The Terrorism Insurance Implementation (C) Working Group of the Property and Casualty Insurance (C) Committee met in New York, NY, Aug. 4, 2019. The following Working Group members participated: Martha Lees, Chair (NY); Joanne Bennett (AK); Ken Allen and Susan Stapp (CA); George Bradner (CT); Sean O’Donnell (DC); Virginia Christy (FL); Judy Mottar (IL); Kevin Beagan (MA); Angela Nelson (MO); Fred Fuller (NC); Justin Zimmerman (NJ); Cuc Nguyen (OK); Beth Vollucci (RI); Mark Worman (TX); and Rebecca Nichols (VA).

1. Discussed the Reauthorization of TRIA

Ms. Nelson said Director Chlora Lindley-Myers (MO) represented the NAIC at a Congressional roundtable discussing the potential reauthorization of the federal Terrorism Risk Insurance Act (TRIA) on May 31 in Kansas City, MO. The roundtable was hosted by U.S. House of Representatives (House) Committee on Financial Services members, Representative Lacy Clay and Representative Emanuel Cleaver. Director Lindley-Myers said the roundtable was attended by insurance companies, reinsurance companies, trade associations, and real estate and business groups.

Ms. Nelson said Director Lindley-Myers reiterated state insurance regulators’ support for the Terrorism Risk Insurance Program (TRIP) and a long-term reauthorization. She said all roundtable participants expressed a desire for reauthorization, either for a lengthy period or permanently. She said the industry expressed their desire for there to be no changes to TRIP. She said some supported the U.S. Congress (Congress) revisiting TRIA periodically, while others said Congress could always do that even if not up for reauthorization.

Ms. Nelson said there was some concern about how a cyberattack could be certified if an actor could not be identified. Participants in the roundtable desired more certainty from the U.S. Department of the Treasury (Treasury Department) regarding certification. She said in a response to some claiming the program is a bailout, industry members said most insurers would no longer write insurance risk without the program because the risk is uninsurable. The industry also noted that Congress would be paying for losses on the backend if there were not a program that could obtain recoupment. Participants said they do not want the program to lapse, as that would create problems as companies begin to issue conditional exclusions. She said the industry stated that the data call has been running more smoothly since it became a joint data call between state insurance regulators and the Treasury Department.

Brooke Stringer (NAIC) said TRIA is set to expire Dec. 31, 2020, and the NAIC is encouraged that the U.S. Senate (Senate) Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services have begun focusing on reauthorization and holding hearings far in advance of its expiration. She said those committees are evaluating how TRIA has worked, how it has affected various stakeholders, and what the private market’s current capacity is to provide terrorism insurance. The committees are also exploring TRIA’s coverage of cyber-related risk and asking questions about any suggested changes related to nuclear, biological, chemical or radiological (NBCR) coverage. Ms. Stringer said Congress members have raised affordability concerns for religious institutions that have increasingly become targets for terrorist activity.

Ms. Stringer said she expects to see initial drafts of legislation over the next year. She said the NAIC supports a long-term reauthorization of seven to 10 years, and it will remain engaged with Congress as they begin considering reauthorization legislation. She also noted that the Government Accountability Office (GAO) is now conducting a study on TRIA reauthorization. She said the Treasury Department’s Advisory Committee on Risk-Sharing Mechanisms will be meeting on Aug. 12 to discuss potential recommendations for the Federal Insurance Office (FIO) on private market risk-sharing mechanisms.

2. Heard a Report on the 2019 Terrorism Risk Insurance Data Call

Ms. Lees said the data on the joint state insurance regulator/Treasury Department data call was due by May 15. She said NAIC staff worked with companies on missing or incorrect filings, and it has conducted preliminary analysis of the data. She
said state insurance regulators took comment from the industry earlier in the year on the State Supplement portion of the data call and subsequently simplified the data call and reduced certain data elements. She noted that the State Supplement data is due Sept. 30, and state insurance regulators hope the simplified data call will result in better quality data that can be analyzed.

3. Heard a Presentation from Aon

Aaron Davis (Aon) said Aon represents property buyers in large companies, as well as smaller insurers on the reinsurance side. He said Aon focuses on the terrorism threat environment for clients. He said more “lone wolf” attacks are being seen with less coordination from a global perspective. He said more political attacks are being seen, as well as the emergence of cyberthreats. He said cyberattacks can affect power systems and infrastructure with enormous losses, bringing great concern to policyholders and insurers. NBCR threats are also concerning.

Mr. Davis said TRIA has worked to create a functional and affordable market. He said Aon supports the reauthorization of TRIA, and it should be extended for a minimum of 10 years. He said the federal backstop is meant to respond to catastrophic events that have greater losses than 9/11. He said an event similar to 9/11 would be retained entirely by the private market.

Mr. Davis presented take-up rates for various industry sectors, showing take-up rates above 80% for health care, entertainment, real estate and retail industries. Take-up rates are lower for manufacturing and energy sectors. Rates are comparatively high in the financial sector and lower in energy and manufacturing sectors. He said overall, about 72% of businesses are purchasing terrorism insurance. Terrorism limits tend to be higher in the technology, public and health care sector.

