Consider Adoption of its Jan. 26, Jan. 13, Jan. 12, and Jan. 8, 2015, and Dec. 18, Dec. 16 and Nov. 16, 2014, Minutes
The Terrorism Insurance Implementation (C) Working Group of the Property and Casualty Insurance (C) Committee met via conference call Jan. 26, 2015. The following Working Group members participated: Benjamin M. Lawsky, Chair, represented by Martha Lees (NY); Jill Jacobi (CA); George Bradner (CT); David Altmaier (FL); James Stephens and John Gatlin (IL); Martin Hazen (KS); Robert Whitney (MA); Joan Dutilt (MO); Mark Nussenfeld (NJ); Cuc Nguyen (OK); Paula Pallozzi (RI); Mark Worman (TX) and Betty Branum (VA). Also participating were: Warren Byrd (LA) and Tim Johnson (NC).

1. **Adopted the Model Bulletin, Policyholder Disclosures and Expedited SERFF Filing Document**

Ms. Lees explained revisions were made and distributed to the Model Bulletin, Policyholder Disclosures and Expedited SERFF Filing Document based on changes made during a Jan. 12 conference call of the Working Group. She said the Working Group should feel comfortable adopting these documents at this time with the hope that their adoption may allow the U.S. Department of the Treasury (Treasury) to issue guidance in an expeditious manner.

Aaron Brandenburg (NAIC) described changes made to the documents. The Working Group agreed to the following substantive changes:

- Deletion of the phrase “for terrorism loss risk-spreading premiums, for all insurers’ insured losses not compensated by the Federal Government that exceed the insurance marketplace aggregate retention amount” in the bullet point describing the recoupment mechanism.
- Deletion of the description of the certification process under the Definitions section.
- Deletion of a phrase defining an act of terrorism as it was included already in the Definitions section.
- Deletion of a paragraph describing the increase in the trigger amount in the Definitions section as it was already included in the Background section.
- Deletion of a phrase stating that other terms remained unchanged.
- Revision of the Definitions section to be titled “Definition of Act of Terrorism.”
- Movement of the phrase describing “calendar year” from the Definitions section to the Background section.
- Movement of the sentence describing the purpose of the bulletin from the Background section to the beginning of the bulletin before the Definitions section.
- Addition of the phrase “For further details related to the Act, please consult the Act itself.”
- Revision of the introductory phrase that is before the bullet points under the Background section to specify that the Act was amended and extended.
- Restoration of the paragraph regarding non-certified losses and addition of a Drafting Note explaining this language was in previous bulletins and states will wish to consider adding it to their bulletin.
- Deletion of the second box on the Expedited SERFF Filing Document describing state requirements because it was redundant.

Mr. Johnson asked whether states are considering the federal Terrorism Risk Insurance Program Reauthorization Act of 2015 to be effective Jan. 1, 2015, because filings are being dated that way. Ms. Lees said it is unknown if the Treasury will address retroactivity in its guidance. Ms. Jacobi said the language in the Model Bulletin is consistent with what is in the reauthorized Act. Mr. Gatlin asked if states are approving filings dated Jan. 1, 2015. Several states said they are approving these filings effective Jan. 1, 2015, rather than the date they receive the filing.

Ms. Lees explained a Word version of the documents would be distributed to all states Jan 27. She said states could use the Model Bulletin to draft their own bulletins even though the document will not be adopted by the full NAIC membership until the Spring National Meeting.

Mr. Byrd asked whether states were going to issue their individual bulletins on the same date. Several states indicated they would likely issue their bulletin as soon as possible.

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Ms. Jacobi made a motion, seconded by Mr. Bradner, to adopt the Model Bulletin, Policyholder Disclosures and Expedited
SERFF Filing Document. The motion passed.

Ms. Pallozzi pointed out there are issues within the Act the Working Group will want to address in the future such as those
related to data collection.

Having no further business, the Terrorism Insurance Implementation (C) Working Group adjourned.
The Terrorism Insurance Implementation (C) Working Group of the Property and Casualty Insurance (C) Committee met via conference call, Jan. 13, 2015. The meeting was held in regulator-to-regulator session pursuant to paragraph 8 (consideration of strategic planning issues relating to federal legislative and regulatory matters or international regulatory matters) of the NAIC Policy Statement on Open Meetings. The following Working Group members participated: Benjamin M. Lawsky, Chair, represented by Martha Lees (NY); Jill Jacobi (CA); George Bradner (CT); John Gatlin (IL); Matthew Mancini (MA); Joan Dutil (MO); Carl Sornson (NJ); Erin Summers (NV); Cuc Nguyen (OK); Joseph Torti III (RI); Mark Worman (TX); and Betty Branum (VA).

