ARTIFICIAL INTELLIGENCE (EX) WORKING GROUP PRINCIPLES DRAFT

COMMENTS

American Council of Life Insurers (ACLI)
American InsureTech Council
American Medical Association (AMA)
American Property Casualty Insurance Association (APCIA)
Center for Economic Justice (CEJ)
Lemonade Insurance Company
Minnesota Department of Commerce
National Association of Mutual Insurance Companies (NAMIC)
New Hampshire Insurance Department
Pennsylvania Insurance Department
January 17, 2020

Commissioner Jon Godfread  
North Dakota Insurance Department  
Chair, NAIC Artificial Intelligence (EX) Working Group  
Via email to dmatthews@naic.org

Re: Exposed Artificial Intelligence (EX) Working Group (AIWG) Principles Draft

Dear Commissioner Godfread:

The American Council of Life Insurers (ACLI)\(^1\) appreciates the opportunity to respond to the exposed AIWG AI principles draft. ACLI appreciates the efforts of the Working Group to develop an initial draft of principles to foster robust comments and discussion. Consistent with our October 14, 2019, letter, it is critical that additional dialogue with experts on AI and machine learning occurs to further help shape these principles. We hope that the following comments, along with additional input from experts, will be beneficial to shape the ultimate product of the Working Group.

ACLI believes it is important to note that AI, while still an emerging technology, does not necessarily change the fundamentals of how life insurance operates. AI is just another new technologic tool used within a long-standing regulatory regime. It is critical that any new technology or process is compliant with existing laws and regulations. However, the introduction of AI to life insurance processes should not in and of itself create a new set of requirements for companies, but rather reinforce how this technology should be appropriately used to meet regulatory requirements. Consistent with existing technologies and methodologies, it is important to look through the lens of outcomes, rather than process. Further, review of AI systems and processes should follow risk-based analysis.

ACLI additionally believes the principles should remain high level and focused on compliance with regulations. Discussion of cultural and social impact, while inherently a byproduct of any disruptive existing technology, is a distraction from the core message of compliance with regulatory requirements and is outside the scope of the insurance industry. We suggest that AI principles strongly reinforce current requirements, without imposing new and nebulous ones around AI’s impacts on creativity, culture, and society.

ACLI has the following specific comments about the draft principles. Additionally, we have attached (Attachment One) a red-line of the principles with our suggested changes.

Comments on Preamble

\(^1\) The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI’s member companies are dedicated to protecting consumers’ financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI’s 280 member companies represent 94 percent of industry assets in the United States.
• It is not clear, outside of the context of insurance companies or entities, such as third-party providers, what the role or responsibilities of individuals would be, so we recommend striking “persons or” from the “RECOMMENDS” statement. We suggest changing “active” to “direct” as a clarification. Further, the concept of “AI system” is vague, so we would suggest elaborating on that concept. Additional consideration should be given as to what specifically constitutes “AI” for this purpose. We would suggest this statement be worded as follows:

  RECOMMENDS that insurance companies and all entities facilitating the business of insurance that play an active-direct role in the use of AI for the purposes of advertising, distribution, underwriting, ratemaking, and claims settlement (such AI uses hereafter referred to as “AI system” and such insurance companies and entities AI system lifecycle (hereafter referred to as “AI actors”) adhere to these fundamental principles.

Comments on “Fair and Ethical” Section

• Bullet (a) should be narrowed to focus specifically on insurance. Additionally, it raises the question of what exactly would constitute “promotion of fair access to insurance,” so we recommend striking “promotion of fair” from this bullet. Finally, we would suggest adding the modifier “unfair” in front of “discrimination”. We would suggest this state be worded as follows:

  AI actors should respect the rule of law throughout the AI lifecycle. This will include, but is not limited to, laws and regulations with respect to insurance, including those relating to trade practices, unfair discrimination, promotion of fair access to insurance, underwriting and eligibility practices, ratemaking standards, advertising decisions, claims practices and solvency.

