



December 16, 2021

Commissioner Vicki Schmidt, Co-Chair, Workstream Three
Commissioner Andrew Mais, Co-Chair, Workstream Three
Special (EX) Committee on Race and Insurance
National Association of Insurance Commissioner
1100 Walnut Street, Suite 1500
Kansas City, MO 64106

Via Electronic Mail: abrandenburg@naic.org

RE: Workstream Three – White Paper – Key Definitions

Dear Commissioner Schmidt and Commissioner Mais:

Thank you for the current opportunity to present during the NAIC's Special (EX) Committee on Race and Insurance (Committee) December 1 conference call. The American Property Casualty Insurance Association (APCIA) strongly supports your efforts to accurately identify the existing nomenclature for anti-discrimination standards that are applicable to insurance. While the commissioners received several presentations on potential aspirational definitions that have been suggested by various stakeholders, it is a crucial foundation for the Committee's work to begin with recognizing current law as a basis for defining critical terms.

As you begin to draft the White Paper outline, we wanted to highlight some key thoughts for your consideration:

- Aspirational proposals for defining anti-discrimination terms are not the equivalent of legal definitions derived from Civil Rights and related statutes and the cases construing them. An accurate rendering of the historical legal framework must be the foundation on which all discussions proceed. To do otherwise, will continue to perpetuate ongoing disagreements that only stall productive dialogue.
- Unnecessarily pursuing differing definitions distracts from the core task of understanding whether and how addressing social concerns like racial inequity can work within the existing risk-based pricing statutory and regulatory structure.

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- There is no need to re-define proxy discrimination to include unintentional discrimination in rating and underwriting that arises from the effect of underlying economic or social conditions on neutral risk factors. The existing legal definitions of proxy discrimination, disparate treatment, and disparate impact will support any option the NAIC chooses to undertake
- If the NAIC can achieve its ends consistent with Civil Rights jurisprudence, the NAIC should do so and, thereby, avoid the risk of negative consequences, including but not limited to the federal intrusion that different definitions for critical terms would invite.

Thank you again for continued collaboration. We look forward to future conversations and we would be pleased to serve as a resource for any questions you may have.

Regards,



Claire Howard
Senior Vice President
Corporate Secretary and General Counsel

Cc: Paul Blume, SVP, State Government and Member Relations
Robert Gordon, SVP, Policy, Research and International
Frank O'Brien, VP, State Government Relations
Angela Gleason, Senior Director Cyber & Counsel, Policy, Research and International