



February 27, 2017

Mr. Richard Ifft
Federal Insurance Office
Room 1140 MT
Department of Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20210

Re: 2017 TRIA Data Collection Form Comments

Dear Mr. Ifft:

We write on behalf of the Signal Mutual Indemnity Association Ltd. ("Signal") to provide its comments in response to the United States Department of the Treasury's ("Department") Notice of Data Collection and Comments in Aid of Analyses of the Terrorism Risk Insurance Program and more specifically as to the proposed 2017 TRIA Data Collection Form Comments. The Department should be commended for engaging with stakeholders impacted by the proposed Data Collection. Generally, Signal does not take issue with the Department's efforts in this regard.

However, as discussed below, Signal believes that certain components of the proposed Data Collection Forms do not neatly fit all participants potentially covered under TRIA. The Data Collection Forms assume that participants fall within the purview of the National Association of Insurance Commissioners ("NAIC") and thus rely heavily on the NAIC's nomenclature, codes, and descriptions. Moreover, by employing the NAIC as its main vehicle for dissemination of information and collection of data, the Department appears to have not realized that not all potential participants in the TRIA program fall within the purview of the NAIC. Therefore, not all participant data systems follow NAIC protocols and, as such, may not easily comply with the Data Collection mandate. Further, as some participants do not participate in the NAIC arena, the Department should be aware that its information being funneled through the NAIC is not reaching all stakeholders.

Introduction

a) Regulatory Authorization

Signal is duly authorized under 33 U.S.C. §932(a)(2) as a "group self-insurer" by the United States Department of Labor, Office of Workers' Compensation Programs ("OWCP"), through its Branch of Financial Management, Insurance and Assessments, to secure its Members' obligations under the Longshore and Harbor Workers' Compensation Act ("LHWCA" or "the Act"), 33 U.S.C. §901 et seq., and its extensions, the Defense Base Act ("DBA"), 42 U.S.C. §1651 et seq., the Non-Appropriated Funds Instrumentalities Act ("NAFIA"), 5 U.S.C. §8171 et seq., and the Outer Continental Shelf Lands Act (OCSLA"), 43 U.S.C. §1331 et seq. The Act sets forth the federal statutory workers' compensation scheme that provides for payment of compensation, medical care, rehabilitation services and survivor benefits for employees incurring on the job injuries on the navigable waters of the United States, certain adjoining areas and other sites prescribed by the Act and its extensions.

Signal is organized under an Act of Parliament by the Isles of Bermuda where it is under the authority of the Bermuda Monetary Authority; however, it has elected to be treated as a U.S. taxpayer under section 953(d) of the Internal Revenue Code.

b) Member Employers

Signal is comprised of over 250 full Member employers and in excess of 400 hundred related or otherwise affiliated employers of said Members, as well as over 150 Covered Employers. These entities include stevedores and terminal operators; shipyards and ship repairers; marine construction companies; and offshore oil and gas exploration and drilling companies who fall within the jurisdiction of the LHWCA and its extensions.

c) TRIA Eligibility

Most significantly, by Interpretive Letter dated September 30, 2003, the Department recognized that although not an insurance carrier per se, that Signal, and entities similar to it, fall within the bounds of coverage by the TRIA legislation.

d) Self-Insurance

Signal is authorized by the OWCP under the self-insurance provisions of the LHWCA and its implementing regulations. It is in essence self-insurance on a mutual basis amongst its Members. As such, employers are not issued "policies" per se, but become Members of the mutual as per an Entry Date.

e) Extent of "Cover"

Signal provides statutory "cover" to its Members under the LHWCA and its extensions, i.e., on a first dollar basis with no limits and with no exclusions. Signal provides no other "cover" and is for all intents and purposes the equivalent of a mono-line carrier. As the cover is statutory with no exclusions the differentiation of risk between terror and non-terror related risks is essentially moot. Signal must provide cover for all incidents falling within the purview of the LHWCA. Therefore, Signal believes for workers' compensation carriers that the delineation of "premium" by terror or non-terror risk is unnecessary.

