Study of Small Insurer Competitiveness in the Terrorism Risk Insurance Marketplace

FEDERAL INSURANCE OFFICE, U.S. DEPARTMENT OF THE TREASURY

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Glossary

2005 Extension Act	....	Terrorism Risk Insurance Extension Act of 2005, Pub. L. 109-144, 119 Stat. 2660
2007 Reauthorization Act	....	Program Reauthorization Act of 2007, Pub. L. 110-160, 121 Stat. 1839
2015 Reauthorization Act	....	Terrorism Risk Insurance Program Reauthorization Act of 2015, Pub. L. 114-1, 129 Stat. 3
2019 Reauthorization Act	....	Terrorism Risk Insurance Program Reauthorization Act of 2019, Pub. L. 116-94, 133 Stat. 2534
2016 Effectiveness Report	....	FIO, *Report on the Overall Effectiveness of the Terrorism Risk Insurance Program* (June 2016)
2017 Small Insurer Study	....	FIO, *Study of Small Insurer Competitiveness in the Terrorism Risk Insurance Marketplace* (June 2017)
2018 Effectiveness Report	....	FIO, *Report on the Overall Effectiveness of the Terrorism Risk Insurance Program* (June 2018)
2019 Small Insurer Study	....	FIO, *Study of Small Insurer Competitiveness in the Terrorism Risk Insurance Marketplace* (June 2019)
2020 Effectiveness Report	....	FIO, *Report on the Overall Effectiveness of the Terrorism Risk Insurance Program* (June 2020)
Act of Terrorism	....	Under TRIA, an act certified as terrorism by the Secretary, in consultation with the Attorney General and the Secretary of Homeland Security
Alien Surplus Lines Insurer	....	Non-U.S. insurer that is an eligible surplus lines insurer as listed on the National Association of Insurance Commissioners' Quarterly Listing of Alien Surplus Lines Insurers
Captive Insurer	....	Insurer formed to insure the risk exposures of its policyholder owner(s), which is regulated by the captive insurance laws of a particular state jurisdiction
CMP	....	Commercial Multi-Peril
Co-Pay Share	....	The percentage of losses that an insurer is obligated to pay after meeting its deductible and the Program Trigger is satisfied. The federal government is responsible for the remaining percentage of losses above the insurer's deductible. The co-pay share for CY 2020 was 20 percent.
CY	....	Calendar year
DEP	....	Direct earned premium

Embedded Terrorism Insurance	....	Terrorism insurance provided within a P&C policy that also covers other risks
Federal Share of Compensation	....	The percentage of an insurer's losses that the federal government will pay after the insurer meets its deductible and the Program Trigger is satisfied. The insurer is responsible for the remaining percentage of losses above its deductible. The federal share of compensation for CY 2020 was 80 percent.
FIO	....	Federal Insurance Office
Insurer Deductible	....	The amount an individual insurer must pay before receiving the federal share of compensation, after an event is certified as an act of terrorism and the Program Trigger is exceeded. An insurer's deductible is 20 percent of its TRIP-eligible DEP in the prior year.
NBCR	....	Nuclear, biological, chemical, or radiological
P&C	....	Property and casualty
PML	....	Probable maximum loss
Program	....	Terrorism Risk Insurance Program (also, TRIP)
Program Cap	....	Maximum aggregate exposure limit for the federal government and insurers under TRIP in any calendar year
Program Trigger	....	Minimum amount of insurance industry aggregate insured losses resulting from certified act(s) of terrorism that must occur in a calendar year before any federal payments can be made under TRIP
Standalone Policy	....	Insurance policy which provides coverage only for terrorism risk
Study	....	FIO, *Study of Small Insurer Competitiveness in the Terrorism Risk Insurance Marketplace* (June 2021)
Secretary	....	Secretary of the Treasury
September 11 Attacks	....	Terrorist attacks occurring on September 11, 2001
Small Insurer	....	An insurer as defined under 31 C.F.R. § 50.4(z)
Take-Up Rate	....	Extent to which terrorism risk insurance is purchased by policyholders
Treasury	....	U.S. Department of the Treasury
TRIA	....	Terrorism Risk Insurance Act of 2002, as amended
TRIP	....	Terrorism Risk Insurance Program (also, Program)

TRIP-Eligible Lines of Insurance	....	Commercial P&C insurance subject to the TRIP pursuant to 31 C.F.R. § 50.4(w)
WC	....	Workers' Compensation

I. INTRODUCTION AND EXECUTIVE SUMMARY

Under the Terrorism Risk Insurance Program Reauthorization Act of 2015 (2015 Reauthorization Act),[1] the Secretary of the Treasury (Secretary) is required to conduct a study of small insurers participating in the Terrorism Risk Insurance Program (TRIP or Program) and identify any competitive challenges small insurers face in the terrorism risk insurance marketplace. The study must identify:

A. changes to the market share, premium volume, and policyholder surplus of small insurers relative to large insurers;
B. how the property and casualty insurance market for terrorism risk differs between small and large insurers, and whether such a difference exists within other perils;
C. the impact of the Program's mandatory availability requirement on small insurers;
D. the effect on small insurers of increasing the Program Trigger;
E. the availability and cost of private reinsurance for small insurers; and
F. the impact that state workers' compensation laws have on small insurers and workers' compensation carriers in the terrorism risk insurance marketplace.[2]

The findings and conclusions of the study must be submitted in a report to Congress no later than June 30, 2021 (Study).[3]

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[1] Terrorism Risk Insurance Program Reauthorization Act, Pub. L. 114-1, 129 Stat. 3 (2015). The provisions of the Terrorism Risk Insurance Act of 2002 (TRIA), Pub. L. No. 107-297, 116 Stat. 2322 (2002), as amended (including the 2015 Reauthorization Act), appear in a note of the United States Code (15 U.S.C. § 6701 note), and, therefore, references to the provisions of TRIA or the 2015 Reauthorization Act are identified by the sections of the law [*e.g.*, "TRIA § 102(1) (definition of an "act of terrorism")"].

[2] TRIA § 108(h).

[3] The 2015 Reauthorization Act required the Secretary to submit a report on the findings and conclusions of the small insurer study to Congress no later than June 30, 2017, and every other June 30 thereafter. Treasury published a report on its first small insurer study on June 30, 2017. *See* Federal Insurance Office, U.S. Department of the Treasury, *Study of Small Insurer Competitiveness in the Terrorism Risk Insurance Marketplace* (2017) (*2017 Small Insurer Study*), https://www.treasury.gov/initiatives/fio/reports-and-notices/Documents/Study_of_Small_Insurer_Competitiveness_in_the_Terrorism_Risk_Insurance_Marketplace_(June_2017).pdf. Treasury published a report on its second small insurer study on June 30, 2019. *See* Federal Insurance Office, U.S. Department of the Treasury, *Study of Small Insurer Competitiveness in the Terrorism Risk Insurance Marketplace* (2019) (*2019 Small Insurer Study*), https://home.treasury.gov/system/files/311/2019_TRIP_SmallInsurer_Report.pdf. This Study addresses Treasury's findings and conclusions from its third small insurer study, described further in Section V.

The 2015 Reauthorization Act also requires the Secretary to collect Program data on an annual basis.[4] The Federal Insurance Office (FIO) assists the Secretary in Program administration.[5]

Since the 2015 Reauthorization Act, the U.S. Department of the Treasury (Treasury) has conducted six data calls – a voluntary call in 2016 seeking calendar year (CY) 2015 data, and five mandatory calls in 2017, 2018, 2019, 2020, and 2021 requiring, respectively, the production of CY 2016, 2017, 2018, 2019, and 2020 data. This Study addresses the six statutory considerations identified above, and principally uses information from the 2019, 2020, and 2021 TRIP data calls.

Based on its analysis of the collected information, Treasury has reached the following conclusions, all of which are discussed in this Study:

A. Small insurer direct earned premium (DEP) in the TRIP-eligible lines of insurance and policyholder surplus has remained relatively constant over the past decade. Small insurers' total market share within the TRIP-eligible lines of insurance now appears to have stabilized relative to larger (non-small) insurers following decreases in small insurers' relative market share observed in the data from the 2011 to 2015 period. Refer to Section V.A.

B. As noted in the 2017 and 2019 Small Insurer Studies, numerous market differences exist between small insurers and larger (non-small) insurers. Refer to Section V.B. These include:
   1. When insurers charge for terrorism risk insurance coverage, small insurers on average allocate a lower percentage of DEP for terrorism risk insurance than do non-small insurers. Small insurers also remain more likely than larger insurers to charge no premium for terrorism risk insurance. Based on the reported data, terrorism risk insurance take-up rates by small insurer policyholders are slightly higher than the take-up rates for the policyholders of non-small insurers. Small insurers tend to provide coverage in fewer states than do non-small insurers, and small insurers earn a higher percentage of DEP in the commercial multi-peril (CMP) and workers' compensation lines than do non-small insurers.
   2. Small insurers issue few policies for standalone terrorism insurance. No such policies were reported to have been issued in 2020.
   3. Small insurers are participating in the cyber insurance market covered under the TRIP-eligible lines of insurance, although at different premium levels and terrorism risk insurance take-up rates than other market participants.
   4. The reported data shows that small insurers exclude coverage for nuclear, biological, chemical, and radiological (NBCR) risks from their terrorism risk

[4] TRIA § 104(h)(1).

[5] Federal Insurance Office Act of 2010, 31 U.S.C. §313(c)(1)(D) (2012).

insurance coverage at similar percentages shown by other industry participants. Nonetheless, their reported limits continue to indicate that they may have a significant aggregate exposure associated with such losses.

5. The participation of small insurers in the lines of insurance covered by TRIP is slightly higher than their share in property and casualty (P&C) insurance lines not covered by TRIP.
6. Small insurers are the largest market provider of terrorism risk insurance for places of worship, in an amount significantly exceeding their overall share of the terrorism risk insurance market.

C. The mandatory availability requirement appears to affect small insurer participation in the terrorism risk insurance market by causing them to assume more terrorism risk exposure than they might otherwise provide absent the requirement. To the extent this presents risk to small insurers, the Program's backstop provisions address some of that potential risk. The continuing ability of small insurers to compete in this market indicates that the mandatory availability requirement may not be unduly limiting their market participation in the TRIP-eligible lines of insurance. Refer to Section V.C.

D. Under some scenarios, individual or multiple small insurers could sustain significant terrorism losses without federal backstop support from TRIP if their aggregate losses fail to satisfy the Program Trigger. This could have a negative effect on small insurers, particularly in the absence of private reinsurance addressing this exposure. Refer to Section V.D.

E. The most recent information shows that small insurers now cede a slightly lower percentage of their DEP to purchase reinsurance than do non-small insurers, which is a change from indications from earlier information. In 2020, aggregate reinsurance purchases by small insurers covering terrorism risk decreased in comparison to earlier years – whereas such purchases increased in all other market segments. Furthermore, the data continues to show that some small insurers do not purchase private reinsurance sufficient to cover the potential gap between their individual Program deductibles and the Program Trigger, or their estimated Probable Maximum Loss. In addition, small insurers purchase less reinsurance for NBCR-related terrorism risk than for conventional terrorism risk. Refer to Sections V.E and V.F.

F. Workers' compensation insurance cannot exclude coverage for either conventional or NBCR-related terrorism losses. Therefore, workers' compensation remains a difficult exposure from a terrorism risk standpoint for the insurance market. Small insurers face an elevated risk for workers' compensation losses given that a higher percentage of their TRIP-eligible DEP is from workers' compensation policies (in comparison to non-small insurers). The limited availability of NBCR reinsurance further increases this risk. Refer to Section V.F.

II. BACKGROUND

Prior to September 11, 2001, commercial P&C insurance policies generally did not exclude coverage for losses resulting from terrorism. The events of September 11, 2001 (September 11 Attacks) resulted in approximately $54 billion of P&C insurance losses, more than two-thirds of which were reimbursed by reinsurers to insurers.[6] Following the September 11 Attacks, insurers and reinsurers began to exclude coverage for terrorism risk from commercial P&C policies.

The Terrorism Risk Insurance Act of 2002 (TRIA) was enacted, in part, because the widespread unavailability of terrorism risk insurance "could seriously hamper ongoing and planned construction, property acquisition, and other business projects, generate a dramatic increase in rents, and otherwise suppress economic activity."[7] TRIA established the Program, which requires insurers to make terrorism risk coverage available within certain lines of commercial P&C insurance (TRIP-eligible lines of insurance).[8] To assist insurers with the potential financial exposure resulting from this required offer of terrorism risk insurance, certain insurance losses resulting from an "act of terrorism" (as defined by TRIA and certified as such by the Secretary) are eligible for reimbursement through the Program.[9] The Program is housed in Treasury and administered by the Secretary with the assistance of FIO.[10]

TRIA originally authorized the Program for a three-year period ending December 31, 2005. The Program has since been reauthorized four times,[11] most recently by the 2019 Reauthorization Act, which extended the Program through December 31, 2027.[12] Changes enacted with each

[6] Insured losses shown in 2019 dollars. *See* Willis Towers Watson, *The Terrorism Pool Index: Review of Terrorism Insurance Programs in Selected Countries 2020-2021* (2020), 38, https://iftrip.org/wp-content/uploads/2020/12/Willis-Towers-Watson-Terrorism-Pools-Index-2020.pdf.

[7] TRIA § 101(a)(5).

[8] *See* TRIA § 103(c). Treasury has implemented regulations defining the "TRIP-eligible lines of insurance" with reference to certain lines identified for state regulatory purposes as follows: Fire, Allied Lines, Commercial Multiple Peril (non-liability), Commercial Multiple Peril (liability), Ocean Marine, Inland Marine, Workers' Compensation, Other Liability (but not including Professional Liability, which is otherwise within this line for state reporting purposes), Products Liability, Aircraft, and Boiler and Machinery. 31 CFR § 50.4(w)(1) (2020). Some of these lines also contain personal P&C premium exposures that are not subject to the Program. There are also certain other defined exclusions within these lines. *See* 31 CFR § 50.4(w)(2).

[9] Further details on Program operation are provided in Section III of this Study.

[10] Federal Insurance Office Act of 2010, 31 U.S.C. § 313(c)(1)(D) (2012).

[11] *See* Terrorism Risk Insurance Extension Act of 2005 (2005 Extension Act), Pub. L. 109-144, 119 Stat. 2660 (2005); Terrorism Risk Insurance Program Reauthorization Act of 2007 (2007 Reauthorization Act), Pub. L. 110-160, 121 Stat. 1839 (2007); 2015 Reauthorization Act; Terrorism Risk Insurance Program Reauthorization Act of 2019 (2019 Reauthorization Act), Pub. L. 116-94, 133 Stat. 2534 (2019).

[12] Treasury issued rules in June 2021 to implement changes to TRIA under the 2019 Reauthorization Act. *See* Terrorism Risk Insurance Program; Updated Regulations in Light of the Terrorism Risk Insurance Program Reauthorization Act of 2019, and for Other Purposes, 86 Fed. Reg. 30537 (June 9, 2021), https://www.federalregister.gov/documents/2021/06/09/2021-12014/terrorism-risk-insurance-program-updated-regulations-in-light-of-the-terrorism-risk-insurance.

Program renewal have generally reduced potential federal exposure to insured losses and increased private market exposure, either through reduction in government sharing percentages or increases in insurer retentions and market retention amounts on account of the increasing industry premium base.

III. TERRORISM RISK INSURANCE PROGRAM

The Program requires that each entity meeting the definition of an insurer make available coverage for insured losses resulting from acts of terrorism.[13] This offer must "not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism."[14] The "make available" requirement applies only to TRIP-eligible lines of insurance.[15] TRIA does not mandate that insurers offer terrorism risk insurance at a particular price,[16] nor does TRIA require any policyholder to purchase insurance for terrorism risk.[17] All commercial P&C insurers writing in TRIP-eligible lines and required to make terrorism risk insurance available under their policies are considered Program participants, regardless of whether their policyholders accept the offer to take up the coverage.

Insurers are eligible for federal payments under the Program only for losses resulting from "acts of terrorism." An act of terrorism is defined under TRIA as an act certified by the Secretary in consultation with the Attorney General of the United States and the Secretary of Homeland Security:

- to be an act of terrorism;
- to be a violent act or an act that is dangerous to human life, property, or infrastructure;
- to have resulted in damage within the United States;[18] and
- to have been committed by an individual or individuals, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the U.S. government by coercion.[19]

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[13] An insurer is defined under TRIA as any entity, including any affiliate thereof, which receives direct earned premiums for TRIP-eligible lines of insurance and is licensed or admitted to engage in the business of insurance in any state; an eligible surplus lines carrier; a federally-approved maritime, energy, or aircraft insurer; a state residual market insurance entity or workers' compensation fund; or, to the extent provided in rules issued by the Secretary, a captive insurer or a self-insurance arrangement. TRIA § 102(6).

[14] TRIA §103(c)(2).

[15] Reinsurance is excluded from the TRIP-eligible lines of insurance. TRIA § 102(11)(B)(vii). Issues concerning the availability of private reinsurance for terrorism risk are discussed further below in Sections V.E and V.F.

[16] State insurance rating laws and regulations may affect the price that insurers can charge for terrorism risk insurance subject to TRIA.

[17] In some circumstances, state law may require the purchase of (or limit the ability to exclude) coverage for terrorism risk, such as in the case of workers' compensation insurance, discussed further below in Section V.F.

[18] TRIA also provides that an act of terrorism may occur outside the United States in the case of certain air carriers or vessels, or on the premises of a U.S. mission. TRIA § 102(1)(A)(iii).

[19] TRIA § 102(1)(A). An "act of terrorism" satisfying the TRIA definition may be certified by the Secretary, whether it is committed by domestic or foreign persons. *See* 2007 Reauthorization Act, § 2 (deleting "acting on behalf of any foreign person or foreign interest" from "act of terrorism" definition).

Additionally, the Secretary may not certify an act that results in P&C insurance losses totaling $5 million or less,[20] or that was committed as part of the course of a war declared by Congress.[21]

If the Secretary certifies an act of terrorism, participating insurers may submit claims to Treasury, and Treasury will determine whether, and in what amounts, insurers are eligible for payments under the Program.[22] Treasury must then obtain reimbursement of certain payments of the federal share of compensation through a recoupment process, and may require reimbursement of additional payments depending on the amount of total losses.

A participating insurer's recovery under the Program is based on a number of factors, including its individual insurer deductible, the Program Trigger, the federal share of compensation of an insurer's losses, and the Program Cap. These factors are described in greater detail below.

Insurer Deductible

After the Secretary certifies one or more acts of terrorism, two prerequisites must be met before an insurer is eligible for Program payments from Treasury: (1) the insurer's losses must exceed its deductible (as defined under the Program); and (2) the Program Trigger must be satisfied. TRIA defines an individual insurer's deductible as 20 percent of the insurer's DEP in the TRIP-eligible lines for the prior calendar year.[23]

Program Trigger

The Program Trigger is the minimum amount of insurance industry aggregate insured losses resulting from a certified act (or acts) of terrorism that must occur in a particular calendar year before Treasury can make any federal payments. Beginning in 2016, the Program Trigger increased by $20 million per year, increasing from $100 million in 2015 to $200 million in CY 2020 (the principal year addressed by this Study).[24] The Program Trigger is now set to remain at $200 million per calendar year for each year until the current expiration of the Program in 2027.[25] Once the Program Trigger has been satisfied, Treasury will make payments to individual insurers for the federal share of compensation above their respective deductibles.

