

electronic data and its transmission, including technology tools such as the internet and telecommunications networks,” as well as “physical damage that can be caused by cyber attacks, fraud committed by misuse of data, any liability arising from data storage, and the availability, integrity, and confidentiality of electronic information.”<sup>9</sup> The cyber risk insurance market has evolved significantly since it first emerged approximately two decades ago and is expected to continue experiencing rapid growth.<sup>10</sup> A 2016 report on cyber insurance noted that 19 different categories of coverage are available to a greater or lesser extent in the cyber insurance market, including first and third party coverage related to data breaches, cyber extortion, business interruption, data and software loss, physical damage, and death and bodily injury.<sup>11</sup>

Cyber risk insurance remains an evolving insurance market, both in terms of product development and regulatory oversight. Certain insurance policies that may contain a “cyber risk” component or which do not exclude losses arising from a cyber event continue to be written in existing TRIP-eligible lines of insurance and are thus subject to the provisions of the Program.<sup>12</sup> Prior to 2016, some insurers that wrote stand-alone cyber risk insurance may have offered and reported it for state regulatory purposes as Professional Errors and Omissions Liability Insurance, which, as noted above, is expressly excluded under TRIA from the definition of “property and casualty insurance.”

As of January 1, 2016, however, state regulators introduced a new sub-line of insurance, identified as “Cyber Liability,” under the broader “Other Liability” line. “Cyber Liability” is defined for state regulatory purposes as follows:

Stand-alone comprehensive coverage for liability arising out of claims related to unauthorized access to or use of personally identifiable or sensitive information due to events including but not limited to viruses, malicious attacks or system errors or omissions. This coverage could also include expense coverage for business interruption, breach management and/or mitigation services. When cyber liability is provided as an endorsement or as part of a multi-peril policy, as opposed to a stand-alone policy, use the appropriate Sub-TOI of the product to which the coverage will be attached.<sup>13</sup>

This Guidance confirms that stand-alone cyber insurance policies reported under the “Cyber Liability” line are included in the definition of “property and casualty insurance” under TRIA and are thus subject to the disclosure requirements and other requirements in TRIA and the Program regulations as specified in the following Section.

## II. Guidance

Treasury provides this Guidance to clarify that the requirements of TRIP apply to stand-alone cyber insurance policies reported under a TRIP-eligible line of insurance.<sup>14</sup> This Guidance is designed to address the application of TRIA and the Program regulations to such cyber risk insurance policies due to the aforementioned developments in this area, which may have caused some marketplace uncertainty.

### *Guidance One (Cyber Liability Included in Property and Casualty Insurance)*

Effective January 1, 2016, policies reported for state regulatory purposes under the Cyber Liability sub-line on Line 17—Other Liability of the NAIC’s Exhibit of Premiums and Losses (commonly known as Statutory Page 14) are considered “property and casualty insurance” under TRIA.

### *Guidance Two (Application to In-Force Policies)*

(a) An in-force policy reported under the Cyber Liability sub-line on Line 17—Other Liability of the NAIC’s Exhibit of Premiums and Losses (commonly known as Statutory Page 14), and which provides coverage for

insured losses under TRIA, is not eligible for reimbursement of the Federal share of compensation unless:

(i) The insurer offered coverage for insured losses subject to the required disclosures under 31 CFR 50 Subpart B; or

(ii) The insurer demonstrates that the appropriate disclosures were provided to the policyholder before the date of any certification of an act of terrorism.<sup>15</sup>

(b) An insurer that did not make an offer for coverage for insured losses under an in-force policy reported under the Cyber Liability sub-line on Line 17—Other Liability of the NAIC’s Exhibit of Premiums and Losses (commonly known as Statutory Page 14) is not required to do so at this time.