1. **Discussed Expedited Filing Procedures**

The Working Group discussed with the Federal Insurance Office (FIO) coordination between state and federal efforts regarding the implementation of the federal Terrorism Risk Insurance Program Reauthorization Act of 2015.

Having no further business, the Terrorism Insurance Implementation (C) Working Group adjourned.
The Terrorism Insurance Implementation (C) Working Group of the Property and Casualty Insurance (C) Committee met via conference call Jan. 12, 2015. The following Working Group members participated: Benjamin M. Lawsky, Chair, represented by Martha Lees (NY); Jill Jacobi (CA); George Bradner (CT); David Altmaier (FL); Matthew Mancini (MA); Joan Dutill (MO); Cuc Nguyen (OK); Paula Pallozzi (RI); Mark Worman (TX); and Rebecca Nichols (VA).

1. Discussed the Model Bulletin

Ms. Lees said a draft Model Bulletin had been distributed based on the recently passed federal Terrorism Risk Insurance Reauthorization Act of 2015. Aaron Brandenburg (NAIC) explained the edits within the draft Bulletin. The following substantive edits were agreed to:

- Addition of “aggregate” to explain insurance marketplace retention amount.
- Addition of “and such other matters as the Secretary considers appropriate” to the bullet point describing a report on the effectiveness of the program.
- Explanation that the Secretary must conduct and complete a study on the certification process.
- Change “beginning” to “not later than” in the bullet point about small insurer study.
- Change “intent” to “purpose” in describing the purpose of the bulletin.
- Addition of the revised definition of an act of terrorism.
- Addition of a section about the requirement of the report having to do with certification and the Secretary issuing final rules governing the certification process.
- Addition of “and transition period” when describing what is changed to “calendar year.”
- Clarification that the trigger results from certified acts rather than a certified act.
- Move the section about other terms in the Act not changing to the “Definitions” section.
- Move the section about other terms in the Act not changing to the “Definitions” section.
- Clarification to the phrase about the statutory waiting period by adding quotation marks.
- Addition of a Drafting Note about some states not requiring the expedited document and some states requiring additional information.
- Addition of a placeholder for states to add state-specific requirements.
- Addition of the phrase “made in connection with the Terrorism Risk Insurance Program Reauthorization Act of 2015” to clarify terrorism filings within SERFF.
- Edits to sample Expedited SERFF Filing Transmittal Document so that it matches the blank document in terms of type of filings and certification.
- Elimination of the choice of “Post-TRIA” from the type of filing in the Expedited SERFF Filing Transmittal Document.

Ms. Pallozzi explained some commercial risks are exempt from filing rates and forms, so some states may include this in their Bulletins. Steve Clarke (Insurance Services Office—ISO) said the expedited filing forms are meant to be a replacement for other documents. Ms. Jacobi said the Bulletin should make it clear whether any other information is needed by the state. Ms. Nguyen said Oklahoma is receiving filings that indicate no other information is needed. Ms. Lees said the Bulletin is simply a model for states to use to put together their own guidance.

Courtney Mayorga (NAIC) said for states that contacted the NAIC to implement the Expedited Filing Transmittal Document, filers would be provided with the expedited form. Mona Carter (National Council on Compensation Insurance—NCCI) asked whether filers would see a list of states requiring the transmittal filing document. Ms. Mayorga said the Bulletin should make it clear whether any other information is needed by the state. Ms. Nguyen said Oklahoma is receiving filings that indicate no other information is needed. Ms. Lees said the Bulletin is simply a model for states to use to put together their own guidance.

A discussion was held about the differences in states mandating SERFF and encouraging SERFF and also in states requiring an expedited filing form, not requiring the form or requiring additional documentation. Ms. Carter asked if a state would
reject the filing if a filer completed the expedited filing form when it was not required. Ms. Motter said Ohio would not reject the filing. Ms. Jacobi said the Bulletin should reflect the fact that some states may require more documentation than the expedited filing form. Ms. Lees suggested that a drafting note reflect that some states may require more than the expedited filing form. Ms. Carter asked if states would include what additional information is needed. Ms. Jacobi suggested that a bracket be added where states could insert state-specific requirements.

Ms. Pallozzi asked whether the Bulletin should have a date of expiration. Ms. Motter said in prior reauthorizations of the Act, state law was overridden by federal law. She said state laws are not waived with this reauthorization. She said forms may change throughout the next few years, but “TRIA2015” should still be used because this refers to the Act rather than the date of the change. Ms. Carter said the NCCI is scheduling all future changes in its first filing. Ms. Motter said most companies are probably doing this although some could make form changes in future years.