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[20] TRIA § 102(1)(B)(ii).

[21] This limiting clause regarding an act of war does not apply to coverage under the Program for workers' compensation insurance. TRIA § 102(1)(B)(i).

[22] Treasury makes all determinations pursuant to the Program regulations. *See* 31 CFR Part 50.

[23] TRIA § 102(7).

[24] TRIA § 103(e)(1)(B). This Study focuses upon the Program structure in place in 2020 because much of the FIO's analysis is based on the 2021 TRIP data call, which collected year-end data for CY 2020.

[25] TRIA § 103(e)(1)(B). TRIP did not originally have a Program Trigger. This requirement was introduced in the

Federal Share of Compensation

After an insurer meets its deductible and the Program Trigger is satisfied, the federal government will pay a certain percentage of that insurer's losses in excess of the insurer's deductible. For CY 2020, and through the current expiration of the Program, the federal share of compensation is 80 percent of an insurer's losses above its deductible, with the insurer responsible for the remaining 20 percent.[26]

Program Cap

TRIA limits the aggregate insured loss exposure of both insurers and the federal government arising from one or more acts of terrorism. Specifically, TRIA prohibits the Secretary from making payments for any portion of aggregate insured losses (including amounts paid by Program participants and the federal government) from acts of terrorism that exceeds the Program Cap of $100 billion during any calendar year.[27] If the Program Cap is reached, an insurer that has met its insurer deductible by making payments for insured losses subject to the Program is not liable for any portion of losses that exceeds the Program Cap.[28]

Recoupment

The Secretary will collect "terrorism loss risk-spreading premiums" from insurers if federal payments are made to insurers. Under this mechanism, known as recoupment, Program participants may be required to collect funds from policyholders by placing a surcharge on insurance policies written in TRIP-eligible lines. The surcharges will be set based upon the amount that must be recovered by Treasury[29] and the time within which they must be recovered,

2005 Extension Act. It was initially set at $50 million (for losses occurring in 2006) and increased to $100 million for losses occurring in 2007. When TRIP was reauthorized through 2014 in the 2007 Reauthorization Act, no change was made to the Program Trigger, which remained at $100 million. The 2015 Reauthorization Act, however, provided for an annual increase of $20 million in the Program Trigger beginning in 2016 and continuing until 2020, and resulting in a Program Trigger of $200 million in 2020. The 2019 Reauthorization Act did not modify the Program Trigger provisions of TRIA, such that the Program Trigger currently remains at $200 million through 2027.

[26] TRIA § 103(e)(1)(A).

[27] TRIA § 103(e)(2)(A).

[28] TRIA requires the Secretary to notify Congress if insured losses are projected to exceed the Program Cap, and to determine the pro rata share of insured losses to be paid by each affected insurer. TRIA §§ 103(e)(2)-(3).

[29] Treasury must recover amounts – mandatory recoupment – where total industry payments are below the insurance marketplace aggregate retention amount, or IMARA, which is calculated annually by Treasury based upon its annual TRIP data calls, and is the annual aggregate average of insurer deductibles over the prior three-year period. *See* TRIA §§ 103(e)(6)-(7); 31 CFR § 50.4(m)(2) (2019). For purposes of calendar year 2021, the IMARA is $41.7 billion. *See* IMARA Calculation for Calendar Year 2021 Under the Terrorism Risk Insurance Program, 85 Fed. Reg. 83159 (December 21, 2020). In connection with amounts subject to mandatory recoupment, Treasury must collect 140 percent of total amounts expended. *See* TRIA §§ 103(e)(7)-(8).

as required by TRIA. Insurers must then remit these surcharges to the Secretary.[30] The requirement to collect, or recoup, terrorism loss risk-spreading premiums applies not only to insurers that received federal payments under the Program, but also to all insurers writing policies in TRIP-eligible lines of insurance. Surcharges are placed on all TRIP-eligible insurance policies regardless of whether the policyholder purchased terrorism risk insurance.[31]

Small Insurer Definition

The 2015 Reauthorization Act directed the Secretary to develop a regulatory definition of "small insurers" participating in TRIP for purposes of the biennial small insurer study.[32] Treasury regulations define small insurers in direct relation to the Program Trigger:

> *Small insurer* means an insurer (or an affiliated group of insurers . . .) whose policyholder surplus for the immediately preceding year . . . is less than five times the Program Trigger amount for the current year and whose direct earned premium for the preceding year is also less than five times the Program Trigger amount for the current year. An insurer that has not had a full year of operations during the immediately preceding calendar year is a small insurer if its policyholder surplus in the current year is less than five times the Program Trigger amount for the current year. A captive insurer is not a small insurer, regardless of the size of its policyholder surplus or direct earned premium.[33]

For the purposes of the 2021 TRIP data call, small insurers were insurers with both a 2019 policyholder surplus under $1 billion million and a 2019 TRIP-eligible DEP under $1 billion million, each of which are equal to five times the 2020 Program Trigger of $200 million.

Significance of the Program Trigger for Small Insurers

The Program Trigger has no practical impact for insurers above the small insurer size threshold. This is because any "non-small" insurer that satisfies its own individual insurer deductible will also have sufficient losses to individually meet the Program Trigger. Under the Program, a non-small insurer will always be entitled to submit claims for the federal share of compensation once it meets its insurer deductible.

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[30] TRIA §§ 103(e)(7)-(8).

[31] Depending on how any federal payments under TRIP compare with the total insured losses paid by participating insurers, TRIA provides that recoupment under the Program may be mandatory or may be subject to the Secretary's discretion. In connection with amounts subject to mandatory recoupment, Treasury must collect 140 percent of total amounts expended. *See* TRIA §§ 103(e)(7)-(8).

[32] TRIA § 108(h)(1). Treasury's small insurer definition should not be viewed as having relevance to any other definition of "small insurer" that may be used in other statutory and regulatory determinations, either at the federal or state levels.

[33] 31 CFR § 50.4(z).

However, the Program Trigger can pose a barrier to recovery of the federal share of compensation by small insurers. A small insurer may satisfy its individual insurer deductible, but still have total losses that are less than the Program Trigger. For example, if a small insurer had a 2020 insurer deductible of $50 million, and experienced $100 million in total insured losses due to a certified act of terrorism, the insurer would only be able to receive payment of the federal share of compensation if aggregate insured losses among all Program participants exceeded the Program Trigger ($200 million in 2020). If this insurer were the only insurer to sustain insured losses in the act of terrorism (or if aggregate industry losses were under $200 million), the Program Trigger would not be satisfied, and the insurer would not be able to submit a claim for the federal share of compensation, despite experiencing significant losses and satisfying its individual insurer deductible under the Program.

IV. DATA COLLECTION

A. Data Collection Process

The 2015 Reauthorization Act provides that, beginning in calendar year 2016, the Secretary shall require participating insurers to provide information and data to the Secretary for purposes of analyzing the overall effectiveness of the Program.[34] The information to be provided to the Secretary by participating insurers includes information regarding:

(1) lines of insurance with exposure to terrorism losses;
(2) premiums earned on coverage offered for terrorism losses;
(3) geographical location of exposures;
(4) pricing of terrorism risk coverage offered;
(5) the take-up rate for terrorism risk coverage;
(6) the amount of private reinsurance for acts of terrorism purchased; and
(7) such other matters as the Secretary considers appropriate.[35]

This Study is based primarily on the results of Treasury's 2019, 2020, and 2021 TRIP data calls (i.e., relating to calendar years 2018, 2019, and 2020, respectively). In addition, Treasury performed qualitative research and sought comments from stakeholders and the general public through a Federal Register Notice.[36] When analyzing certain market changes over time for this Study, Treasury also considered information reported by insurers to state regulators.

The 2019, 2020, and 2021 TRIP data calls were mandatory for participating insurers,[37] subject to an exception for small insurers with less than $10 million in TRIP-eligible lines DEP in any individual reporting year.[38]

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[34] TRIA § 104(h)(1).

[35] TRIA §§ 104(h)(1)(A)-(G).

[36] *See* Comments in Aid of Analyses of the Terrorism Risk Insurance Program, 86 Fed. Reg. 17265 (April 1, 2021), https://www.govinfo.gov/content/pkg/FR-2021-04-01/pdf/2021-06698.pdf. In response to its notice seeking comments in connection with the 2021 Small Insurer Study, Treasury received comments from the Centers for Better Insurance (May 14, 2021) (CBI Comments) and the National Council on Compensation Insurance (May 17, 2021) (NCCI Comments). Both comments are available at https://www.regulations.gov/document/TREAS-TRIP-2021-0007-0001/comment.

[37] Insurers that are not small insurers were subject to different reporting templates that requested more data elements.

[38] Based on state reporting data, Treasury estimates that the approximately 400 insurers eligible for this reporting

Treasury collected data on a group basis because TRIP is generally administered on a group basis.[39] Treasury collected data concerning DEP, policy exposures, policyholder take-up rates, and reinsurance.

Treasury collected data through a third-party insurance statistical aggregator, as required by the 2015 Reauthorization Act.[40] The statistical aggregator provided results to Treasury in an aggregated, anonymous format that did not identify any specific reporting groups or individual insurers. Treasury obtained most of the workers' compensation insurance data from the National Council on Compensation Insurance (which provided data from the states in which it operates as well as on behalf of other independent state workers' compensation rating bureaus), the California Workers' Compensation Insurance Rating Bureau, and the New York Compensation Insurance Rating Board, thereby reducing the burden of the reporting requirements on the insurance industry.

B. Responding Insurer Categories

Insurer groups were required to report in one of four insurer categories, based on the requirements of TRIA and its implementing regulations.[41] These insurer categories (listed below) collectively encompass non-small and small domestic insurers that were "admitted" or licensed to write business in at least one U.S. jurisdiction,[42] domestic and foreign insurers that were permitted as a matter of state law to write U.S. business on a surplus lines basis, and captive insurers admitted or licensed to write TRIP-eligible lines of insurance in at least one U.S. jurisdiction.[43]

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exception in the 2021 TRIP data call constituted 0.5 percent of the TRIP-eligible lines premium market, and 3.3 percent of the small insurer market segment. These amounts are similar to Treasury's estimates for the 2019 and 2020 TRIP data calls. State reporting data cited in this Study are as of December 31, 2020, as derived from S&P Global Market Intelligence (S&P Global) on April 14, 2021.

[39] An "affiliate" under TRIP is "any entity that controls, is controlled by, or is under common control with the insurer." 31 CFR § 50.4(c)(1). Calculation of the deductible and the submission of claims under TRIP is on a group basis, in light of the "affiliate" definition in the regulations. Recoupment surcharges, however, are assessed and collected on an individual company basis. *See* 31 CFR § 50.96. Insurer groups may include both domestic insurers as well as foreign insurers writing business in the United States on a surplus lines basis.

[40] TRIA § 104(h)(3). Insurance Services Office, Inc. was the data aggregator for the 2019, 2020, and 2021 TRIP data calls.

[41] Each insurer category was provided with a different reporting template that was tailored to that category.

[42] An admitted company is "an insurance company licensed to do business in a state(s), domiciled in an alternative state or country." "Glossary of Insurance Terms," National Association of Insurance Commissioners, http://www.naic.org/consumer_glossary.htm.

[43] Non-admitted insurers can write insurance on a surplus lines basis when the desired coverage cannot be obtained from admitted insurers in the jurisdiction in question. *See* 31 CFR § 50.4(o)(1)(i)(B). *See also* "Glossary of Insurance Terms."

For 2021, the four insurer categories required to report information were as follows:

(1) **Small Insurers:** Domestic insurers or groups (including affiliated alien surplus lines insurers) with *both* 2019 DEP in TRIP-eligible lines of insurance of less than $1 billion *and* a 2019 policyholder surplus of less than $1 billion. The small insurer threshold is calculated annually in relation to the Program Trigger amount.

(2) **Non-Small Insurers:** Domestic insurers or groups (including affiliated alien surplus lines insurers) with either DEP in TRIP-eligible lines of insurance above the small insurer threshold or a policyholder surplus above the small insurer threshold.

(3) **Captive Insurers:** Insurers formed to insure the risk exposures of their policyholder owners and regulated by the captive insurance laws of a particular state jurisdiction.[44] Captive insurers are explicitly excluded from the regulatory definition of small insurers, and therefore were not subject to this Study's analysis of small insurers.

(4) **Alien Surplus Lines Insurers:** Alien surplus lines insurers not affiliated with either a domestic non-small or small insurer.[45] Alien surplus lines insurers were not subject to this Study's analysis of small insurers (unless affiliated with an admitted small insurer group).[46]

C. Response Rate

Treasury estimates that the response rate for admitted insurers in the 2019 TRIP data call (measured by TRIP-eligible DEP) was at least 97.5 percent for non-small insurers, and at least 79.7 percent for small insurers.[47]

D. Data Quality Evaluation

This Study analyzes data for calendar years 2011 through 2020, with particular attention to implications and trends based on data from the more recent years. For CY 2011 through 2020,

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[44] *See* 31 CFR § 50.4(g).

[45] Alien surplus lines insurers are non-U.S. insurers qualified by state regulators to participate in U.S. insurance markets on a surplus lines basis. They are allowed to write insurance for risks that cannot be placed with domestic licensed insurers in the admitted market. *See* 31 CFR § 50.4(o)(1)(i)(B).

[46] Although most alien surplus lines insurers are below the "small insurer" size threshold, the coverages and policyholders in the surplus market may differ significantly from risks placed in the admitted market. In addition, although admitted small insurers may write insurance in the surplus market, only 9.1 percent of the individual insurers within the small insurer groups that reported in the 2021 TRIP data call identified as surplus lines insurers.

[47] The small insurer response rate could be higher because the non-responder category likely includes some small insurers that were not subject to the data call. Determining the response rate for alien surplus lines and captive insurers under TRIP is more difficult because those insurers typically do not submit publicly available information that Treasury can use to independently evaluate response rates. Based upon prior evaluations and coordination with relevant state insurance regulators, Treasury estimates that the significant majority of alien surplus lines and captive insurers participating in the Program responded to the 2021 TRIP data call.

Treasury relied primarily on the results of the 2019, 2020, and 2021 TRIP data calls.[48] In addition, Treasury reviewed state reporting data to draw conclusions for the period from CY 2011 through 2015 (prior to Treasury's first mandatory data call).[49] Treasury also compared the results of its 2019, 2020, and 2021 TRIP data calls with state reporting data for the same period to further validate the accuracy of reported data.

The comparison between the TRIP data calls and state reporting data is relevant because TRIP-eligible lines are defined by regulation with general reference to state insurance reporting lines. State insurance regulators collect P&C insurance information from insurers licensed in their respective jurisdictions, and although the collection has not historically included information specific to the terrorism risk insurance component of P&C insurance policies, the information collected identifies DEP by lines of insurance.

The Program uses the existing state-defined insurance lines and reporting data standards to determine the insurance that is subject to the Program, which promotes efficient Program administration. It also enables Treasury to determine whether the data reported by non-small insurers and small insurers under TRIP data calls is generally consistent with similar data reported for state regulatory purposes.

The use of the state reporting data in this Study permits analysis of the entire period from 2011 to 2020.[50] However, the nature of the state reporting data results in some variations between the state data and the TRIP data collected by Treasury. There are some differences between the TRIP-eligible lines of insurance and the same lines when used for state reporting purposes. This difference is caused by state reporting lines including certain premium that is not subject to the Program.[51] Treasury has adjusted the state data to account for the premium differential between

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[48] Some of the figures reported in this Study relating to the 2019 and 2020 TRIP data calls may not be identical to similar information previously reported by Treasury because of late-reported or corrected data that was submitted after prior report publication.

[49] Treasury performed its first data collection in 2016. However, because it was the first year of data collection under the 2015 Reauthorization Act, Treasury made participation in the collection voluntary to reduce the imposition of undue burdens on insurers; all subsequent data calls from 2017 have been mandatory. *See* Request for Data and Information, 81 Fed. Reg. 11649 (March 4, 2016), https://www.govinfo.gov/content/pkg/FR-2016-03-04/pdf/2016-04821.pdf. Insurers representing approximately 41 percent of the entire terrorism risk insurance market (by DEP) responded to the 2016 voluntary data call. Because of the limited response to the 2016 TRIP data call, the Study does not compare results from the 2016 voluntary data call to the mandatory data calls. For more information about the voluntary 2016 TRIP data call, *see* Federal Insurance Office, U.S. Department of the Treasury, *Report on the Overall Effectiveness of the Terrorism Risk Insurance Program* (2016) (*2016 Effectiveness Report*), 7, https://www.treasury.gov/initiatives/fio/reports-and-notices/Documents/2016_TRIP_Effectiveness_%20Report_FINAL.pdf.

[50] All reported state data includes data for the District of Columbia in addition to the 50 U.S. states.

[51] The principal differences between state reporting lines and TRIP-eligible lines are: (1) certain lines of insurance

the TRIP-eligible lines of insurance and the state reporting lines from 2011 to 2020 by assuming that similar amounts of premium in the state reporting lines were not subject to the Program but still reported for state purposes. In addition, the state reporting data used in this analysis relates to the TRIP-eligible lines and is not specific to terrorism risk. For purposes of this analysis, Treasury considers the data, as adjusted, to be instructive and generally consistent with the information generated by the TRIP data calls.

The relationship between the small insurer definition and the Program Trigger also affects the analysis of market changes from 2011 to 2020. The Program Trigger increased each year between 2016 and 2020, which affected the number of insurers defined as small insurers in each of these years. Specifically, the number of insurers classified as small insurers increased because an increasing number of insurers were below both the small insurer DEP threshold and the policyholder surplus threshold. Such changes in the Program Trigger have the result of increasing the market share of small insurers, assuming all other considerations remain the same. Treasury discussed this factor in its 2017 and 2019 Small Insurer Studies.[52] Because the Program Trigger is now fixed at $200 million from 2020 until expiration of the Program in 2027, future classification of insurers as "small insurers" will not be affected by periodic changes in the amount of the Program Trigger.

(principally Fire and Allied Lines, but also other lines) encompass policies written to cover personal, and not commercial, exposures, which are not subject to TRIP; and (2) Professional Liability insurance is not subject to TRIP, even though it is reported for state purposes under the Other Liability line of insurance, which is otherwise a TRIP-eligible line of insurance. *See* 31 CFR § 50.4(w).

[52] *See* FIO, *2017 Small Insurer Study*, 11-12; FIO, *2019 Small Insurer Study*, 15.

V. 2021 STUDY OF SMALL INSURER COMPETITIVENESS IN THE TERRORISM RISK INSURANCE MARKETPLACE

As noted above, TRIA requires each small insurer study to include an analysis of the following six areas:

A. Changes to market share, premium volume, and policyholder surplus of small insurers relative to large insurers;
B. How the P&C insurance market for terrorism risk differs between small and large insurers and whether such a difference exists within other perils;
C. The impact of the Program's mandatory availability requirement on small insurers;
D. The effect on small insurers of increasing the Program Trigger;
E. The availability and cost of private reinsurance for small insurers; and
F. The impact that state workers' compensation laws have on small insurers and workers' compensation carriers in the terrorism risk insurance marketplace.

