



Report to the Chairman, Subcommittee  
on Financial Institutions and Consumer  
Protection, Committee on Banking,  
Housing, and Urban Affairs, U.S. Senate

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April 2020

# TERRORISM RISK INSURANCE

## Program Changes Have Reduced Federal Fiscal Exposure

# GAO Highlights

Highlights of [GAO-20-348](#), a report to the Chairman, Subcommittee on Financial Institutions and Consumer Protection, Committee on Banking, Housing, and Urban Affairs, U.S. Senate

## Why GAO Did This Study

Congress enacted TRIA to help ensure the availability and affordability of commercial property/casualty insurance for terrorism risk and to address potential effects on the economy in the absence of such coverage. Under the TRIA program, which is set to expire December 31, 2027, the government and insurers share losses following a certified act of terrorism. TRIA creates explicit fiscal exposure because the government is legally required to make payments to insurers after such an event, but there also may be some implicit exposure from an expectation of federal spending. To date, Treasury has not certified any acts of terrorism.

GAO was asked to examine federal fiscal exposure under the TRIA program. This report (1) examines changes in explicit fiscal exposure under TRIA and how insurers have adjusted to the changes, and (2) describes situations in which implicit fiscal exposures may arise and might become explicit.

To conduct this work, GAO reviewed the TRIA statute and related studies, analyzed Treasury data, and interviewed a nongeneralizable sample of insurers of different sizes providing various types of insurance.

## What GAO Recommends

GAO recommends that Treasury communicate how it would calculate losses, as they relate to policyholder retention amounts, in determining the TRIA program trigger and cap. Treasury agreed with the recommendation.

View [GAO-20-348](#). For more information, contact Daniel Garcia-Diaz at (202) 512-8678 or [garciadiazd@gao.gov](mailto:garciadiazd@gao.gov).

April 2020

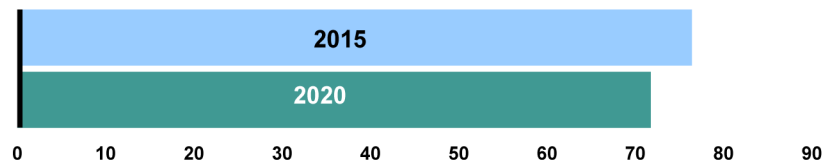
# TERRORISM RISK INSURANCE

## Program Changes Have Reduced Federal Fiscal Exposure

### What GAO Found

Terrorism Risk Insurance Act (TRIA) reauthorizations through 2015 have decreased federal fiscal exposure, and insurers have adjusted by managing their increased risk. Changes in the TRIA program that the Department of the Treasury (Treasury) administers—particularly incremental changes since 2015—reduced the government’s explicit fiscal exposure from a certified act of terrorism (see figure). For example, by increasing the program trigger—minimum amount of industry-insured losses needed to activate the program—Congress potentially reduced the number of events that qualify for federal payments. As explicit federal fiscal exposure has decreased, insurer exposure has increased. Nevertheless, the market for terrorism risk has remained stable. However, some insurers are uncertain how Treasury defines insured losses for the purposes of calculating whether the program’s \$200 million trigger or \$100 billion cap have been reached. For example, some insurers interpreted insured losses to include the portion of losses policyholders retain, which was different from Treasury’s interpretation. Differences in interpretations could lead to disputes between insurers and Treasury following a terrorist event. One purpose of TRIA is to stabilize the market following a terrorist event. Communicating how it would calculate losses toward these program amounts could help Treasury alleviate uncertainty in the insurance market following a terrorist event.

**Illustrative Example of Explicit Federal Fiscal Exposure from a Terrorist Event with \$100 Billion in Insured Losses, 2015 and 2020**



Federal losses (dollars in billions)

Source: GAO analysis of Department of the Treasury premium data and Terrorism Risk Insurance Program Reauthorization Act (TRIA) provisions. | GAO-20-348

Note: This analysis assumes that insurers that sustained losses in each terrorist event had earned 25 percent of all direct-earned premiums in eligible insurance lines.

The government also has implicit fiscal exposure following a terrorist event, arising from expectations based on current policy or past practices that it may provide assistance, even when it is not legally required to do so. Although the government may not act on these expectations, the government’s implicit exposure might become explicit if it

- chooses not to recoup the full federal share of losses from property/casualty policies, as allowed under TRIA, to prevent further stresses on the insurance market after a major terrorist event;
- assists companies with uninsured or underinsured losses after a terrorist event or when losses exceed the program cap;
- covers uninsured losses from a nuclear, biological, chemical, or radiological terrorism event; or
- assists insurers with losses that did not meet TRIA’s trigger for loss sharing, or that were incurred in excluded lines of coverage, such as life and health insurance.

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## Abbreviations

NAIC	National Association of Insurance Commissioners
NBCR	nuclear, biological, chemical, or radiological
NFIP	National Flood Insurance Program
Treasury	Department of the Treasury
TRIA	Terrorism Risk Insurance Act of 2002 and its reauthorizations

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April 20, 2020

The Honorable Tim Scott  
Chairman  
Subcommittee on Financial Institutions and Consumer Protection  
Committee on Banking, Housing, and Urban Affairs  
United States Senate

Dear Mr. Chairman:

After the terrorist attacks on September 11, 2001, insurers generally stopped covering terrorism risk because they determined that the risk of loss was unacceptably high, relative to the premiums they could charge. In November 2002, Congress enacted the Terrorism Risk Insurance Act of 2002 (TRIA) to help ensure the continued availability and affordability of commercial property/casualty insurance for terrorism risk and to address concerns that the lack of terrorism risk insurance could have significant effects on the economy.<sup>1</sup> TRIA was amended and reauthorized in 2005, 2007, 2015, and 2019.<sup>2</sup> In this report, we refer to the original act, its amendments, and its reauthorizations collectively as TRIA.

TRIA requires the Department of the Treasury (Treasury) to administer a program in which the federal government would share some of the losses with private insurers in the event of a certified act of terrorism.<sup>3</sup> TRIA includes provisions for Treasury to recoup the federal share of losses after a certified act of terrorism. The losses the federal government would cover before such recoupment create an explicit fiscal exposure for the government—that is, payments the federal government is legally required

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<sup>1</sup>Pub. L. No. 107-297, 116 Stat. 2322 (2002).

<sup>2</sup>See Terrorism Risk Insurance Extension Act of 2005, Pub. L. No. 109-144, 119 Stat. 2660 (2005); Terrorism Risk Insurance Program Reauthorization Act of 2007, Pub. L. No. 110-160, 121 Stat. 1839 (2007); Terrorism Risk Insurance Program Reauthorization Act of 2015, Pub. L. No. 114-1, 129 Stat. 3 (2015); and Terrorism Risk Insurance Program Reauthorization Act of 2019, Pub. L. No. 116-94 (2019).

<sup>3</sup>TRIA states that the Secretary of the Treasury, in consultation with the Secretary of Homeland Security and the Attorney General of the United States, shall determine whether an event should be certified as an act of terrorism, based on certain criteria. An act cannot be certified if the aggregate property/casualty insurance losses resulting from the act do not exceed \$5 million. The procedures for making the certification determination were issued by Treasury as an interim final rule on December 7, 2016. The interim final rule was renumbered, along with the rest of TRIA regulations, with a final rule on December 21, 2016, but the certification determination remains an interim final rule.

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to make immediately or in the future. Additionally, a certified act of terrorism could create an implicit fiscal exposure—that is, spending the federal government might be expected to incur based on current policies or past practices. For example, the government might be expected to provide assistance to policyholders or insurers to address long-term effects after a terrorist event although it is not specifically provided for under TRIA. To date, no acts of terrorism have been certified under TRIA.

Policymakers and insurance industry representatives have raised questions about the role of the federal government in supporting terrorism risk insurance. Although Congress originally intended TRIA to provide temporary support (about 3 years), it reauthorized the program several times, most recently in December 2019—a recognition that a federal role in supporting this market still is needed. TRIA currently is set to expire on December 31, 2027.

You asked us to review potential taxpayer exposure under TRIA. This report (1) examines changes in explicit fiscal exposure under TRIA and how insurers have adjusted to the changes; and (2) describes situations in which implicit fiscal exposures may arise and might become explicit.<sup>4</sup>

To address these objectives, we reviewed TRIA, its 2005, 2007, 2015, and 2019 amendments and reauthorizations, and implementing regulations.<sup>5</sup> We also reviewed our prior work on TRIA and federal fiscal exposures.<sup>6</sup> We reviewed reports from Treasury, the Congressional

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<sup>4</sup>We plan to issue a separate report addressing the current market for terrorism risk insurance and Treasury's certification and claims processes in April 2020.

<sup>5</sup>31 C.F.R. Part 50.

<sup>6</sup>GAO, *Terrorism Risk Insurance: Market Challenges May Exist for Current Structure and Alternative Approaches*, [GAO-17-62](#) (Washington, D.C.: Jan. 12, 2017); *Terrorism Risk Insurance: Comparison of Selected Programs in the United States and Foreign Countries*, [GAO-16-316](#) (Washington, D.C.: Apr. 12, 2016); *Terrorism Insurance: Treasury Needs to Collect and Analyze Data to Better Understand Fiscal Exposure and Clarify Guidance*, [GAO-14-445](#) (Washington, D.C.: May 22, 2014); and *Terrorism Insurance: Measuring and Predicting Losses from Unconventional Weapons Is Difficult but Some Industry Exposure Exists*, [GAO-06-1081](#) (Washington, D.C.: Sep. 25, 2006). We also examine explicit and implicit fiscal exposures in GAO, *Fiscal Exposures: Federal Insurance and Other Activities That Transfer Risk or Losses to the Government*, [GAO-19-353](#) (Washington, D.C.: Mar. 27, 2019); *Fiscal Exposures: Improving Cost Recognition in the Federal Budget*, [GAO-14-28](#) (Washington, D.C.: Oct. 29, 2013); and *Fiscal Exposures: Improving the Budgetary Focus on Long-Term Costs and Uncertainties*, [GAO-03-213](#) (Washington, D.C.: Jan. 24, 2003).

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Budget Office, and Congressional Research Service.<sup>7</sup> We also reviewed relevant reports from academic researchers and other industry stakeholders.<sup>8</sup> We interviewed Treasury officials and representatives from the National Association of Insurance Commissioners (NAIC) and industry stakeholders, including selected insurers, relevant insurance trade associations, a rating agency, risk modelers, and an insurance broker. We selected five insurers to interview because they provide terrorism coverage to businesses and reflect a mix of sizes and category of insurer. In interviews, we asked industry stakeholders about aspects of the program and the insurance market, and risks that could lead to implicit exposure. The results of these interviews are not generalizable.

To determine the change in the explicit fiscal exposure from 2015 to 2020 and how insurers have adjusted to these changes, assess the change in market participation by insurer type, and illustrate loss sharing following a terrorist event, we analyzed Treasury's aggregated terrorism risk insurance data. We analyzed loss scenarios using data and informed assumptions about TRIA-related premiums and deductibles. By performing electronic tests and interviewing staff from Treasury, its data contractor, and industry stakeholders, we determined that the Treasury data used in this report were sufficiently reliable for providing illustrative examples of changes in market participation and loss sharing from 2015 to 2020.