Mr. Davis said terrorism premium as a percentage of property premium and as a percentage of total insured value has fallen by more than 80% since 2002. In the same time period, take-up rates have more than doubled.

Binny Birnbaum (Center for Economic Justice—CEJ) asked what it would cost from an actuarial perspective if insurers had to purchase reinsurance. Mr. Davis said the price would vary based on the policyholder’s size and risk profile. In the absence of the mandatory offer of terrorism coverage required by TRIA, fewer insurers would offer coverage and prices would be higher. Mr. Davis said there are estimates that since TRIA began about $24 to $25 billion of premium has been collected. Mr. Birnbaum asked what the value of the reinsurance provided by taxpayers is. Mr. Davis noted that there is a payback provision in place after the fact if the federal government pays upfront for losses. He said terrorism risk by nature does not lend itself to an actuarial price like other insurance products, due to the lack of historical data and unpredictability of the risk.

Ms. Nelson asked for a clarification on whether Aon data was focusing on Fortune 1000 companies. Mr. Davis said they also focus on commercial risk middle market and reinsurance on behalf of carriers, so the risk profile is very broad.

4. Heard a Report on Terrorism Risk Insurance Data

Aaron Brandenburg (NAIC) reported on terrorism risk insurance data received in the portion of the data call that was due May 15. He said most files have been received, but data from at least three large insurers is not included in the current analysis, so it should be considered preliminary. He said insurers filed approximately $157 billion of TRIP-eligible premium, $146 billion by non-small insurers and $11 billion by small insurers, along with 80 million policies from non-small insurers. He said the largest lines of business were other liability, commercial multi peril – non-liability, and inland marine.

As for the actual total premium with terrorism coverage, approximately $105 billion of the premium has terrorism coverage associated with it. The actual amount charged for terrorism coverage was around $2.4 billion. This amounts to about 2.3% of the total premium with terrorism coverage.

Mr. Brandenburg said take-up rates were calculated by policy, which could only be done for non-small insurers premiums. The highest percentage of policies with terrorism coverage occurred in the commercial multi peril lines and inland marine, with the smallest percentages in other liability and ocean marine. He said the Western U.S. had the highest take-up rates by policy, typically around 80%, with the Northeast also fairly high in the mid 70% range. When looking at the percentage of premium with terrorism coverage, high percentages were found in boiler and machinery and commercial multi peril, and lower percentages in aircraft and ocean marine. Non-small insurers had 67% of total premium with terrorism coverage, while
small insurers had around 60% with terrorism coverage. Northeastern states were fairly high, while Florida was relatively lower.

Mr. Brandenburg reviewed the percentage of policies with terrorism coverage that did not have an explicit charge. The states with low percentages of policies without an explicit charge included Florida and the Northeast, while the Midwest and California had fairly high percentages of policies with no explicit terrorism charge. He said boiler and machinery and commercial multiperil have higher percentages of policies with a premium charge for terrorism coverage.

Mr. Brandenburg said when looking at the percentage of property exposures covered by terrorism insurance, California, Connecticut and Florida were fairly low compared to the Midwest, Southeast, and parts of the Northeast. For liability exposures, high coverage rates were found in the Northeast, Florida and Texas compared to the West.

Mr. Brandenburg said commercial multiperil, other liability and allied lines were the lines of business with the highest percentage of premium allocated to terrorism risk. Products liability, boiler and machinery, and inland marine were comparatively lower. The jurisdictions with the highest percentages of premium allocated to terrorism risk included Michigan, Nevada, New York and Washington, DC. Western and Southeastern states had fairly low percentages. The average terrorism premiums for policies when there is terrorism coverage were higher in Hawaii, Louisiana, New York, Texas, Washington, DC, and many of the Northeastern states. Mr. Brandenburg said inland marine and ocean marine have the majority of property exposure where NBCR is not included.

Mr. Brandenburg said the NAIC has not completed an analysis looking at cyberinsurance as it relates to terrorism coverage, as well as some other data elements included within the data call. In addition, data from alien surplus lines insurers has some errors, so analysis of that data will be presented later.

Ms. Lees asked whether the charts and graphs presented could be made available. Mr. Brandenburg noted that the data presented was in Tableau, and the NAIC would like to update the dataset with additional company data before releasing something publicly. He said he would work with the Working Group in determining next steps.

Ms. Nelson said when looking at ZIP code data, one can see differences in cities, such as take-up rates being fairly high for the state of Missouri, but low for Kansas City, MO and St. Louis, MO.

5. **Announced CIPR Policy Workshop on TRIA**

Ms. Lees reported that the Center for Policy and Research (CIPR) would be hosting a policy research workshop on TRIA later on Aug. 4. She said the workshop would preset background on the current program, including loss sharing scenarios, in order to target relevant policy research related to renewal of the program.

Having no further business, the Terrorism Insurance Implementation (C) Working Group adjourned.