This Study analyzes each of these areas, in subsections A through F below, respectively.

The COVID-19 pandemic has had significant effects on insurance markets in the United States including, but not limited to, the lines of insurance that are subject to the Program. This Study does not attempt to analyze the impact of COVID-19 upon the insurance sector generally, although FIO did examine such issues in its most recent Annual Report.[53] However, the Study does note in certain areas how the COVID-19 pandemic may have contributed to observed changes in the collected data, particularly as this may relate to small insurers. Because of the Program's structure, changes in the broader P&C insurance market, unrelated specifically to terrorism risk, may affect the terrorism risk insurance and reinsurance markets.[54]

A. Analysis of Changes to Market Share, Premium Volume, and Policyholder Surplus

Figure 1 sets forth summary information from the 2019, 2020, and 2021 TRIP data calls concerning the insurer categories participating in TRIP, as indicated by reported TRIP-eligible DEP.

[53] *See* Federal Insurance Office, U.S. Department of the Treasury, *Annual Report on the Insurance Industry* (2020) (*2020 Annual Report*), 9-42, https://home.treasury.gov/system/files/311/2020-FIO-Annual-Report.pdf.

[54] *See, e.g.*, Willis Towers Watson, Insurance Marketplace Realities, 2021 Spring Update (Apr. 21, 2021), 61 ("Embedded terrorism (TRIA) coverage — coverage included in property and casualty programs — remains inevitably and, at the moment, disadvantageously linked to property and casualty market fluctuations."), https://www.willistowerswatson.com/en-US/Insights/2021/04/insurance-marketplace-realities-2021-spring-update.

Figure 1: TRIP-Eligible DEP by Insurer Category ($ billions)[55]

	2019 TRIP Data Call		2020 TRIP Data Call		2021 TRIP Data Call	
	2018 DEP in TRIP-Eligible Lines	% of Total	2019 DEP in TRIP-Eligible Lines	% of Total	2020 DEP in TRIP-Eligible Lines	% of Total
Alien Surplus Lines Ins.	$ 7.6	4%	$ 11.1	5%	$ 11.0	5%
Captive Insurers	8.9	4%	9.1	4%	10.5	5%
Non-Small Insurers	166.2	81%	173.0	80%	174.1	80%
Small Insurers	22.5	11%	22.9	11%	23.1	11%
Total	**$ 205.2**	**100%**	**$ 216.1**	**100%**	**$ 218.8**	**100%**

Source: 2019-2021 TRIP Data Calls

Treasury concluded in its 2020 Effectiveness Report that the market for terrorism risk insurance in the United States was relatively stable; that such insurance was both available and affordable to U.S. policyholders; and that the Program has been effective in promoting the observed market stability.[56] Although not the focus of this Study, Treasury's analysis of the 2021 TRIP data call is consistent with Treasury's findings in the 2020 Effectiveness Report. Treasury will continue to evaluate the market in its next report on the effectiveness of the Program, to be issued in June 2022. Within the terrorism risk insurance market, small insurers constituted approximately 11 percent of the entire TRIP-eligible lines insurance market between 2018 and 2020. However, the increase in the Program Trigger during this period brought more insurers within the small insurer category, so these market share figures are not based upon the same population of insurers.

This Part V.A of the Study examines changes to the market share, premium volume, and policyholder surplus of small insurers as compared to large (or non-small) insurers between 2011 and 2020. This analysis does not include the market shares of alien surplus lines insurers and captive insurers, given the lack of comparable data. Therefore, the current overall market share of small insurers when measured only against non-small insurers is slightly higher than the 11 percent figure noted above for the comparison to the market as a whole.

Treasury performed multiple analyses to evaluate the changes discussed in this section. First, Treasury examined the market share of small insurers, using the regulatory definition of small insurer that directly relates to the Program Trigger. Although the small insurer definition was not adopted until 2016, Treasury analyzed 2011-2020 data based on the number of insurers that would have been considered small insurers under the Program if the small insurer definition had

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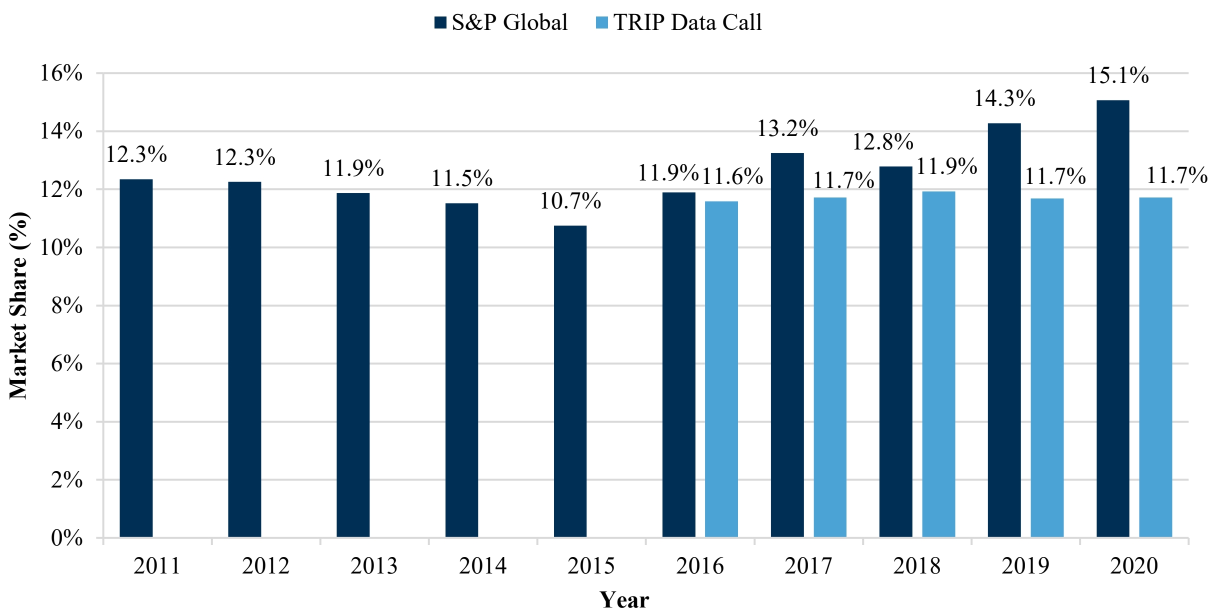
[55] Some figures may not add to 100 percent due to rounding.

[56] Federal Insurance Office, U.S. Department of Treasury, *Report on the Overall Effectiveness of the Terrorism Risk Insurance Program* (2020) (*2020 Effectiveness Report*), 15-16, https://home.treasury.gov/system/files/311/2020-TRIP-Effectiveness-Report.pdf. Treasury notes that while the market shares of the various industry segments in 2020 largely remained the same as in past years, increases in total TRIP-eligible lines DEP were less than observed in past years, which is largely attributable to the economic effects of the COVID-19 Pandemic. For the workers' compensation line of insurance – the largest TRIP-eligible line by premium volume – total premiums declined by 10 percent in 2020, on account of the pandemic-related economic slowdown, coupled with reductions in approved insurance rates and loss costs. *See* NCCI Comments at 2.

been in effect since 2011.[57] Figure 2 uses the state reporting data for the entire 2011-2020 period, as well as the more specific results from Treasury's 2016-2020 TRIP data calls, arrayed next to the corresponding years of state data from those years.

Figure 2: 2011-2020 Market Share by DEP of Small Insurers in TRIP-Eligible Lines based upon Application of Small Insurer Definition in Each Year



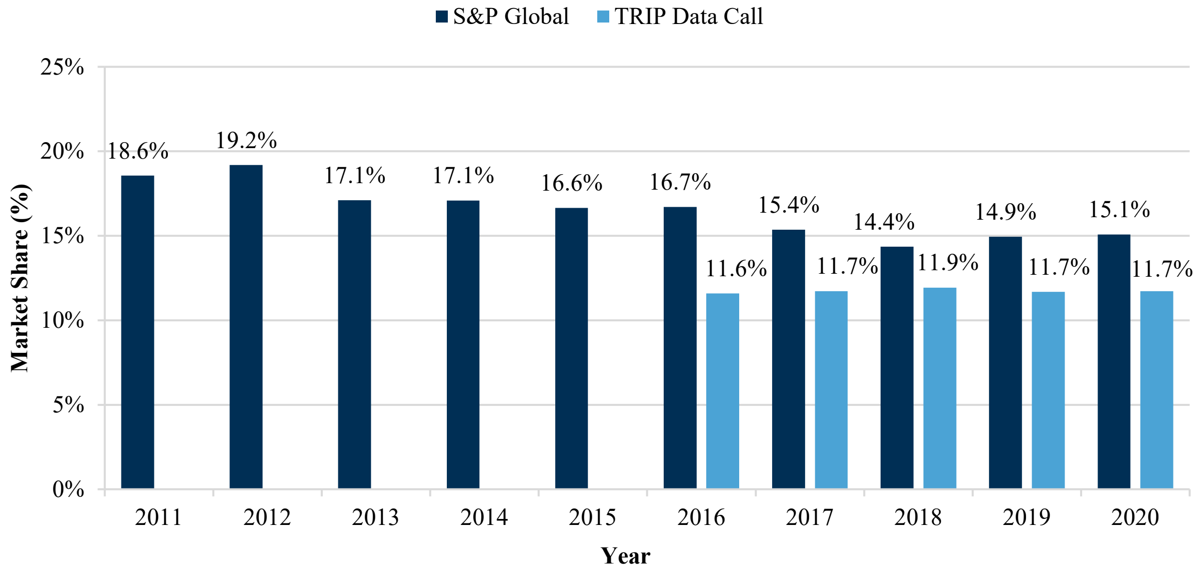
Source: S&P Global and 2017-2021 TRIP Data Calls

Figure 2 reflects some fluctuation in market shares of small insurers based, in part, upon the change in the number of small insurers in the market during each year on account of application of Treasury's small insurer definition and changes in the Program Trigger. As explained above, during the 2016-2020 period, the increase in the Program Trigger brought more insurers within the small insurer category.

Second, in order to account for how changes in the Program Trigger affect the number of small insurers, Treasury applied a fixed small insurer threshold between the years of 2011 and 2020. This was done by identifying all insurers meeting the 2020 definition of small insurer – that is, all insurers with less than $1 billion in TRIP-eligible lines premium and policyholder surplus. Using this approach, Figure 3 shows the same market share analysis from 2011 to 2020, again using both the state reporting data as well as data from the TRIP data calls.

[57] Thus, Treasury's analysis assumes that small insurers in 2014 and before had less than $500 million in DEP and policyholder surplus, because the Program Trigger was $100 million in those years.

Figure 3: 2011-2020 Market Share by DEP of Small Insurers in TRIP-Eligible Lines based upon 2020 Application of Small Insurer Definition

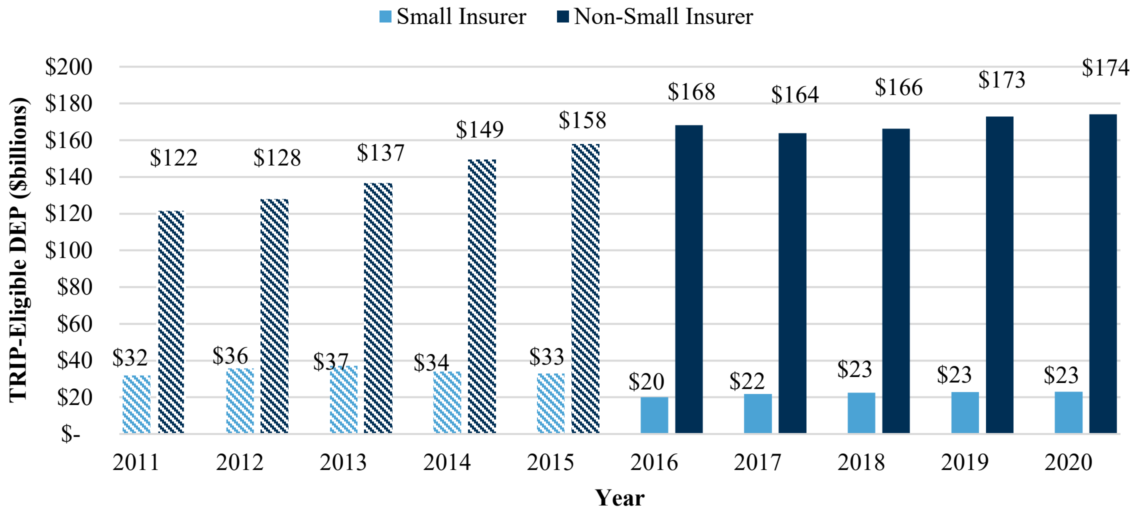


Source: S&P Global and 2017-2021 TRIP Data Calls

After accounting for the definitional change in the small insurer threshold, Figure 3 generally shows a decrease in small insurer market share from 2011 through 2016 of about two percent, and that the share has remained relatively constant since that time, particularly if only the TRIP data call information is considered.

Figure 4 compares the premium volume for TRIP-eligible lines for small insurers and non-small insurers from 2011 to 2020. It uses the 2020 small insurer threshold to evaluate the experience of small and non-small insurers over time and uses state data for the 2011 to 2015 period, and the TRIP data call information for the 2016 to 2020 period.

Figure 4: 2011-2020 Premium Volume Comparison for TRIP-Eligible Lines Small Insurers vs. Non-Small Insurers



Source: S&P Global (2011-2015) and 2017-2021 TRIP Data Calls (2016-2020)

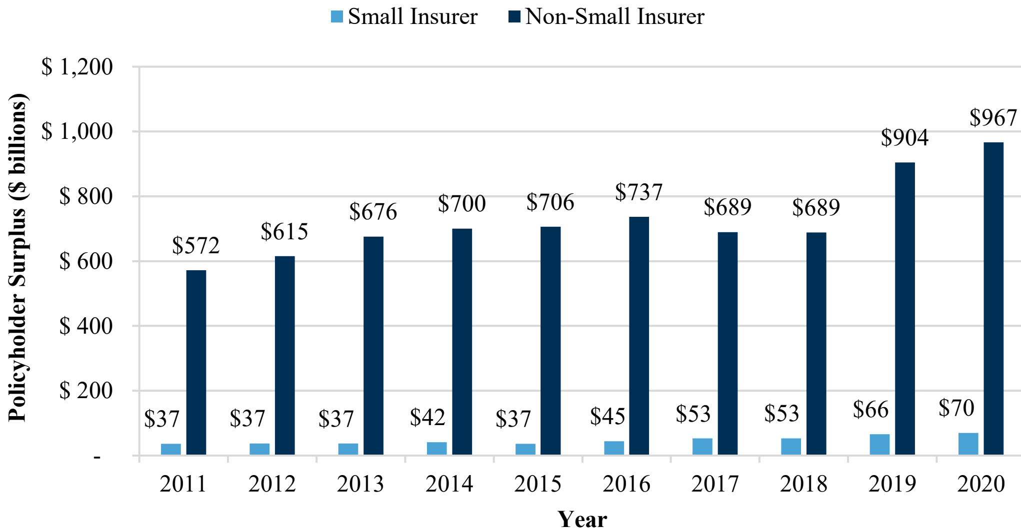
As shown in Figure 4, small insurer DEP has remained relatively constant from 2011 to 2020.[58] In comparison, the premium of non-small insurers increased during beginning portion of this period, resulting in a gradual market share decline for small insurers until about 2016, although the data indicates that this decline has leveled off in more recent years as non-small insurer premium has not increased as much as in the period before 2016.

Figure 5 compares policyholder surplus for small insurers and non-small insurers between 2011 and 2020, again applying the 2020 small insurer threshold for each year. Policyholder surplus is an indicator of an insurer's financial health, and its ability to pay claims and write new business.[59]

[58] After accounting for the change in the data used beginning in 2016, where TRIP data call information is used instead of adjusted state data.

[59] Policyholder surplus is the measurement of an insurer's "assets in excess of the liabilities of a company or net income above any monies indebted to legal obligation." "Glossary of Insurance Terms." The policyholder surplus of a P&C insurer is not limited to support an insurer's terrorism insurance exposure; rather, it "backs all property and casualty insurance policies in the United States and is subject to depletion in a wide variety of events. For example, extreme weather losses could particularly draw capital away from the terrorism insurance market, because events such as hurricanes share some characteristics – low frequency and the possibility of catastrophic levels of loss – with terrorism risk." Congressional Research Service, *Terrorism Risk Insurance: Overview and Issue Analysis for the 116th Congress* (2019), 11, https://crsreports.congress.gov/product/pdf/R/R45707.

Figure 5: 2011-2020 Policyholder Surplus Comparison
Small Insurers vs. Non-Small Insurers



Source: S&P Global

Between 2011 and 2020, the aggregate policyholder surplus for all small insurers ranged from a low of $37 billion during 2011 to 2013 (as well as in 2015) to a high of $70 billion in 2020. The policyholder surplus of non-small insurers generally increased from 2011 through 2016, and after a small decrease in the 2017-2018 period continued to grow in 2019 and 2020.

In the absence of data specific to terrorism risk insurance from 2011 to 2015, this Study's use of the state-reported TRIP-eligible lines data for the 2011 to 2015 period serves as a proxy for market share information during these years. Based upon this information, the market share of small insurers (measured by TRIP-eligible lines premium and adjusting for the small insurer size threshold over time) experienced a decline relative to the market share of non-small insurers between 2011 and 2016. This decline in market share for small insurers has leveled off since 2016. During this 2011 to 2016 period, the small insurer DEP remained relatively constant, while the DEP of non-small insurers increased, leading to the observed decline in small insurer market share. Policyholder surplus for small insurers has increased over the last decade for both small and non-small insurers (although fluctuating in different years for different groups). Nonetheless, from 2011 to 2020, the amount of small insurer policyholder surplus vis-à-vis non-small insurer surplus has not changed significantly (i.e., small insurer surplus in the aggregate was about seven percent of the amount non-small insurer surplus in both 2011 and 2020).

B. Market Differences between Small Insurers and Larger Insurers in the Terrorism Risk Insurance Marketplace and Comparison to Other Perils

Based upon information collected through Treasury's TRIP data calls, this section analyzes premiums, take-up rates, geographic scope of writings, and the lines of insurance in which small insurers are more heavily concentrated and comprise a larger share of the overall market.

Terrorism risk coverage provided under TRIP is generally "embedded" in policies that also cover other risks. Approximately 80 percent of the U.S. terrorism risk insurance market (as measured by terrorism risk insurance DEP), in any given year, is comprised of such embedded policies.

The remaining 20 percent of the U.S. terrorism risk insurance market is comprised of policies provided on a "standalone" basis, where the policy provides coverage only and specifically for terrorism risk. This section separately examines coverage provided on a standalone basis, as well as the additional specialized coverage areas of cyber terrorism, and terrorism risk insurance for NBCR terrorism events.

