, adding § 50.56 to Subpart F of part 50, which comprises Treasury's regulations implementing the Act. Treasury consulted with experts in the field of reinsurance concerning sunset clauses in reinsurance contracts, general rules of thumb, and consideration of various statutes of limitation in crafting the proposed final netting rule and commutation provisions, Further, in the proposed rule, Treasury specifically invites comments from the general public on: (a) whether the proposed collection of information is necessary for the proper performance of the mission of Treasury, and whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the collections of information (see below); (c) ways to enhance the quality, utility, and clarity of the information collection; (d) ways to minimize the burden of the information collection, 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 maintain the information.

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.

If an act of terrorism is certified under the Act, the number of insurers with losses 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 Treasury. This estimate has 100 insurers sustaining insured losses. Out of this initial number, Treasury estimates that there would be 15 insurers involved in commutation after the determination of a Final Netting Date. The necessary data are routinely generated and reported in the insurance industry. Treasury estimates that an insurer would need 40 hours, on average, to assemble and analyze data and develop a submission to Treasury for commutation. The estimated total onetime burden would be 600 hours (15 insurers times 40 hours). At a blended, fully loaded hourly rate of $75, the cost would be $45,000.

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).

There would be no additional cost burden beyond that provided in #12 above.

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

There is no cost to the Federal government of insurer implementation and recordkeeping development.

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

This is a new collection.

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

The results of this collection of information are not to be published.

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 will 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.