Ms. Pallozzi asked the difference between the two policyholder disclosures. Eric Nordman (NAIC) explained one was notification of a right to purchase terrorism coverage, and the other was when the terrorism coverage was already included in the policy. Ms. Carter pointed out that the NCCI uses a different disclosure form.

Ms. Mayorga explained she edited the Expedited Filing Document to delete the fields already collected in SERFF. Ms. Pallozzi asked whether states could search type of filing across the forms. Ms. Mayorga said this would not be searchable, but states could search for terrorism filings by using “TRIA2015” within the product name field.

Ms. Nguyen said some companies have indicated that certain information is waived because of the expedited filing form. Ms. Mayorga said it is up to the state as to what is required. She recommended that the state go back to the company to request additional information.

Having no further business, the Terrorism Insurance Implementation (C) Working Group adjourned.
The Terrorism Insurance Implementation (C) Working Group of the Property and Casualty Insurance (C) Committee met via conference call Jan. 8, 2015. The following Working Group members participated: Benjamin M. Lawsky, Chair, represented by Martha Lees (NY); Jill Jacobi (CA); George Bradner (CT); John Gatlin (IL); Matthew Mancini (MA); Angela Nelson (MO); Cuc Nguyen (OK); Paula Pallozzi (RI); Mark Worman (TX); and Betty Branum and Rebecca Nichols (VA). Also participating were: Valerie Baader, Garth Ehlinger and Maureen and Motter (OH); and also participating was KC Ng (VT).

1. **Discussed the Status of TRIA Legislation**

Mark Sagat (NAIC) reported that the federal Terrorism Risk Insurance Program Reauthorization Act (TRIA) of 2015 was passed by the U.S. House of Representatives on January 7 and the U.S. Senate on January 8. He said it is expected that President Barack Obama will sign the bill.

2. **Discussed a Model Bulletin**

Ms. Lees said the Working Group held a regulator-to-regulator conference call Dec. 30 to look at the possibility of the need for a Model Bulletin in the absence of TRIA. Since it appears that the reauthorization of TRIA will be signed into law, she said the Working Group could now go back to editing the Model Bulletin that describes the reauthorized TRIA. She said this document has been updated and will be distributed. Conference calls will be held and comments received before the Bulletin is adopted.

3. **Discussed a Potential Expedited Filing Process**

Ms. Lees said regulators also discussed the possible need for an expedited filing process on the Dec. 30 conference call. She said regulators believe the best solution is to add an identifier in the product name field so regulators can quickly identify filings that might need to be expedited. This would allow regulators to search on the term and industry to update filings post-submission. Regulators agreed to recommend the term “TRIA2015” be used as a flag within the product name field in SERFF. This information will be added to the Model Bulletin, and instructions will be communicated to users of SERFF.

Steve Clarke (Insurance Services Office—ISO) said the ISO is ready to make filings to incorporate revisions to forms to comply with the new TRIA. He said the filings would be effective upon President Obama’s signature. Ms. Motter recommended that filers put “TRIA2015” into the product name field now so states could search on that term. She said it is up to each state as to how they treat filings and whether they expedite filings. She said some states would require certification. She said states could ask for additional information from companies after filing. Ms. Nelson recommended that the ISO use its representatives to reach out to states to see what they prefer. Mr. Bradner said it varies as to whether states require the certification forms. Ms. Baader said Ohio does not require certification. She said originally the certification was required by all states because there was federal preemption. Mr. Ehlinger said Ohio has not used the expedited filing form or certification since the first extension of TRIA. He said the original expedited filing process was needed because there was federal preemption of state filing laws. He said there were sunset dates in prior reauthorizations of the Act.

Mr. Ehlinger asked whether there was a retroactive date in the new Act and whether there would be a coverage gap in the reinsurance program. Mr. Clarke said Congress took action that extended the termination date of the program from the end of 2014 to the end of 2020. He said Congress has made the program retroactive by extending the termination date. He said the conditional provisions were retroactively extended because the new Act did not terminate the program and no gap exists. J. Stephen Zielezienski (American Insurance Association—AIA) said for Congress not to enact retroactively, it would have had to construct a bill with every provision as new law. He said a law that has expired cannot be amended.