1. Embedded Policies

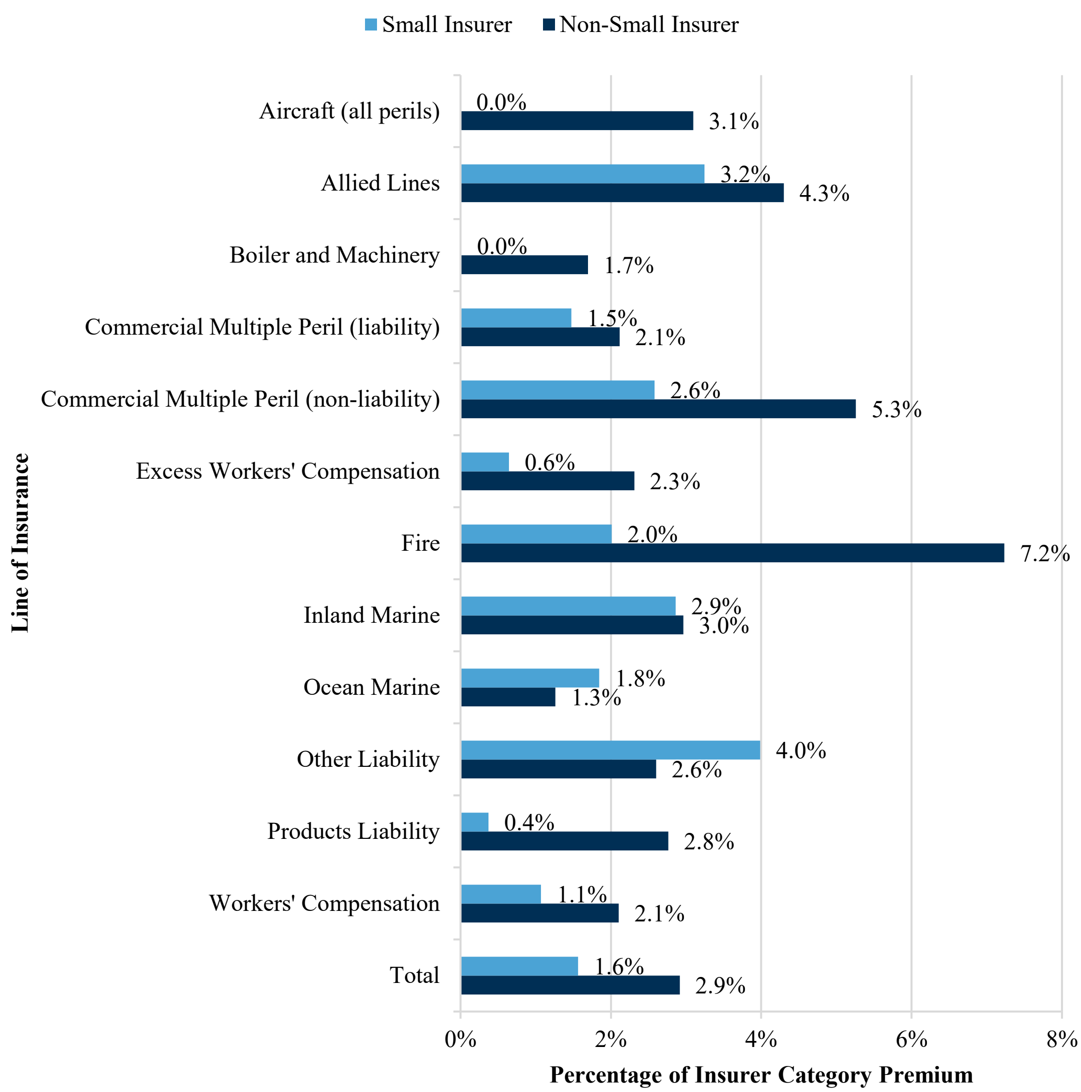
Embedded terrorism risk insurance is provided in P&C policies that also cover other risks. Under the Program, insurers must disclose to policyholders the amount of premium charged for embedded terrorism risk insurance.[60] The premium can be expressed to the policyholder as a percentage of the total premium charged for the policy. Similarly, analyses of terrorism risk insurance also typically express the cost of terrorism risk insurance as a percentage of total premiums charged. In many cases, terrorism risk insurance is provided at a disclosed premium of $0, meaning it is provided by insurers at no additional charge.[61]

[60] *See* 31 CFR §§ 50.10, 50.12.

[61] One commenter raised concerns that disclosed premium charges of $0 could reflect non-compliance with Program disclosure requirements that could prevent small insurers from certifying compliance with Program requirements incidental to a claim for the Federal Share of Compensation in the event of a certified act of terrorism. *See* CBI Comments at 1-3. As Treasury has confirmed in the past, compliance with the Program's disclosure requirements for the charging of terrorism risk insurance premium will be specifically evaluated incidental to claims for payment of the Federal Share of Compensation. *2020 Effectiveness Report*, 19 note 68. However, given the nature of terrorism risk and based on six years of collected data and market observation, Treasury does not share the view that this is a "grave and pervasive compliance problem within the ranks of small insurers" (CBI Comments at 3). So long as participating insurers are charging (or not charging) a premium consistent with state law policy pricing requirements, and the amount of that premium is appropriately disclosed in the policy, a participating insurer should be able to certify compliance incidental to a claim for the Federal Share of Compensation. A disclosed premium which is inconsistent with the actual charge that the insurer is making (or recording) would be misleading to the policyholder and thus in violation of the Program's disclosure requirements, thereby placing such insurer at risk of forfeiting eligibility for Program payments. *See* 31 CFR § 50.12(b) ("[a]n insurer may not describe the premium in a manner that is misleading in the context of the Program").

Figure 6 compares the percentage of total policy DEP allocated to terrorism risk by small insurers and non-small insurers on a line-by-line basis. This Figure does not include P&C policies where the insurer did not charge for terrorism risk coverage.

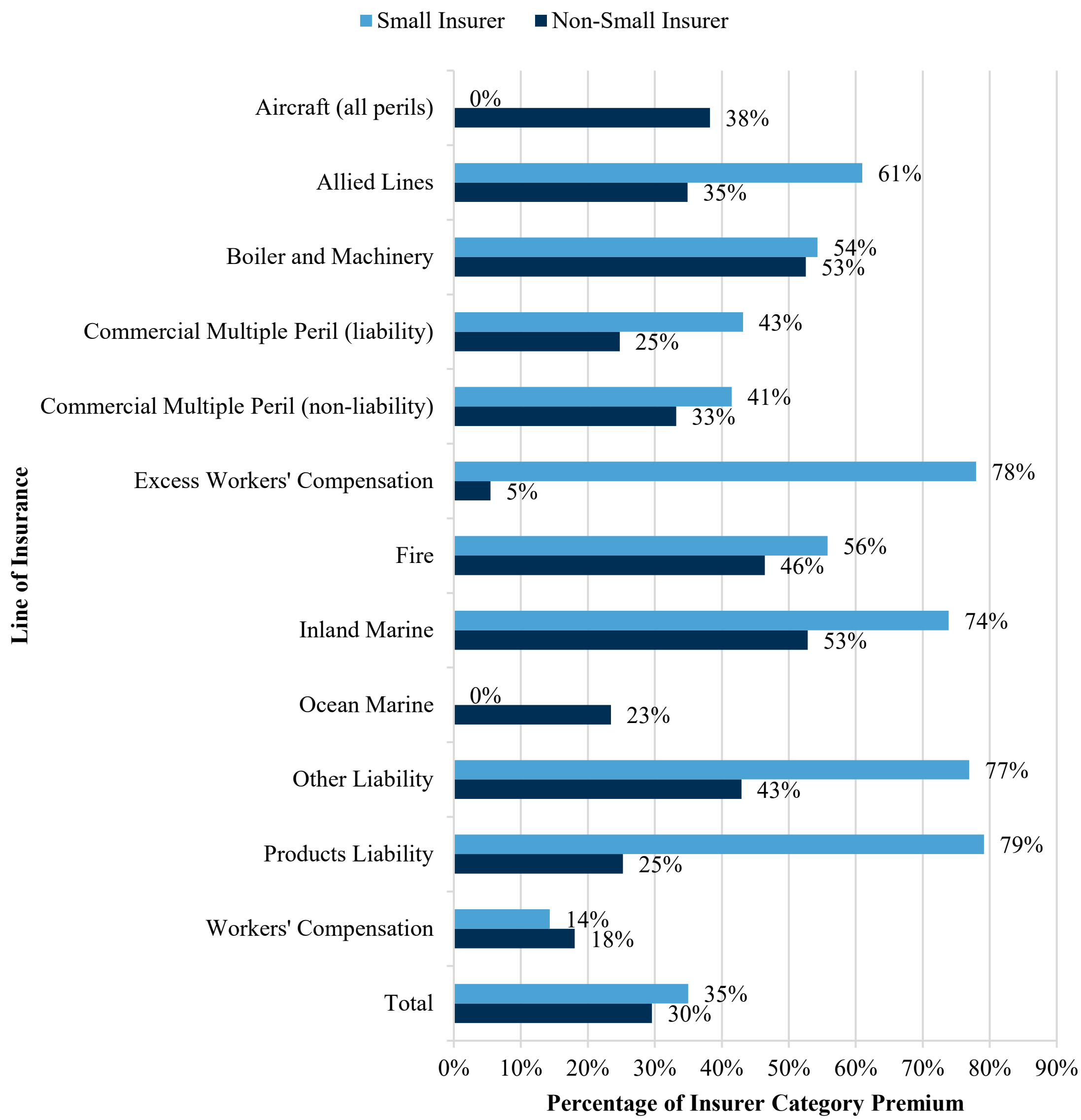
Figure 6: 2020 Percentage of Total Policy DEP Allocated to Terrorism Risk (by Line of Insurance and Insurer Category)



Source: 2021 TRIP Data Call

Figure 7 identifies, by percentage of total policy DEP where terrorism risk insurance is provided, where the coverage was provided for no additional charge.

Figure 7: 2020 Percentage of DEP Where Policies Include Terrorism Coverage At No Additional Cost (by Line of Insurance and Insurer Category)

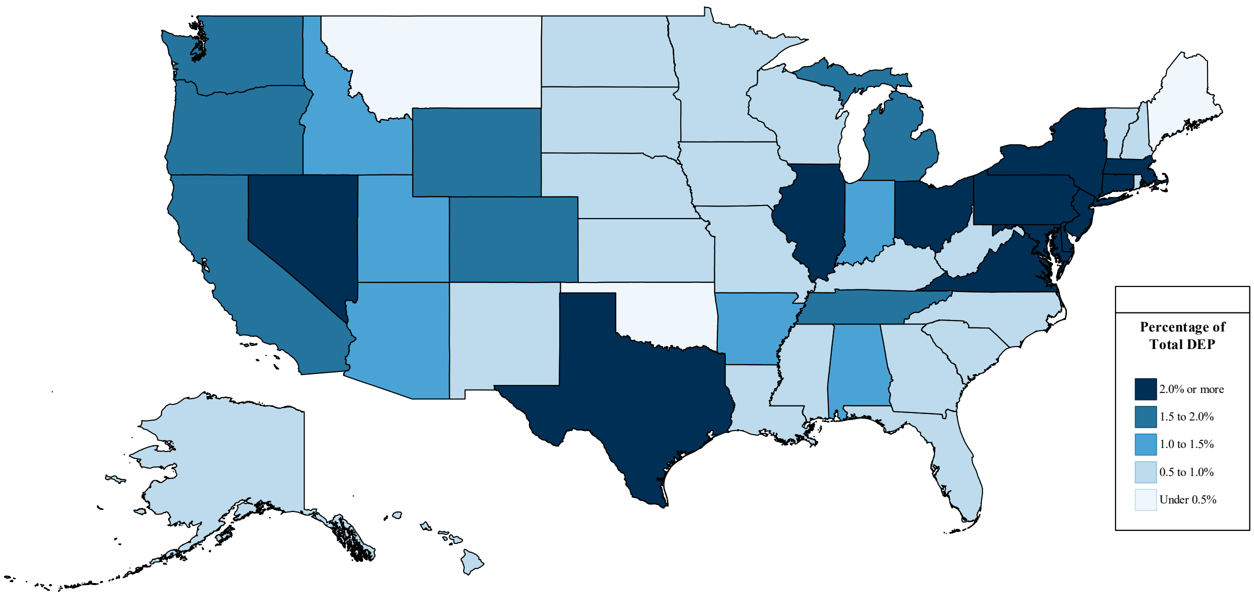


Source: 2021 TRIP Data Call

Figure 6 shows that, as in prior years, when insurers charge a premium for terrorism risk insurance, the percentage of the total policy premium relating to terrorism risk for small insurers is, overall, slightly less than the percentage charged by large insurers. This applies for most (although not all) individual lines, as well as the overall market. Figure 7 shows that, also as in prior years, small insurers are more likely than non-small insurers to charge no premium at all for terrorism risk insurance under embedded policies.[62]

The amounts that insurers charge for terrorism risk coverage vary not only by line of insurance but also by geographic area. Figures 8 and 9 present maps illustrating the percentage of total premiums charged for terrorism risk by small insurers (Figure 8) and non-small insurers (Figure 9) in each of the 50 states and the District of Columbia. The percentages in Figures 8 and 9 only account for policies in which a charge was made, and do not include those policies in which no charge was made.

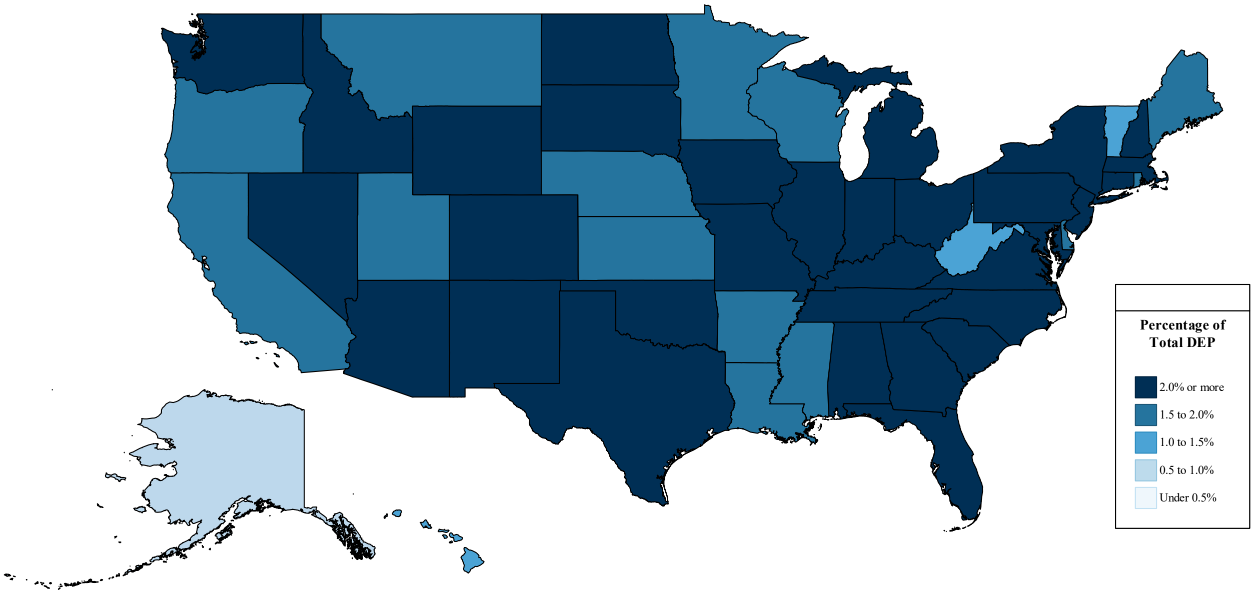
Figure 8: 2020 Percentage of Total Policy DEP Allocated to Terrorism Risk by Small Insurers (by State)



Source: 2021 TRIP Data Call

[62] *Compare* FIO, *2019 Small Insurer Study*, 22-24.

Figure 9: 2020 Percentage of Total Policy DEP Allocated to Terrorism Risk by Non-Small Insurers (by State)

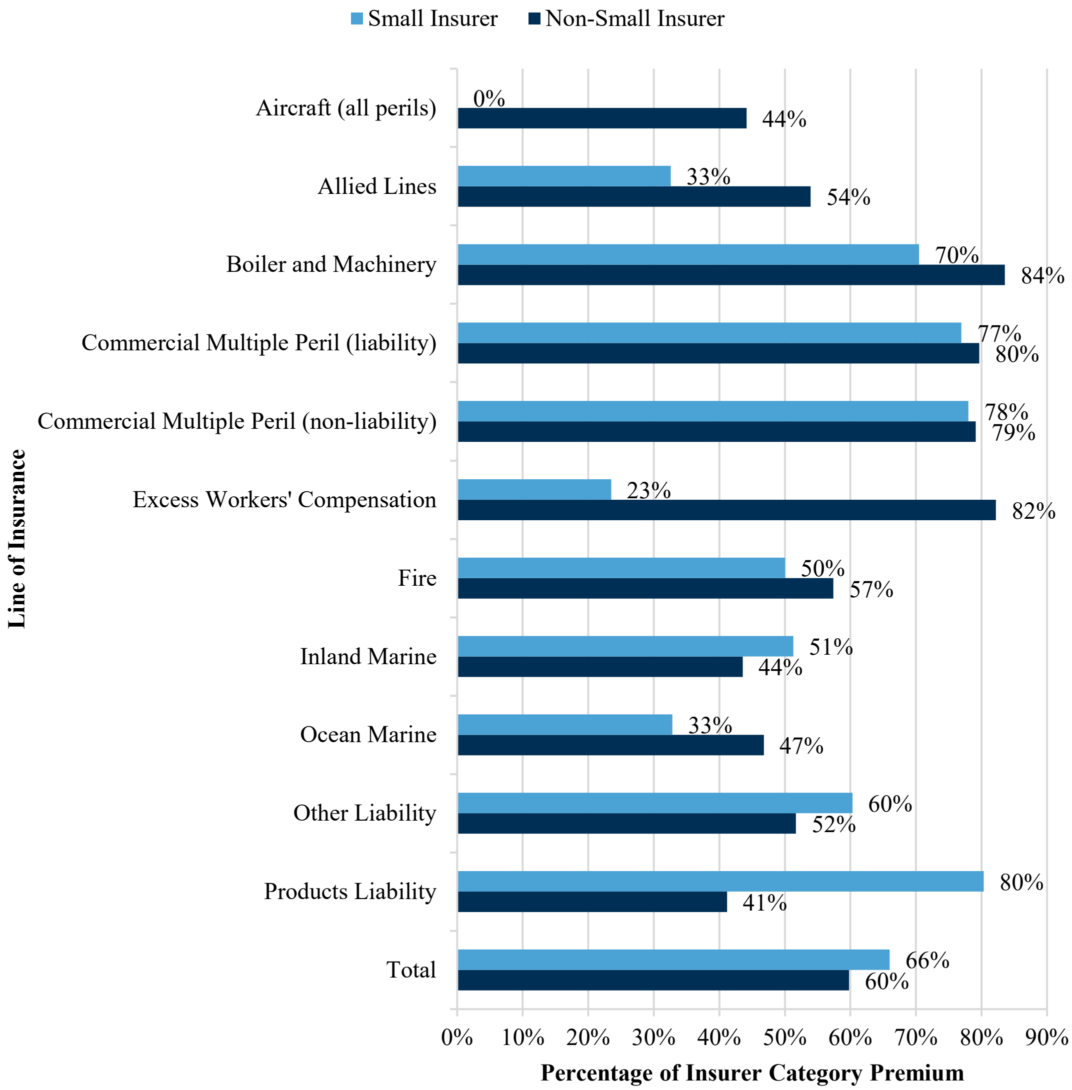


Source: 2021 TRIP Data Call

When evaluating what an insurer charges for terrorism risk insurance, it should be noted that the available data does not provide any information concerning the nature of the particular risks being insured by a given policy or insurer, which will affect the premium being charged.