The external communication component of internal control—that management should externally communicate the necessary quality information to achieve the entity's objectives—was significant to this

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<sup>7</sup>Department of the Treasury, Federal Insurance Office, *Study of Small Insurer Competitiveness in the Terrorism Risk Insurance Market* (Washington, D.C.: June 2019); *Report on the Effectiveness of the Terrorism Risk Insurance Program* (Washington, D.C.: June 2018); *Study of Small Insurer Competitiveness in the Terrorism Risk Insurance Market* (Washington, D.C.: June 2017); and *Report on the Overall Effectiveness of the Terrorism Risk Insurance Program* (Washington, D.C.: June 2016). Also see Congressional Budget Office, *Federal Reinsurance for Terrorism Risk in 2015 and Beyond*, Working Paper 2015-04 (Washington, D.C.: June 2015); and Congressional Research Service, *Terrorism Risk Insurance Act (TRIA)*, 7-5700 (Washington, D.C.: Feb. 1, 2019).

<sup>8</sup>For example, see Erwann Michel-Kerjan and Howard Kunreuther, "A Successful (Yet Somewhat Untested) Case of Disaster Financing: Terrorism Insurance Under TRIA, 2002-2020," *The Risk Management and Insurance Review*, vol. 21, no. 1 (2018); Marsh and McLennan Companies, Inc., *2019 Terrorism Risk Insurance Report* (May 2019); and A.M. Best Company, Inc., *The Treatment of Terrorism Risk in the Rating Evaluation* (Oct. 13, 2017).



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objective, along with the related principle that management communicate quality information externally through reporting lines so that external parties can help the entity achieve its objectives and address related risks.<sup>9</sup> We assessed the content of Treasury's external communications, including about TRIA statutory language and Treasury's program regulations and guidance against this principle. We also obtained views from Treasury officials and industry stakeholders.

To identify situations in which implicit fiscal exposure may arise and might become explicit, we analyzed TRIA's program design and reviewed our prior work for sources of implicit fiscal exposures faced by other disaster insurance programs. To ensure the reasonableness and completeness of our list of sources, we consulted with industry stakeholders and made modifications as appropriate. To describe these situations, we reviewed reports on industry effects that could lead to an expectation of assistance by the government and conducted a literature review on the effects of TRIA changes on insurers. Finally, to obtain insight into the commercial property/casualty market, we interviewed industry stakeholders as noted above on implicit fiscal exposures. For more detailed information on our scope and methodology, see appendix I.

We conducted this performance audit from July 2019 to April 2020, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

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### Eligibility for TRIA

The purposes of TRIA are to (1) protect consumers by addressing market disruptions and ensuring the continued widespread availability and affordability of commercial property/casualty insurance for terrorism risk; and (2) allow for a transitional period for the private markets to stabilize, resume pricing of such insurance, and build capacity to absorb any future

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<sup>9</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

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losses, while preserving state insurance regulation and consumer protections.<sup>10</sup>

TRIA only applies to certain commercial property/casualty lines of insurance (we refer to them as TRIA-eligible lines) and excludes lines such as health and life insurance.<sup>11</sup> While the law requires insurers to make terrorism risk coverage available to commercial policyholders, commercial policyholders are not required to buy it. Additionally, the law requires an insurer to make coverage for terrorism losses available that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism. For example, an insurer offering \$100 million in commercial property coverage must offer \$100 million in coverage that is not materially different for property damage from a certified terrorist event.

Insurers may charge a separate premium to cover their terrorism risk, although some include the coverage in their base rates for all-risk policies.<sup>12</sup> The majority of terrorism risk insurance is purchased as part of these embedded policies. The remainder is purchased as stand-alone coverage. Neither insurers nor the federal government charge for the federal coverage of terrorism risk under TRIA, but the government must recoup at least some of its losses following a terrorist event.

For eligible commercial lines of property/casualty insurance, TRIA covers insured losses resulting from an act of terrorism, which is defined, in part,

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<sup>10</sup>15 U.S.C. § 6701 n. § 101(b).

<sup>11</sup>Insurance lines of business are divided into two parts: (1) property/casualty and (2) life and health. Property/casualty insurance lines are further divided into personal and commercial lines. For example, personal lines include automobile, homeowners, and renters insurance. The major commercial lines include multiple perils, fire, liability, and workers' compensation. TRIA-eligible lines are commercial lines of property/casualty insurance, including excess insurance, workers' compensation insurance, and directors' and officers' liability insurance. Subject to certain exceptions, eligible commercial lines also include aircraft (all perils), allied lines, boiler and machinery, commercial multiperil (liability and nonliability), fire, inland marine, ocean marine, other liability, and products liability. TRIA excludes reinsurance; personal property/casualty, crop, and private mortgage insurance; and commercial automobile, burglary and theft, and professional liability insurance.

<sup>12</sup>Before September 11, 2001, insurers generally did not exclude or separately charge for coverage of terrorism risks. After September 11 (and before TRIA), insurers started including substantial charges to cover terrorism risk, or excluded the coverage with the exception of workers' compensation. (States require that workers' compensation insurance cover terrorism risk and do not permit exclusions.)

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as a “violent act or an act that is dangerous” to human life, property, or infrastructure. TRIA is silent about losses from attacks with nuclear, biological, chemical, or radiological (NBCR) weapons.<sup>13</sup> Although TRIA and its reauthorizations do not specifically include cyber risk insurance as a TRIA-eligible line, Treasury issued guidance about such coverage in 2016.<sup>14</sup> The guidance stated that TRIA provisions apply to cyber risk insurance written under an embedded or stand-alone policy in TRIA-eligible lines. A cyberterrorism event could cause minor-to-severe business disruption and physical damage to property. In this report, we include losses resulting from cyberterrorism events with conventional terrorism events.

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## Public-Private Loss Sharing

Any catastrophic terrorist event presents both explicit and implicit fiscal exposure for the federal government. TRIA alleviates some of the implicit exposure through loss sharing. Under TRIA, the federal government is legally required to make payments (reimbursements to insurers): this represents an explicit fiscal exposure.<sup>15</sup> Even without a loss-sharing program, the federal government also faces implicit fiscal exposure through a potential expectation to provide policyholders or insurers assistance to address long-term effects after a terrorist event. We have defined implicit fiscal exposures as situations that create expectations for future federal spending based on current policy, past practices, or other factors.

Under TRIA, the government and insurers share losses in the event of a certified act of terrorism with insured losses above the program trigger of \$200 million and below the program cap of \$100 billion. According to the statute, Treasury cannot certify an event as an act of terrorism under TRIA if the aggregate property/casualty “insurance losses” resulting from the event are less than \$5 million. Additionally, TRIA is not triggered unless the aggregate property/casualty “insured losses” resulting from one or more certified acts in a particular calendar year reach \$200 million. Annual coverage for losses is limited (capped) so that neither the private

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<sup>13</sup>For more information on NBCR coverage, see GAO, *Terrorism Insurance: Status of Coverage Availability for Attacks Involving Nuclear, Biological, Chemical, or Radiological Weapons*, [GAO-09-39](#) (Washington, D.C.: Dec. 12, 2008).

<sup>14</sup>Guidance Concerning Stand-alone Cyber Liability Insurance Policies under the Terrorism Risk Insurance Program, 81 Fed. Reg. 95312 (Dec, 27, 2016).

<sup>15</sup>[GAO-19-353](#), [GAO-14-28](#), and [GAO-03-213](#).

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insurers nor the federal government are responsible for paying aggregate insured losses in excess of \$100 billion.<sup>16</sup> Specifically:

- **“Insured losses”** are defined in statute and regulation as any losses resulting from an act of terrorism (including an act of war in the case of worker’s compensation) generally occurring in the United States that are covered by primary or excess property/casualty insurance issued by an insurer. TRIA refers to insured losses in defining the program trigger and program cap.
- **“Insurance losses”** are not defined in statute or regulation, but TRIA refers to insurance losses in defining the event certification amount.

TRIA’s loss-sharing structure requires that insurers pay claims on covered terrorism losses and that Treasury reimburse individual insurers for losses that exceed a specified amount. According to the coshare provision, Treasury reimburses the insurer for a certain percentage (80 percent) of its losses above the insurer deductible, and the insurer is responsible for the remaining portion (20 percent).<sup>17</sup> The policyholder also may retain losses from a terrorist event in the form of an insurance deductible or self-insurance retention.<sup>18</sup> According to Treasury, losses retained by the policyholder are not considered to be “insured losses” under TRIA and do not count toward losses included in the \$200 million program trigger or \$100 billion program cap. However, this retention may be counted toward the \$5 million event certification threshold because it is calculated based on “insurance losses.”

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## Recoupment

TRIA provides for two types of recoupment—mandatory and discretionary—of the federal share of losses after a terrorism event. Figure 1 shows the claim and recoupment processes after a terrorism event resulting in losses covered by insurers and the government.

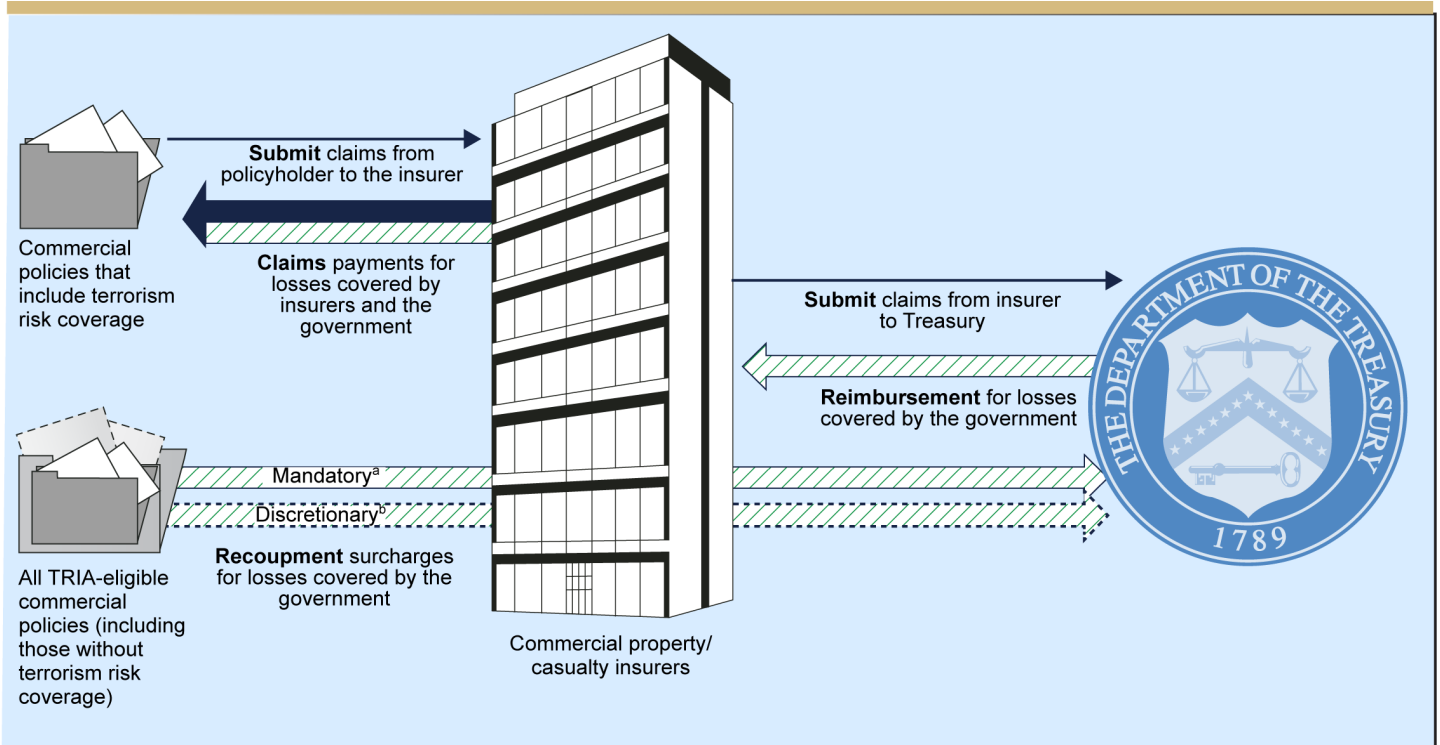
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<sup>16</sup>Once combined industry insured losses and government payments reach \$100 billion, no further government or industry payments are payable. Insurers remain liable for amounts up to their deductible, even if the \$100 billion cap is reached.

