

Department of the Treasury
Terrorism Risk Insurance Program

Supporting Statement – Information Collection Requirement
OMB Control Number – 1505-0190

Collection of Data from Property and Casualty Insurers for Rebuttal of Control Submissions under the
Terrorism Risk Insurance Program

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

Sections 103(a) and 104 of the Terrorism Risk Insurance Act of 2002 (Pub. L. 107-297, 116 Stat. 2322), as amended, authorize the Secretary of the Treasury to administer and implement the Terrorism Risk Insurance Program established by the Act. Section 102(3)(A)(iii) of the Act provides that an entity has “control” over another entity if Treasury determines that an entity directly or indirectly exercises a controlling influence over the management or policies of another entity. Among other things, if one insurer controls another insurer, then the insurers are deemed “affiliates” under the Program, and their direct earned premium must be consolidated for purposes of calculating the “insurer deductible” that in turn forms the basis for ascertaining federal payments made by Treasury under the Act, as well as applicable surcharges.

Treasury’s rules (see generally 31 CFR §50.5(c)) contain certain rebuttable presumptions of controlling influence. An affected insurer may seek to rebut one or more of these presumptions, as may be applicable, pursuant to a procedure identified in the rules. See 31 CFR §50.8. The procedure provides an insurer with the opportunity to rebut the presumption by making a written submission to Treasury that includes an explanation or relevant facts and circumstances and other relevant information in support of why any particular controlling influence presumption should not apply.

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 will use the information submitted by the insurer to evaluate and then make a determination of whether the presumption of controlling influence by an insurer over another insurer has been rebutted for purposes of the Program. As of March 31, 2016, Treasury has received and made determinations on three submissions.

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.

The rebuttal submission procedure does not require or restrict electronic submissions.

4. Describe efforts to identify duplication.

Complete information necessary to make a determination that a controlling influence presumption has been rebutted is not available from any source other than the affected insurer.

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

Given the nature of the collection (which involves matters of controlling influence), it is not anticipated that the collection is likely to involve small entities. To the extent a small insurer were implicated, however, the collection leaves to the entity involved to provide information of whatever type or form it wishes to attempt to rebut the presumption, which thus allows any small insurer that

might be involved to calibrate its response in a fashion to minimize any burden that might otherwise be presented..

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

If the rebuttal procedure is not continued then there is no other means under the Terrorism Risk Insurance Program by which an insurer may rebut a regulatory presumption of controlling influence and no efficient and effective method by which Treasury (whose regulation of participating insurers for purposes of the Terrorism Risk Insurance Program does not extend to these matters) may obtain necessary information to make a determination of whether there is a controlling influence by one insurer over another if disputed by the affected insurers.

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

Not applicable.

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 previously coordinated with state regulators as well as stakeholders concerning the statutory definition of control and the regulatory rebuttable presumptions. The rebuttal procedure was initially issued as a notice of interim guidance in the Federal Register (68 FR 15039, March 27, 2003). It included language inviting comment on the paperwork burden. No comments were received. The rebuttal procedure was thereafter incorporated as 31 CFR §50.8 of a final rule. The preamble to the final rule also invited comment on the paperwork burden. Treasury did not receive any comments then, or in connection with prior renewals of this information collection after it was originally approved. Treasury has recently proposed new rules in connection with the Program (see 81 FR 18950), which contain one substantive change to the control definition as required by the Terrorism Risk Insurance Program Reauthorization Act of 2015, Pub. L 114-1, 129 Stat. 3. No changes, however, to the rebuttal procedure have been proposed, although the rule will now be identified as 31 CFR §50.7 of the final rule, if adopted.

A 60-day notice was published in the Federal Register soliciting public comment for the renewal of this information collection on March 31, 2016, at 81 FR 18693. No comments have been received to date.

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

No payments or gifts have been provided to respondents.

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

No assurance of confidentiality has been provided, although applicable exemptions under the Freedom of Information Act would apply, e.g., to any confidential business or trade secret material submitted.

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.

No personally identifiable information is called for in this collection.

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

The number of insurers that may seek to rebut a presumption of control is not known but based on available information we estimate the number to be 10. We estimate that the hour burden for each submission will be 40 hours, for a total of 400 burden hours.

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 to submitters will depend on many factors, including the availability of information, size of the ownership structure of the insurer, whether counsel is used to prepare the submission, etc.

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

Not applicable.

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 to the burden for this collection. Treasury is submitting this request as an extension without change.

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

Not applicable.

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.

Not applicable.

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

Not applicable.

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

This collection does not employ statistical methods.