Figure 10 compares the take-up rates for terrorism risk insurance issued by small insurers and non-small insurers on a line-by-line basis.

Figure 10: 2020 Terrorism Risk Insurance Take-Up Rates (by Line of Insurance and Insurer Category)[63]



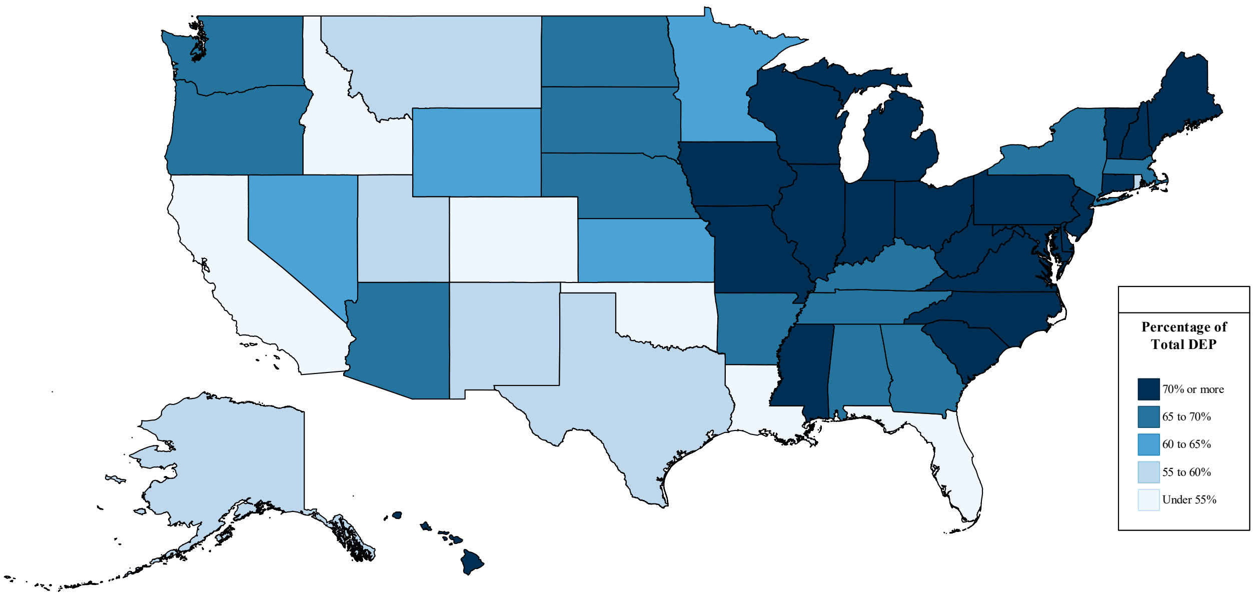
Source: 2021 TRIP Data Call

[63] As a matter of state law, primary workers' compensation policies must provide coverage for terrorism risk, and thus the effective take-up rate for this line is 100 percent. By contrast, excess workers' compensation insurance is purchased by companies that otherwise self-insure for workers' compensation liability. The excess policy will provide coverage in excess of the obligations to the policyholder as defined in the policy. Because state law permits excess workers' compensation insurance to exclude or limit certain risks, the take up rate for terrorism risk insurance under excess workers' compensation insurance is less than 100 percent (although the self-insured policyholder will remain liable for any excluded exposure). *See also* Section V.F (discussing workers' compensation insurance).

When measured by DEP, policyholder take-up rates for policies written by small insurers were generally higher than those of non-small insurers, both within most individual lines and across the overall market.

Figures 11 and 12 illustrate take-up rates on a state-by-state basis. These figures include policyholder take-up rates for all lines except workers' compensation.[64]

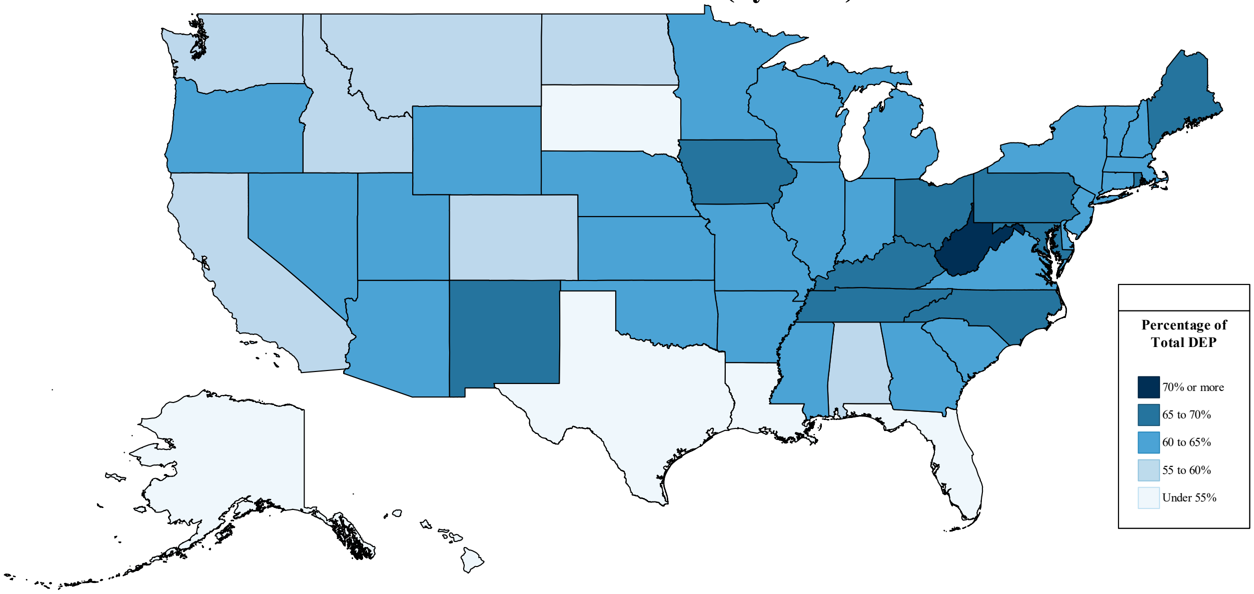
Figure 11: 2020 Terrorism Risk Insurance Take-Up Rates for Small Insurers (by State)



Source: 2021 TRIP Data Call

[64] Workers' compensation is not included because policyholders must obtain terrorism risk insurance under such policies and the take up rate is thus effectively 100 percent. Excess workers' compensation is included, however, because policyholders can decline terrorism risk insurance in connection with such insurance. *See* note 63, above.

Figure 12: 2020 Terrorism Risk Insurance Take-Up Rates for Non-Small Insurers (by State)

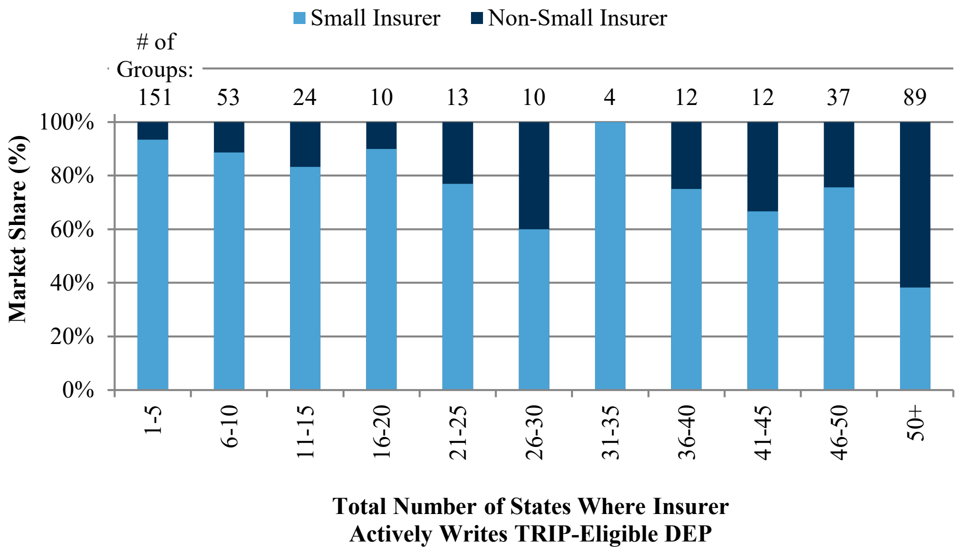


Source: 2021 TRIP Data Call

Appendix 1 to this Study contains a table setting forth the specific 2020 take-up rates presented in Figures 11 and 12 by state for both small and non-small insurers. Appendix 2 to this Study provides more detailed take-up information for small and non-small insurers, by state and by groups of TRIP-eligible lines of insurance. The Appendices provide further detail on how take-up may vary by state, type of insurance, and small versus non-small insurers.

Figure 13 compares the geographic footprints of small insurers and non-small insurers by examining the number of states in which each insurer writes coverage, as measured by DEP.

Figure 13: 2020 Geographic Scope of DEP (by Insurer Category)



Source: S&P Global

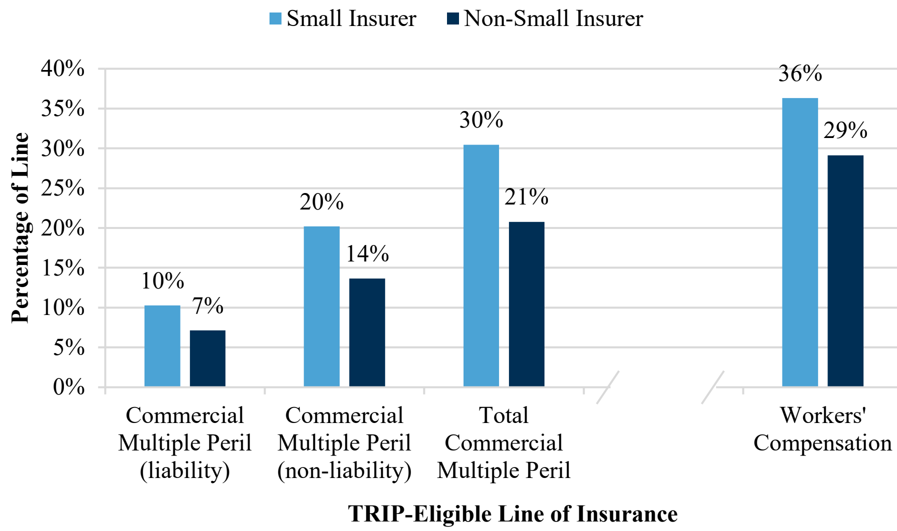
Figure 13 demonstrates that small insurers typically insure policyholder risks within a smaller geographic footprint than do larger insurers. Small insurers tend to operate on a regional basis in a smaller number of states than do non-small insurers, which may result in small insurers having a significant presence in individual local markets.[65]

Figure 14 compares the DEP written by small insurers and non-small insurers in selected lines of insurance. Specifically, this Figure examines TRIP-eligible lines DEP written within the CMP and workers' compensation lines. CMP products provide coverage for multiple lines of insurance within a single policy, and tend to be marketed towards small- to medium-sized businesses.[66] Workers' compensation insurance, which is discussed in greater detail in Section V.F. below, provides insurance for workplace injury benefits available under state workers' compensation systems.

[65] *See* FIO, *2019 Small Insurer Study*, 29 and note 63.

[66] *See generally* "Understanding Business Owners Policies (BOPs)," Insurance Information Institute, http://www.iii.org/article/understanding-business-owners-policies-bops.

Figure 14: 2020 Percentage of DEP in the CMP and Workers' Compensation Lines (by Insurer Category)



Source: 2021 TRIP Data Call

Figure 14 shows that the TRIP-eligible DEP of small insurers is more heavily concentrated in the CMP and workers' compensation lines of insurance than is the case for non-small insurers. As a result, such small insurers have a larger share of the CMP and workers' compensation lines of insurance than they have of other TRIP-eligible lines.

2. Standalone Terrorism Policies

Data collected during the 2021 TRIP data call reflects other differences between small insurers and other insurers participating in TRIP with regard to certain types of terrorism risk insurance. Standalone policies provide coverage only for terrorism risk, and they are generally used when properties or operations present heightened exposure to terrorism risk. Standalone terrorism coverage can be provided either through "certified" standalone terrorism risk policies, which are written subject to the terms and conditions of TRIP, or through "non-certified" standalone terrorism policies, which do not meet the terms and conditions of TRIP. Non-certified standalone terrorism policies therefore cover terrorism-related losses (as defined in the specific policy) regardless of whether the Secretary has certified an act of terrorism under TRIA.[67]

Small insurers reported a small amount of standalone terrorism risk insurance policies in prior TRIP Data Calls. However, Figure 15 illustrates that for 2020 no small insurer reported issuing

[67] "Non-certified standalone terrorism" policies can also be used to cover international locations outside the scope of TRIP, or to provide coverage that may not be available on an embedded basis under other policies. *See* Neil Silverblatt, "7 Reasons to Consider a Stand-Alone Policy," *PropertyCasualty360*, January 31, 2017, https://www.propertycasualty360.com/2017/01/31/7-reasons-to-consider-a-stand-alone-terrorism-poli.

any standalone terrorism risk insurance policies. Such policies continue to be issued in large numbers by other categories of insurers.

Figure 15: 2020 Certified Standalone Policies and Non-Certified Standalone Policies (by Policy Count and DEP)

	Certified Standalone Policies			Non-Certified Standalone Policies		
	# of Policies	Total DEP	Average Policy Cost	# of Policies	Total DEP	Average Policy Cost
Alien Surplus Lines Insurers	2,587	$193,994,711	$ 74,988	11,109	$211,679,514	$ 19,055
Captive Insurers	290	397,311,388	1,370,039	3	61,318,496	20,439,499
Non-Small Insurers	1,992	46,516,122	23,351	1,081	38,031,501	35,182
Small Insurers	-	-		-	-	
Total	**4,869**	**$637,822,221**	**$ 130,997**	**12,193**	**$311,029,511**	**$ 25,509**

Source: 2021 TRIP Data Call

3. Cyber Risk

As Treasury has previously observed, "[c]yber insurance has been generally characterized as providing coverage for risks arising 'from the use of electronic data and its transmission, including technology tools such as the internet and telecommunications networks,' as well as providing coverage for 'physical damage that can be caused by cyber attacks, fraud committed by misuse of data, any liability arising from data storage,' and other risks associated with 'the availability, integrity and confidentiality of electronic information.'"[68]

Depending on the circumstances, malicious cyber activity could constitute an act of terrorism under TRIA. As a result, to the extent cyber insurance is written under a policy that is within the TRIP-eligible lines of insurance, the provisions of TRIA apply to such policies just as they do regarding losses from other acts of terrorism.[69]

Figure 16 shows the market participation for cyber policies within TRIP-eligible lines.

[68] FIO, *2020 Effectiveness Report*, 55 (citation omitted).

[69] *See* 31 CFR § 50.4(w)(1); Terrorism Risk Insurance Program; Updated Regulations in Light of the Terrorism Risk Insurance Program Reauthorization Act of 2019, and for Other Purposes, 86 Fed. Reg. 30537 (June 9, 2021), https://www.federalregister.gov/documents/2021/06/09/2021-12014/terrorism-risk-insurance-program-updated-regulations-in-light-of-the-terrorism-risk-insurance (adopting regulation to codify within the Program Rules Treasury's prior guidance concerning cyber insurance under TRIP).

Figure 16: 2020 TRIP-Eligible DEP for Cyber Policies

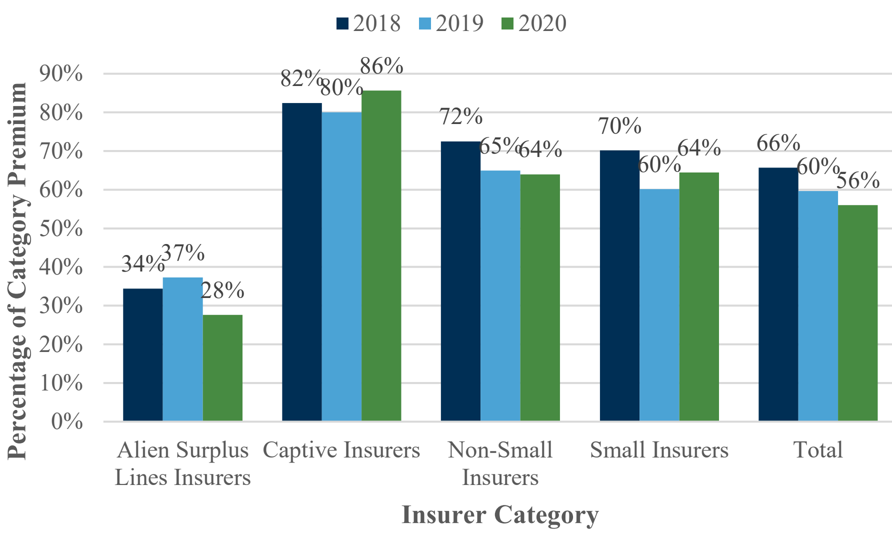
	Standalone Cyber Policies		Package Cyber Policies		All Cyber Policies	
	Cyber DEP	% of Total TRIP-Eligible DEP	Cyber DEP	% of Total TRIP-Eligible DEP	Cyber DEP	% of Total TRIP-Eligible DEP
Alien Surplus Lines Insurers	$ 369,540,713	23.1%	$ 487,233,420	26.7%	$ 856,774,133	25.1%
Captive Insurers	48,494,870	3.0%	124,271,815	6.8%	172,766,685	5.1%
Non-Small Insurers	1,134,204,308	71.0%	1,098,560,513	60.3%	2,232,764,821	65.3%
Small Insurers	44,280,040	2.8%	112,834,962	6.2%	157,115,002	4.6%
Total	**$1,596,519,931**	**100%**	**$1,822,900,710**	**100%**	**$3,419,420,641**	**100%**

Source: 2021 TRIP Data Call

Figure 16 indicates that small insurers participate in the market for cyber insurance in the TRIP-eligible lines of insurance, although their market share is somewhat less than it is in the TRIP-eligible lines of insurance overall. The 2020 TRIP data call indicated very similar participation percentages for 2019.[70]

Figure 17 shows the 2018-2020 industry percentages for policyholders that obtained terrorism risk insurance in connection with purchased cyber coverage.