<sup>17</sup>Generally, an insurer deductible is the value of an insurer’s direct-earned premiums during the year immediately preceding the calendar year, multiplied by 20 percent. 31 C.F.R. § 50.4(p).

<sup>18</sup>When purchasing insurance coverage, policyholders may choose to have higher retention amounts in exchange for a lower premium, which may result in high retained losses after an event.

**Figure 1: Claim Payment and Recoupment Mechanisms under TRIA, as of 2020**



Source: Terrorism Risk Insurance Program Reauthorization Act of 2019 (TRIA). | GAO-20-348

<sup>a</sup>The Department of the Treasury (Treasury) sets the mandatory recoupment surcharge considering the amount to be collected and the specified recoupment time frame.

<sup>b</sup>If the federal share of losses exceeds the mandatory recoupment amount, Treasury decides whether to collect the remaining funds through discretionary recoupment. If collected, Treasury must limit the surcharge to no more than 3 percent of premiums in any year.

- **Mandatory recoupment.** TRIA requires recoupment of at least a portion of the federal share of losses if the aggregate sum of all insurers' deductibles and coshares are below an amount prescribed

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by TRIA—known as the industry aggregate retention amount.<sup>19</sup> Under mandatory recoupment, the insurers must impose and remit to Treasury a premium surcharge on all policies in TRIA-eligible lines until total industry payments reach 140 percent of any mandatory recoupment amount.<sup>20</sup> TRIA specifies the collection time frame (from 1 year and 9 months to about 6.5 years, based on the date of the event).<sup>21</sup> Treasury considers the collection time frame when establishing the amount of the mandatory recoupment surcharge.

- **Discretionary recoupment.** TRIA permits discretionary recoupment when the federal share of losses exceeds the mandatory recoupment amount.<sup>22</sup> Under the discretionary recoupment provision, Treasury may consider a number of factors, such as economic conditions in the commercial marketplace, in determining the amount to recoup.<sup>23</sup> To

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<sup>19</sup>Mandatory recoupment under TRIA does not relate to mandatory spending with regard to the federal budget. Beginning in 2020, the industry aggregate retention amount would be the lesser of the aggregate amount of insured losses for all insurers during the calendar year and the annual average of the sum of insurer deductibles for all insurers participating in the program for the prior 3 calendar years, as determined by the Treasury Secretary and according to regulation. For example if the industry did not experience terrorism losses, the aggregate retention would be \$0. If the industry experienced losses, the aggregate retention would be capped at the 3-year annual average of the insurer deductible. Treasury calculated the aggregate retention amount to be \$40.9 billion. Because the deductible is based on direct-earned premium, the aggregate retention grows or shrinks with premiums. Assuming that direct-earned premiums increase yearly, the aggregate retention could grow so that at some point all federal losses would be subject to the mandatory recoupment provision.

<sup>20</sup>The legislative and congressional records do not include any substantive discussion of the purpose of the 40 percent mandatory recoupment scaling factor. According to the Congressional Budget Office, the scaling factor would address lost federal tax revenue as policyholders deducted recoupment charges from their income taxes and provide some compensation to the government for bearing risk. See Congressional Budget Office, *Federal Reinsurance for Terrorism Risk in 2015 and Beyond*, Working Paper 2015-04 (Washington, D.C.: June 2015).

<sup>21</sup>For any act of terrorism that occurs in 2020, the deadline for mandatory recoupment is September 30, 2024. The deadline is defined in statute based on the date of the terrorism event. 15 U.S.C. § 6701 n. § 103(e)(7)(E)(i).

<sup>22</sup>Discretionary recoupment under TRIA does not relate to discretionary spending with regard to the federal budget.

<sup>23</sup>Following the initial determination of recoupment amounts, Treasury will recalculate any mandatory or discretionary recoupment amount as necessary and appropriate, and at least annually, until a final recoupment amount for the year is determined. To determine whether any additional amount would be recouped, Treasury also will compare any recalculated amount to amounts already remitted or to be remitted to Treasury for a previously established policy surcharge. 31 C.F.R. § 50.91(c).

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help in its decision-making, Treasury may issue a data call for insurer deductible and insured loss information. Treasury also sets the surcharge for discretionary recoupment, but the increase to TRIA-eligible premiums must not exceed 3 percent per calendar year. TRIA does not specify a collection time frame for discretionary recoupment.

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## Treasury's Data Calls

Since the 2015 reauthorization, insurers have been required to submit information to Treasury about their coverage of terrorism risk, including the lines of insurance with exposure to such risk, the premiums earned on such coverage, and the participation rate for such coverage. Treasury's 2017–2019 data calls included loss scenarios in which insurers estimate and report expected losses given a defined terrorist attack at a specified location, date, and time. Treasury's defined loss scenarios were located in New York City in 2016, Chicago in 2017, and San Francisco in 2018.

Treasury's reporting requirements for insurers vary, based on the following categories:

- **Small insurers.** Insurance companies that had both policyholder surplus and prior year TRIA-eligible direct-earned premium of less than five times the program trigger.<sup>24</sup> For example, TRIA's program trigger in 2020 is \$200 million. Thus, Treasury would categorize insurers with less than \$1 billion in 2019 direct-earned premiums and less than \$1 billion in policyholder surplus as small.<sup>25</sup> Treasury does not require small insurers to report on a number of items, including the loss scenarios.
- **Nonsmall insurers.** Insurance companies with either policyholder surplus or prior year TRIA-eligible direct-earned premium greater than the small insurer thresholds.
- **Captive insurers.** Special-purpose insurance companies set up by commercial businesses to self-insure risks arising from the owners' business activities.
- **Alien surplus lines insurers.** Insurance companies headquartered in a foreign country that have been qualified to do business in the United

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<sup>24</sup>Policyholder surplus is the difference between an insurer's admitted assets and liabilities—its net worth. Policyholder surplus is used in determining the insurer's financial strength and capacity to write new business.

<sup>25</sup>An insurer's reporting category can change over reporting periods because it is based on TRIA's program trigger, which has changed over time.

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States through an NAIC-administered process, which assesses the financial stability and trustworthiness of the insurer.

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## TRIA Reauthorizations Reduced Explicit Fiscal Exposure, but Treasury and Some Insurers Have Different Interpretations of Key Definitions

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### Explicit Fiscal Exposure Decreased under TRIA Reauthorizations

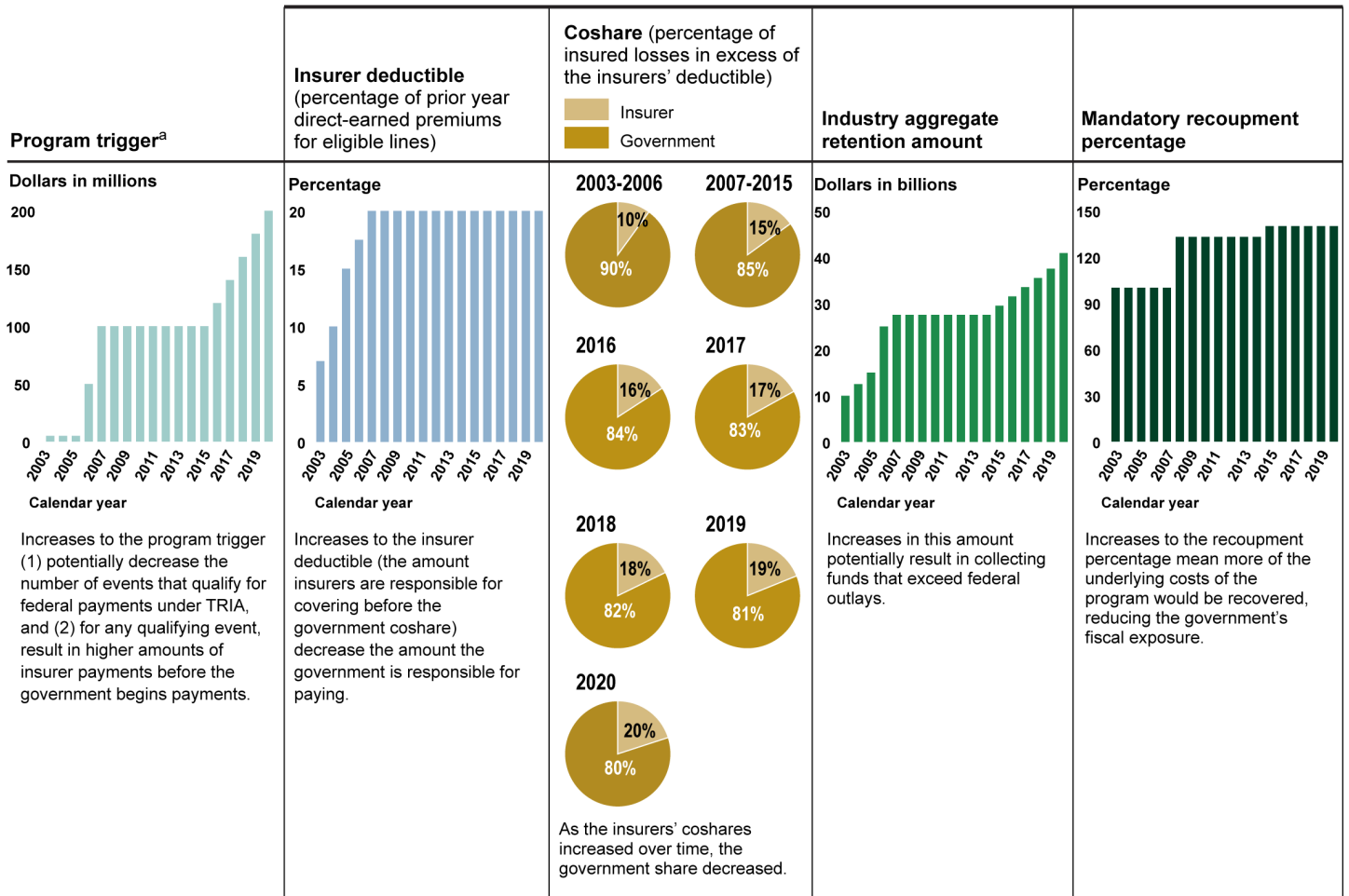
Each reauthorization of TRIA through 2015 reduced the magnitude of the government's explicit fiscal exposure. Since 2003, changes to TRIA provisions have increased insurers' share of losses and thus decreased explicit federal fiscal exposure in the event of certified acts of terrorism (see fig. 2). For example, the program trigger rose over time, from \$5 million in 2003 to \$200 million in 2020.<sup>26</sup> These changes reduced explicit fiscal exposure because they increased the amount of insured losses required before the government would share in the losses. The insurer deductible increased from 7 percent in 2003 to 20 percent for 2020, also reducing the federal share of payments. The 2015 reauthorization required incremental reductions in the federal share of losses over 5 years. The 2019 reauthorization extended the program until 2027, but did not make any changes to the program parameters. See appendix II for more details of the changes in the reauthorizations.

