

March 9, 2022

Molly Stasko
Treasury PRA Clearance Officer
Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Re: 2022 TRIP Data Collection Comments

Dear Ms. Stasko:

The National Association of Mutual Insurance Companies (NAMIC) appreciates the opportunity to provide comments on the Federal Insurance Office (FIO) February 6, 2021, [request for comments](#) for use in the 2022 data call relating to the Terrorism Risk Insurance Program (TRIP or Program) under the Terrorism Risk Insurance Act of 2002 (TRIA). These comments follow up on comments submitted on January 18, 2022 in response to the Terrorism Risk Insurance Program 2022 Data Call Notice and [request for comments](#) by the Treasury Department on November 18, 2021.

NAMIC is the largest property/casualty insurance trade group, with a diverse membership of more than 1,400 local, regional, and national member companies, including seven of the top 10 property/casualty insurers in the United States. Through advocacy programs, we promote public policy solutions that benefit NAMIC member companies and the policyholders they serve, and we foster greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.

The proposed revisions in November and February would add new data elements to the data call which would be due this May. The request within the proposal is unexpected. On behalf of NAMIC members, these comments reflect concerns relating to: (1) specific data elements; and (2) using TRIA reporting provisions as the mechanism for gathering information on non-TRIP related lines.

Estimated Time & Burden Premise

In the February Notice, the Estimated Time per Response for collection and reporting of data from property and casualty insurers for reports concerning the Terrorism Risk Insurance Program is estimated to vary from 32 hours up to 90 hours. This seems inconsistent with the information NAMIC received from members. Recall from our January comments to FIO that a significant amount of the data being requested for the data call may not exist today at property-casualty insurance companies and/or it may not be accessible to them in any usable format at present. Accordingly, it seems that the estimated time (per response as well as the total annual burden) may be overly optimistic. NAMIC would greatly appreciate the opportunity to learn more about how that estimate was determined and what comments FIO received to indicate that the data exists widely and readily is obtainable.

DATA CHALLENGES

As we note in earlier comments, cyber policies did not originate out of TRIA or have the same framework as initial TRIA coverages. Rather, cyber grew overtime and reflects diversity of the competitive market. Cyber products and administrative data collection practices are not one-size-fits all. Indeed, some insurers convey that the information proposed for collection would be extremely problematic.

Several data elements that are proposed for collection may necessitate a labor-intensive/time intensive process for identifying and analyzing relevant information; this could be so burdensome that it would preclude some insurers from being able to meet the May deadline. Furthermore, some of the data elements may not now be collected and the information may not be available through any of the insurer's existing information. Such data request goes beyond asking insurers to produce information kept in the usual course of business today or in the form in which the company ordinarily maintains it today.

Reiterating suggestions in NAMIC's January comments, we again suggest that it may be helpful for FIO to share additional context by explaining some reasons for this collection. Providing data on cyber policies is complicated by the fact that some insurers may provide those policies as part of broader insurance policy packages. Again, most insurers providing input for inclusion in this response to FIO indicate that all of the proposed data elements are not collected today or that the process for pulling that information would be very burdensome.

As we suggested in January, perhaps FIO would entertain additional discussions – perhaps outside of the TRIA data collection process – with a variety of insurers about the availability of



such data. This communication may help in understanding the data which does and does not exist regarding the cyber insurance market.

Comments specific to particular data elements – policyholder size; limits of liability; and losses – are included on the attached Appendix. As you will see, the concerns relate to insurers current: inability to mine data; the lack of a place to capturing this data within the system; the need to obtain additional information from the policyholder; and/or the administrative burden and lack of accuracy that may result without revising systems and capturing data about policies/policyholders over time.

PROCESS, VENUE, AND AUTHORITY

These proposed revisions would require insurers to provide information relating to non-TRIP lines (outside the Program). Respectfully, again, it does not appear to be explicit that the TRIA statute's¹ reporting provisions authorize mandatory annual reporting for all of this information – the information is not a specifically delineated information collection item and, on its face, this requested data does not seem to relate to the effectiveness of the program. To ensure that the collection comports with FIO's authorities and processes and also as a matter of precedent and best practice, it may be appropriate for FIO to provide more detailed clarity of the jurisdiction of FIO to request and obtain such data or to consider whether these kinds of inquiries might necessitate another rulemaking and consultation (and coordination) with the states.

Finally, the National Association of Insurance Commissioners (NAIC) may be able to be a helpful resource on some general information on cyber coverages which may be helpful as FIO seeks to expand its general understanding in this area – coordinating and consulting to understand these resources could be a valuable step in advance of considering additional data needs.

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Thank you again for the opportunity to comment and to share NAMIC member concerns about the proposed revisions to the data collection forms. As you can see, for a number of insurers, there would be real barriers to complying with some of the proposal due to a lack of system capability to capture some of the data elements and a lack of historic/existing data populating those [nonexistent] system fields.

¹ https://home.treasury.gov/system/files/311/TRIA_Consolidated_Statute.pdf



NAMIC looks forward to working with FIO on these matters. Further, perhaps FIO would entertain additional discussions – potentially outside of the TRIA data collection process – with a variety of insurers about the availability of data. This communication may help advance an understanding of cyber insurance market data which does and does not exist. Please do not hesitate to contact me if I may be of assistance or provide additional information.