• Bullet (b) discusses impacts to society, culture, and creativity, which we believe are beyond the scope of appropriate high-level principles for the insurance industry, so we suggest striking these references. We believe its important to call out the potential increase in insurance coverage for consumers. Further, in the last sentence we suggest replacing “must” with “should”, replace “negative” with “harmful”, and clarifying the intent is to work towards minimize harmful outcomes. With these suggestions, the bullet would read as follows:

  AI actors should proactively engage in responsible stewardship of trustworthy AI in pursuit of beneficial outcomes for consumers—and—society, such as providing more insurance coverage to more consumers, augmenting human capabilities and enhancing creativity while continuing to respect cultural, social, and legal norms where they operate. The AI system should generate benefits for people that are greater than the cultural, social, and legal costs. AI systems must-should not be designed to harm or deceive people and should be implemented in a manner that strives to minimize negative-harmful outcomes.

Comments on “Accountable” Section

• The meaning of both “proper functioning” and “appropriate” are not clear, so we suggest the following edits:
  • The third sentence is confusing to read.
  • We would suggest changing “must” to “should”.
  • As above, we would suggest clarifying this applies to insurance use of AI.
The fourth sentence discusses human monitoring. We believe this sentence does not take a forward-looking view of AI; further, it omits risk-based considerations of monitoring of the AI systems. We suggest revising in part to “including ongoing risk-based (human or otherwise)” monitoring.

ACLI is concerned about the new requirements being created in the last two sentences that would only apply to AI. There are existing requirements that provide the right to correctability, and the principles should reinforce this requirement. We suggest striking the last sentence, and modifying the second to last.

With the above comments, we suggest the following edits to this section:

Stakeholders should have access to resources which provide accurate information about their insurance data as well as a way to inquire or seek recourse for AI-driven decisions. This information should be plain, easy-to-understand and describe the factors that lead to the prediction, recommendation or decision.

AI actors should be accountable for the proper functioning of ensuring AI systems operate in and-compliance with all stated principles, consistent with the actors’ roles, the risk-based situational context, and evolving best practices. Any AI system must be compliant with existing laws and regulations governing appropriate in its use of data and algorithms during its phase of the insurance lifecycle. AI actors are responsible for the creation, and implementation, and impacts of any AI system that must be identifiable and accountable for the impacts of the system, even if the certain impacts are unintended not foreseeable. AI actors should implement mechanisms and safeguards appropriate to ensuring all relevant laws and rules are followed, including ongoing risk-based (human or otherwise) monitoring, and when appropriate, human intervention. Consistent with current requirements, stakeholders should have access to resources which provide accurate information about their insurance data as well as a way to inquire about or seek recourse for review of AI-driven insurance decisions. This information should be plain, easy-to-understand and describe the factors that lead to the prediction, recommendation or decision.

Comments on “Compliant” Section

- The sentence “Compliance is required whether intentional or unintentional” is redundant and should be removed.
- We suggest clarifying the statement around oversight by the federal government, revising this to read as “…United States, with additional oversight as by the federal government”.
- In the last sentence, ACLI believes references to cultural and social standards be removed. Further, we believe language should be added clarifying that any monitoring should be appropriately risk-based. We suggest the following revisions to this sentence:
  
  Compliance with state and federal laws is an ongoing process, thus any AI system that is deployed must show consistent risk-based monitoring for compliance with laws and safeguards against outcomes that are either unfairly discriminatory or violate the agreed upon cultural, social, and legal standards, including privacy and data security.

Comments on “Transparent” Section

- “Relevant stakeholders” should be defined within the principles.
• Consistent with other revisions, we suggest clarifying it applies to insurance use. We would suggest revising the first sentence to read in part as “regarding AI systems utilized for insurance decisions to relevant stakeholders”.
• We suggest striking the last two paragraphs of this section. The last two sentences create new requirements purely due to the use of AI. We believe the principles should reinforce existing requirements on the appropriate level of transparency.

Comments on “Secure, Safe and Robust” Section

• In Bullet (a), we recommend replacing “accurate and appropriate” with “in compliance with existing laws and regulations.”
• We would suggest deleting the second sentence of Bullet (a) (“To this end”)This statement appears to be adding prescriptive requirements specific to the use of AI. We strongly recommend that the NAIC not impose a prescriptive set of obligations in these principles. The principles are clear that insurers are responsible for the use of AI, so any additional set of obligations may be premature at this time.
• In Bullet (a), we suggest revising “must” to “should”, which would revise the start of the last sentence as “AI actors should also enable analysis…”
• In Bullet (a), we suggest replacing “state-of-the-art” with “best practices in” as a better standard for the principles.
• In Bullet (b), we suggest replacing “continuous” with “periodic” as a more attainable standard for the principles.
• In Bullet (b), we suggest replacing “bias” with “discrimination” to be more consistent with other references in the principles.