Mr. Ehlinger said in Ohio, some companies rolled out post-TRIA endorsements in 2015, but he did not think it needed to be addressed in the bulletin. Ms. Ng asked whether some conditional endorsements are triggered if Congress changes the terms of the program. Mr. Clarke said the endorsements are only triggered if TRIA terminates or is extended at less favorable terms and the make-available provision is eliminated. He said since the second part of that equation, the make-available provision, remains, conditional exclusions are not triggered.
Eric Nordman (NAIC) said many of the changes in the Act are phased-in between 2016 and 2020. He said the initial renewals may not have significant changes, but filings in future years would. Mr. Clarke said the ISO will make filings reflecting changes to certification and terminology in the Act. He said elements affecting pricing take effect Jan. 1, 2016. He said the ISO is filing forms now and would evaluate what effect the changes to the Act have on pricing. Ms. Ng asked about the make-available requirement with the $25 million limit. Mr. Clarke said that only applies in a post-TRIA environment. Mr. Ehlinger said the policyholder disclosure needs some edits to reflect homeland security and the percentage of federal participation.

Tom Glassic (Property Casualty Insurers Association of America—PCI) said he agreed with the earlier discussions related to retroactivity of the bill. He also said he was appreciative of the NAIC for being the first organization to begin to plan for TRIA reauthorization more than two years ago, and he believes the statements in favor of reauthorization had an effect on Congressional action.

Having no further business, the Terrorism Insurance Implementation (C) Working Group adjourned.
The Terrorism Insurance Implementation (C) Working Group of the Property and Casualty Insurance (C) Committee met via conference call, Dec. 18, 2014. The following Working Group members participated: Benjamin M. Lawsky, Chair, represented by Martha Lees (NY); Jill Jacobi (CA); George Bradner (CT); Gene Reed (DE); David Langham (FL); Jim Stephens (IL); Martin Hazen (KS); Gary Anderson and Matthew Mancini (MA); Joan Dutilt (MO); Carl Sornson (NJ); Cuc Nguyen (OK); Paula Pallozzi (RI); Larry Deiter (SD); Mark Worman (TX) and Rebecca Nichols (VA).

1. **Discuss Status of TRIA Reauthorization**

Ms. Lees said it appears that the Terrorism Risk Insurance Act (TRIA), which expires Dec. 31, 2014, will not be reauthorized prior to its expiration. Tony Cotto (NAIC) said the original expectation was that the Senate would pass the House bill as it had overwhelming support. He explained that Senator Coburn (OK) objected to the part of the bill having to do with NARAB II. The Senate adjourned without taking up TRIA reauthorization. Mr. Cotto said the members of leadership in both the House and Senate have indicated that TRIA is a top priority and they hope to act on reauthorization quickly when they return on January 6. He said there remains a question whether they will work off the House bill or something else.

Ms. Lees said the NAIC had drafted revisions to the Model Bulletin based on the House version of the reauthorization bill. She said this Model Bulletin will be revisited once a bill is passed.

2. **Discuss Expedited Filing Procedures**

Mona Carter (National Council on Compensation Insurance—NCCI) said there is still a need for an expedited filing process, particularly with workers’ compensation insurance. Ms. Lees asked if a different bulletin would be needed now that TRIA is not reauthorized. Ms. Carter said NCCI will need to remove language referencing certified acts in policies since the term is no longer relevant without TRIA. Mr. Bradner asked how much time or effort should be spent on expedited filings if TRIA is reauthorized within the first few weeks of January. Ms. Carter said NCCI is not planning to immediately file new forms but will instead wait until the new Congress reconvenes. Ms. Carter said, if reauthorization is delayed, NCCI will need to file at some point and it would prefer to have an expedited filing procedure. Mr. Bradner said states should wait until Congress is back in session. Ms. Carter said NCCI would want the ability to move quickly when the time comes. Ms. Jacobi said whether states are willing to consider an expedited filing process is an important question. She also brought up the possibility that the reauthorization of TRIA could be made retroactive. She said a retroactive program would be helpful to regulators. Ms. Lees said the Working Group should probably talk about expedited filings in early January.

Ms. Lees asked if regulators had heard about disruptions to the marketplace yet. Rob Whitney (MA) said his department is receiving many questions and concerns especially about the workers’ compensation market. He agreed that states should be prepared to move quickly once TRIA is reauthorized.

George Green (Mortgage Bankers Association) said while the Act is not in effect insurers will make changes to policies that expire in that time period. He said these policies would not have the make-available provision in them. Ms. Lees said it may depend on whether the new Act is retroactive. Ms. Jacobi said once Federal law expires, state law is applicable. She said, for instance, without TRIA there is no federal definition for an act of terrorism.

Eric Nordman (NAIC) said the industry has contingency endorsements in place where terrorism insurance coverage would be turned off Jan. 1. He said if there is an act of terrorism before TRIA is renewed, policy forms would exclude terrorism and claims would likely not be paid. He said there is a coverage gap for the business and manufacturing communities. Ms. Lees pointed out that New York and Florida do not allow terrorism exclusions.