Sincerely,

Thomas Karol
General Counsel Federal
National Association of Mutual Insurance Companies
122 C St NW, Suite 540
Washington, D.C. 200011



APPENDIX ON DATA ELEMENTS-SPECIFIC CONCERNS

NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

2022 TRIP Data Collection – Comments on Proposed Revisions

Policyholder Size

Data element lines 12-17 on CYBER (NATIONWIDE) Proposed Form for the TRIP 2022 Data Call

For cyber insurance – whether TRIP or non-TRIP eligible – some insurers report that they have no way to drill down to policyholder size (based on number of employees). These carriers do not collect this information today; there may be no easy way to systematically capture this information for all policies. Such data request goes beyond asking insurers to produce information kept in the usual course of business today or in the form in which the company ordinarily maintains it today.

A manual work-around using current capabilities and information would be impracticable. Some report that it would require reviewing each policy on a file-by-file basis as well as accessing public sources to try to ascertain each policyholder's size. It seems that such information would be spotty and that such data would not be worthy of Treasury's reliance. Further, insurers report that to be able to complete this process by a May 2022 deadline would be impossible.

Because this type of information may not be readily available for all policies containing cyber insurance, one member suggested that if FIO moves ahead with this data element on this timeline that an option be provided to report both the ***Number of All Cyber Policies Issued*** (lines 12-14) and ***DEP of All Cyber Policies Issued*** (lines 15-17) in an ***“unknown” or “unavailable” policyholder size category***.

If policyholder size information is to be required on a going forward basis (not for the 2022 TRIP Data Call and not seeking data retrospectively), it appears that a long lead time would be required. Indeed, one insurer reports that it would be a significant undertaking to change processes and systems to collect the information. To be able to extract and report the data, it seems several things would need to happen first: systems would need to be changed/reprogrammed to enable capturing the information; information would need to be collected; and time would need to elapse so the fields would be populated with enough



information to report. This would take a few years (multiple renewal cycles) to implement.

Finally, it is unclear whether policyholder size (by employee number) is a worthwhile measure for understanding cyber exposure. This may be another area for which FIO discussions with interested parties may be helpful.

Limits of Liability – Cyber Extortion & Ransom Payments

Data element lines 21-24 on CYBER (NATIONWIDE) Proposed Form for the TRIP 2022 Data Call For cyber insurance, some insurers report that they do not systematically capture the limits of liability (for cyber extortion or for ransom payments). Indeed, this may be a more general issue for subcoverages and sublimits (as discussed below).

As indicated above for premium size, this is even more challenging for those policies that are not standalone. Several insurers noted this problem. Obtaining such information for package policies (for some a majority of their policies) would not be practical today. Also, where some insurers may provide this coverage with smaller sublimits via an endorsement to their with package policy, and these sublimits are not readily available in the system, reporting is not something that can be done automatically or quickly. Such data request goes beyond asking insurers to produce information kept in the usual course of business today or in the form in which the company ordinarily maintains it today.

To provide this information would require a file-by-file review. This manual process would be extremely burdensome. Indeed, according to a number of members, meeting a May 2022 deadline would be difficult (if not impossible).

If limits of liability information are going to be required on a going forward basis (not for the 2022 TRIP Data Call and not seeking data retrospectively), it appears that a long lead time would be required. Indeed, one insurer reports that it would be a significant undertaking to change processes and systems to collect the information. To be able to extract and report the data, it seems several things would need to happen first: systems would need to be changed/reprogrammed to enable capturing the information; information would need to be collected; and time would need to elapse so the fields would be populated with enough information to report. This would take a few years (multiple renewal cycles) to implement.



Losses – Direct Losses & Loss Containment Amounts

Data element lines 25-30 on CYBER (NATIONWIDE) Proposed Form for the TRIP 2022 Data Call

For cyber insurance, some insurers report that they do not systematically capture direct losses paid or loss containment amounts (for cyber extortion or for ransom payments).

Again, this is even more challenging for those policies that are not standalone. Obtaining such information for package policies (for some a majority of their policies) would require a file-by-file review. This manual process would be extremely burdensome and meeting a May 2022 deadline is reported to be difficult (if not impossible). Such data request goes beyond asking insurers to produce information kept in the usual course of business today or in the form in which the company ordinarily maintains it today.

Programming changes now for May of this year would be a problem, especially given that this is the busiest time of the year for many insurers and there is not a long lead-time to meet the deadline. Not only might an insurer not begin planning and making systems changes until the final templates are released, but there are many other demands on systems during this time. It would be difficult to complete, test, and move production for all programming updates before the deadline.

Furthermore, once the system has fields to capture the data elements, it does not necessarily mean that all the information will be populated. This would take time.

If this loss information is to be required on a going forward basis (not for the 2022 TRIP Data Call and not seeking data retrospectively), it appears that a long lead time would be required. Indeed, one insurer reports that it would be a significant undertaking to change processes and systems to collect the information. To be able to extract and report the data, it seems several things would need to happen first: systems would need to be changed/reprogrammed to enable capturing the information; information would need to be collected; and time would need to elapse so the fields would be populated with enough information to report. This would take a few years (multiple renewal cycles) to implement.