Figure 17: 2018-2020 Take-Up Rates for Terrorism Risk Insurance under Cyber Policies (by TRIP-Eligible DEP)



Source: 2021 TRIP Data Call

The total 2020 terrorism take-up rates for cyber terrorism risk insurance are somewhat lower, across all insurer categories, than reported in prior data calls (although the small insurer take-up rate for terrorism risk insurance under cyber policies increased slightly in 2020). Recognizing

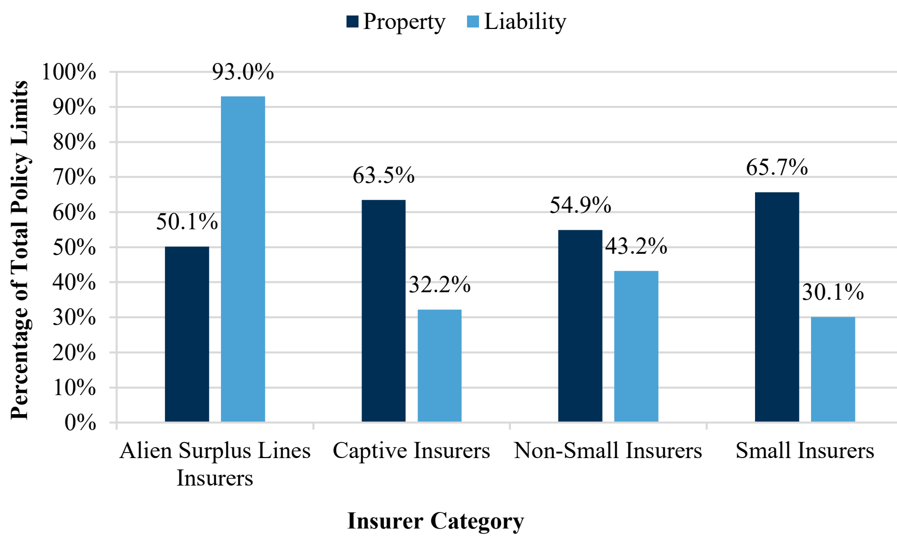
[70] FIO, *2020 Effectiveness Report*, 58.

the importance of this issue, Treasury will continue to evaluate the terrorism risk insurance market for cyber coverage in future reports by FIO.

4. Nuclear, Biological, Chemical, and Radiological Risk

TRIA requires participating insurers to offer insurance for terrorism risk on the same basis as insurance offered for other perils. Insurers are not required to offer terrorism risk insurance in the case of perils for which non-terrorism coverage is generally not provided or is specifically excluded.[71] Starting with the 2019 TRIP data call, Treasury requested information on NBCR coverage provided by insurers in order to determine the extent to which NBCR coverage may be available under P&C policies.[72]

Figure 18: 2020 Percentage of Terrorism Risk Insurance Policy Limits Where NBCR Exposures are not Entirely Excluded



Source: 2021 TRIP Data Call

The extent of coverage for NBCR terrorism events is an important consideration because such losses may pose a very substantial risk of aggregation of catastrophic terrorism losses, given the

[71] *See* 31 CFR § 50.22(b).

[72] Treasury collected information on both property and liability policy limits where terrorism risk insurance was provided ***and*** coverage for all NBCR events was ***not*** entirely excluded. This approach results in an analysis of the policy limit levels where at least some terrorism coverage for NBCR-related events is provided. The data is not a measurement of the limits insured for any particular type of NBCR event (e.g., nuclear). The figures will therefore tend to overstate the total amount of NBCR coverage available, particularly on a per peril basis. Treasury did not seek further information concerning workers' compensation policies because such policies must cover all perils, including NBCR risks.

potential magnitude of attacks using nuclear, biological, chemical, and radiological agents.[73] The most recently reported information indicates that small insurers, like other industry segments, generally exclude a significant portion of all NBCR-related exposures when they are providing coverage for terrorism risk. However, the reported information now shows that they do not totally exclude NBCR exposures in proportions significantly different than the other industry segments (although there remain variations among insurance category and type of insurance).[74] In addition, the data reflects that each industry segment has a significant amount of terrorism risk exposure that is not subject to a complete exclusion of NBCR-related exposures. However, because of such exclusions, the reported data indicates that a large NBCR event could result in significant uninsured losses and relatively little resulting support from the Program.

5. Comparison to Other Perils

The information collected in connection with the 2019, 2020, and 2021 TRIP data calls shows differences between the participation of small insurers and non-small insurers in the terrorism risk insurance marketplace. The TRIP data calls did not indicate any differences between coverage for terrorism risk as compared to other perils covered by small P&C insurers under lines of insurance not subject to TRIP. To obtain further information for purposes of this analysis, Treasury also examined market share information for small insurers in the P&C lines of insurance that are not subject to the Program.

Figure 19 provides the market share by DEP of small insurers and non-small insurers in P&C lines not subject to TRIP. DEP is calculated using the 2020 small insurer threshold, as described above in Section V.A.

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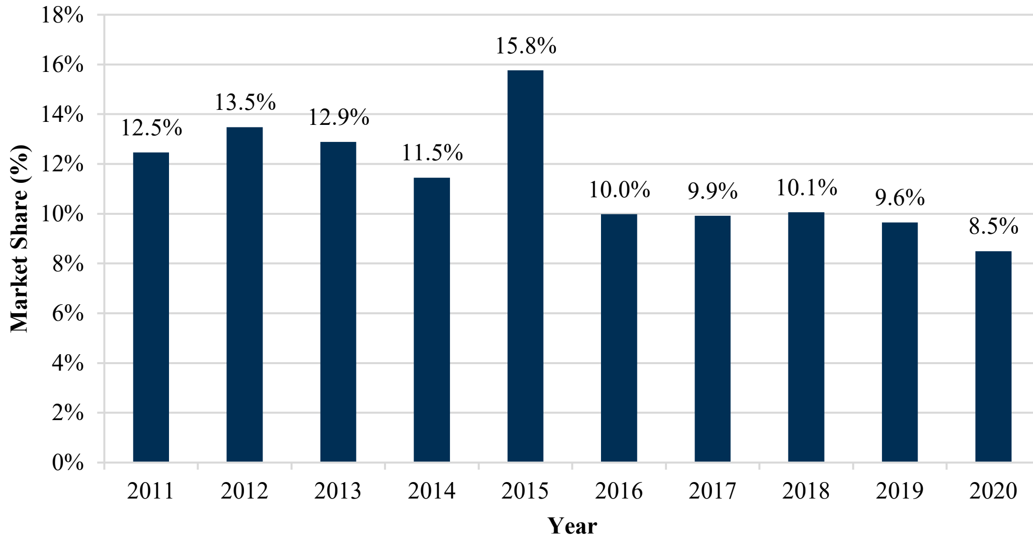
[73] *See, e.g.*, Advisory Committee on Risk-Sharing Mechanisms, Initial Report of the Committee (May 11, 2020), 24 (comparing results of largest conventional versus NBCR modeled loss scenarios, including nuclear estimate of $625 billion, biological estimate of $508 billion, and radiological estimate of $108 billion), https://home.treasury.gov/system/files/311/5-20-ACRSM-Report-Final.pdf.

[74] In prior years, the data has tended to show that small insurers were somewhat more likely than other industry segments to totally exclude NBCR exposures. *See* FIO, *2019 Small Insurer Study*, 34.

Figure 19: 2011-2020 Small Insurer DEP Market Share in P&C Lines of Insurance Not Subject to TRIP



Source: S&P Global

Based on state regulatory reporting data, Figure 19 illustrates that the market share of small insurers measured by DEP in the P&C lines of insurance not subject to the Program has slightly declined since 2011. In the last 5 years, the market shares generally ranged between 8 percent and 10 percent, which is slightly less than the 11 percent share indicated for the TRIP-eligible lines of insurance by the information reported in the TRIP Data Calls.

6. Terrorism Risk Insurance for Places of Worship

The 2019 Reauthorization Act modified TRIA to require that, in reports concerning the effectiveness of the Program, the Secretary shall provide "an evaluation of the availability and affordability of terrorism risk insurance, which shall include an analysis of such availability and affordability of terrorism risk insurance specifically for places of worship."[75] Accordingly, in the 2020 Effectiveness Report, Treasury addressed the availability and affordability of terrorism risk insurance for places of worship for the first time, utilizing a new data collection worksheet to obtain information on the subject.[76] Based upon the first year of data, Treasury determined (among other things) that small insurers have a much larger share of the market for terrorism risk

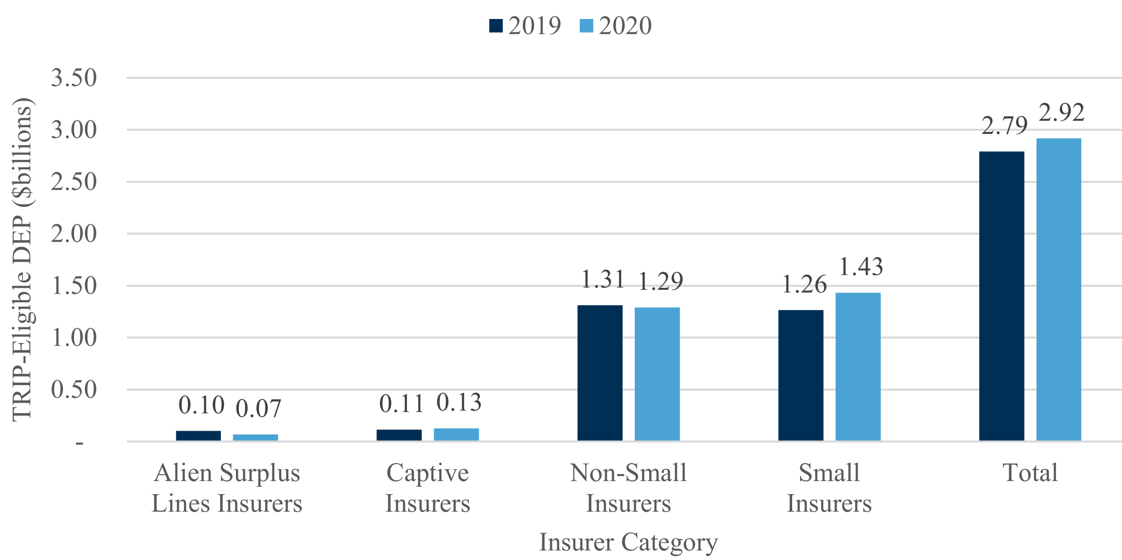
[75] 2019 Reauthorization Act, § 502(c); TRIA, §104(h)(2)(B).

[76] *See* FIO, *2020 Effectiveness Report*, 40-42.

insurance for places of worship than they have in the overall market.[77] Information from the 2021 TRIP Data Call confirms this initial observation by FIO.

Figure 20 shows the market share (in 2019 and 2020) by insurer category based upon reported earned premium for places of worship.

Figure 20: 2019 and 2020 Market Share of TRIP-Eligible Lines Premium for Places of Worship by Insurer Category



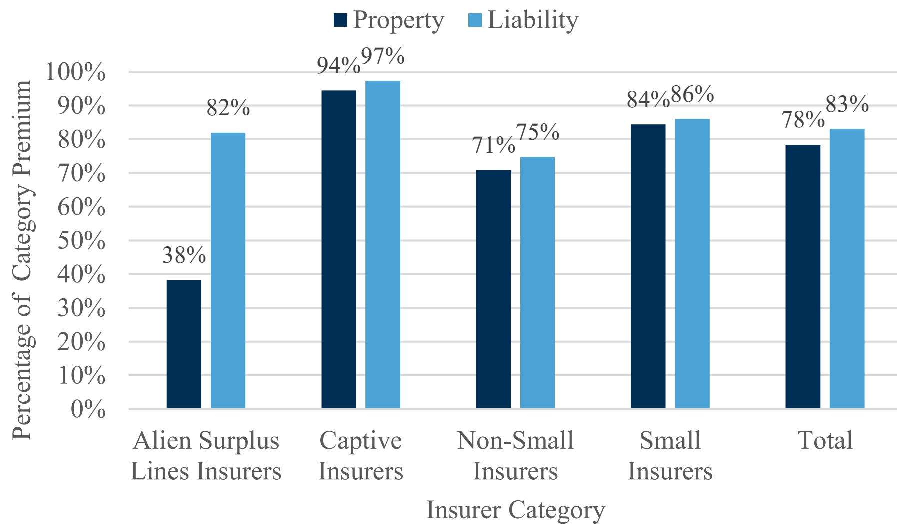
Source: 2020-2021 TRIP Data Calls

As shown by Figure 20, small insurers represent, by premium, just under 50 percent of the entire TRIP-eligible lines insurance market for places of worship when all lines are considered.

In terms of take-up rates and premium charged for terrorism risk insurance for houses of worship, small insurer results are comparable to other insurer categories. Figure 21 illustrates the 2020 take-up of terrorism risk insurance by places of worship, by premium, by insurer category and type of coverage.

[77] *Id.* at 42 ("Also of note is the significant role played by small insurers, which represent (by premium) 45 percent of this market segment, even though they only represent approximately 11 percent of the entire market in the TRIP-eligible lines of insurance.").

Figure 21: 2020 Terrorism Risk Insurance Take-Up Rates by Places of Worship (by Premium) (by Insurer Category and Type of Coverage)

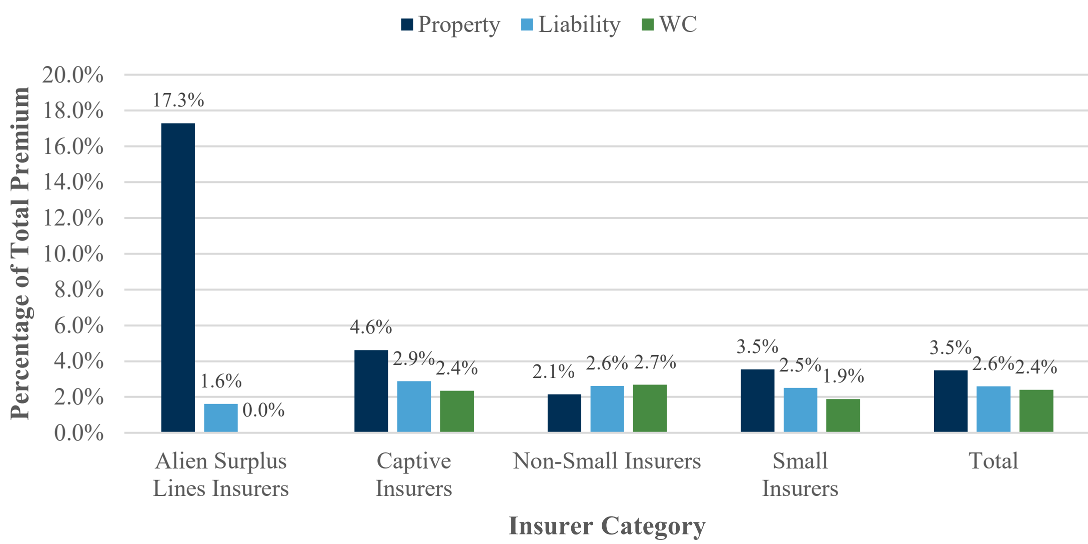


Source: 2020-21 TRIP data calls

Figure 22 shows for 2020 the percentage charge, by premium, for places of worship, by insurer category and type of coverage.[78]

[78] Treasury did not collect information concerning when a $0 premium for terrorism risk insurance was identified for places of worship. Therefore, this cost analysis is based upon the total amount of terrorism risk premium charged against TRIP-eligible lines premium where terrorism risk insurance was provided.

Figure 22: 2020 Percentage of Total Policy DEP Allocated to Terrorism Risk for Places of Worship (by Insurer Category and Type of Coverage)



Source: 2020 TRIP data call

Small insurers support a much larger amount of this market than they do for terrorism risk insurance overall. The reported data is consistent with prior comments reported by Treasury that small insurers may have a much more significant terrorism risk insurance market share in particular segments of the market than overall.[79]

C. Mandatory Availability Requirement

TRIA requires insurers to make terrorism risk coverage available within the TRIP-eligible lines of insurance on terms that do not materially differ from the terms, amounts, and coverage limitations applicable to losses arising from events other than acts of terrorism.[80] This mandatory availability requirement does not include any pricing restrictions,[81] although state law rating requirements may define or limit the amounts that an insurer may charge for terrorism insurance. As described above in Section III, the mandatory availability requirement does not require an insurer to offer terrorism coverage for particular risks that an insurer regularly

[79] *See* FIO, *2019 Small Insurer Study*, 29 & note 63.

[80] TRIA § 103(c); 31 CFR §§ 50.20(a), 50.22(a). If the prospective policyholder does not accept the mandatory offer, the parties may negotiate a different arrangement for terrorism risk coverage which is not on the same terms as provided for other risks. 31 CFR § 50.21(c).

[81] *See* 31 CFR § 50.22(a).

excludes or for which it does not offer coverage (such as losses arising from NBCR events).[82] As a condition for receiving federal payments under the Program, participants must meet certain documentation requirements to demonstrate compliance with the mandatory availability requirement.[83]

Because insurers must offer terrorism risk insurance in TRIP-eligible lines for the risks that they are otherwise offering or providing coverage, the mandatory availability requirement affects the manner in which insurers underwrite P&C insurance, primarily because of the aggregation risk presented by acts of terrorism. A large-scale terrorist attack can result in significant losses affecting multiple lines of insurance and multiple policyholders and may be highly concentrated within a geographic area.

Market participants do not have the option to offer a TRIP-eligible lines policy without the terrorism risk insurance component. Insurers therefore underwrite to manage potential aggregation risks within a particular geographic area or proximity to locations considered potential targets for terrorist activity. Insurers of all sizes may employ such analysis when deciding whether to write policies that are subject to terrorism risk.[84]

The mandatory availability requirement is not the only factor that may be causing companies to provide terrorism risk insurance that they might otherwise prefer not to write. First, in a number of lines of insurance and jurisdictions, terrorism risk insurance must be provided under state law.[85] In these situations, an insurer must offer terrorism risk insurance irrespective of the mandatory availability requirement. As stated above in Section V.B., small insurers receive a higher percentage of their DEP than non-small insurers from the workers' compensation line of insurance. However, the effects in the market after the September 11 Attacks and prior to the passage of TRIA suggests that continued small insurer participation in this market may be highly dependent upon the existence of the backstop.[86] The unique issues presented by workers' compensation insurance are discussed further in Section V.F.

Second, the ability to offer terrorism risk insurance may be necessary for insurers to compete in certain U.S. markets, particularly large metropolitan areas. Take-up rates for terrorism risk insurance vary by jurisdiction and locality, and the take-up rate of terrorism risk insurance tends

[82] TRIA § 103(c)(2); 31 CFR § 50.22(b).

[83] TRIA § 103(b); 31 CFR Part 50, Subpart B.

[84] *See* U.S. Government Accountability Office, *Terrorism Risk Insurance: Market Challenges May Exist for Current Structure and Alternative Approaches* (January 2017), 18-19, http://www.gao.gov/assets/690/682064.pdf.

[85] The principal example here is the workers' compensation line of insurance. *See* Section V.F. for further discussion regarding workers' compensation. "Fire following" states also require terrorism coverage in some circumstances. *See* FIO, *2018 Effectiveness Report*, 32 note 84.

