



# **FIO Request for Comments on a Potential Federal Insurance Response to Catastrophic Cyber Incidents**

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**Federal Advisory Committee on Insurance**

**September 29, 2022**



- FIO continues its ongoing efforts relating to cyber insurance and insurer cybersecurity.
- FIO administers the Terrorism Risk Insurance Program (TRIP), and cyber insurance may be written in TRIP-eligible lines of insurance.
  - FIO increased its collection of cyber-related elements in the most recent TRIP data call. FIO's *2022 Report on the Effectiveness of the Terrorism Risk Insurance Program* discussed the results of the expanded data call on cyber risk insurance and the state of the cyber risk insurance market.
- FIO Annual Reports include information on cyber insurance and insurer cybersecurity.
- FIO coordinates with other Treasury offices and federal agencies, including Treasury's Office of Cybersecurity and Critical Infrastructure Protection (OCCIP) and the White House Office of the National Cyber Director (ONCD).
- FIO is now working on a joint project with the Department of Homeland Security's Cybersecurity and Infrastructure Agency (CISA) in response to a GAO Report, *Cyber Insurance: Action Needed to Assess Potential Federal Response to Catastrophic Attacks* (June 2022)

# GAO Report, *Cyber Insurance: Action Needed to Assess Potential Federal Response to Catastrophic Attacks*



- **Findings.** The GAO report notes, among other things:
  - U.S. critical infrastructure faces increasing cybersecurity risks: cyber incidents to critical infrastructure have increased in frequency and severity.
  - Recent attacks demonstrate the potential for systemic cyber incidents.
  - Cyber insurance and TRIP are limited in their ability to cover potentially catastrophic losses from systemic cyberattacks.
  
- **Conclusion and Recommendation:** The GAO report concludes that a full evaluation of whether there should be a federal insurance response in connection with catastrophic cyber risks would be best addressed jointly by FIO (given its statutory authorities, including monitoring of the insurance sector and assisting the Secretary of the Treasury with administration of TRIP) and CISA (given its expertise in connection with cyber and physical risks to U.S. infrastructure).
  
- **Next Steps:** FIO and CISA have accepted the GAO Report recommendation and begun work on this joint project.
  - FIO will be seeking public comment on questions relating to cyber insurance and catastrophic cyber incidents, with a Federal Register Notice (FRN) scheduled to be published on September 29, 2022.

# FRN Overview: Potential Federal Insurance Response to Catastrophic Cyber Incidents



- FIO requests comments relating to whether a federal insurance response to “catastrophic” cyber incidents may be warranted, as well as how such an insurance response should be structured.
- FRN acknowledges that an “insurance response” can take many forms, and there are a variety of potential models for response that might be considered.
  - FIO intends to assess potential responses that are outside TRIP but will also consider how potential responses could interact with, or be part of, TRIP.
- FRN seeks information on Catastrophic Cyber Incidents and information relevant to Potential Federal Insurance Response for Catastrophic Cyber Incidents.



- **Nature of Event.** What type of cyber incidents could have a catastrophic effect on U.S. critical infrastructure? How likely are such incidents? Are particular sectors of U.S. critical infrastructure more susceptible to such incidents? How should the federal government and/or the insurance industry address the potential for cascading, cross-sector impacts from a cyber incident? What type of potential “catastrophic” cyber incident could justify the creation of a federal insurance response?
- **Measuring Financial and Insured Losses.** What data and methodologies could the federal government and/or the insurance industry use to predict, measure and assess the financial impact of catastrophic cyber incidents? What amount of financial losses should be deemed “catastrophic” for purposes of any potential federal insurance response? How should FIO measure and assess potential insured loss from catastrophic cyber incidents?
- **Cybersecurity Measures.** What cybersecurity measures would most effectively reduce the likelihood or magnitude of catastrophic cyber incidents? What steps could the federal government take to potentially incentivize or require policyholders to adopt these measures?



- **Insurance Coverage Availability.** What insurance coverage is currently available for catastrophic cyber incidents? What are the current limitations on coverage for catastrophic cyber incidents? What rationales have been (or likely would be) used to deny coverage for catastrophic cyber incidents? Is the private market currently making available insurance for catastrophic cyber incidents that is desired by policyholders, in terms of the limits, the scope of coverage, and the type and size of businesses seeking coverage?
- **Data and Research.** What data do you collect that you would be willing to share with FIO and/or CISA to consider in their assessment of catastrophic cyber incidents and cyber insurance? What other information regarding catastrophic cyber incidents and cyber insurance should FIO and CISA consider? What data should FIO and/or CISA consider collecting to help inform this assessment and their ongoing work?
- **Federal Insurance Response.** Is a federal insurance response for catastrophic cyber incidents warranted? Why or why not?

# FIO FRN Questions on Potential Federal Insurance Response Structure (continued) and General Question



- **Potential Structures for Federal Insurance Response.** What structures should be considered by FIO and CISA for a potential federal insurance response for catastrophic cyber incidents?
  - This question asks respondents to also address related questions concerning: Potential Models, Participation, Scope of Coverage, Cybersecurity Measures, Moral Hazard, Risk Sharing, Reinsurance/Capital Markets, Funding, Evaluation/Data Collection, and Limitations.
- **Effects on Cyber Insurance Market.** How might a federal insurance response affect the availability and affordability of cyber insurance across the entire insurance market? What would be the effect on any part of the cyber insurance market that would remain outside the parameters of a federal insurance response?
- **Other.** Please provide any additional comments or information on any other issues or topics relating to cyber insurance and catastrophic cyber incidents.