

Department of the Treasury  
Terrorism Risk Insurance Program (TRIP)

Supporting Statement – Information Collection Requirement

OMB Control Number - 1505-0207

Recoupment 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. On December 22, 2005, the President signed into law the Terrorism Risk Insurance Extension Act of 2005 (Pub. L. 109-144, 119 Stat. 2660), which extended the Program through December 31, 2007. The Terrorism Risk Insurance Program Reauthorization Act of 2007, was signed December 26, 2007, and 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) of the Act gives Treasury authority to recoup federal payments made under the Program through policyholder surcharges, up to a maximum annual limit. Treasury is now issuing a final rule that describes how Treasury will determine the amounts to be recouped, including the provision for a "data call" for aggregate insured loss information, the factors and considerations that would be the basis for establishing the specific surcharge amount, describes the procedures for Treasury's notification to insurers regarding the surcharges to be imposed, and establishes the requirements for insurers to collect, report and remit surcharges to the Treasury. If recoupment of the Federal share of compensation is implemented by Treasury, all insurers subject to the Act will be required to create and maintain records concerning their direct written premium, Surcharges, Surcharge amounts collected and Surcharge amounts remitted to Treasury. Treasury sought comment on all aspects of the prior proposed rule including the information collection and recordkeeping burdens.

2. 1Explain how, by whom, how frequently, and for what purpose the information will be used. 1If 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.

In order to comply with the provisions of the Act, a data call for aggregate insured loss and deductible information may be required to determine the need for and amount of any recoupment. The recoupment information collection, e.g., implementation, recordkeeping, reporting and remittance requirements will only arise after Treasury has made the determination to impose the recoupment surcharge. As stated above, all insurers subject to the Act will be required to create and maintain

records concerning their direct written premium, Surcharges, Surcharge amounts collected and Surcharge amounts remitted to Treasury. If implemented, it is expected that there will be 11 monthly reports and remittances and an annual report and reconciliation and remittance. This submission addresses the generation of information and the record keeping requirement that provides Treasury the means to review and audit an insurer's records relating to premiums, surcharges, collections and remittances to Treasury to be certain the amounts are proper and in keeping with those authorized by the Act.

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. Regulations will also provide for Treasury access to all books, documents, papers and records of an insurer that are pertinent to any Federal Terrorism Policy Surcharge for the purpose of investigation, confirmation, audit and examination. Treasury would approve the use of improved information technology for the maintenance of required records. All submissions to Treasury, e.g., the data call, reporting and remittance forms, are expected to be fully electronic and web-based.

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.

It will be necessary for insurers to have systems capable of determining, reporting and remitting the Federal Terrorism Policy Surcharge in the event Treasury implements the recoupment provisions of the Act. This recordkeeping requirement is also necessary to meet standard audit requirements and to adequately assure that the amounts paid to Treasury are proper. Without the ability to access insurer records that are the basis for their surcharge remittances to Treasury, it would be impossible to comply with the Act and for the Program to properly account for receipts.

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 and record retention requirements are consistent with insurance industry and state regulatory practice and are needed to permit orderly auditing of accounts. Specifically, each insurer that collects a Federal Terrorism Policy Surcharge shall retain records related to such Surcharge, including records of the property and casualty insurance premiums subject to the Surcharge, the amount of the Surcharge imposed on each policy, aggregate Federal Terrorism Policy Surcharges collected, and aggregate Federal Terrorism Policy Surcharges remitted to Treasury during each assessment period. Such records shall be retained and kept available for review for not less than three (3) years following the conclusion of the assessment period and settlement 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.

Treasury published a proposed rule in the Federal Register on September 30, 2008, adding a Subpart H to 31 CFR Part 50, establishing the recoupment requirement, adding or amending definitions in §50.5 of Subpart A, and amending §§50.60 and 50.61 audit and recordkeeping requirements. Treasury specifically invited 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. Comments were sought with respect to the collection of information in the proposed rule for: (a) the data call described at § 50.71 (d); (b) the burden of one-time systems changes needed for insurer collection and remittance of surcharges as required by § 50.74 and § 50.75; (c) the monthly collection, remittance and reconciliation of surcharges pursuant to § 50.74 and § 50.75; and (d) the recordkeeping requirement in § 50.61(b) for information to be used by Treasury (or its designees) to audit for the proper collection and remittance of recoupment amounts to Treasury.

No comments were submitted specifically addressing the PRA-related questions. With regard to the proposed rule, commenters generally agreed with the approach as being compatible with business operations.

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 burden associated with the collection of information in the proposed rule is comprised of four components: the "data call" for insured loss and other information; Surcharge implementation systems and procedures development; reporting and remittance; and on-going recordkeeping. It is estimated that 200 insurers would be asked to respond to the data call. The number of insurers subject to developing systems and procedural development, reporting and remittance, and recordkeeping is estimated to be 2,000. Treasury believes that the information that insurers would be required to generate and retain involves systems and records that insurers routinely operate and maintain in the course of issuing and administering policies, performing basic accounting, and regularly reporting to state regulators. Calculating and imposing surcharges is a standard insurance processing system function. The records would be maintained as part of records that are already being kept as usual and customary business practice.

Treasury estimates that an insurer would require approximately 5 hours to respond to a data call for a total burden of 1,000 hours (200 insurers X 5 hours). Treasury estimates that an insurer will require, on average, 40 hours to make systems changes necessary to implement the collection of Surcharges from policyholders; a burden of 80,000 hours for the 2,000 insurers. There would be virtually no out-year burden. Monthly reporting and remittance submissions by the insurers are estimated to require 5 hours each month, or 60 hours per year for each insurer; a total burden of 120,000 hours (60 X 2,000). Treasury estimates that the proposed rule will impose approximately 4 hours of burden per year for recordkeeping with respect to each insurer subject to the Act, a total of 8,000 hours.

If all activities were to take place in the initial year, this would result in a total first year burden of approximately **209,000 burden hours** (5 X 200 = 1,000 hours for a data call + 40 X 2,000 = 80,000 hours for implementation + 60 X 2,000 = 120,000 hours for submissions + 4 X 2,000 = 8,000 for recordkeeping burden). However, the data call and systems change burden are one-time only.

The burden in subsequent years is estimated to be the 120,000 for monthly submissions and 8,000 hours required for recordkeeping. Future submissions will adjust for the ongoing estimated burden.

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 cost of a data call, if performed is estimated to be \$85,000, i.e., 1,000 hours at a blended, fully loaded hourly rate of \$85. If imposed, the first year cost to respondents for system and procedural implementation of the recoupment requirements is estimated to be \$7,400,000; approximately 80,000 hours at a blended, fully loaded hourly rate of \$92.50. Once implemented and incorporated into respondents systems, there is expected to be virtually no operation and maintenance costs. The total annual cost of monthly submissions is estimated to be \$8,400,000, 120,000 hours at a blended rate of \$70. The annual record keeping costs for respondents is estimated to be \$240,000, approximately 8,000 hours at a rate of \$30.00 per hour; these costs would continue in subsequent years. The total first year cost of all activities is estimated at \$16,125,000 with later years estimated at \$8,640,000 for monthly submissions and recordkeeping.

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

There is no cost to the Federal government of insurer implementation and recordkeeping development. There will, however, be costs to the Treasury if the recoupment requirement is imposed on insurers.

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

Estimated burden hours are included with the forms TRIP 04A and 04B. The two deleted IC's were an estimate before the final forms were approved. By including these two IC's, burden hours were nearly doubled..

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.