Regulation

As noted above, Signal is directly authorized and regulated by the OWCP; it does not fall within the regulatory jurisdiction of any individual state. Therefore, it does not follow the dictates of the NAIC and, as such, does not generally follow common NAIC forms and practices. Signal points this out to explain why the proposed Data Collection Forms are/would be somewhat problematic for Signal to complete "as is." As detailed below, Signal does not object to providing the information requested, but simply requests that the Department recognize that it does not fit neatly into any of the categories for which the Department has created Data Collection Forms. Signal is quite willing to work further with Department to craft a "useable" solution that provides the Department with the information it requires. Some examples of issues and potential solutions are detailed below.

Data Collection Forms

Signal possesses both the capabilities and the desire to provide the Department with the essential data that it requests: a breakout of "premium" and payroll generated by jurisdiction; a summary of its reinsurance program; and its five largest concentrations of risk. The issue is the mechanism of reporting. Moreover, as Signal has no need to report to the NAIC, but follows an entirely different reporting regimen under the OWCP, the amount of time necessary to comply with the Data Collection effort may well be beyond the times and costs suggested in the Notice. Therefore, Signal suggests that some leeway be considered in the reporting deadline as to non-traditional "carriers" such as Signal.

a) Applicable Form

Unfortunately, the templates promulgated for comment do not fit the non-NAIC participant generally, or a group self-insurer specifically. In reviewing the templates, the undersigned believes that either the "small insurer" or "alien surplus lines" templates could be modified in certain relatively minor ways to allow Signal to present its data in a coherent manner. Signal stands ready to work with the Department to modify the most appropriate form once the final templates are published.

b) NAIC Nomenclature

As Signal does not fall within the purview of the NAIC, it does not possess an "NAIC Group Code" or "NAIC Company Code". These appear to be the key to the Department's proposed reporting regimen. However, if the Department is prepared to accept the OWCP's authorization code, a Department generated identification code, or some other identifier, this should not be an issue. Such flexibility in terms of other NAIC coding would also be beneficial.

c) Direct Earned Premium

Signal does not collect "premium." Signal operates upon a Membership Year basis, which runs from October 1 to September 30 (which matches the OWCP COLA cycle). As with many non-carriers such as Protection & Indemnity Clubs, Signal estimates a Total Call at the beginning of the Membership Year yet collects a portion during the course of the Year (in Signal's case 90% of the estimated Total Call) ("Advance Call"). The remaining 10% remains outstanding for 48 months after the Closure of the Membership Year ("Supplementary Call"). It is determined at the end of 48 months whether the Supplementary Call is 10% or some higher or lower figure, which is then used to bring the Membership Year into balance upon Closure.

Therefore, Signal seeks guidance as to which figure the Department would find most valuable. Signal would suggest that the anticipated Total Call would suit the Department's needs best, even if it ultimately suffers some relatively minor variances.

d) Terror/Non-Terror "Premium"

As Signal is required under the LHWCA (as are workers' compensation carriers under most workers' compensation regimens) to cover all incidents falling within the jurisdictional purview of the statute, the question of segregating premium by terror or non-terror is moot. Signal would suggest in such circumstances that the Department consider all "premium" as potentially terror related, or provide further guidance to those "carriers" who by statute cannot exclude terror risks.

e) Reinsurance

Signal does not believe it will have any difficulty in reporting the information requested by the Department in terms of its own reinsurance purchased.

Conclusion

Signal understands and respects the statutory authority of the Department to collect data for the program. However, as the collection process as currently proposed does not contemplate non-NAIC niche participants in the market, guidance is requested regarding alleviating potential hurdles to compliance. Signal further requests that the Department implement an information dissemination regimen that is not NAIC based so that non-NAIC participants can be kept fully advised of developments.

Please do not hesitate to contact the undersigned to discuss any of the above.

Sincerely,



Anthony R. Filato, Esq.
Vice President & General Counsel
Signal Administration, Inc.
Managers' Agents for the
Signal Mutual Indemnity Association Ltd.