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<sup>26</sup>TRIA did not have a program trigger until the 2005 reauthorization. However, the \$5 million certification threshold acted as a program trigger because loss sharing would not occur unless the event was certified.



**Figure 2: Changes to TRIA Provisions That Reduced Explicit Federal Fiscal Exposure, 2003–2020**



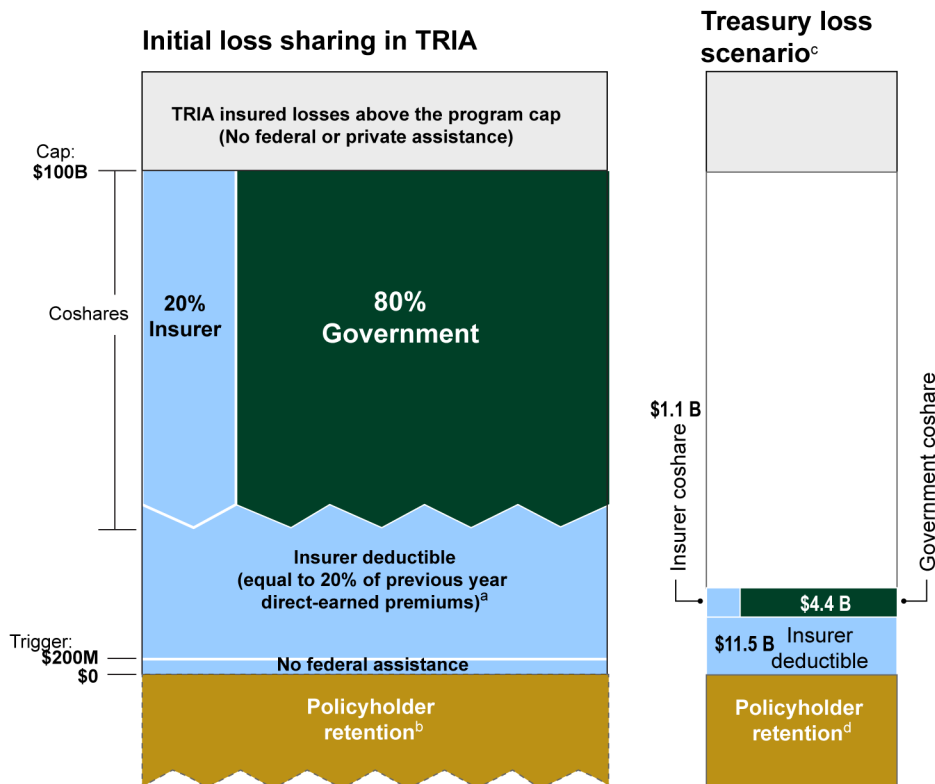
Source: GAO analysis of Terrorism Risk Insurance Act (TRIA), its reauthorizations, and Department of the Treasury data. | GAO-20-348

<sup>a</sup>TRIA did not have a program trigger until the 2005 reauthorization. However, the \$5 million certification threshold acted as a program trigger because loss sharing would not occur unless the event was certified.

Currently, following a certified act of terrorism Treasury pays insurer claims for 80 percent of insurers' losses above their individual deductibles once losses in a calendar year exceed the program trigger of \$200 million (see fig. 3). For example, based on the scenario from Treasury's 2019 data call, the federal government could have an explicit exposure of about \$4.4 billion in reimbursements to insurers. Specifically, insurers estimated that a hypothetical 2018 terrorist event in San Francisco could generate \$39.7 billion dollars in overall losses, of which insurers could pay about \$17 billion in claims to policyholders and the government could pay about

\$4.4 billion in reimbursements to insurers after a policyholder retention amount.<sup>27</sup>

**Figure 3: Initial Loss Sharing for Insured Losses in TRIA (as of 2020) and Treasury’s 2019 Scenario for a Hypothetical Terrorist Event**



Source: GAO analysis of Terrorism Risk Insurance Program Reauthorization Act of 2019 (TRIA) statute and Department of the Treasury (Treasury) data. | GAO-20-348

<sup>a</sup>Jagged line indicates that the government coshare may begin at different dollar amounts for each insurer based on its individual deductible.

<sup>b</sup>Jagged line indicates that the aggregate policyholder retention amount depends on insurance policy terms.

<sup>27</sup>Insurers reported to Treasury an estimated \$22.8 billion in policyholder retention amounts. Treasury officials told us that they are uncertain about the accuracy of this estimate and are unable to validate it. Treasury officials believe that the policyholder retention amounts insurers estimated in the scenarios could be overstated based on potential variations in reporting in response to the scenario questions. However, insurers we interviewed said that while most businesses have small deductibles, some large businesses may choose larger retention amounts to reduce the insurance cost in high-risk locations and for high-profile properties. Treasury’s hypothetical scenarios explored expected losses in locations with high-profile properties.

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<sup>c</sup>Treasury's 2019 scenario estimated losses from a hypothetical terrorist attack on San Francisco in 2018. We calculated the loss sharing from this scenario using Treasury's 2018 data and the program provisions in effect for 2020.

<sup>d</sup>The event could generate \$39.7 billion dollars in overall losses, of which insurers could pay about \$17 billion in claims to policyholders and the government could pay about \$4.4 billion in reimbursements to insurers, after policyholders retained about \$22.8 billion in estimated losses. Policyholder retention amounts are reported by insurers to Treasury and we use them here for illustrative purposes. Treasury officials told us that they are uncertain about the accuracy of these data and are unable to validate them.

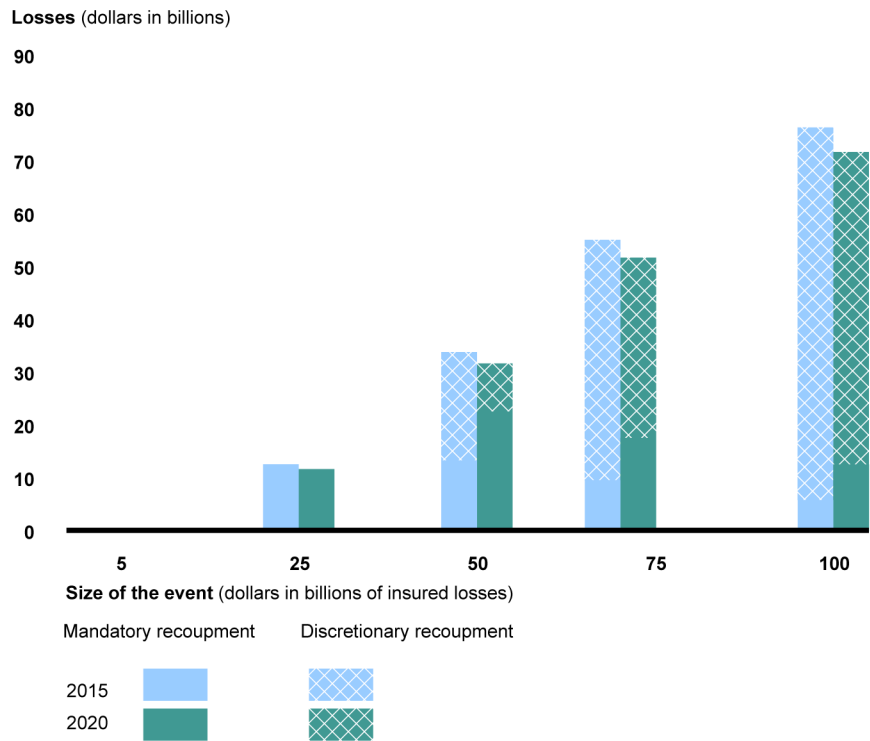
According to our analysis of Treasury data on insurer direct-earned premiums, federal losses following a terrorist event under the loss-sharing provision in effect in 2020 would be smaller than they would have been for a similar event under the loss-sharing provision in effect in 2015, across all event sizes and subsets of insurers. In addition, more of the federal losses would be recovered through mandatory recoupment (see fig. 4). As we found in 2017, the amount of federal losses depends on event size and how many and which insurers were affected.<sup>28</sup>

Additionally, the government share depends on the aggregate TRIA-eligible direct-earned premium of the insurers with losses. Specifically, the federal share of losses is smaller when losses are shared among insurers with larger aggregate premium bases.

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<sup>28</sup>[GAO-17-62](#).

**Figure 4: Illustrative Example of Federal Loss Exposure and Recoupment Method under the Different Program Provisions for 2015 and 2020, by Terrorist Event Size**



Source: GAO analysis of Department of the Treasury premium data and Terrorism Risk Insurance Program Reauthorization Act (TRIA) provisions. | GAO-20-348

Note: This analysis assumes that insurers that sustained losses in each terrorist event had earned 25 percent of all direct-earned premiums in eligible insurance lines. We use this assumption to determine the total insurer deductible that would be paid in the hypothetical events. We also assume the maximum discretionary recoupment.

### Insurers Adjusted to Program Changes but Some Were Unclear about How Treasury Would Calculate the Program Certification Threshold, Trigger, and Cap

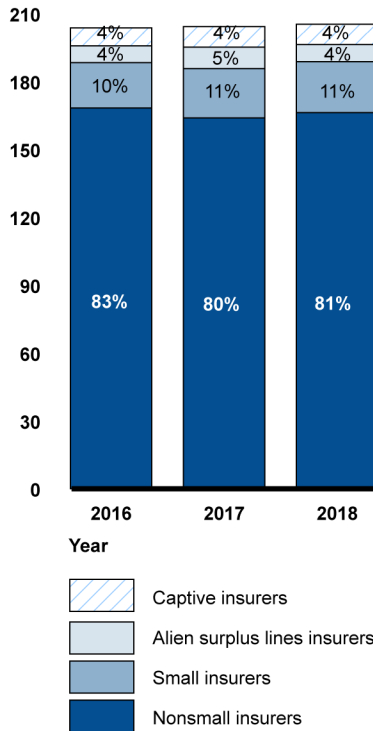
As the share of losses for which insurers are responsible has increased under TRIA, the ability of insurers to absorb the extra exposure also has increased. Insurers use risk-mitigation strategies to reduce or offset their exposures. These can include purchasing reinsurance—insurance for insurers—to cover their deductibles or coshare payments, or diversifying their portfolios (for instance, reducing concentrations of risk in certain locations or lines of insurance). Insurers told us that they considered the potential effect of program changes in each reauthorization and modified risk-mitigation strategies, as needed. Furthermore, other industry stakeholders, including a broker and an industry association, told us that because program changes have been gradual and expected, insurance companies have been able to adjust their coverage accordingly.

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Available evidence indicates that TRIA has been largely effective in meeting its statutory objectives of stabilizing the terrorism risk insurance market. First, terrorism risk insurance is available in the market for a relatively low cost and is purchased by the majority of commercial policyholders in the United States, according to industry reports. Second, private reinsurance capacity for terrorism risk insurance increased since the creation of the program, according to Treasury. Third, our analysis of Treasury data suggests there is market stability. Insurers in all of Treasury's reporting categories largely remained in the market. Furthermore, the market share and number of insurers in the reporting categories generally remained stable. For example, using data on direct-earned premiums of insurers from 2016 to 2018, nonsmall insurers (92 insurers in 2018) held about 80 percent of the TRIA-eligible insurance market. Small insurers (186 insurers in 2018) held about 10 percent. Captive and alien surplus lines insurers (598 and 98 insurers, respectively, in 2018) each held 4 or 5 percent (see fig. 5).