We look forward to discussing our comments on a future call.

Sincerely,

Brian Bayerle  
Senior Actuary  
202-624-2169 BrianBayerle@acli.com

David Leifer  
Vice President & Associate General Counsel  
202-624-2128 DavidLeifer@acli.com

Taylor Walker  
Legislative Director, State Relations  
202-624-2465 taylorwalker@acli.com
National Association of Insurance Commissioners (NAIC) Principles on Artificial Intelligence (AI)

RECOMMENDS that insurance companies and all persons or entities facilitating the business of insurance that play an active direct role in the use of AI for the purposes of advertising, distribution, underwriting, ratemaking, and claims settlement (such AI uses hereafter referred to as “AI system” and such insurance companies and entities AI system lifecycle (hereafter referred to as “AI actors”) adhere to these fundamental principles.

CALLS ON all AI actors to promote and implement, according to their respective roles, the following principles for responsible stewardship of trustworthy AI.

UNDERLINES that the following principles are complementary and should be considered as a whole.

Fair and Ethical
a. AI actors should respect the rule of law throughout the AI lifecycle. This will include, but is not limited to, laws and regulations with respect to insurance, including those relating to trade practices, unfair discrimination, promotion of fair access to insurance, underwriting and eligibility practices, ratemaking standards, advertising decisions, claims practices and solvency.

b. AI actors should proactively engage in responsible stewardship of trustworthy AI in pursuit of beneficial outcomes for consumers and society, such as providing more insurance coverage to more consumers, augmenting human capabilities and enhancing creativity while continuing to respect cultural, social, and legal norms where they operate. The AI system should generate benefits for people that are greater than the cultural, social, and legal costs. AI systems must not be designed to harm or deceive people and should be implemented in a manner that strives to minimize harmful outcomes.

Accountable
a. AI actors should be accountable for the proper functioning of ensuring AI systems operate in and compliance with all stated principles, consistent with the actors’ roles, the risk-based situational context, and evolving best practices. Any AI system must be compliant with existing laws and regulations governing appropriate in its use of data and algorithms during its phase of the insurance lifecycle. AI actors are responsible for the creation, implementation, and impacts of any AI system that must be identifiable and accountable for the impacts of the system, even if certain impacts are unintended not foreseeable. AI actors should implement mechanisms and
safeguards appropriate to ensuring all relevant laws and rules are followed, including ongoing risk-based (human or otherwise) monitoring, and when appropriate, human intervention. Consistent with current requirements, stakeholders should have access to resources which provide accurate information about their insurance data as well as a way to inquire about or seek recourse for AI-driven insurance decisions. This information should be plain, easy-to-understand and describe the factors that lead to the prediction, recommendation or decision.

Compliant
a. AI Actors must have specific knowledge of all applicable federal and state insurance laws and regulations. AI actors must recognize that insurance is primarily regulated by the individual states and territories of the United States, with additional oversight as by the federal government, and that AI systems must comply with the insurance laws within each individual jurisdiction. Compliance is required whether intentional or unintentional. Data used by AI systems must be retained and be able to be produced in accordance with each jurisdiction’s requirements. Compliance with state and federal laws is an ongoing process, thus any AI system that is deployed must show consistent risk-based monitoring for compliance with laws and safeguards against outcomes that are either unfairly discriminatory or violate the agreed upon cultural, social, and legal standards, including privacy and data security.

Transparent
a. AI actors should commit to transparency and responsible disclosures regarding AI systems utilized for insurance decisions to relevant stakeholders while maintaining the ability to protect confidentiality of proprietary algorithms and adherence to individual state regulations in all states where AI is deployed. To increase public confidence, AI actors must be transparent about the use of AI. This means making proactive disclosures to stakeholders including what data is being used, for what purpose and its consequences for stakeholders.

