THIRD-PARTY DATA AND MODELS (H) TASK FORCE
2024 Charges and Work Plan

2024 Adopted Charges

The following charges were adopted by Plenary at the 2023 Fall National Meeting:

1. The **Third-Party Data and Models (H) Task Force** will:
   A. Develop and propose a framework for the regulatory oversight of third-party data and predictive models.
   B. Monitor and report on state, federal, and international activities related to governmental oversight and regulation of third-party data and model vendors and their products and services. Provide recommendations to the Innovation, Cybersecurity, and Technology (H) Committee regarding responses to such activities.

Background for the Work Plan

At the 2023 Fall National Meeting, the NAIC adopted the **NAIC Model Bulletin: Use of Artificial intelligence systems by insurers.** The bulletin explains the regulators' expectations for governance around the development, acquisition, and use of certain AI technologies and advises insurers "of the type of information and documentation that the Department may request during an investigation or examination of any Insurer regarding its use of such technologies and AI Systems." Third-party sections of the bulletin are included in this document as Attachment A.

This bulletin lists and explains the applicable current laws and regulations that underlay the Bulletin and point to the NAIC's 2020 Principles[1] of Artificial Intelligence as an appropriate source of guidance for Insurers as they develop and use AI systems. Under these current laws, there is a framework around the regulation of third-party data and models.

The goal of this Task Force is to develop and propose an optimal regulatory framework for the regulatory oversight of third-party data and predictive models. The proposed regulatory framework may require new or modification of adopted model laws or regulations in 2025.

Throughout the year, the Third-Party Data and Models (H) Task Force will coordinate with other Innovation, Cybersecurity, and Technology (H) Committee activities and forums and place emphasis on transparency during the process.

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[1] The principles emphasize the importance of the fairness and ethical use of AI; accountability; compliance with state laws and regulations; transparency; and a safe, secure, fair, and robust system.

2024 Work Plan

In 2024, the focus for the Task Force will be on research to determine the framework for regulatory oversight of third-party data and predictive models, including those utilizing artificial intelligence. The framework will be clear that insurers are ultimately responsible for ensuring that insurance laws and regulations continue to be complied with while using data and models from third-party vendors.

Project Steps

2024: Explore and decide on a general concept for a framework for regulatory oversight of third-party data and models, including those utilizing artificial intelligence.

A. Evaluate existing frameworks and discuss whether existing frameworks might be useable for the regulation of third-party data and models.

- What are the current issues that insurance departments have regulating insurers that use third-party data and models in rating, underwriting, marketing, and handling claims?
- Is a framework scalable?
- Would regulators have the bandwidth?
- Does the existing framework apply to any particular line of business or company use?
- What are the reasons that third-party vendors are reluctant to get licensed as advisory or rating organizations?
- Determine how third-party vendors/models are being utilized and consider categorizing models by type [e.g., claims handling models, rate models (by hazard/peril, auto models), and underwriting models]. Consider where regulators are already evaluating models.

B. Discuss goals for a future third-party framework.

- What is the appropriate level, standard, or minimum threshold an insurer should be held to when using third-party data, models, or AI?
- What is the appropriate level of regulation for AI risks that result from using third parties?
- Should licensing, certification, SOC-type reports, third-party warranties in contracts be used?
- Should the framework be the same for all lines of business and company uses/insurance practices or be proportionate to the potential for the greatest impact on consumers?

- How do we ensure the framework does not unnecessarily discourage innovation?
- What should be the result when an insurer cannot get contractual terms or information they need from a third-party vendor?
- Can the framework include a mechanism for the review and approval of models prior to use by insurers?
- Is the framework sufficiently flexible to enable adaption over time without necessarily requiring revising or amending the framework.
- Is the regulatory oversight framework sufficiently commensurate to risk?

2025: Build the third-party regulatory framework.

2024 Meeting Plans

- **March-Sept.:** Invite speakers to present frameworks currently used (FL Hurricane Commission, RBC, Rate/Underwriting regulatory reviews) and views from multiple perspectives (e.g., international regulators, other industries, consultants and lawyers working on the implementation and governance surrounding the use of third-party data and models, third-party vendors, consumers). Throughout the months, discuss goals for the third-party regulatory framework and aspects of existing frameworks that should be discussed or considered.
- **October-November**: Discuss potential frameworks.
- **Fall National Meeting:** Finalize the general idea for a framework for regulatory oversight of third-party data and models so drafting can begin in 2025.

Third-Party Excerpts from the Adopted

NAIC MODEL BULLETIN: USE OF ARTIFICIAL INTELLIGENCE SYSTEMS BY INSURERS[2]

SECTION 3: REGULATORY GUIDANCE AND EXPECTATIONS
AIS Program Guidelines

(An AIS Program is an insurer's "written program...for the responsible use of AI Systems that make, or support decisions related to regulated insurance practices. The AIS Program should be designed to mitigate the risk of Adverse Consumer Outcomes, including, at a minimum, the statutory provisions set forth in Section 1 of this bulletin.")

4.0 Third-Party AI Systems and Data

Each AIS Program should address the Insurer's process for acquiring, using, or relying on (i) third-party data to develop AI Systems; and (ii) AI Systems developed by a third party, which may include, as appropriate, the establishment of standards, policies, procedures, and protocols relating to the following considerations:

4.1 Due diligence and the methods employed by the Insurer to assess the third party and its data or AI Systems acquired from the third party to ensure that decisions made or supported from such AI Systems that could lead to Adverse Consumer Outcomes will meet the legal standards imposed on the Insurer itself.

4.2 Where appropriate and available, the inclusion of terms in contracts with third parties that:
a) Provide audit rights and/or entitle the Insurer to receive audit reports by qualified auditing entities.
b) Require the third party to cooperate with the Insurer with regard to regulatory inquiries and investigations related to the Insurer's use of the third-party's product or services.

4.3 The performance of contractual rights regarding audits and/or other activities to confirm the third-party's compliance with contractual and, where applicable, regulatory requirements.

SECTION 4: REGULATORY OVERSIGHT AND EXAMINATION CONSIDERATIONS

2. Third-Party AI Systems and Data

In addition, if the investigation or examination concerns data, Predictive Models, or AI Systems collected or developed in whole or in part by third parties, the Insurer should

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[2] https://content.naic.org/sites/default/files/inline-files/2023-12-4%20Model%20Bulletin_Adopted_0.pdf

also expect the Department to request the following additional types of information and documentation.

2.1 Due diligence conducted on third parties and their data, models, or AI Systems.

2.2 Contracts with third-party AI System, model, or data vendors, including terms relating to representations, warranties, data security and privacy, data sourcing, intellectual property rights, confidentiality and disclosures, and/or cooperation with regulators.

2.3 Audits and/or confirmation processes performed regarding third-party compliance with contractual and, where applicable, regulatory obligations.

2.4 Documentation pertaining to validation, testing, and auditing, including evaluation of Model Drift.