**Figure 5: Insurers' Market Shares (Percentage) in Lines of Insurance Eligible under the Terrorism Risk Insurance Act (TRIA), by Treasury's Insurer Category of Direct-Earned Premiums (2016–2018)**

Direct-earned premiums (dollars in billions)



Source: GAO analysis of Department of the Treasury (Treasury) data. | GAO-20-348

Note: Treasury categorizes insurers for reporting purposes as (1) captive insurers, which are set up by commercial businesses to self-insure risks arising from the owners' business activities; (2) alien surplus lines insurers, which are headquartered in a foreign country and have been qualified to do business in the United States through a process administered by the National Association of Insurance Commissioners; (3) small insurers, which have both policyholder surplus and prior year direct-earned premiums in eligible insurance lines of less than five times the program trigger; and (4) nonsmall insurers, which have either policyholder surplus or prior year direct-earned premiums in eligible insurance lines greater than the small insurer thresholds.

Our interviews indicate that some insurers' interpretation of whether policyholder retention amounts count toward the program threshold, trigger, and cap may differ from Treasury's. Some large policyholders may retain large amounts of loss in the form of a deductible or self-insurance retention following a terrorist event. Treasury officials said policyholder retention amounts are not counted toward the program's \$200 million trigger or its \$100 billion cap, but could be counted toward the \$5 million threshold for event certification. They stated that the law utilizes "insured losses" when referring to the program trigger and cap, and "insurance losses" when referring to the certification threshold.

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If Treasury counted policyholder retention amounts toward the program trigger, the program would be triggered and capped with a smaller amount of overall losses. For example:

- To illustrate, we use a hypothetical terrorist event resulting in \$290 million in overall losses, of which \$100 million would be retained by policyholders.
- Using Treasury’s interpretation that excludes policyholder retention amounts, “insured losses” would be \$190 million, which is below the program trigger of \$200 million. As a result, the government would not be required to pay insurers a coshare.
- In contrast, if Treasury included policyholder retention amounts, “insured losses” would be \$290 million, which exceeds the program trigger. In this case, the government would pay \$112 million to insurers in coshares.<sup>29</sup>
- In either case, losses would not reach the program cap of \$100 billion.

We asked 12 industry stakeholders about their understanding of how Treasury would use policyholder retention amounts to calculate the program threshold, trigger, and cap. The distinction between “insured losses” and “insurance losses” in Treasury’s explanation was clear to one insurer. However, some aspect of this distinction was unclear to six industry stakeholders, including an insurer association and three insurers, potentially resulting in uncertainty about how Treasury would calculate losses in the aftermath of a terrorist event.<sup>30</sup> For example, representatives of an insurer association and two insurers told us they interpreted insured losses as including the policyholder retention amounts because insurers could be responsible for paying this amount. This is because some insurers pay the entire claim, including all or a portion of the policyholder retention, up front and then seek reimbursement from the policyholder. In addition, if a policyholder cannot pay its retention, the insurance company is responsible for it. Differences in interpretation could lead to disputes between insurers and Treasury following a terrorist event. We previously

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<sup>29</sup>In this illustration, we assume that the direct-earned premium for all insurers sustaining losses in the terrorism event to be \$750 million. Insurers would pay deductibles totaling \$150 million (20 percent of the direct-earned premiums) and coshares totaling \$28 million (20 percent of \$140 million).

<sup>30</sup>Five stakeholders did not respond to our questions, deferred to industry or Treasury’s interpretation, or gave an incomplete answer.

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found that insurers are concerned about the long-term consequences of disputes related to terrorist events.<sup>31</sup>

One purpose of TRIA is to stabilize the market following a terrorist event. Furthermore, federal internal control standards state that management should externally communicate the necessary quality information so that external parties can help the entity achieve its objectives and address related risks.<sup>32</sup> Treasury’s program regulations define “insured losses” and do not define “insurance losses.” Furthermore, the regulations do not explain how such losses are calculated and therefore how the policyholder retention amount does or does not count toward the program threshold, trigger, or cap, as applicable. Treasury uses different methods to communicate program information and clarify program details to stakeholders, such as program regulations and interpretive letters, but has not clarified this issue using these or other methods because officials believe the distinction is understood in the industry.

By closing the information gap of how it would calculate losses for the program threshold, trigger, and cap, Treasury would create a common understanding of a critical feature of the program. Furthermore, Treasury may prevent uncertainty in the insurance market and potential litigation following a terrorist event that could delay insurance payments and economic recovery.

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## Implicit Fiscal Exposure Exists and in Some Situations Could Become Explicit

TRIA explicitly limits federal exposure following a terrorist event, but the federal government could be expected to provide assistance beyond what is explicitly outlined in TRIA. Expectations for the government to provide assistance through its recoupment decisions and to policyholders and insurers, as described below, represent implicit fiscal exposures.<sup>33</sup> Although the government may not act on these expectations, to the extent that it does, the implicit exposure would become an explicit exposure.

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<sup>31</sup>To illustrate, we found that property/casualty insurers were involved in lawsuits related to the 1993 bombing of the World Trade Center as late as November 2005. See [GAO-06-1081](#).

<sup>32</sup>[GAO-14-704G](#).

<sup>33</sup>We identified these as situations where implicit federal fiscal exposure may arise by analyzing TRIA’s program design, reviewing our prior work for sources of implicit fiscal exposures, and consulting with industry stakeholders.



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## Less-Than-Full Recoupment of All Funds Following a Terrorist Event

In certain circumstances under mandatory and discretionary recoupment, such as potential effects on market stability, public expectation may lead the federal government to cancel recoupment or reduce the amount of funds recouped. Any portion of the federal coshare not recouped represents an implicit fiscal exposure.

## Mandatory Recoupment

Some mandatory recoupment scenarios may or may not be perceived as burdensome to policyholders, prompting an expectation of federal assistance to ease the burden. Treasury determines mandatory recoupment surcharges based on the statutory deadlines for collecting mandatory recoupment. If a large terrorism act occurs in a year in which the statute requires the collection of mandatory recoupment in a short time frame, Treasury may need to set a high surcharge percentage on premiums for policies with TRIA-eligible lines. In this case, some policyholders may find it difficult to pay the surcharge, making collection of the mandatory recoupment amount burdensome.

Large recoupment amounts or surcharges could prompt public expectation, and political will, for reducing or cancelling recoupment to alleviate this burden. Because mandatory recoupment time frames are based in statute, reducing or canceling this recoupment would require congressional action. One insurer told us that they are skeptical that Congress would allow Treasury to collect mandatory recoupment after a large event. Under current program provisions, the maximum mandatory recoupment amount will increase if the TRIA-eligible direct-earned premium increases.<sup>34</sup> Industry stakeholders told us that, with this change, eventually all recoupment could be mandatory. While the amount to be recouped may increase, the recoupment time frame remains unchanged. Therefore, over time, surcharge amounts could increase, which may increase burden on policyholders and increase the expectation for Congress to cancel recoupment. If Congress were to cancel the collection of mandatory recoupment, the explicit fiscal exposure would include both the federal share of losses paid to insurers and the decreased corporate tax receipts from deductions for the recoupment charges policyholders

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<sup>34</sup>In 2020, the mandatory recoupment amount is the lesser of (1) the aggregate amount of insured losses for all insurers during the calendar year and (2) the annual average of the sum of insurer deductibles for all insurers participating in the program for the prior 3 calendar years, as determined by the Secretary of the Treasury by regulation.

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may claim (such deductions otherwise were intended to be offset by the 140 percent recoupment).<sup>35</sup>

Changes in legislation following premium rate increases in the National Flood Insurance Program (NFIP) provide an example of Congress changing a law to ease policyholder burden. Congress enacted the Biggert-Waters Flood Insurance Reform Act of 2012, which was intended to strengthen the future financial solvency and administrative efficiency of NFIP by implementing provisions to reduce and eventually eliminate most subsidized premium rates. However, after public outcry claiming negative effects on home values, Congress enacted the Homeowner Flood Insurance Affordability Act of 2014, which repealed some of the premium rate increases in the 2012 act.

## Discretionary Recoupment

Discretionary recoupment presents an implicit fiscal exposure because Treasury may decide not to collect the full discretionary recoupment amount. Under TRIA, Treasury decides whether and how much of the discretionary portion of the federal share of losses to recoup. Treasury may recoup some or all nonmandatory funds, or cancel discretionary recoupment. For any amount that Treasury chose not to collect, the fiscal exposure would be the dollar-for-dollar amount of the federal share of losses paid to insurers.

As defined in statute, Treasury may consider several factors when determining whether to collect discretionary recoupment, in full or partially, or cancel recoupment. These factors include ultimate cost to taxpayers of no additional recoupment; the economic conditions of the commercial marketplace; the affordability of commercial insurance for small and medium-sized businesses; and other factors Treasury deems appropriate. According to agency officials, decisions regarding discretionary recoupment would be based on the parameters of the specific terrorism act, such as the size of the federal share of losses, location of the event, and length of the collection period. In our analysis of explicit exposure, we found that under some scenarios, the discretionary recoupment amount resulting from a terrorist event could exceed \$50 billion.

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<sup>35</sup>As previously discussed, according to the Congressional Budget Office, the scaling factor would address lost federal tax revenue as policyholders deducted recoupment charges from their income taxes and would provide some compensation to the government for bearing risk.

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Depending on Treasury's analysis of these factors, some or all of the discretionary recoupment amount may not be collected. For example, currently, much of the recoupment amount resulting from the most catastrophic losses would be considered discretionary under TRIA's provisions. Because TRIA mandates an annual 3 percent cap on the increase of premium rates in TRIA-eligible lines for discretionary recoupment, in extreme cases Treasury might need to collect a premium surcharge for a protracted period of time to fully recoup the discretionary portion of losses. The effects of a protracted period of premium surcharges could be a factor in Treasury's determination to cancel discretionary recoupment.

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### Assistance for Uninsured or Underinsured Losses Following a Terrorist Event

Based on previous federal action following natural disasters or financial market crises, there may be an expectation that the government would provide financial assistance to businesses for uninsured or underinsured losses related to a terrorist event, regardless of whether a loss-sharing program existed. For example, the federal government uses the Disaster Relief Fund to provide compensation for property damage or financial losses to victims of Presidentially declared major disasters and emergencies. In fiscal years 2005–2018, the federal government designated \$138 billion in supplemental appropriations to this fund for extreme weather events.<sup>36</sup> And following the financial crisis of 2007–2009, the federal government provided financial assistance directly to General Motors Company and Chrysler Holdings to help stabilize the U.S. automobile industry and to avoid economic disruptions.<sup>37</sup> Treasury officials and industry stakeholders described several terrorist event scenarios that could produce a large amount of uninsured or underinsured losses that affected businesses might not be able to absorb and that might lead to the expectation of federal assistance.

### Losses Resulting from an NBCR Event

NBCR events present an implicit exposure. Historically, insurance coverage for losses related to a NBCR terrorist event has been limited or unavailable. Stakeholders told us that there likely would be an expectation of federal financial assistance for businesses with uninsured losses related to such an event. Treasury officials and stakeholders we interviewed agreed that primary and reinsurance coverage for NBCR events is limited, resulting in many businesses having limited or no

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<sup>36</sup>[GAO-19-353](#).