Robert Woody (Property Casualty Insurers Association of America—PCI) said it is understandable to adopt a wait and see attitude before responding. He said state regulators should act when they have a firm indication from Congress of what it will do and when. He said an expedited filing process is needed. Steve Clarke (Insurance Services Office—ISO) reiterated that there is a need for expedited filing procedures. He also asked how terrorism filings would be labeled within SERFF. Mr. Nordman said NAIC staff will work with the states and the Working Group that oversees SERFF to determine what is needed. Stephen Zielezinski (American Insurance Association—AIA) said the NAIC did issue a Model Bulletin concerning
terrorism exclusions in late 2001 before TRIA was enacted. Mr. Nordman said this Model Bulletin could become applicable in the absence of TRIA. Ms. Lees said the 2001 Model Bulletin would be distributed. Tracy Klausmeier (UT) asked whether regulators should approve a system for expedited filings now. Mr. Nordman said regulators are considering a couple different possibilities to the SERFF system. Bridget Kieran (NAIC) said options are being explored that would help regulators identify filings that need to be expedited.

Having no further business, the Terrorism Insurance Implementation (C) Working Group adjourned.
Terrorism Insurance Implementation (C) Working Group
Conference Call
December 16, 2014

The Terrorism Insurance Implementation (C) Working Group of the Property and Casualty Insurance (C) Committee met via conference call Dec. 16, 2014. The following Working Group members participated: Benjamin M. Lawsky, Chair, represented by Martha Lees (NY); Jill Jacobi (CA); George Bradner (CT); David Altmaier (FL); Matthew Mancini (MA); Joan Dutill (MO); Paula Pallozzi (RI); Mark Worman (TX); and Rebecca Nichols (VA). Also participating were: Robin Coombs (KY); and Garth Ehlinger (OH).

1. Discussed the Status of TRIA Legislation

Mark Sagat (NAIC) said that the most recent Terrorism Risk Insurance Act (TRIA) reauthorization bill was passed by the U.S. House of Representatives 417-7. He said the House has left Washington, D.C., and the bill is now before the U.S. Senate. He said the issues over provisions related to the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) seem to be resolved. He said the potential hold-up now concerns Sen. Tom Coburn’s (R-OK) objections to certain National Association of Registered Agents and Brokers (NARAB) II provisions. He said the Senate can run the clock out on Sen. Coburn and then vote on the House bill. The hope is that the bill would be passed by the end of the week. Mr. Bradner asked whether the Model Bulletin has been revised according to the language in the House bill. Ms. Lees said NAIC staff have made many of the changes to the Model Bulletin.

Aaron Brandenburg (NAIC) explained the major changes that are within the House bill. The bill extends TRIA for six years, through Dec. 31, 2020. The federal share of insured losses would fall by one percentage point per year beginning in 2016, going from 85% to 80%. The program trigger would increase by $20 million each year, rising from $100 million in 2015 to $200 million in 2020. The aggregate retention amount would increase from $27.5 million to $37.5 million, and the mandatory recoupment would increase from 133% to 140%. The bill requires reporting of data related to premium, geographic location, pricing and take-up to the U.S. Department of the Treasury (Treasury) Secretary beginning in 2016. The bill also calls for the Treasury Secretary to conduct a study on certification within nine months that would establish a reasonable timeline to certify an act of terrorism. The bill would also require, within two years, a Government Accountability Office (GAO) study on the viability and effects of collecting upfront premiums, and creating a capital reserve fund and a study of small insurer competitiveness. The bill sets up an Advisory Committee on Risk-Sharing Mechanisms that would provide advice, recommendations and encouragement with respect to the creation and development of nongovernmental risk-sharing mechanisms. Ms. Less said a revised Model Bulletin would need to be adopted by the Working Group if a bill is passed.

2. Discussed Expedited Filing Procedures

Mr. Brandenburg explained that there have been questions about the expedited filing process within the Model Bulletin. Ms. Jacobi said language had been altered for states that mandate SERFF, and language would remain for states that do not mandate SERFF. Ms. Pallozzi said the expedited filing transmittal form might not be needed if a company is using SERFF. Mr. Brandenburg said that form is completed within SERFF, so deleting the paragraph about the form may not be correct.

