

Draft: 8/2/21

Accelerated Underwriting (A) Working Group
Virtual Meeting (*in lieu of meeting at the 2021 Summer National Meeting*)
July 29, 2021

The Accelerated Underwriting (A) Working Group met July 29, 2021. The following Working Group members participated: Mark Afable, Chair (WI); Grace Arnold, Vice Chair (MN); Jason Lapham (CO); Russ Gibson (IA); Cynthia Amann (MO); Chris Aufenthie (ND); Laura Arp (NE); Lori Barron (OH); and Lichou Lee (WA).

1. Discussed the Latest Draft of the Accelerated Underwriting Educational Report

Commissioner Afable explained that the purpose of the meeting was to discuss the latest draft accelerated underwriting educational report dated July 8 (Attachment Two-A). He said the Working Group exposed the report on July 9 for a 21-day public comment period ending July 30. He added that the report is available on the Working Group's web page.

Commissioner Arnold gave some procedural background on the draft and provided a few highlights on the substance of the draft. She said that a small regulator-only drafting group has been meeting on a weekly basis to develop a draft report. So far, two parts of what is intended to be a five-part paper have been exposed for comment. She explained that this is an iterative process and that comments are invited on the entire draft with every release of a new part. She explained that the group intends to collect and review comments throughout the process and that there will be an opportunity to revise earlier sections as new sections are developed.

Commissioner Arnold made a few comments about the content of the paper. She said that after the release of the first part of the paper, there had been quite a few comments submitted on the definition of accelerated underwriting. She explained that the drafting group had spent a lot of time on the definition and considering definitions from a number of sources, in addition to the comments. She said that the drafting group concluded that the existing definition was largely in the middle of all the options offered and decided to hold off making any changes at this point. She said the drafting group acknowledges that once the rest of the paper is drafted, there may be a need to reconsider the definition.

Commissioner Arnold explained that the drafting group tried to keep the tone of the paper neutral. She said that the presentations the Working Group heard said a lot about the advantages and disadvantages of accelerated underwriting, but the drafting group tried to stay away from that in the report. She said the focus on the report is on what accelerated underwriting is, what accelerated underwriting does, and what the regulatory structure is or should be in the context of current laws.

Commissioner Arnold said they received several suggestions to create a glossary. She explained that the drafting groups decided not to develop a glossary at this point for a few reasons, but largely because some terms are defined differently in different contexts and in different states. She said the drafting group would prefer to have clarity directly in the report and that any suggestions on how to achieve that are welcome.

Commissioner Arnold also said that there were a number of comments suggesting that the report build on other, existing documents. She said that the drafting group agrees and has made an effort to use terminology that builds on and is consistent with the Artificial Intelligence (AI) Principles and the Casualty Actuarial and Statistical (C) Task Force white paper, in particular. She said she welcomes comments on places where there could be additional consistency.

Commissioner Arnold said the drafting group is specifically requesting comments on the parts of the paper addressing, from a legal and practical perspective, the data used in accelerated underwriting programs. Feedback on the kinds of data being used—whether data sources or the scores that come from the sources, feedback on what those terms mean, what kinds of obligations flow from them, and what a consumer sees or should see—would all be welcome. She explained that the drafting group did its best, but feedback to improve the clarity of this section regarding the distinctions between the types of data and what that means for state insurance regulators, companies, and consumers will be key.

Birny Birnbaum (Center for Economic Justice—CEJ) said he plans to submit written comments, but he wanted to get a sense of where the drafting group's thinking was on a few issues. He wondered why the report seems to conclude that state insurance regulators have all the tools they need to regulate accelerated underwriting and address consumer protection concerns when accelerated underwriting uses new third-party sources, AI and predictive modelling not used in traditional underwriting. He

said the AI Principles were specifically created to address new insurer practices like accelerated underwriting, so he asked why the paper does not include implementation of the principles in life insurance. Commissioner Arnold explained that the report has not reached the conclusion section yet, and specific recommendations have not been formulated. She said some of the preliminary recommendations do incorporate the AI Principles and specifically use language from the AI Principles document, especially with respect to transparency.

Mr. Birnbaum asked specifically how the report incorporates the AI Principle “to avoid proxy discrimination against protected classes.” Commissioner Arnold encouraged specific suggestions regarding things that might be missing. She said this is the kind of feedback they are looking for as they continue to add sections to the paper and move towards the development of more specific recommendations in the report.

Mr. Birnbaum said that the paper talks about the consumer protections afforded under the Fair Credit Reporting Act (FCRA), and he wondered why the report did not recommend the extension of those protections to non-FCRA data. He said many states have laws that regulate the use of consumer credit information and require the filing of models with the insurance commissioner. Commissioner Afaible reminded the Working Group that Commissioner Arnold had identified this section, which discusses the different sources of data used in accelerated underwriting, as an area where the drafting group was hoping to receive feedback from interested parties with expertise in data subject to the FCRA. He suggested that Mr. Birnbaum include this issue in his comment letter. Commissioner Arnold said that the drafting group spent a lot of time discussing what kind of data is subject to the FCRA and how that translates to credit scores or insurance scores developed using certain data. She said additional feedback in this area will help the drafting group figure out how to make recommendations that are in line with federal and state law and the AI Principles.

Matthew Wulf (Swiss Re) said he appreciates the overview from Commissioner Arnold and that the drafting group is taking a broad approach to developing the report. He said Swiss Re plans to submit written comments. He said one of the things that Swiss Re identified Commissioner Arnold already mentioned, which is consistency throughout the paper and among the different NAIC work products and workstreams. He said one example is the accelerated underwriting definition. He said the definition of accelerated underwriting acknowledges that not all accelerated underwriting programs use advanced algorithms or machine learning, but subsequent sections seem to assume that they do. He said that Swiss Re comments will point out some of these issues, but he added that he now understands the process and that the drafting group contemplates some reconciliation of these kinds of issues once the paper is complete.

Mr. Wulf also said that the Swiss Re comments will touch on the data sources versus data sets issue that Commissioner Arnold touched on. He said the distinction between data sources and data sets, especially when it comes to identifying the origin of unfair bias, is especially critical. He said another issue Swiss Re plans to focus its comments on is the issue of causation versus correlation. He said this is another area where clarity is critical.

Having no further business, the Accelerated Underwriting (A) Working Group adjourned.

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