<sup>37</sup>GAO, *Troubled Asset Relief Program: Status of Treasury's Investments in General Motors and Ally Financial*, [GAO-14-6](#) (Washington, D.C.: Oct 29, 2013).

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coverage.<sup>38</sup> Stakeholders also told us that, without TRIA, insurers would no longer offer the limited amount of NBCR coverage currently available. Stakeholders attribute the limitations to the potentially catastrophic losses associated with NBCR events and the difficulty in modeling and underwriting such events. Representatives of a policyholder association whose members purchase NBCR coverage stated that available coverage likely was insufficient to cover expected losses. Furthermore, they said some policyholders forgo NBCR coverage because of its limited availability, high cost, and the low perceived risk of a NBCR event. As a result, many businesses may be exposed to high loss.

Treasury officials and industry stakeholders described possible NBCR terrorism events in which a significant amount of losses could be uninsured or underinsured. Treasury's 2019 Small Insurers Report found that a NBCR terrorism event likely posed the greatest risk of total catastrophic terrorism losses, far outpacing a conventional attack.<sup>39</sup> Although modeling these types of losses is difficult, NAIC's Center for Insurance Policy and Research estimated, taking into account the program cap, that a NBCR event in New York City could generate nearly \$60 billion of uninsured loss, 38 percent of the total loss.<sup>40</sup> It also found that a larger NBCR event could create \$850 billion in uninsured loss, or 90 percent of total losses. Furthermore, this research estimated large uninsured losses in other cities, such as Houston, where a large nuclear event was estimated to generate \$67 billion in uninsured losses, or 40 percent of total losses. Such catastrophic losses could create a strong public expectation of federal financial assistance for uninsured losses.

## Losses above the Program Cap

The expectation of financial assistance to policyholders if insured losses exceeded the program cap also creates implicit fiscal exposure. By law, insurers that have met their individual deductible and the federal government are not responsible for losses exceeding the TRIA program cap. However, industry stakeholders we interviewed expected that, in the event the program cap were exceeded, the federal government would provide some form of assistance to those who experienced loss. For

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<sup>38</sup>Much of the NBCR coverage is primarily tied to requirements for worker's compensation policies.

<sup>39</sup>Department of the Treasury, Federal Insurance Office, *Study of Small Insurer Competitiveness in the Terrorism Risk Insurance Market* (Washington, D.C.: June 2019).

<sup>40</sup>The Center for Insurance Policy and Research is an independent division of NAIC with a mission to provide research and education to drive discussion, and advance knowledge and understanding of insurance issues.

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example, losses from a NBCR event could be over \$1 trillion, with TRIA-insured losses exceeding the \$100 billion program cap. While a single conventional attack would be unlikely to exceed the program cap, according to stakeholders, a series of conventional attacks could. Although determining the frequency of terrorist events is difficult, one modeling firm with which we spoke estimates losses great enough to exceed the program cap in a conventional attack to have a 0.0005 percent (or 1/2,000) chance of occurring in a single year. This is less likely than severe natural catastrophes, such as Hurricanes Sandy and Harvey.

As we found in a 2019 report on fiscal exposures, Congress demonstrated its willingness to fund the implicit exposure of policyholder claims that exceeded the amount NFIP was authorized to borrow from Treasury.<sup>41</sup> In October 2017, when NFIP was about to exhaust its borrowing authority, Congress passed a supplemental appropriation, which the President signed into law, that cancelled \$16 billion of NFIP debt to Treasury.

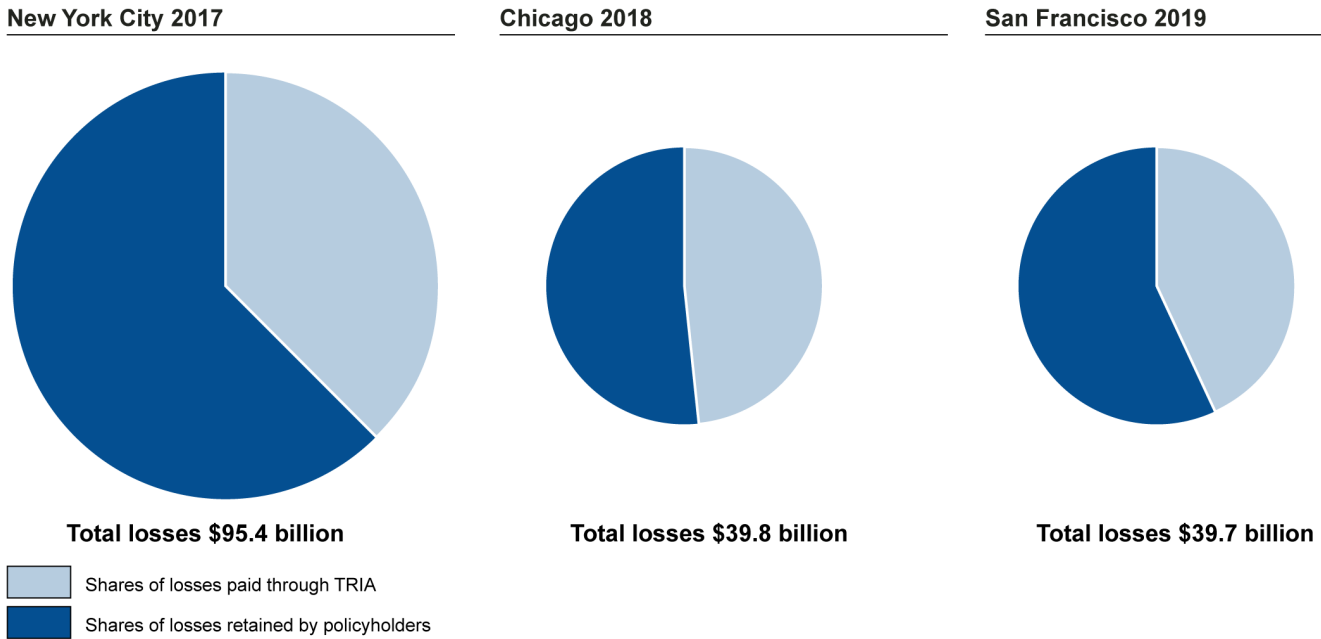
#### Losses Retained by the Policyholder

Implicit fiscal exposure also exists in the expectation that the federal government would assist policyholders unable to pay their retained losses. Policyholders with very large retained losses may face financial insolvency after a terrorist attack, which may create an expectation of government assistance. Stakeholders told us that policyholders may choose larger retention amounts to reduce premiums or because insurance for high-risk, high-value properties is unavailable. Insurers we interviewed said that most businesses have small deductibles, but some large businesses may choose higher retention amounts to reduce the high insurance cost in locations considered to be higher-risk and for high-profile properties. For example as shown in figure 6, Treasury's 2017–2019 data call scenarios explored estimated losses in locations with high-profile properties such as Rockefeller Center in New York City (2017), Willis Tower and O'Hare International Airport in Chicago (2018), and Embarcadero Center and Union Square in San Francisco (2019). Although the actual amounts may be lower than the estimates insurers reported, the aggregated policyholder retention could exceed losses paid through the program. This demonstrates the potential for large losses that could create an expectation of government assistance if policyholders with large retention amounts were unable to absorb the losses.

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<sup>41</sup>[GAO-19-353](#).

**Figure 6: Shares of Estimated Aggregated Losses Paid through TRIA and Retained by Policyholders, Treasury’s 2017–2019 Loss Scenarios**



Source: GAO analysis of Department of the Treasury’s Terrorism Risk Insurance Act (TRIA) data. | GAO-20-348

Note: Department of the Treasury’s (Treasury) data do not include losses for small insurers because small insurers were not required to report on the loss scenarios. Treasury’s loss scenarios are intended to estimate the effect of hypothetical terrorist events. Actual policyholder retention amounts are unknown. These estimates are reported by insurers to Treasury, and Treasury cannot validate their accuracy.

### Assistance to Insurers with Losses That Do Not Result in Program Loss Sharing

An implicit fiscal exposure exists from the potential expectation that the government might help stabilize markets by assisting insurers with (1) losses that do not trigger the program’s loss sharing, or (2) losses from lines ineligible for TRIA. While these risks exist, the current market has some protections in place and stakeholders viewed this exposure as unlikely.

**Loss sharing not triggered.** If the total losses from a certified act of terrorism were below the program trigger (currently \$200 million), insurers with deductibles below the program trigger could sustain losses larger than their deductible without receiving any federal coshare. Because the amount of the program trigger has increased over time, more insurers potentially face this scenario. Stakeholders told us that small insurers and

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those that offer workers' compensation insurance are most affected by changes to the program trigger.<sup>42</sup>

Our analysis of Treasury data shows about 97 percent of insurers have deductibles lower than the \$200 million program trigger and thus could receive no coshare following a certified act of terrorism.<sup>43</sup> This includes all small, captive, and alien surplus lines insurers, and more than half of the nonsmall insurers. Furthermore, our analysis of 2016–2018 Treasury data shows that these insurers are sometimes concentrated in certain insurance lines. For example, small insurers may be concentrated in commercial multiple peril lines. Additionally, market shares of small insurers and captive insurers increased in the aircraft (all perils) line. Such concentrations could destabilize specific insurance lines following a terrorist event.

Although the market is currently stable, some insurers may leave the market to mitigate their risks if their losses are unlikely to trigger the program's loss sharing, which could reduce the availability of insurance in certain markets. A reduction in the availability of insurance could lead to more uninsured losses in the event of a subsequent terrorist event and could result in an increased expectation for losses to be covered through federal assistance. In its 2019 report, Treasury recognized the potential for small insurers to not provide insurance in certain markets. Additionally, the report cautions that if the program trigger increased, the number of insurers that would face the possibility of a gap between their deductible and the program trigger also would increase. However, analysis of Treasury data indicate that, to date, insurers in this situation largely have not left the market. As previously noted, because the changes to program parameters were gradual, insurers have had time to adjust to the changes.

Insurers facing this scenario also can mitigate their risk by purchasing reinsurance to cover the difference between their deductible and the program trigger. However, it is not clear that the reinsurance market can absorb all of this risk. For example, industry stakeholders told us that reinsurers are sensitive to accumulation of exposure and reinsurance is

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<sup>42</sup>Additionally, some large insurers have very large deductibles based on 20 percent of their direct-earned premiums, exceeding \$1 billion or several billion dollars in a few cases. These insurers would not receive federal coshares if their losses from a terrorist event were less than their deductible.

<sup>43</sup>According to Treasury, these insurers represent about 27 percent of the market in terms of TRIA-eligible direct-earned premium.

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limited in perceived high-risk areas such as New York City, Washington D.C., Los Angeles, and Philadelphia where there are large concentrations of people and high-value properties.

In addition, reinsurance premiums may be too costly for some insurers. According to state insurance commissioners, high reinsurance costs may not qualify as a reason for insurers to increase premiums in some states. As a result, insurers would be unable to pass reinsurance costs on to policyholders. Furthermore, limited availability and affordability of reinsurance for high-risk areas and NBCR could be exacerbated following a terrorist event. Alternative forms of reinsurance, such as catastrophe bonds, are not widely used for terrorism risk.