Stephen Clarke (ISO) said the expedited filing process was developed when SERFF was not available in all states. He said the transmittal document was developed so a filer could fill out one form to be used in all states. He asked if the expedited form were eliminated, would all other state filing forms that had been omitted come back into play. He said this would delay the filing process. He asked about the possibility of creating a certified filing type of insurance (TOI) within SERFF that would help identify filings as expedited filings. Ms. Pallozzi said the language in this section of the Model Bulletin needs to be revisited. Mr. Clarke said the expedited form historically eliminated the need to fill out any other state filing forms. Eric Nordman (NAIC) said a problem insurance companies face is one of timing. There is no way they can fill out all forms by Jan. 1. He said states previously agreed to an expedited process. This was a single sheet without the typical submission forms. He asked whether an abbreviated filing process is something the states would want to consider. He said many filings would come to the states with an effective date of Jan. 1. He said the expedited process was done by states in both 2005 and 2007. Ms. Lees said states would probably want to consider an expedited process given the practical problems that will arise. Ms. Pallozzi said she thought states would encourage an expedited process since the NAIC has fought for the reauthorization of TRIA. Mr. Nordman asked that states think about how to handle the technical compliance process within their rates and forms units.
Ms. Coombs asked whether it was possible to utilize interline filings as the product code within SERFF so companies do not have to make filings by line of business and to have a subcode of interline for terrorism. She said this would distinguish what needed to be expedited. Joy Morrison (NAIC) said from a technical perspective, SERFF could be programmed to do that. She did caution states to think about how those filings submitted under a different product code might affect the reporting state’s conduct. Ms. Coombs did not think this would be a problem. Mr. Clarke said this solution would help with not filling out individual forms, but he would want to be sure the system knew that other forms were not required. He thought a terrorism TOI would help differentiate filings. Mr. Bradner said a terrorism filing type could be used for rates and rules. He said the TOIs and sub-TOIs would stay the same. Ms. Morrison said that is an option. Ms. Dutill said terrorism could be a sub-TOI. Ms. Pallozzi said she wants to make sure states are able to track and search the terrorism filings. Courtney Mayorga (NAIC) said using the filing type would allow for searching and reporting. She said the SERFF staff could help states acquire the data. Ms. Coombs said if the line of business is interline, the company would not have to make line-by-line filings. Mr. Bradner said he would prefer the companies make filings line-by-line.

Robert Woody (Property Casualty Insurers Association of America—PCI) recommended that the paragraph in the Model Bulletin about prior approval states waiving requirements be left in the bulletin, rather than deleted. Mr. Brandenburg said that paragraph and another discussing speed to market initiatives should be reevaluated to see if they should remain in the Model Bulletin.

Mr. Bradner asked whether a checklist would be helpful that identifies the areas of the form that comply with the new TRIA extension if a company has not added additional exclusionary language outside TRIA. Mr. Clarke said the filing should stand by itself as it will indicate the changes as they relate to TRIA.

Ms. Dutill said ISO files on behalf of more than half of the industry. Mr. Clarke said this is correct. She said a redline document will make it easy to see what is changed. Mr. Nordman asked whether ISO would be filing notices. Mr. Clarke said there are two line-item disclosures similar to the notices. He said the NAIC has separate notices. The ISO disclosures satisfy the requirement for line-item disclosure of premium and the federal share. Mr. Nordman said in the past, the NAIC has worked with Treasury staff to look at that as a safe harbor for insurers so he can reach out to FIO.

Mr. Ehlinger asked whether states would have a Word version of the Model Bulletin in order to customize it. Mr. Brandenburg said that would be available for all states.

Having no further business, the Terrorism Insurance Implementation (C) Working Group adjourned.
The Terrorism Insurance Implementation (C) Working Group of the Property and Casualty Insurance (C) Committee met in Washington, DC, Nov. 17, 2014. The following Working Group members participated: Benjamin M. Lawsky, Chair, represented by Martha Lees (NY); Jill Jacobi (CA); George Bradner (CT); Michael Gould (DE); Robert Ridenour (FL); James Stephens (IL); Martin Hazen (KS); Angela Nelson (MO); Carl Sornson (NJ); Cue Nguyen (OK); Paula Pallozzi (RI); Mark Worman (TX); and Rebecca Nichols (VA). Also participating was: Lori K. Wing-Heier (AK).

1. **Adopted its Oct. 1 and Aug. 17 Minutes**

   Upon a motion by Ms. Nelson, seconded by Mr. Hazen, the Working Group adopted its Oct. 1 (Attachment Nine-A) and Aug. 17 (see NAIC Proceedings – Summer 2014, Property and Casualty Insurance (C) Committee, Attachment Six) minutes.