[86] *See* below at Section V.F. for a discussion of how the September 11 Attacks affected the workers' compensation residual market.

to be higher in major metropolitan areas.[87] The TRIP data indicates that the Program promotes policyholder access to a variety of carriers, which might be more limited in the absence of a backstop. Furthermore, the reported data from the last few years indicates that small insurers have maintained a generally consistent market share as compared to non-small insurers. This information suggests that the mandatory availability aspects of TRIP are not discouraging the participation of those insurers in the TRIP-eligible lines market.

D. Effect of Increasing the Program Trigger Amount

This section considers the effect on small insurers of increasing the Program Trigger over time.

As described in Section III, even if an insurer satisfies its individual insurer deductible, total aggregate insured industry losses must exceed the Program Trigger before the federal share of compensation can be paid. Therefore, an insurer with a deductible lower than the Program Trigger could satisfy its insurer deductible, but still find that its terrorism losses – even combined with those of other insurers (if any) – fall short of satisfying the Program Trigger. The Program Trigger requirement therefore could preclude recovery by a small insurer under TRIP and require it to take additional steps to manage this exposure. This risk is not faced by larger insurers, because they have individual insurer deductibles under the Program that are greater than the Program Trigger.

In 2020, more than 200 domestic U.S. insurance groups had TRIP deductibles that were less than the Program Trigger. Depending upon the magnitude of the terrorism losses experienced by other insurers, they could face a gap between their insurer deductible and the Program Trigger.[88] Because the Program Trigger will remain constant from 2020 until 2027, however, this potential gap should not increase further, assuming the premium writings of small insurers continue to increase over time as Treasury has observed to date.

There has never been a certified act of terrorism to trigger the Program, and thus there have been no situations to date in which a small insurer has been unable to access Program support solely on account of the Program Trigger. Commercial reinsurance, assuming it is available and affordable, is one way for small insurers to mitigate the impact that a significant terrorism loss may have upon the balance sheet of a small insurer that may be unable to access Program support solely on account of the Program Trigger. The use of reinsurance for this purpose is described further in Section V.E.

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[87] For example, Marsh & McLennan has stated that "[t]he federal backstop created by TRIA remains crucial to the continued stability of the property terrorism risk insurance market." The report also noted that take-up rates are highest in major metropolitan areas and provided location-specific analysis. Marsh & McLennan Companies, *2019 Terrorism Risk Insurance Report* (2019), 11, https://www.marsh.com/us/insights/research/2019-terrorism-risk-insurance-report.html.

[88] This analysis does not include small insurers that wrote TRIP-eligible lines DEP of less than $10 million and were excused from reporting. This subset of insurers could also be affected.

E. Availability and Cost of Commercial Reinsurance for Small Insurers

This section considers the availability and cost of private commercial reinsurance for small insurers.

It is challenging to assess the availability and cost of private terrorism risk reinsurance for small insurers. First, reinsurers are not Program participants, and thus are not subject to Treasury's TRIP data calls. Second, reinsurance is neither subject to standard terms and rates, nor to the range of state-level reporting requirements applicable to direct insurers in the admitted market. Finally, reinsurance arrangements are generally highly complex and customized, with many factors affecting price and availability – such as limits, the price of the underlying risk, the amount of available information concerning that underlying risk, the claims experience between an insurer and its reinsurers, and general market conditions when the reinsurance is sought and purchased. Furthermore, reinsurance agreements often cover multiple classes of risks, so it can be difficult to isolate and assess how reinsurance specifically responds to terrorism risks.

A small insurer concerned about its ability to manage terrorism losses within its TRIA deductible (or seeking to transfer risk within its co-pay share) may seek to limit its exposure by purchasing reinsurance. For example, a small insurer could purchase reinsurance that provides reimbursement for any losses experienced if an act of terrorism is certified but the Program Trigger is not met by aggregate industry insured losses, such that no payments under the Program are made. Whether the purchase of such reinsurance is practical (assuming that it is available) will depend, in part, upon the cost of the reinsurance and the insurer's assessment of its ability to bear exposure to such loss without reinsurance. Probable maximum loss (PML) information reflects the largest single loss an insurer projects it might sustain based on the portfolio of policies it has issued. A small insurer with a modest PML, based upon its book of business, will need less reinsurance to protect itself against catastrophic loss, assuming that it has evaluated exposures under its portfolio correctly.[89]

In its 2019 Small Insurer Study, Treasury noted that reinsurance markets had been "soft" for some time, characterized by relatively low reinsurance premium rates and relatively high capacity. Even extreme catastrophe losses commencing in 2017 had not resulted in significant increases in reinsurance rates by the end of 2018.[90] However, beginning in late 2019[91] and continuing into 2020 and 2021, reinsurance pricing has increased significantly. Market participants reported in connection with January 2021 renewals annual increases in the U.S.

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[89] PML, as defined for purposes of Treasury's collection of data from participating insurers, seeks the largest loss figure for a single insurer emanating from a single location, assuming the detonation of a 5-6 ton truck bomb at that location. *See* Federal Insurance Office, U.S. Department of the Treasury, *Instructions for Terrorism Risk Insurance Program (TRIP) 2021 Data Call: Small Insurers*, 22, https://home.treasury.gov/system/files/311/Small-Final-Instructions-2021.pdf.

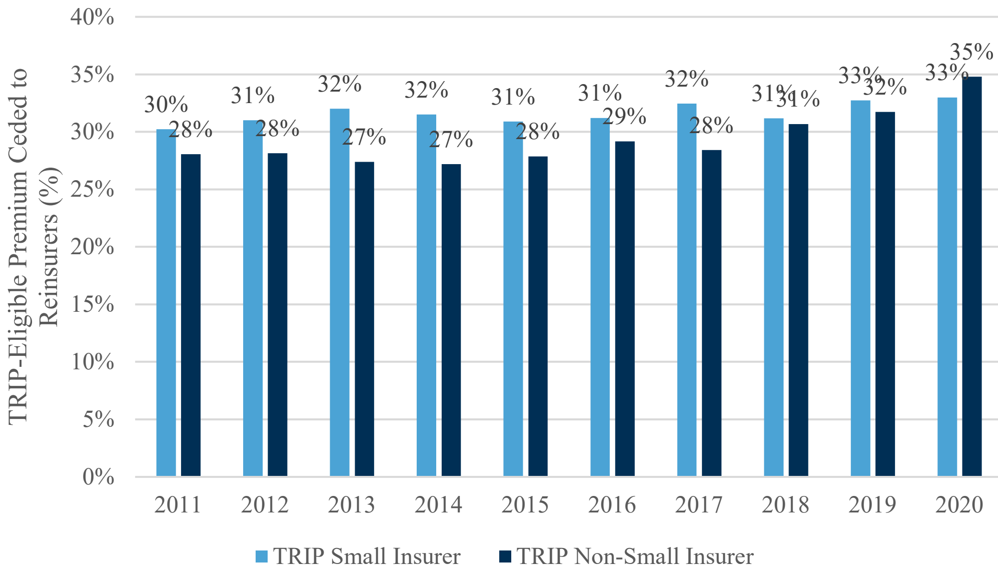
[90] FIO, *2019 Small Insurer Study*, 40.

[91] M. Sheehan, *Reinsurance pricing momentum to be carried forward in 2020: S&P*, Reinsurance News (Jan. 16, 2020), https://www.reinsurancene.ws/reinsurance-pricing-momentum-to-be-carried-forward-in-2020-sp/

market of up to 25 percent for property risks, depending upon loss history and the exposure of particular accounts to catastrophe loss, and of up to 30 percent for casualty risks.[92] Although there have been reports that pricing in Q1 2021 has begun to moderate, most likely in response to increased capacity, price increases for P&C reinsurance continue.[93] Market participants have indicated that the continued low interest rate environment, elevated loss activity, and ongoing uncertainty arising from the COVID-19 pandemic have contributed to these increases.[94]

Figure 23 illustrates the percentage of TRIP-eligible lines premiums ceded by direct insurers to reinsurers between 2011 and 2020.

Figure 23: 2011-2020 Percentage of DEP Ceded by Insurers to Reinsurers (by Insurer Category)



Source: S&P Global

Although the data has previously shown that small insurers tended to cede a greater percentage of their direct premiums to reinsurers than do larger insurers, Figure 23 reflects that the results from 2020 indicate that larger insurers now actually cede proportionally more premium for reinsurance purchase than small insurers.

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[92] M. Lerner, *US reinsurance rates up sharply at January renewals*, Business Insurance (Jan. 4, 2021), https://www.businessinsurance.com/article/20210104/NEWS06/912338831/US-reinsurance-rates-up-sharply-at-January-renewals; Willis Re, Willis Re 1st View: Firming Landscape (Jan. 1 , 2021), 10, 20, https://www.willistowerswatson.com/en-US/Insights/2021/01/firming-landscape;

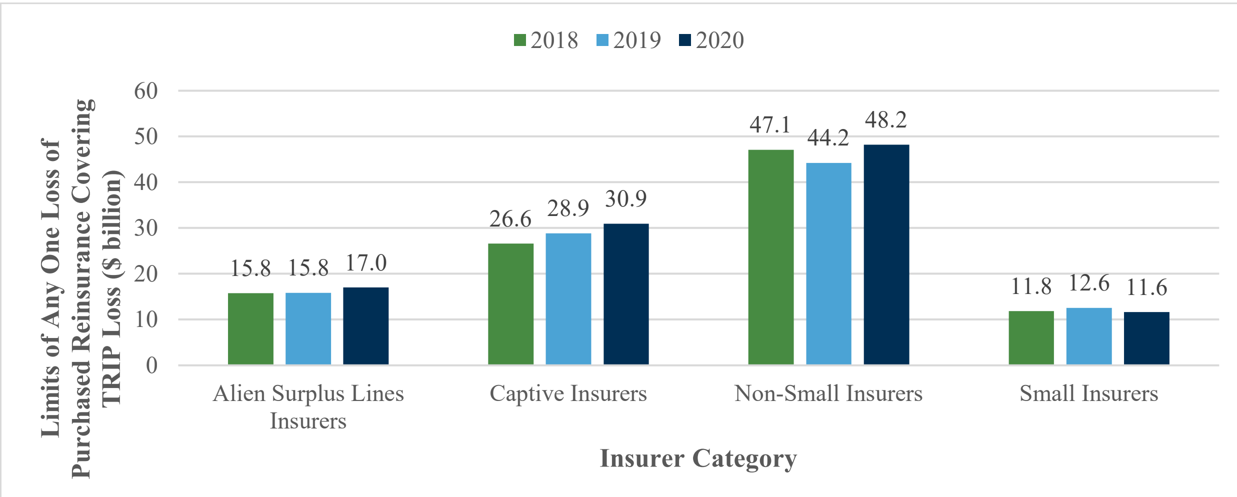
[93] M. Sheehan, *Capacity is adequate, demand is high: GC's Peter Hearn*, Reinsurance News (May 5, 2021), https://www.reinsurancene.ws/capacity-is-adequate-demand-is-high-gcs-peter-hearn/.

[94] *Id*.

The reported data continues to show that insurers participating in TRIP acquire significant amounts of private reinsurance in connection with terrorism risk exposures. Purchases by small insurers, however, may be declining.

Figure 24 identifies the total amounts of per loss terrorism risk reinsurance purchased by responding insurers that will cover losses subject to the Program, during the period 2018 to 2020.

Figure 24: 2018-2020 Total Per Loss Reinsurance Limits Purchased for Losses Subject to TRIP (by Insurer Category)

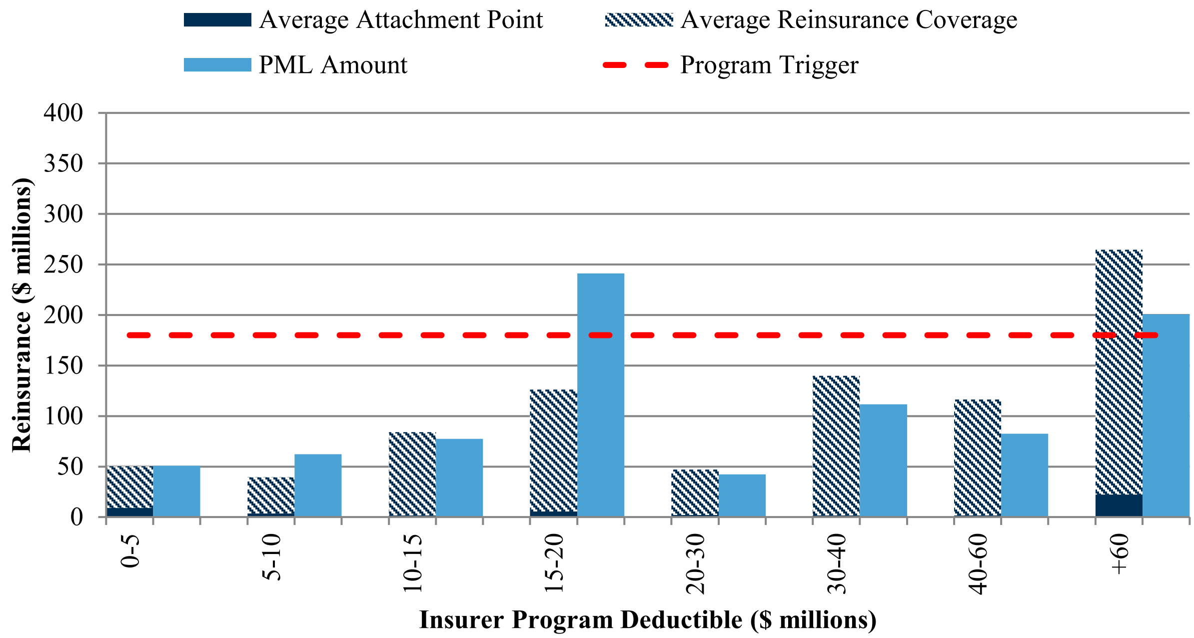


Source: 2018-2020 TRIP data calls

As illustrated by Figure 24, reported terrorism risk reinsurance purchases by small insurers actually declined in 2020, while all other industry segments reported increased purchases.

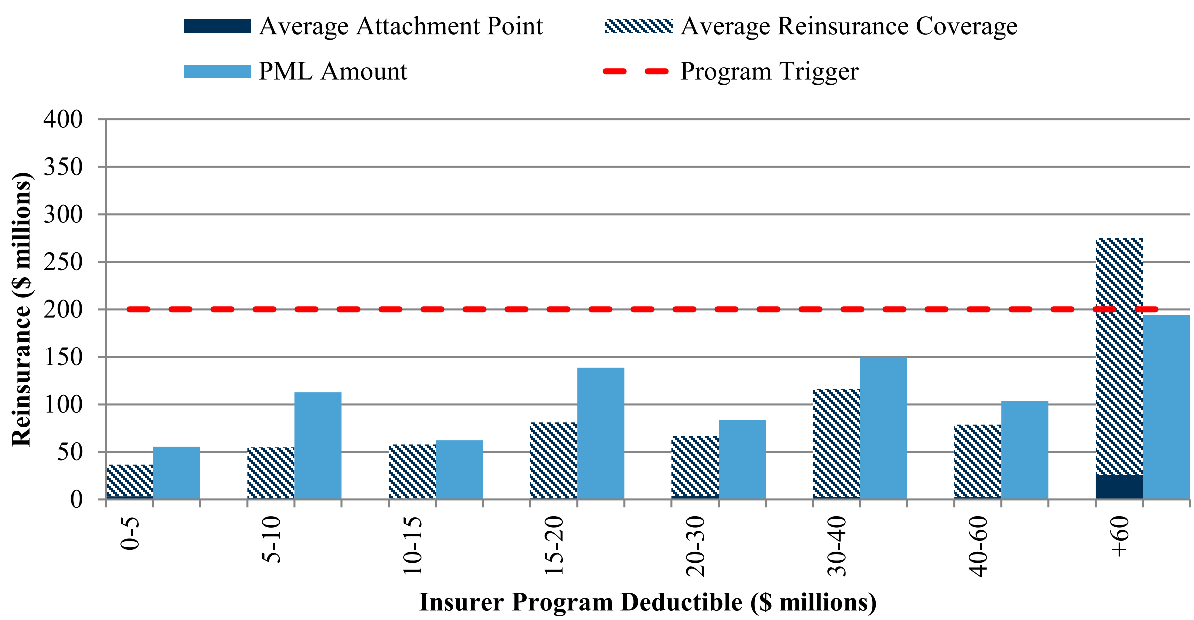
The 2020 and 2021 TRIP data calls also collected information from insurers concerning their associated PML figures, which factors in the relative size of the exposures underwritten by small insurers, in order to determine the extent to which PML levels may be guiding reinsurance purchases. Figures 25 and 26 illustrate the 2019 and 2020 average reinsurance purchases for small insurers with reference to small insurer deductibles under the Program, the Program Trigger, and average PML figures reported by those insurers.

Figure 25: 2019 Comparison Between Small Insurer Deductibles, Reported PML Figures, and Reinsurance Purchases



Source: 2020 TRIP Data Call

Figure 26: 2020 Comparison Between Small Insurer Deductibles, Reported PML Figures, and Reinsurance Purchase



Source: 2021 TRIP Data Call

Where reinsurance purchases approximate a small insurer's PML, the lack of reinsurance up to the Program Trigger may not be as significant, if this reflects that the small insurer is less likely to be exposed to a catastrophic loss up to the Program Trigger amount. As shown in Figures 25 and 26, PML estimates below the Program Trigger may explain the lack of reinsurance purchases up to the amount of the Program Trigger in some cases. The reported information, however, continues to reflect a significant portion of small insurers that remain exposed for a PML above the insurer deductible and below the Program Trigger threshold, without the support of private reinsurance for that exposure.[95] In 2020, the data reflects that most sizes of small insurers have some PML exposure above average reinsurance purchases, and all at levels far below the Program Trigger.

The apparent reduction in reinsurance purchases by small insurers overall, the gap in reinsurance purchases below PML levels, and the comparative reduction in the amount of premium ceded by small insurers versus non-small insurers for reinsurance are all consistent with the reported information on the increasing cost of reinsurance in the P&C market. The fact that the Program Trigger will not increase until the end of 2027 should have the effect of not further increasing potential gaps that may affect the ability of small insurers to access the Program. Treasury will continue to evaluate the role and availability of reinsurance in protecting small insurers against potential losses that may not be backstopped by the Program.

F. Impact of State Workers' Compensation Laws

The workers' compensation system provides an important mechanism for the protection of U.S. workers from the consequences of employment-related injuries.[96] Certain aspects of this important workplace protection system increase the aggregate terrorism exposures of insurers participating in the workers' compensation market.

The costs of medical care and treatment, rehabilitation, loss of wages, and other financial hardships faced by employees who experience job-related injuries are covered under workers' compensation policies. Because payments under these policies are defined by the scope of benefits mandated under state law and are not subject to express limits of liability, losses under a workers' compensation policy are potentially unlimited.[97] Workers' compensation policies are subject to specific pricing rules under state law, which will limit what insurers can charge (generally as well as specifically for terrorism risk) and potentially affect whether the purchase

[95] In addition, the PML data may not fully evaluate a particular insurer's exposure in connection with an act of terrorism, in that the PML information is limited to exposure at a single location, and the aggregation issues posed by terrorism could potentially result in losses at multiple locations for an individual insurer.