Secure, Safe and Robust
a. AI systems should be robust, secure and safe throughout the entire life cycle so that, in conditions of normal use or reasonably foreseeable use or misuse, or other adverse conditions, the AI system can function in compliance with existing laws and regulations accurately and appropriately. To this end, AI actors should ensure traceability in relation to datasets, processes, and decisions made during the AI system lifecycle. AI actors must also enable analysis of the AI system’s outcomes and responses to inquiries as appropriate to the context, and in keeping with state-of-the-art best practices in technology, methods or processes.

b. AI actors should, based on their roles, the situational context, and their ability to act, apply a systematic risk management approach to each phase of the AI system lifecycle on a continuous basis to address risks related to AI systems, including privacy, digital security, and unfair bias.
January 17, 2020

Commissioner Jon Godfread  
Chair, Artificial Intelligence Workgroup  
National Association of Insurance Commissioners  
444 North Capitol Street NW  
Suite 700  
Washington, DC 20001

Attention: Denise Matthews, Director, Data Coordination and Statistical Analysis

Re: NAIC Draft Principles on Artificial Intelligence

Commissioner Godfread:

Thank you for the opportunity to provide public comments on the NAIC’s draft Principles on Artificial Intelligence (“draft Principles”). This comment letter is submitted on behalf of the American InsureTech Council (“AITC”). AITC is a new organization dedicated to providing its members with an independent voice on regulatory and other policy issues that are of vital interest to insurtechs. AITC is committed to working with the NAIC, as well as policymakers at the state and federal level to support the creation of a modern approach to regulation that is essential to this industry’s future growth.

While the draft Principles are intended to be aspirational, turning the document into actionable regulatory guidance will be a long and possibly arduous task. It should be. Our system of state regulation of insurance was developed over many decades, ensuring vital consumer protections while fostering the development of a financially stable and innovative insurance industry that is critical to the nation’s economy. Changes to existing regulatory requirements should be thoughtfully considered. Maintaining this balance should be a top priority. The issues raised in the draft Principles are important to both consumers and insurers, and will impact the long-term health of the U.S. insurance industry. We look forward to working with you throughout this process.

Listed below are a few general comments and some specific concerns.

In general terms, the draft Principles on Artificial Intelligence takes exactly the correct view. Artificial intelligence is, in and of itself, neither a pure good nor an inherent problem. It is a tool; a tool that can be employed to provide consumers with a better outcome — be it a better insurance product, enhanced policyholder convenience, lower prices, or improved claims outcomes. Some regulators have expressed concerns about the
use of artificial intelligence in pricing and the potential for algorithms to result in unfairly discriminatory rates or plan designs. Regulators and consumers should expect insurers to operate honestly and in good faith. We envision that as new technologies like AI change the way the insurance industry does business, some re-thinking about consumer protection standards in a digital environment will need to take place. This committee and others at the NAIC will obviously play key roles in the development of these new standards.

Fair and Ethical

We largely agree with the requirements in this section. There is no question that those utilizing AI should do so in a way that adds value to consumers. One of the hopes in using AI is that it can lead to a fairer system that roots out underlying bias, leading to more equitable outcomes and less unfair discrimination. We would, however, highlight one statement for review:

b. AI actors should proactively engage in responsible stewardship of trustworthy AI in pursuit of beneficial outcomes for consumers and society, such as augmenting human capabilities and enhancing creativity while continuing to respect cultural, social, and legal norms where they operate. The AI system should generate benefits for people that are greater than the cultural, social, and legal costs. AI systems must not be designed to harm or deceive people and should be implemented in a manner that minimizes negative outcomes. (emphasis added)

The highlighted statement is problematic as it would be nearly impossible to implement or even interpret. Which cultural, social, or legal costs should be included in the analysis? Who would act as the final arbiter of the value of those purported costs, or the value of the benefits associated with AI? We believe that a free market would exercise greater and more efficient discipline on these questions than any attempt to codify meaningful standards through regulation or legislation. We note further that this would require AI to meet a standard that the current system is incapable of meeting. We recommend deletion.

Compliant

We agree with the majority of the language in this section. It is the responsibility of the insurer to ultimately ensure not only that all rules and regulations are complied with but also that consumers are treated fairly. We do have concerns with the following language:

Compliance with state and federal laws is an ongoing process, thus any AI system that is deployed must show consistent monitoring for compliance with laws and safeguards against outcomes that are either unfairly discriminatory or violate the agreed upon cultural, social, and legal standards.

