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March 6, 2015

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Federal Insurance Office
Room 1410
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

RE: Study on Improving the Certification Process of the Terrorism Risk Insurance Program As Amended

Submitted through the Federal eRulemaking Portal: <http://www.regulations.gov/>

To the Federal Insurance Office:

The American Academy of Actuaries¹ Terrorism Risk Insurance Subcommittee appreciates this opportunity to provide its input to the Federal Insurance Office (FIO) in response to the February 9, 2015 request for comments published in the Federal Register, Volume 80, Number 26. The Subcommittee offers the following comments.

A. Collecting information and views on the factors that must be analyzed in the Certification Study will enhance the accuracy and value of the study and report to Congress. Accordingly, comments are sought on:

1. The establishment of a reasonable timeline by which the Secretary must make an accurate determination on whether to certify an act as an act of terrorism;

A reasonable timeline by which the Secretary must make a certification determination would be less than 30 days. We understand, however, that it will be difficult to accurately determine the collective size of the loss from industry data in a short timeframe. A clearer process is needed to gather data required for the dollar trigger, including use of models, feedback from large insurers, and rating agencies to provide preliminary figures.

2. The impact that the length of any timeline proposed to be established may have on the insurance industry, policyholders, consumers, and taxpayers as a whole;

¹ The American Academy of Actuaries is an 18,000+ member professional association whose mission is to serve the public and the U.S. actuarial profession. The Academy assists public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

Insurers will, most likely, respond to the needs of policyholders within the terms of the policies. However, the lack of a timely response by Treasury to certify the event as a covered act of terrorism will negatively affect the insurance market's recovery and ability to provide the appropriate coverage to their insureds.

3. The factors the Secretary would evaluate and monitor during the certification process, including the ability of the Secretary to obtain the required information regarding the amount of projected and incurred losses resulting from an act which the Secretary would need in determining whether to certify the act as an act of terrorism;

We recommend the Secretary first establish a process of acquiring information. This information-acquisition process should be in place before an event occurs. This process could entail consultation with insurance risk modeling firms and include their estimates, which are based on geographical data, loss exposure information, policy coverage amounts, and engineering assumptions. These results should also include the size of the event and the economic impact to the insurance marketplace. Additionally, it could be useful to the Secretary to obtain information on the potential range of estimates based on insurance carrier data and relevant market share, perhaps from major insurance carriers and reinsurers. Lastly, nationally recognized statistical rating agencies and brokerages may also have some key information pertaining to additional loss estimates not initially contemplated.

Second, the Secretary would create a validation process to confirm initial estimates. This would be based on a review of insurance and reinsurance quarterly earnings releases and regulatory filings. As it will take insurers some time to fully estimate their losses, a review of these earnings reports will serve as a strong "sense check" for the loss.

Third, the Secretary would create a follow-up process to solidify final numbers.

4. The appropriateness, efficiency, and effectiveness of the consultation process required under section 102(1)(A) of TRIA and any recommendations on changes to the consultation process; and

Regarding the consultation process, we recommend that the establishment of a terrorist event be solidified as quickly as possible. Timing is crucial, as uncertainty in the insurance and financial markets is typically viewed unfavorably.

5. The ability of the Secretary to provide guidance and updates to the public regarding any act that may reasonably be certified as an act of terrorism.

The Secretary's certification response should be made public as quickly as possible. Transparency is favored over uncertainty. After the Boston Marathon bombings, there was considerable confusion among insurers and insureds alike with an official pronouncement on the issue not forthcoming for a considerable amount of time and then without explanation as to why the Boston attack was not considered terrorism.

B. In addressing the considerations set forth in section 107(c) of the Reauthorization Act (as described in Paragraph (II)(A) of this notice), commenters are invited to submit views on:

- 1. The manner and extent to which the certification timeline and the Secretary's ability to make an accurate determination on whether to certify an act as an act of terrorism may be influenced by domestic or international law enforcement processes; and**

Federal law should give the Secretary authorization to make an accurate determination as to certification according to a set procedure.

- 2. The implications for insurers or policyholders if one or more events are certified as acts of terrorism but the aggregate, calendar-year insured losses do not exceed the amount required for Treasury to make payments for insured losses.**

An insurance contract is between the policyholder and the insurer. If aggregate calendar-year losses do not exceed the amount required for Treasury to make payments for insured losses, then that needs to be communicated clearly and promptly. This will help insurers, the public, and policymakers understand how effective the terrorism risk insurance program as amended really is. If there are many events that do not aggregate to the federal trigger amount, insurers will bear the full share of terrorism losses but still have the protection needed against truly catastrophic events.

We hope these comments will be of help to the FIO in its study of the certification process associated with the terrorism risk insurance program as amended. The Academy's Terrorism Risk Insurance Subcommittee welcomes the opportunity to serve as an independent and objective resource for the FIO and is available to assist in its review of the feedback received in response to its request. We would be pleased to discuss these issues further and/or answer any questions you have related to this letter.

If you have any questions about our comments, please contact Lauren Pachman, the Academy's casualty policy analyst, at pachman@actuary.org or (202) 223-8196.

Sincerely,

Terry Alfuth, MAAA, FCAS, FCA
Chairperson, Terrorism Risk Insurance Subcommittee
American Academy of Actuaries