### *Guidance Three (Application to New Offers and Renewals of Coverage)*

Effective April 1, 2017, and consistent with TRIA and the Program regulations, an insurer must provide disclosures and offers that comply with TRIA and the Program regulations on any new or renewal policies reported under the Cyber Liability sub-line on Line 17—Other Liability of the NAIC’s Exhibit of Premiums and Losses (commonly known as Statutory Page 14).

Dated: December 20, 2016.

**Michael T. McRaith,**

*Director, Federal Insurance Office.*

[FR Doc. 2016–31244 Filed 12–23–16; 8:45 am]

**BILLING CODE 4810–25–P**

## DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0051]

**Agency Information Collection Activity: (State Approving Agency Reports and Notices 38 CFR 21.4154, 21.4250(b), 21.4258, 21.4259)**

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public

<sup>9</sup> CRO Forum, “Cyber Resilience: The Cyber Risk Challenge and the Role of Insurance” (December 2014), p. 5, available at <http://www.thecroforum.org/cyber-resilience-cyber-risk-challenge-role-of-insurance/>.

<sup>10</sup> PricewaterhouseCoopers, “Insurance 2020 & Beyond: Reaping the dividends of cyber resilience” (2015), p. 10 (estimating that the global premium market will reach \$5 billion by 2018 and at least \$7.5 billion by 2020) (PwC Cyber Insurance Report), available at <http://www.pwc.com/gx/en/insurance/publications/assets/reaping-dividends-cyber-resilience.pdf>.

<sup>11</sup> Cambridge Centre for Risk Studies and Risk Management Solutions, “Managing Cyber Insurance Accumulation Risk” (February 2016), pp. 10–11, available at <http://static.rms.com/email/documents/managing-cyber-insurance-accumulation-risk-rms-crs-jan2016.pdf>.

<sup>12</sup> See, e.g., PwC Cyber Insurance Report, p. 9 (noting likely existence of cyber risk coverage “within your wider property, business interruption, [and] general liability . . . coverage”).

<sup>13</sup> NAIC 2016 P/C Product Coding Matrix, p. 10. “Sub-TOI” refers to “Sub-Type of Insurance.”

<sup>14</sup> As is the case with all other coverages subject to TRIA, policy losses that do not arise from an “act of terrorism” certified by the Secretary of the Treasury would not trigger the Program backstop. For example, an act cannot be certified as an “act of terrorism” unless it is, among other things, “a violent act or an act that is dangerous to human life, property, or infrastructure. . . .” 31 CFR 50.4(b)(1)(ii). To the extent a cyber event did not satisfy this requirement, the backstop provisions of TRIP would not be implicated. Any specific determination in that regard could not be made in advance and would depend upon the circumstances and considerations presented in any particular case.

<sup>15</sup> See 31 CFR part 50, subpart G.

comment in response to the notice. This notice solicits comments on information needed to determine a claimant's entitlement to education benefits.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before February 27, 2017.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at [www.Regulations.gov](http://www.Regulations.gov) or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to [nancy.kessinger@va.gov](mailto:nancy.kessinger@va.gov). Please refer to "OMB Control No. 2900-0051" in any correspondence. During the comment period, comments may be viewed online through the FDMS.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 632-8924 or FAX (202) 632-8925.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104-13; 44 U.S.C. 3501-21), Federal agencies must obtain

approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* Supporting Statement for State Approving Agency Reports and Notices

38 CFR 21.4154, 21.4250(b), 21.4258, 21.4259.

*OMB Control Number:* 2900-0051.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* 2900-0051 is for information reports provided by State Approving Agencies. VA will use data collected to determine the number of annual disapprovals and approvals for programs of education.

*Affected Public:* State Approving Agencies.

*Estimated Annual Burden:* 97,012 hours.

*Estimated Average Burden per Respondent:* 11 hours.

*Frequency of Response:* Annual.

*Estimated Number of Respondents:* 53.

By direction of the Secretary.

**Cynthia Harvey-Pryor,**

*Agency Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.*

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**BILLING CODE 8320-01-P**