For the same reasons mentioned above, insurers hoping to be in compliance with the laws will find it impossible to understand how not to violate “agreed upon cultural, social, and legal standards.” Whose cultural and social standards should be control? Again, while the document is aspirational in nature, the goal should be to turn these principles into model principles and then regulatory standards. We suggest rephrasing the statement to state the following:

Compliance with state and federal laws is an ongoing process, thus any AI system that is deployed must show consistent monitoring for compliance with laws and safeguards against outcomes that are either unfairly discriminatory or violate legal standards.
In closing, the most important aspect of this statement of principles is that the NAIC is working towards consistency. It is vital that the states continue to work together throughout this process to ensure that the industry is not required to meet separate standards in each state. As the committee works toward a document that will operationalize these principles, it is important that the committee work diligently but without undue haste. The NAIC standard requires a super majority of states to approve a model, and that the states voting in favor of the model are committing to working toward adoption of the model in their state. We urge the states to work together to ensure a common framework.

Thank you for the opportunity to provide public comments on this important document. We look forward to working with you on these important issues.

Respectfully Submitted,

Scott Harrison (Scott@insuretechcouncil.org), Jack Friou (Jack@insuretechcouncil.org), The Hon. Thomas Mays (Tom@insuretechcouncil.org) and JP Wieske (JP@insuretechcouncil.org)

Co-Founders, American InsureTech Council
January 17, 2020

The Honorable Jon Godfread  
Chair, NAIC Artificial Intelligence (EX) Working Group  
The Honorable Mark Afable  
Vice Chair, NAIC Artificial Intelligence (EX) Working Group  
1100 Walnut Street, Suite 1500  
Kansas City, MO 64106-2197

Re: Comments to NAIC Principles on Artificial Intelligence

Dear Commissioners Godfread and Afable:

Thank you for the opportunity to submit comments on the AI Working Group (working group) Draft Artificial Intelligence (AI) Principles (draft AI principles). The potential impact of AI on the insurance industry is far reaching and transformational. The National Association of Insurance Commissioners (NAIC) has a unique role in helping guide appropriate regulation in the development, use and application of AI within the insurance industry. Thank you for the opportunity, on behalf of the American Medical Association (AMA), to provide comments on these draft AI principles, which nicely encapsulate the broad issues of AI.

As a leader in health care, the AMA’s focus related to AI is the potential impact of augmented intelligence on health care. Over the past few years, the AMA has developed robust policy to advance the role of AI in meeting the quadruple aim and to ensure that the evolution of AI in medicine benefits patients, physicians and the entire health care community. While our policy development is formed through the lens of health care, many issues related to AI in health care are equally applicable and relevant across industries. Our comments are intended to reflect the understanding that the goal of the draft AI principles is to serve as a guidance document of high-level overarching principles, not limited to health care. While the draft AI principles incorporate many key principles related to AI, including fairness, accountability, transparency and safety, the AMA recommends that the working group consider adding or amending language to address other key issues including privacy and bias. We also encourage the working group to strengthen the current language related to transparency. We believe these suggestions as outlined below would further improve the draft AI principles.

It is important to note that the AMA uses the term “augmented intelligence” instead of “artificial intelligence” based on the overarching principle that AI in health care is meant to further augment or enhance a human’s intelligence rather than replace it.

Fair and Ethical

AI systems must safeguard individual privacy interests and preserve the security and integrity of personal information. While this is particularly important in the context of health care, it is not unique to health
care information and is equally important across all lines of insurance. The AMA, therefore, recommends adding “privacy” to the list of laws and regulations in paragraph a. of this section.

When discussing the responsible stewardship of AI, the AMA would encourage NAIC and the work group to also address the impact of implicit or explicit bias in AI systems which can have far reaching implications and unintended consequences on the fair and ethical application of AI to entire populations. This should be of great concern within the insurance industry. The AMA, therefore, recommends adding the following underlined language to paragraph b. of this section, “The AI system should generate benefits for people that are greater than the cultural, social, and legal costs. AI systems must not be designed to **exacerbate bias**, harm or deceive people and should be implemented in a manner that minimizes negative outcomes.”