Treasury officials said that widespread market instability and an expectation for federal assistance may be unlikely in the case of a certified act of terrorism that produces significant losses for insurers that do not reach the program trigger. They said any market effects would be localized because a smaller terrorist event likely would affect a small number of insurers with a gap between their deductibles and the program trigger.<sup>44</sup> Industry stakeholders said that it is possible that such an event could cause insurers to reduce coverage offered, but other stakeholders said that small insurers were well aware of the risk and their reactions would not create market instability. Additionally, state guarantee funds may provide support to policyholders in case of insurer insolvency before expectations for federal financial assistance arose.

**Insurance lines not eligible for TRIA.** Federal assistance may be expected for insurers if large terrorism losses occur in insurance lines—such as life or health insurance—that are not eligible for TRIA, according to industry stakeholders. A 2019 Insurance Information Institute report found life insurance losses resulting from the attacks of September 11, 2001, were \$1.4 billion (about 3 percent of total insurance losses from the attacks), an amount that far exceeds the TRIA program trigger.<sup>45</sup> The report notes that standard homeowner, condo or co-op, standard renters,

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<sup>44</sup>For example, if one or a few small insurers sustained losses in a smaller terrorist event, the program trigger of \$200 million dollars might not be met. If many small insurers sustained losses, the program trigger amount might be met and loss sharing would become accessible to the insurers.

<sup>45</sup>Insurance Information Institute, *Background on: Terrorism risk and insurance* (Sept. 9, 2019).



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automobile insurance, and travel insurance policies also could be affected by terrorism and are not covered under TRIA.

Adding group life insurance coverage under TRIA has been proposed, but never passed into law. According to some perspectives in congressional debate, other insurance lines were not viewed as needing explicit federal assistance.<sup>46</sup>

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## Conclusions

Insurers have adjusted to changing TRIA program parameters that increased the share of the losses for which they would be responsible. However, some insurers may not clearly understand whether Treasury would include policyholder retention amounts in calculating losses to certify a terrorist event, trigger loss sharing, or determine when the program cap has been reached. External communication to develop a clear understanding of how Treasury calculates “insured losses” and “insurance losses,” specifically as they relate to policyholder retention amounts, would help insurers understand when the program would be activated or capped ahead of any terrorist event. Furthermore, communicating this explanation could help Treasury alleviate uncertainty in the insurance market following a terrorist event.

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## Recommendation for Executive Action

The Director of the Federal Insurance Office should communicate to insurers in writing how it would utilize policyholder retention amounts in calculating “insurance losses” and “insured losses” in determining the program certification threshold, trigger, and cap, as applicable. (Recommendation 1)

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## Agency Comments

We provided a draft of this report to Treasury and NAIC for review and comment. Treasury provided written comments through the Federal Insurance Office, which are reproduced in appendix III. Additionally, Treasury provided technical comments, which we have incorporated, as appropriate. NAIC did not provide technical comments.

In Treasury’s written response, the Federal Insurance Office agreed that limiting uncertainty in the insurance market following a certified act of terrorism was an important goal. The office accepted the recommendation and stated that it would work to implement it in the coming months.

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<sup>46</sup>Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, Committee on Financial Services, House of Representatives, *Protecting Policyholders from Terrorism: Private Sector Solutions*, 107th Cong. (Oct. 24, 2001).

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We are sending copies of this report to the appropriate congressional committees, the Secretary of the Treasury, the Chief Executive Officer of NAIC, and other interested parties. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8678 or [garciadiazd@gao.gov](mailto:garciadiazd@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.

Sincerely yours,



Daniel Garcia-Diaz  
Managing Director, Financial Markets and Community Investment

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# Appendix I: Objectives, Scope, and Methodology

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The objectives of our report were to (1) examine the changes in explicit fiscal exposure under the Terrorism Risk Insurance Act (TRIA) and how insurers have adjusted to the changes; and (2) describe situations in which implicit fiscal exposures may arise and might become explicit.

To address these objectives, we reviewed the Terrorism Risk Insurance Act of 2002, Terrorism Risk Insurance Extension Act of 2005, Terrorism Risk Insurance Program Reauthorization Acts of 2007, 2015, and 2019, implementing regulations, and congressional records.<sup>1</sup> We also reviewed prior GAO work on TRIA and federal fiscal exposures.<sup>2</sup> We reviewed reports from the Department of the Treasury (Treasury), the Congressional Budget Office, and Congressional Research Service.<sup>3</sup> We

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<sup>1</sup>Terrorism Risk Insurance Act of 2002, Pub. L. No. 107-297, 116 Stat. 2322 (2002); Terrorism Risk Insurance Extension Act of 2005, Pub. L. No. 109-144, 119 Stat. 2660 (2005); Terrorism Risk Insurance Program Reauthorization Act of 2007, Pub. L. No. 110-160, 121 Stat. 1839 (2007); Terrorism Risk Insurance Program Reauthorization Act of 2015, Pub. L. No. 114-1, 129 Stat. 3 (2015); Terrorism Risk Insurance Program Reauthorization Act of 2019, Pub. L. No. 116-94 (2019); and 31 C.F.R. Part 50.

<sup>2</sup>GAO, *Terrorism Risk Insurance: Market Challenges May Exist for Current Structure and Alternative Approaches*, [GAO-17-62](#) (Washington, D.C.: Jan. 12, 2017); *Terrorism Risk Insurance: Comparison of Selected Programs in the United States and Foreign Countries*, [GAO-16-316](#) (Washington, D.C.: Apr. 12, 2016); *Terrorism Insurance: Treasury Needs to Collect and Analyze Data to Better Understand Fiscal Exposure and Clarify Guidance*, [GAO-14-445](#) (Washington, D.C.: May 22, 2014); and *Terrorism Insurance: Measuring and Predicting Losses from Unconventional Weapons Is Difficult but Some Industry Exposure Exists*, [GAO-06-1081](#) (Washington, D.C.: Sep. 25, 2006). We also examine explicit and implicit fiscal exposures in GAO, *Fiscal Exposures: Federal Insurance and Other Activities That Transfer Risk or Losses to the Government*, [GAO-19-353](#) (Washington, D.C.: Mar. 27, 2019); *Fiscal Exposures: Improving Cost Recognition in the Federal Budget*, [GAO-14-28](#) (Washington, D.C.: Oct. 29, 2013); and *Fiscal Exposures: Improving the Budgetary Focus on Long-Term Costs and Uncertainties*, [GAO-03-213](#) (Washington, D.C.: Jan. 24, 2003).

<sup>3</sup>Department of the Treasury, Federal Insurance Office, *Study of Small Insurer Competitiveness in the Terrorism Risk Insurance Market* (Washington, D.C.: June 2019); *Report on the Effectiveness of the Terrorism Risk Insurance Program* (Washington, D.C.: June 2018); *Study of Small Insurer Competitiveness in the Terrorism Risk Insurance Market* (Washington, D.C.: June 2017); and *Report on the Overall Effectiveness of the Terrorism Risk Insurance Program* (Washington, D.C.: June 2016). Also see Congressional Budget Office, *Federal Reinsurance for Terrorism Risk in 2015 and Beyond*, Working Paper 2015-04 (Washington, D.C.: June 2015); and Congressional Research Service, *Terrorism Risk Insurance Act (TRIA)*, 7-5700 (Washington, D.C.: Feb. 1, 2019).

also reviewed relevant reports from academic researchers and industry stakeholders.<sup>4</sup>

We used Treasury’s data calls from 2017 to 2019 for aggregated direct-earned premiums, numbers of insurers, and hypothetical loss scenarios throughout this report.<sup>5</sup> We evaluated the reliability of the data by performing electronic tests and interviewing staff from Treasury and its data contractor, and industry stakeholders. We found the data sufficiently reliable for the purposes described below. We interviewed Treasury officials and representatives from the National Association of Insurance Commissioners (NAIC) and industry stakeholders, including insurers, insurance trade associations, a rating agency, risk modelers, and an insurance broker. We selected a nongeneralizable sample of five insurers to interview. These insurers were selected because they provide terrorism coverage to businesses and reflect a mix of sizes and types of insurance. In interviews, we asked about aspects of the program and the insurance market, and risks that could lead to implicit exposure.

To describe the potential explicit fiscal exposure to the federal government, we reviewed the relevant laws and analyzed the changes made in each reauthorization. To quantify and compare the federal explicit exposure from potential terrorist events in 2015 and 2020, we estimated the TRIA-eligible direct-earned premiums for those years and used simulated loss scenarios similar to those we previously developed.<sup>6</sup>

- To estimate the TRIA-eligible direct-earned premiums for 2015 and 2020, we used aggregated direct-earned premiums for 2016–2018 from Treasury’s data calls. Specifically, first we calculated the annual percentage change in direct-earned premiums for 2016–2017 and

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<sup>4</sup>For example, see Erwann Michel-Kerjan and Howard Kunreuther, “A Successful (Yet Somewhat Untested) Case of Disaster Financing: Terrorism Insurance Under TRIA, 2002-2020,” *The Risk Management and Insurance Review*, vol. 21, no. 1 (2018); Marsh and McLennan Companies, Inc., *2019 Terrorism Risk Insurance Report* (May 2019); and A.M. Best Company, Inc., *The Treatment of Terrorism Risk in the Rating Evaluation* (Oct. 13, 2017).

<sup>5</sup>Treasury conducted mandatory data calls from 2017 to 2019 for program data from each of the previous years (2016–2018).

<sup>6</sup>TRIA-eligible lines are commercial lines of property/casualty insurance, including excess insurance, workers’ compensation insurance, and directors’ and officers’ liability insurance. Subject to certain exceptions, eligible commercial lines also include aircraft (all perils), allied lines, boiler and machinery, commercial multiperil (liability and nonliability), fire, inland marine, ocean marine, other liability, and products liability.

2017–2018. Second, we found the average change to be an increase of about 0.4 percent. This estimate was smaller than the percentage change we used in the 2017 report, but we found the estimate reasonable because our current estimate was based on Treasury’s data, specific to TRIA-eligible lines of insurance. Our 2017 estimate was based on annual estimates of terrorism risk revenue. Third, we estimated the 2015 and 2020 direct-earned premiums using the 0.4 percent average annual change and the reported 2016 and 2018 direct-earned premiums, respectively. To check for reliability, we used the same method to estimate direct-earned premiums for 2014. Our 2014 estimate matched the 2014 data used in our 2017 report.<sup>7</sup> We calculated the change in both nominal and real dollars and decided to use nominal dollars, which is consistent with how Treasury reports direct-earned premiums. We found the data to be sufficiently reliable for estimating the TRIA-eligible direct-earned premiums for 2015 and 2020.

- To compare events occurring under the program provisions in effect in 2015 and 2020, we analyzed how losses would be shared between the government and insurers by modeling terrorist events with insured losses of \$5 billion, \$25 billion, \$50 billion, \$75 billion, and the maximum terrorism event size (\$100 billion in insured losses) in 2015 and 2020. In each case, we modeled the affected insurers to have an aggregate direct-earned premium base of 25, 35, 55, and 100 percent of all TRIA-eligible premiums.<sup>8</sup> To demonstrate how the program trigger may affect insurers, we also modeled a smaller terrorist event with \$290 million in losses and assumed that the affected insurers had an aggregate direct-earned premium base of \$750 million. In all cases, we estimated the portion of federal losses that would be subject to mandatory and discretionary recoupment.