[96] The 2020 Effectiveness Report provides an overview of the workers' compensation system in the United States. FIO, *2020 Effectiveness Report*, 73-74.

[97] *See* Michael Dworsky and Lloyd Dixon, RAND Corporation, *The Impact on Workers' Compensation Insurance Markets of Allowing the Terrorism Risk Insurance Act to Expire* (2014), 5-6, https://www.rand.org/content/dam/rand/pubs/research_reports/RR600/RR643/RAND_RR643.pdf.

of reinsurance is economically viable.[98] Thus, although the workers' compensation line remains a profitable one for insurers,[99] a large-scale act of terrorism could create significant aggregation risks for both small insurers and non-small insurers writing workers' compensation insurance, particularly in the event of extensive losses arising from an NBCR event.[100]

Because insurers are required by state law to cover terrorism risk (including NBCR-related terrorism risk) in connection with workers' compensation insurance, workers' compensation carriers must find ways to manage their aggregation risk. One potential option for workers' compensation carriers includes declining to write certain risks altogether. For example, insurers may avoid writing policies that could create a substantial accumulation of exposures in the same location. However, this could present challenges for insurers that seek to write business in large metropolitan areas with dense populations, as well as for employers seeking to purchase coverage in those areas.

To the extent coverage is unavailable in the "voluntary" market, policyholders may need to obtain workers' compensation insurance in a state's residual market, which is required to provide coverage to all applicants.[101] Coverage provided in residual markets tends to require a higher premium, and the responsibility for paying claims is distributed among all insurers writing in the state. After the September 11 Attacks, the market share of the residual market for workers' compensation significantly increased, and included individual risks viewed as "high profile" targets for purposes of terrorism risk.[102] Since the enactment of TRIA, the share of the workers' compensation residual market stabilized between 4 to 6 percent of the market, and currently

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[98] *See* Atlantic Charter's remarks to TRIA Federal Advisory Committee (March 31, 2017), 11 (noting potential disconnect between permitted premium charges for direct insurance and potential reinsurance costs), https://home.treasury.gov/system/files/311/Presentation_Atlantic_Charter.pdf. One commenter has previously summarized the development of terrorism loss costs controlling the premium charge for workers' compensation insurance under state law. *See* Letter from the National Council on Compensation Insurance to the Advisory Committee on Risk-Sharing Mechanisms (June 5, 2017), https://www.treasury.gov/initiatives/fio/acrsm/Documents/National_Council_on_Compensation_Insurance_June_2017.pdf. The commenter also explained modeling exercises that determine in part the portion of premium charged for terrorism risk. Because the manner in which the risk is modeled takes into account the existence of the TRIP backstop, the absence of TRIP would necessarily result in increased cost factors. *See* NCCI Comments, 3-4.

[99] *See* NCCI, State of the Line Report Webpage (reporting for 2020 "a calendar year combined ratio of 87, a sign of profitability for insurers"), https://www.ncci.com/Articles/Pages/Insights-AIS2021-SOTL.aspx.

[100] See note 73, above.

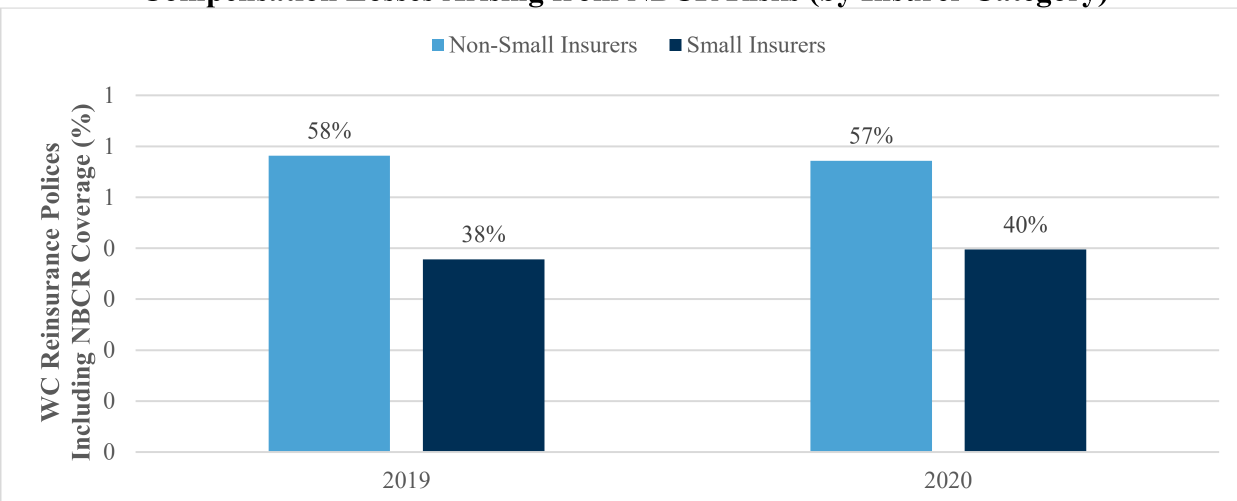
[101] A residual market provides insurance coverage for policyholders that cannot obtain coverage in the regular, or voluntary, market. Insurers operating in a particular jurisdiction are generally required to participate in residual markets as a condition of doing business in the voluntary market. The extent of an insurer's participation in the residual market is generally based upon its share of the voluntary market. Depending upon the jurisdiction, insurance costs in the residual market may be higher, or the insurance costs may be subsidized through assessments on taxpayers or insurers, which may then be passed on to all policyholders in the jurisdiction. *See, e.g.*, NCCI Comments, 2-3.

[102] NCCI Comments, 2-3.

remains at about 6 percent, which is a level consistent with the size of the residual market before the September 11 Attacks.[103]

Private reinsurance can help insurers in the workers' compensation market manage their aggregation risks, including those from NBCR events. Figure 27 analyzes the extent to which private reinsurance purchased by insurers writing workers' compensation insurance since the last Small Insurer Study included coverage for NBCR risks associated with workers' compensation policies.

Figure 27: 2019-2020 Reinsurance Purchases Including Coverage for Workers' Compensation Losses Arising from NBCR Risks (by Insurer Category)



Source: 2020-2021 TRIP Data Calls

The TRIP data calls continue to indicate that a significant percentage of small insurers with workers' compensation risks did not purchase any reinsurance coverage for workers' compensation losses caused by NBCR risks.[104] The minority of small insurers that did obtain reinsurance coverage for this type of risk did so at limits lower than the limits obtained under their conventional terrorism reinsurance policies.[105]

In contrast, Figure 27 demonstrates that a higher percentage of non-small insurers (over 50 percent in any particular year) obtained reinsurance coverage for workers' compensation losses arising from NBCR risks, as compared to small insurers. However, although the limits such insurers obtained were higher than the limits purchased by small insurers for workers' compensation NBCR exposures, the amounts of coverage that non-small insurers obtained for

[103] NCCI Comments, 3.

[104] Treasury analyzed this issue as well in its 2019 Small Insurer Study. *See* FIO, *2019 Small Insurer Study*, 45-46.

[105] For example, small insurers that obtained NBCR reinsurance limits for workers' compensation in 2019 obtained an average per loss limit of $45 million, compared to a general average terrorism reinsurance limit of $109 million. In 2020, these figures were $48 million and $94 million, respectively.

NBCR risks were much lower than their limits for conventional terrorism risk – only about 20 percent of total terrorism risk reinsurance limits of such insurers in any one year.[106]

Treasury's data indicates that the unique terrorism-related risks posed by the workers' compensation system have not prevented small insurers from participating in this market. However, it remains unclear as to whether this continued participation is due to the existence of the Program, or another cause. If large workers' compensation losses fall disproportionately upon a small number of participating insurers, and otherwise exceed the Program Trigger, TRIP provides a backstop that will operate as a risk-spreading mechanism across the industry. In this situation, the Program could be a factor that allows an insurer to continue participating in the workers' compensation market.[107] Although this risk-spreading mechanism applies irrespective of the size of the insurer participating in the workers' compensation market, it may be more critical for small insurers.

[106] For example, in 2020, the reported average purchase of NBCR workers' compensation reinsurance on a per loss basis by non-small insurers that purchased such coverage was $212 million – as compared with an average limit of $1.1 billion obtained by those same non-small insurers for conventional terrorism risk.

[107] One commenter noted that "[g]iven the challenges presented by the terrorism peril, Congress determined a workable solution was needed that provides primary insurance carriers with a mechanism to manage the impact of the terrorism peril. That solution was the creation of TRIP and it appears it may have contributed to a relatively stable workers compensation insurance market." NCCI Comments, 4. The National Association of Insurance Commissioners has also issued a brief stating that "[a]n expiration of TRIA would be particularly disruptive to the workers' compensation market. Workers' compensation benefits are codified in state law and an employer cannot decline to provide coverage for acts of terrorism. Without TRIA, workers' compensation insurers might raise prices or decline to write coverage for businesses with many employees concentrated in single locations or near iconic properties." National Association of Insurance Commissioners, *Issue Brief: Terrorism Risk Insurance* (May 2019), https://www.naic.org/documents/government_relations_terrorism_risk_insurance.pdf.

VI. CONCLUSION

Small insurers are important components of the large and diverse U.S. insurance market, and they are significant participants in the market for terrorism risk insurance in the United States. Although Treasury has previously observed a decline in the market share of small insurers subject to the Program, data collected in the last five years indicates that this decline has stabilized and that the small insurer share of the market has remained constant. In some areas (for example, coverage provided to places of worship), they may have a significant percentage of market share. While coverage in the lines of insurance subject to the Program generally remains concentrated in larger, non-small insurers, small insurers play a significant role for some policyholder segments and in many areas of the country.

Treasury's study found that, as reflected in prior data calls, small insurers charge less than non-small insurers for terrorism risk insurance, when a charge is assessed. Small insurers also remain more likely to charge no premium for such coverage. Additionally, terrorism risk insurance take-up rates by the policyholders of small insurers are slightly higher than the take-up rate for non-small insurers' policyholders. Small insurers also tend to operate on a regional basis by writing in fewer states than non-small insurers. Small insurers also have heavier concentrations of writings in the CMP and workers' compensation lines of insurance (and therefore a larger overall market share in those lines) than non-small insurers. Small insurers generally do not participate in the market for standalone terrorism insurance policies. Small insurers have issued very few policies in prior data calls and no policies were reported in the 2021 Data Call. However, they do participate in the market for cyber insurance, including cyber terrorism insurance. Furthermore, small insurers' greater market share of workers' compensation insurance, where NBCR insurance must be provided, increases the total risk of aggregated exposure arising to small insurers from such losses.

The mandatory availability requirement requires small insurers to offer and write terrorism risk insurance in some circumstances where they otherwise might not. The financial backstop provided by the Program provides some support to mitigate the economic impact of this requirement for small insurers. If the federal backstop becomes insufficient because of changes in market conditions or Program mechanics, the mandatory availability requirement could cause small insurers to not provide insurance in certain markets. This could reduce the availability of insurance – not only of terrorism risk insurance, but also in other TRIP-eligible lines of insurance.

Additionally, in some circumstances, the Program Trigger requirement could prevent small insurers who have met their individual insurer deductibles from receiving the federal share of compensation. Small insurers will be protected from outcomes where the aggregate of all insurer losses will exceed the Program Trigger. However, a highly concentrated act of terrorism that affects a limited number of insurers could result in insured losses that fail to reach the Program Trigger. Although small insurers may purchase private reinsurance to avoid this potential risk, many small insurers do not purchase sufficient private reinsurance to address this possibility –

however infrequent the potential loss may be. The reported data indicates that aggregate reinsurance purchases by small insurers covering losses subject to the Program declined in 2020. Increases in the charge for private reinsurance in the TRIP-eligible lines reported by other industry sources may be resulting in this apparent decline in small insurer utilization of private reinsurance.

Small insurers could have the highest potential for unreimbursed losses in connection with the workers' compensation line of insurance. Small insurers have a larger share of this market, which is subject to very high loss amounts with no defined limits of liability and significant potential aggregation risks. Because this line is highly regulated by the U.S. states from a pricing standpoint, insurers that write workers' compensation insurance may find it difficult to buy reinsurance that will cover the risks that they write. Treasury's data, now available over several years, also indicates that many small insurers do not obtain reinsurance coverage for NBCR-related losses in workers' compensation lines. Additionally, the reinsurance that small insurers do obtain is in amounts significantly lower than they are generally able to obtain for terrorism risk.

Appendix 1: 2020 Take-Up Rates by State

Appendix 1 to this Study contains a table setting forth numerically the 2020 take-up rates, based upon premium, presented graphically in Figures 12 and 13, by state for both small and non-small insurers. As noted above, workers' compensation is not included within these figures, although excess workers' compensation is included.

	Non-Small Insurers	Small Insurers	Combined
Alabama	62%	75%	64%
Alaska	47%	48%	47%
American Samoa	0%	NA	0%
Arizona	62%	60%	62%
Arkansas	66%	68%	66%
California	59%	39%	57%
Colorado	60%	44%	58%
Connecticut	70%	69%	70%
Delaware	62%	78%	64%
District of Columbia	64%	72%	64%
Florida	52%	37%	50%
Georgia	66%	65%	66%
Guam	16%	32%	16%
Hawaii	55%	80%	59%
Idaho	61%	72%	63%
Illinois	65%	73%	65%
Indiana	63%	78%	65%
Iowa	68%	68%	68%
Kansas	66%	53%	65%
Kentucky	67%	62%	67%
Louisiana	52%	40%	50%
Maine	68%	87%	71%
Maryland	70%	79%	71%
Massachusetts	66%	68%	66%
Michigan	67%	74%	68%
Minnesota	62%	59%	62%
Mississippi	65%	67%	65%
Missouri	65%	74%	67%
Montana	60%	56%	60%
Nebraska	64%	65%	64%
Nevada	63%	46%	62%
New Hampshire	65%	81%	68%
New Jersey	67%	70%	67%

	Non-Small Insurers	Small Insurers	Combined
New Mexico	67%	58%	66%
New York	64%	60%	63%
North Carolina	70%	79%	71%
North Dakota	57%	54%	57%
Northern Mariana Islands	10%	NA	10%
Ohio	68%	72%	68%
Oklahoma	66%	50%	63%
Oregon	63%	59%	63%
Pennsylvania	68%	71%	69%
Puerto Rico	46%	2%	30%
Rhode Island	69%	59%	68%
South Carolina	62%	65%	62%
South Dakota	54%	62%	55%
Tennessee	69%	65%	68%
Texas	57%	48%	56%
US Virgin Islands	21%	0%	20%
Utah	67%	53%	66%
Vermont	63%	89%	68%
Virginia	68%	75%	68%
Washington	62%	55%	61%
West Virginia	67%	65%	62%
Wisconsin	66%	70%	66%
Wyoming	64%	62%	64%

Source: 2021 TRIP Data Call

Appendix 2: 2020 Take-Up Rates by State and Line Groups

Appendix 2 to this Study contains more detailed take-up information for small and non-small insurers, by state and by groups of TRIP-eligible lines of insurance. In order to streamline the data display and provide information by more general categories of information. Treasury displays the information by the following categories: (1) Property Insurance;[108] and (2) Liability Insurance.[109] Evaluation of Appendix 2 permits identification of differences in take-up, on a state-by-state basis, as between small insurers and non-small insurers, by the more general coverage categories identified.

	Non-Small		Small		Combined	
	Property	Liability	Property	Liability	Property	Liability
Alabama	69%	61%	80%	77%	70%	64%
Alaska	56%	45%	57%	46%	56%	45%
American Samoa	0%	NA	NA	NA	0%	NA
Arizona	76%	58%	63%	60%	75%	58%
Arkansas	76%	59%	73%	66%	75%	60%
California	72%	55%	40%	41%	69%	54%
Colorado	71%	56%	55%	39%	70%	54%
Connecticut	81%	68%	79%	59%	80%	68%
Delaware	73%	62%	74%	81%	73%	64%
District of Columbia	84%	65%	78%	69%	84%	65%
Florida	51%	56%	28%	48%	47%	55%
Georgia	78%	62%	74%	59%	78%	62%
Guam	19%	12%	0%	NA	19%	12%
Hawaii	61%	56%	90%	76%	66%	59%
Idaho	74%	59%	56%	78%	72%	64%
Illinois	79%	59%	78%	71%	79%	60%
Indiana	70%	61%	77%	80%	71%	63%
Iowa	79%	62%	76%	74%	79%	64%
Kansas	73%	62%	58%	49%	71%	60%
Kentucky	71%	65%	60%	67%	70%	66%
Louisiana	58%	52%	48%	41%	56%	50%
Maine	77%	67%	93%	89%	80%	71%
Maryland	82%	68%	83%	75%	82%	69%
Massachusetts	79%	64%	79%	57%	79%	63%
Michigan	79%	65%	73%	74%	77%	66%
Minnesota	70%	60%	60%	59%	69%	60%

[108] Fire, Allied Lines, Boiler & Machinery, and Commercial Multi-Peril (Property) combined.

[109] Commercial Multi-Peril (Liability), Products Liability, and Other Liability combined.

	Non-Small		Small		Combined	
	Property	Liability	Property	Liability	Property	Liability
Mississippi	71%	63%	70%	70%	71%	64%
Missouri	75%	60%	77%	74%	76%	62%
Montana	71%	58%	61%	53%	69%	57%
Nebraska	72%	63%	72%	59%	72%	63%
Nevada	75%	58%	44%	48%	73%	57%
New Hampshire	78%	64%	84%	80%	79%	66%
New Jersey	77%	65%	76%	68%	77%	65%
New Mexico	78%	65%	69%	51%	77%	64%
New York	81%	60%	85%	48%	81%	59%
North Carolina	81%	68%	83%	78%	82%	69%
North Dakota	66%	55%	58%	53%	65%	55%
Northern Mariana Islands	86%	0%	NA	NA	86%	0%
Ohio	78%	67%	74%	71%	78%	67%
Oklahoma	74%	58%	61%	35%	72%	55%
Oregon	75%	61%	62%	60%	74%	61%
Pennsylvania	80%	66%	74%	68%	79%	66%
Puerto Rico	38%	19%	2%	1%	23%	10%
Rhode Island	82%	67%	66%	54%	79%	66%
South Carolina	68%	63%	63%	68%	67%	64%
South Dakota	59%	53%	65%	64%	60%	54%
Tennessee	79%	67%	66%	67%	78%	67%
Texas	64%	53%	51%	48%	63%	53%
US Virgin Islands	17%	37%	0%	0%	16%	36%
Utah	78%	65%	63%	50%	77%	64%
Vermont	68%	64%	92%	89%	74%	67%
Virginia	80%	65%	83%	72%	81%	65%
Washington	72%	62%	60%	56%	70%	61%
West Virginia	80%	59%	79%	53%	80%	59%
Wisconsin	75%	63%	74%	67%	75%	64%
Wyoming	73%	62%	75%	53%	73%	61%

Source: 2021 TRIP Data Call