**Accountable**

The AMA believes accountability of AI systems should be aligned so the person or entity that is most likely to understand the potential risks associated with the AI system and who is in the best position to avert or mitigate harm do so through design, development, validation and implementation. We, therefore, encourage NAIC and the work group to incorporate this principle into this document.

**Transparent**

Transparency is key to determining the level of risk associated with an AI system, potential bias in data, as well as the safety and efficacy of the system. The AMA, therefore, encourages NAIC and the work group to replace the word “should” with “must” in the first sentence of this section. Simply put, without full transparency, regulators will not have the ability to determine if the AI system meets the other principles on AI outlined in the document.

Once again, on behalf of the AMA I thank you for the opportunity to provide these comments. For additional background, please find attached two documents outlining AMA policy on AI in health care. If you have any questions or would like additional information please contact Kim Horvath, JD, Senior Legislative Attorney at (312) 464-4783. We look forward to working with NAIC and the work group on these principles and future work related to AI.

Sincerely,

James L. Madara, MD
January 17, 2020

Commissioner Jon Godfread, Chair
Commissioner Mark V. Afable, Vice Chair
Artificial Intelligence (EX) Working Group
NAIC Central Office
1100 Walnut, Suite 1500
Kansas City, MO 64106-2197

Attn: Denise Matthews, Director, Data Coordination and Statistical Analysis

VIA Electronic Mail: dmatthews@naic.org

RE: Draft National Association of Insurance Commissioners (NAIC) Principles on Artificial Intelligence (AI)

Dear Commissioner Godfread and Commissioner Afable:

The American Property Casualty Insurance Association (APCIA) appreciates the opportunity to provide feedback on the draft National Association of Insurance Commissioners’ (NAIC) Principles on Artificial Intelligence (Draft Principles). Overall, the Draft Principles provide a good foundation for framing the Artificial Intelligence Working Group’s (Working Group) discussion to develop a set of AI principles for the insurance industry. AI has great potential to augment human judgment, improve decision making, and enhance the customer experience. Nevertheless, as with any emerging technology, there are issues that need to be considered and evaluated consistent with existing regulatory requirements.

Our analysis of the Draft Principles suggests that the Working Group seeks to achieve two objectives. First, the document would establish a voluntary set of principles for insurance entity consideration related to the governance of AI systems throughout the AI lifecycle. APCIA believes a set of voluntary high-level guiding principles is a positive step toward encouraging organizations to have an honest and open conversation around risks associated with the use of AI and to discuss possible ways to mitigate such risk in their AI governance programs. Second, the document would promote a consistent approach to AI considerations across the NAIC committee structure, promoting an element of uniformity.

APCIA supports those objectives, but has identified the following overarching concerns in the Draft Principles that are contrary to, or could conflict with, these objectives:

(1) While we do not believe it is the Working Group’s intent, APCIA is concerned that some of the statements in the principles can be interpreted as creating new regulations or setting a prescriptive standard rather than identifying high-level guiding principles;

1 Representing nearly 60 percent of the U.S. property casualty insurance market, the American Property Casualty Insurance Association (APCIA) promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, protecting families, communities, and businesses in the U.S. and across the globe.
(2) Elements of the Draft Principles are so broad that the guidance is not useful, or the principles set expectations that could never be achieved. The Draft Principles need to strike the right balance of breadth and specificity, so that there is meaningful context for actionable guidance;

(3) At times, the Draft Principles read as though they are trying to address global social concerns with AI as opposed to focusing on insurance issues; and

(4) The Draft Principles propose to hold AI to a higher standard than exists for any other decision-making model, system or application that does not deploy AI. We recognize there is some sensitivity to the reduced human involvement inherent in AI, but there are reasonable solutions to address this issue. Additionally, AI is just the latest new tool or model with the same challenges and issues that the existing regulatory framework is designed to address.

The following comments elaborate on and provide examples of these concerns:

**General Observations**

We appreciate the drafters’ effort to keep the principles high-level; however, there must be a balance between contextual detail and broad, vague, and indeterminable statements. For example, APCIA recognizes that the Working Group wants to avoid debates over definitions that could derail the momentum of this project. Nevertheless, for the principles to have value there needs to, at the very least, be a baseline understanding of certain terms such as “AI Actor,” “AI Lifecycle,” and “AI.” How is an AI actor to be interpreted? Does it refer to company leaders, managers, employees responsible for programming the systems, testers, the insurance entity as a whole, or someone else? Is an AI actor someone outside the insurance industry? It will be helpful to understand the different roles and responsibilities of the AI actors contemplated for the principles in this document.