To determine how insurers have adjusted to changes in TRIA and measure market stability, we reviewed Treasury and past GAO reports and relevant literature, analyzed Treasury data, and interviewed industry stakeholders. We conducted a literature search to determine how changes in the TRIA program parameters affected insurers and we summarized relevant findings from our review of the literature we identified. Additionally, we summarized Treasury and industry stakeholders’ views on insurers’ ability to cover their share of losses

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<sup>7</sup>[GAO-17-62](#).

<sup>8</sup>The direct-earned premium associated with the insurers rather than the number of insurers is important because prior year direct-earned premium determines the aggregate insurer deductible.

following an event and their willingness and ability to continue providing coverage after a large event without access to the federal share of losses to cover claims from the event.

We also analyzed Treasury data to determine whether insurance lines have experienced changes in premiums or coverage availability since 2016. Specifically, we computed market shares by insurer category for calendar years 2016–2018, using direct-earned premiums from Treasury’s data calls. Using Treasury’s insurer categories (alien surplus lines, captive, nonsmall, and small), we computed market shares overall, and for TRIA-eligible lines of coverage in the U.S. terrorism risk insurance market, which includes all the states, the District of Columbia, U.S. territories, and other areas. We did not use number of policies because number of policies was not available in Treasury’s data for all insurer categories for all years.

In the course of assessing data reliability for Treasury’s scenario data, we found some lack of clarity regarding two key terms under TRIA: “insured losses” and “insurance losses.” The external communication component of internal control—that management should externally communicate the necessary quality information to achieve the entity’s objectives—was significant to this objective, along with the related principle that management communicate quality information externally through reporting lines so that external parties can help the entity achieve its objectives and address related risks.<sup>9</sup> We assessed Treasury’s external communications about these terms. Specifically, we reviewed the content of TRIA statutory language and program regulations and guidance. We obtained an interpretation of the terms from Treasury officials and also obtained industry stakeholders’ views on them. We determined Treasury’s scenario data to be reliable for the purpose of reporting the loss sharing as it was reported and for illustrating loss sharing examples.

To identify potential situations in which implicit federal fiscal exposure may arise, we analyzed TRIA’s program design and reviewed our prior work for sources of implicit fiscal exposures, such as those faced by other disaster insurance programs. To ensure the reasonableness and completeness of our list of identified sources, we consulted with industry stakeholders and made modifications as appropriate. We grouped the sources of implicit fiscal exposures into three broad categories: (1) any

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<sup>9</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

unrecouped program expenditures; (2) federal assistance for uninsured or underinsured terrorism losses (including uninsured losses in a nuclear, biological, chemical, or radiological event, losses in excess of the \$100 billion program cap, and policyholders' retained losses); and (3) federal assistance to stabilize the insurance market for insurers that may be unable to access the loss-sharing feature of the program or for lines of insurance not included under TRIA.

To describe the potential exposure resulting from not executing the recoupment of program expenditures, we summarized prior GAO reports and industry stakeholder views on the risks and challenges of collecting mandatory and discretionary recoupment funds, including the associated collection time frames.

To describe the potential exposure resulting from federal assistance for uninsured or underinsured losses, we reviewed and summarized findings in prior GAO reports on past instances in which the federal government provided disaster assistance (such as following the September 11 terrorist attacks, the financial crisis, and large natural disasters). We summarized Treasury, NAIC, and industry stakeholder views on the likelihood of terrorist events reaching the program cap, their expectations for federal intervention in that case, and the importance of the cap to the terrorism risk insurance market.

To describe the potential exposure resulting from federal assistance to stabilize the insurance market following a terrorist event, we interviewed industry stakeholders about scenarios that could produce an expectation for government assistance (implicit exposure), the stability of the terrorism insurance industry, how program details could affect different insurer groups, and insurers' options for covering their share of losses. We used Treasury's data to quantify the number and share of insurers that might not be able to access TRIA's loss-sharing provision and to illustrate estimated loss sharing in Treasury's scenarios of losses that would have occurred in three hypothetical events: New York City (2016), Chicago (2017), and San Francisco (2018). We also interviewed various insurer associations.

We conducted this performance audit from July 2019 to April 2020, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that

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**Appendix I: Objectives, Scope, and  
Methodology**

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the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



# Appendix II: Changes in TRIA Reauthorizations

As shown in table 1, Terrorism Risk Insurance Act (TRIA) reauthorizations through 2015 changed several loss-sharing provisions, which decreased the federal share and increased the insurer share of losses. The 2015 reauthorization required incremental decreases in the federal share of losses over 5 years. The 2019 reauthorization extended the program until the year 2027, but did not make any changes to the program parameters discussed below.

**Table 1: Selected Provisions in the Terrorism Risk Insurance Act and Its Reauthorizations, 2002–2015**

	<b>Terrorism Risk Insurance Act of 2002 (Pub. L. No. 107-297)</b>	<b>Terrorism Risk Insurance Extension Act of 2005 (Pub. L. No. 109-144)</b>	<b>Terrorism Risk Insurance Program Reauthorization Act of 2007 (Pub. L. No. 110-160)</b>	<b>Terrorism Risk Insurance Program Reauthorization Act of 2015 (Pub. L. No. 114-1)</b>
Program trigger (dollar amounts)	5 million <sup>a</sup>	50 million (2006) 100 million (2007)	100 million <sup>b</sup>	100 million in 2015 increasing by 20 million annually until it reaches 200 million in 2020
Insurer deductible (percentage prior year direct-earned premiums for eligible lines)	7 (2003) <sup>c</sup> 10 (2004) 15 (2005)	17.5 (2006) 20 (2007)	20 <sup>b</sup>	20
Coshare (percentage of insured losses in excess of the insurer deductible)	Insurers 10 Government 90	Insurers: 10 Government: 90 (2006) Insurers: 15 Government: 85 (2007)	Insurers: 15 Government: 85 <sup>b</sup>	Insurers: 15 in 2015 increasing annually by 1 percentage point until it reaches 20 in 2020 Government: 85 in 2015 decreasing annually by 1 percentage point until it reaches 80 in 2020

**Appendix II: Changes in TRIA Reauthorizations**

	<b>Terrorism Risk Insurance Act of 2002 (Pub. L. No. 107-297)</b>	<b>Terrorism Risk Insurance Extension Act of 2005 (Pub. L. No. 109-144)</b>	<b>Terrorism Risk Insurance Program Reauthorization Act of 2007 (Pub. L. No. 110-160)</b>	<b>Terrorism Risk Insurance Program Reauthorization Act of 2015 (Pub. L. No. 114-1)</b>
Industry aggregate retention (dollar amounts)	Lesser of (a) the aggregate amount of insured losses for all insurers during the calendar year and (b) 10 billion (2002 and 2003) 12.5 billion (2004) 15 billion (2005)	Lesser of (a) the aggregate amount of insured losses for all insurers during the calendar year and (b) 25 billion (2006) 27.5 billion (2007)	Lesser of (a) the aggregate amount of insured losses for all insurers during the calendar year and (b) 27.5 billion <sup>b</sup>	Lesser of (a) the aggregate amount of insured losses for all insurers during the calendar year and (b) 29.5 billion (2015) 31.5 billion (2016) 33.5 billion (2017) 35.5 billion (2018) 37.5 billion (2019). Beginning in calendar year 2020, the amount will be the lesser of (a) the aggregate amount of insured losses for all insurers during the calendar year and (b) the annual average of the sum of insurer deductibles for all insurers participating in the program for the prior 3 calendar years, as determined by the Secretary of the Treasury by regulation
Mandatory recoupment percentage, including surcharge (percentage)	100 of the difference between the industry aggregate retention amount and the aggregate amount of insurers' uncompensated insured losses <sup>d</sup>	100 of the difference between the industry aggregate retention amount and the aggregate amount of insurers' uncompensated insured losses	133 of the difference between the industry aggregate retention amount and the aggregate amount of insurers' uncompensated insured losses	140 of the difference between the industry aggregate retention amount and the aggregate amount of insurers' uncompensated insured losses
Program cap (dollar amount)	100 billion	100 billion	100 billion <sup>b</sup>	100 billion

Source: GAO analysis of Terrorism Risk Insurance Act. | GAO-20-348

Note: We use Terrorism Risk Insurance Act to refer to the Terrorism Risk Insurance Act of 2002 and its amendments and reauthorizations in 2005, 2007, and 2015. See Pub. L. No. 107-297, 116 Stat. 2322 (2002); Pub. L. No. 109-144, 119 Stat. 2660 (2005); Pub. L. No. 110-160, 121 Stat. 1839 (2007); and Pub. L. No. 114-1, 129 Stat. 3 (2015).

<sup>a</sup>TRIA as initially enacted in 2002 did not include a specific program trigger, but an act of terrorism could not be certified without more than \$5 million in property/casualty insurance losses resulting from the act. Without a certified act of terrorism, TRIA is not activated.

<sup>b</sup>These provisions were not changed by the 2007 act.

<sup>c</sup>From enactment of the Terrorism Risk Insurance Act of 2002 on November 26, 2002, through December 31, 2002, the insurer deductible was set at 1 percent.

<sup>d</sup>Insurers' uncompensated losses are those that are not reimbursed by the federal government under TRIA.

# Appendix III: Comments from the Department of the Treasury



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C.

March 31, 2020

Daniel Garcia-Diaz  
Director, Financial Markets & Community Investment  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20226

Dear Mr. Garcia-Diaz:

Thank you for the opportunity to review the draft report entitled *Terrorism Risk Insurance: Program Changes Have Reduced Federal Fiscal Exposure* (GAO-20-348) (the Draft Report). The Draft Report examines federal fiscal exposure under the Terrorism Risk Insurance Program (Program), which is administered by the Secretary of the Treasury with the assistance of the Federal Insurance Office (FIO). In particular, the Draft Report considers changes in explicit fiscal exposure under the Terrorism Risk Insurance Act, as amended (TRIA), and also describes situations in which implicit fiscal exposures may arise and become explicit.

The Draft Report concludes that program changes have reduced federal fiscal exposure. The Draft Report also finds that "TRIA has been largely effective in meeting its statutory objectives of stabilizing the terrorism risk insurance market," and that terrorism risk insurance is available in the market for a relatively low cost and is purchased by the majority of commercial policyholders in the United States. In its 2018 *Report on the Effectiveness of the Terrorism Risk Insurance Program*, Treasury similarly noted that "[t]he Program generally has been effective in making terrorism risk insurance available and affordable in the insurance marketplace."

The Draft Report recommends that Treasury communicate to insurers how it would use policyholder retention amounts in calculating "insurance losses" and "insured losses" in determining the program certification threshold, trigger, and cap, as applicable. Although stakeholders have not expressed uncertainty on this point to Treasury, FIO agrees that limiting uncertainty in the insurance market following a certified act of terrorism is an important goal. FIO accepts the recommendation and will work to implement it in the coming months.

Thank you again for the opportunity to review and comment on the Draft Report. We look forward to continuing the work of administering this important program.

Sincerely,

/s/ Steven E. Seitz

Steven E. Seitz  
Director, Federal Insurance Office

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# Appendix IV: GAO Contact and Staff Acknowledgments

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## GAO Contact

Daniel Garcia-Diaz, (202)-512-8678 or [garciadiazd@gao.gov](mailto:garciadiazd@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, Jill Naamane (Assistant Director), Karen Jarzynka-Hernandez (Analyst in Charge), Rudy Chatlos, Giselle Cubillos-Moraga, Kaitlan Doying, Lijia Guo, John Karikari, Barbara Roesmann, Jessica Sandler, Jena Sinkfield, Frank Todisco, and Rachel Whitaker made key contributions to this report.

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