2. **Received an Update on TRIA**

   Anthony Cotto (NAIC) said the dynamic related to reauthorization of the federal Terrorism Risk Insurance Act (TRIA) only changed minimally with the recent elections. He said the NAIC position has remained the same, as the NAIC continues to support a long-term reauthorization of TRIA. He said state insurance regulators have concerns over a possible short-term, such as six months, reauthorization. He said TRIA could be reauthorized any time before the end of 2014 or it could even lapse. Ms. Lees asked about a letter to the U.S. Congress that the NAIC recently drafted. Mr. Cotto said the letter indicates that the NAIC supports a long-term reauthorization and stresses that a short-term reauthorization would not alleviate the current uncertainty in the market. He said this letter will likely be sent to Congress soon, assuming Congress continues to take no action.

3. **Discussed Plans to Revise the Model Bulletin, Expedited Filing Forms and Policyholder Disclosures**

   Ms. Lees said the model bulletin, expedited filing forms, and policyholder disclosures will need to be edited once it is known what the final TRIA reauthorization bill looks like. She said drafts have been marked up and were discussed on the Working Group’s Oct. 1 conference call. Once the bill’s language is known, the Working Group will need to quickly meet via conference call to make final changes to the documents. Ms. Lees said a section stating that terrorism exemptions are not allowed for workers’ compensation insurance will be added to the model bulletin. She also described changes that were agreed to that will add different language based on whether SERFF is mandated in a state. Ms. Lees said the most recent changes will be distributed to the Working Group for comment.

4. **Heard a Presentation Regarding Issues Concerning the Potential Reauthorization of TRIA**

   Robert Woody (Property Casualty Insurers Association of America—PCI) said it is unknown whether Congress will pass a long-term reauthorization of TRIA with significant changes or a short-term reauthorization where industry and regulators will need to revisit these issues again in the near future. A short-term reauthorization increases the chances that the next reauthorization will make substantial changes to the structure of the program. He said some insurers might reduce terrorism exposures and some insurers may experience pressure from ratings agencies to shed risk. Mr. Woody said insurers will react quickly to accommodate changes, such as those to policy-issuance systems, once reauthorization does occur. He noted that regulators would need to revise the model bulletin, although a short-term reauthorization would not require many changes to the bulletin. He said a bill with many changes would lead to a complex bulletin. He said that Verisk Insurance Services Office (ISO), and/or other organizations or individual insurers, would need to revamp coverage forms and then submit them to regulators. He said an expedited filing process would be put in place in many states, allowing for file and use rather than prior approval. He said waiting periods might be waived, although those states with the standard fire policy cannot waive requirements.
Tom Glassic (PCI) said there are positive signs in Congress that the U.S. House of Representatives is working with the U.S. Senate on TRIA reauthorization. Mr. Glassic provided regulators with documents showing how a short-term reauthorization would threaten the economy. He said it is not known what form the new program might have. He said the impact of a short-term reauthorization is unknown and impossible to quantify, as it has never happened before. He asked regulators to let the PCI know if they are aware of nonrenewals.

Ms. Pallozzi asked who drafted the documents Mr. Glassic distributed concerning economic effects of a short-term reauthorization. Mr. Glassic said the information was drafted by policyholders, not the PCI. Ms. Jacobi asked whether existing policy exclusions would need to be revised if there were a six-month reauthorization. Mr. Woody said the exclusions are not date-specific, so the existing exclusions will continue to be used by insurers. Ms. Lees asked what the odds might be that TRIA lapses and is not reauthorized. Mr. Glassic said a lapse is not outside the realm of possibility and should be on the radar.

Director Wing-Heier described how a short-term reauthorization would be disruptive to policyholders. She said small contractors have not built this uncertainty into their bids. She said the NAIC should communicate to Congress the unpredictability of pricing and how contractors have difficulty with changes in pricing when making bids.

Amanda Wise (American Insurance Association—AIA) said that, though there has been a lot of conversation about a short-term reauthorization, the current bills are not short-term. She said Congress has about 10 days left in session. She said senators have said they do not wish to deal with TRIA next year, so this may lead to them actually taking action on a longer-term reauthorization. She said there may not even be time to introduce a short-term bill. She said pressure should be on the House to negotiate or take up the Senate bill. Mr. Glassic said House leadership has communicated that if it cannot pass the five-year House bill, it may move toward a short-term reauthorization.

Steve Clark (ISO) said he has heard from participating ISO insurers that the uncertainty over TRIA has been disruptive. He said conditional exclusions will come into effect on Jan. 1, 2015, and a six-month extension will extend uncertainty to the second-busiest renewal season for commercial risks. He said people are making decisions today on coverages and costs based on an assumption of risk that may not hold throughout the policy period. He said brokers and agents have said they do not know what to tell clients. Mr. Clark said major changes to the program will create disruption in the market. He said an entire book of business may need new forms, as well as new rating and policyholder notices. He also pointed out that the House bill creates a carve-out for small insurers, which could be problematic in the states that do not allow exclusions outside of TRIA. He said the ISO is staying abreast of potential changes, as; the industry and regulators will have to act quickly; and the ISO is ready to assist the Working Group.

Mona Carter (National Council on Compensation Insurance—NCCI) said the issues for workers’ compensation insurance are different because there cannot be exclusions in workers’ compensation coverage. She said the uncertainty surrounding TRIA is disruptive to the workers’ compensation insurance market. She said residual markets could rapidly increase depending on what happens with TRIA.

Having no further business, the Terrorism Insurance Implementation (C) Working Group adjourned.
Discuss Provisions Related to Data Collection Contained within the Terrorism Risk Insurance Program Reauthorization Act of 2015
Provision in the Terrorism Risk Insurance Program
Reauthorization Act of 2015 Related to Data Collection

(h) REPORTING OF TERRORISM INSURANCE DATA.—
(1) AUTHORITY.— During the calendar year beginning on January 1, 2016, and in each calendar year thereafter, the Secretary shall require insurers participating in the Program to submit to the Secretary such information regarding insurance coverage for terrorism losses of such insurers as the Secretary considers appropriate to analyze the effectiveness of the Program, which shall include information regarding—
(A) lines of insurance with exposure to such losses;
(B) premiums earned on such coverage;
(C) geographical location of exposures;
(D) pricing of such coverage;
(E) the take-up rate for such coverage;
(F) the amount of private reinsurance for acts of terrorism purchased; and
(G) such other matters as the Secretary considers appropriate.
(2) REPORTS.—Not later than June 30, 2016, and every other June 30 thereafter, the Secretary shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate that includes—
(A) an analysis of the overall effectiveness of the Program;
(B) an evaluation of any changes or trends in the data collected under paragraph (1);
(C) an evaluation of whether any aspects of the Program have the effect of discouraging or impeding insurers from providing commercial property casualty insurance coverage or coverage for acts of terrorism;
(D) an evaluation of the impact of the Program on workers’ compensation insurers; and
(E) in the case of the data reported in paragraph (1)(B), an updated estimate of the total amount earned since January 1, 2003.
(3) PROTECTION OF DATA.—To the extent possible, the Secretary shall contract with an insurance statistical aggregator to collect the information described in paragraph (1), which shall keep any nonpublic information confidential and provide it to the Secretary in an aggregate form or in such other form or manner that does not permit identification of the insurer submitting such information.
(4) ADVANCE COORDINATION.—Before collecting any data or information under paragraph (1) from an insurer, or affiliate of an insurer, the Secretary shall coordinate with the appropriate State insurance regulatory authorities and any relevant government agency or publicly available sources to determine if the information to be collected is available from, and may be obtained in a timely manner by, individually or collectively, such entities. If the Secretary determines that such data or information is available, and may be obtained in a timely matter, from such entities, the Secretary shall obtain the data or information from such entities. If the Secretary determines that such data or information is not so available, the Secretary may collect such data or information from an insurer and affiliates.
(5) CONFIDENTIALITY.—
(A) RETENTION OF PRIVILEGE.—The submission of any non-publicly available data and information to the Secretary and the sharing of any non-publicly available data with or by the Secretary among other Federal agencies, the State insurance regulatory authorities, or any other entities under this subsection shall not constitute a waiver of, or otherwise affect, any privilege arising under Federal or State law (including the rules of any Federal or State court) to which the data or information is otherwise subject.

(B) CONTINUED APPLICATION OF PRIOR CONFIDENTIALITY AGREEMENTS.—Any requirement under Federal or State law to the extent otherwise applicable, or any requirement pursuant to a written agreement in effect between the original source of any non-publicly available data or information and the source of such data or information to the Secretary, regarding the privacy or confidentiality of any data or information in the possession of the source to the Secretary, shall continue to apply to such data or information after the data or information has been provided pursuant to this subsection.

(C) INFORMATION-SHARING AGREEMENT.—Any data or information obtained by the Secretary under this subsection may be made available to State insurance regulatory authorities, individually or collectively through an information-sharing agreement that—

(i) shall comply with applicable Federal law; and
(ii) shall not constitute a waiver of, or otherwise affect, any privilege under Federal or State law (including any privilege referred to in subparagraph (A) and the rules of any Federal or State court) to which the data or information is otherwise subject.

(D) AGENCY DISCLOSURE REQUIREMENTS.—Section 552 of title 5, United States Code, including any exceptions thereunder, shall apply to any data or information submitted under this subsection to the Secretary by an insurer or affiliate of an insurer.