In addition to the definitions, some of the phrases are vague and perpetuate more questions than guidance. For instance, AI is about algorithms, math, tendencies and human learning enhanced by machine learning. As such, what does it mean to design a machine that “does not harm or deceive people” when that system may rightly determine that an individual should pay a higher premium for insurance or deny a claim? How do you “minimize negative outcomes?” Also, traditional statistical modeling has been done for decades, but that should not be considered AI; nevertheless, without any clear parameters as to what is considered AI, there is ambiguity as to the scope of these principles.

We believe the principles are sometimes worded so broadly that they capture all potential uses of AI by an insurer no matter how remote the analysis, model, or tool is to the final determination. Instead, we believe the principles should be focused on AI applications that make a final decision impacting an insured or beneficiary.

APCIA respectfully recommends that given these questions and the need for a balanced approach, the working group should consider a simultaneous education effort with presentations from the AI community to learn more about AI and its application to insurance. Additionally, the Working Group should consider developing case studies. The combination of educational presentations and case studies would help inform the content of these principles. Also, collaborating with industry to develop these case studies could be an ongoing process that would provide a practical resource to better understand how the principles could be applied.
Fair and Ethical
The concepts of fair and ethical are important considerations for utilizing AI. However, this section is very broad and tries to address global societal issues rather than insurance-focused considerations. For instance, this section references cultural and social costs and impacts. A societal and cultural cost benefit calculation is extremely broad and not easily computable. The cultural and social impacts from AI are broader than insurance and should be addressed in that larger context. We would respectfully suggest that these principles focus on the application of the insurance laws and regulations.

While the spirit of this section may be correct, it is ambiguous, unquantifiable, unrealistic, and unachievable. APICA has identified some immediate edits for your consideration.

Accountable
This principle contains broad and indefinite phrases, such as the requirement that an AI system be “appropriate in its use of data and algorithms during its phase of the lifecycle.” Instead, we suggest that these principles be grounded in the application of insurance law and regulation.

There are also elements in this principle that have a prescriptive tone. For instance, stakeholders should have access to information that is “plain, easy to understand and describe the factors that lead to the prediction, recommendation or decision.” Given the breadth of the Draft Principles, this requirement may be unachievable.

Finally, our concern regarding higher standards is also exemplified by this section. The accountability principle should make insurers accountable for having processes in place to evaluate and monitor AI systems throughout their life cycle. However, insurers should not be held responsible for unintended consequences of an AI system, so long as the insurer is not negligent in its evaluation and monitoring of its AI systems throughout the life cycle and adheres to the principles of proper evaluation and monitoring. Said differently, insurers should not be subject to strict liability relating to AI actions, where it would have been held to a lower standard (e.g., negligence) if it was a human action.

Compliant
Similar to the “Accountable” principle, the “Compliant” principle also suggests a high level of accountability not found elsewhere. The starkest example of this is in the first sentence, which requires AI actors to have specific knowledge of all applicable federal and state insurance laws and regulations. Individual machine learning experts are not simultaneously going to be experts on insurance laws in all fifty states. Similarly, no one individual in any company, insurance or otherwise, is going to have specific knowledge of all applicable laws. Instead, collectively, the compliance, legal, data governance, and other teams will support AI deployment with their knowledge of applicable laws. We have amended the principle to indicate that companies should have resources in place to ensure compliance rather than a mandate of specific knowledge of all applicable laws.

Similarly, we believe the compliance principle should be centered on law and regulation, and not “cultural” and “social” standards, which are often subjective and can be impossible to specifically identify (let alone comply with).
Transparent
One of the essential elements of a transparency principle will be the need for a balanced and flexible approach that can evolve over time consistent with AI utilization and customer expectations. AI is utilized in many industries today without extensive consumer disclosure, and it’s unclear how much information the average consumer is interested in knowing. AI has begun to, and may eventually, penetrate so much of our society that robust and detailed disclosures of all AI usage by an insurer would be impossible.

APCIA appreciates the recognition of the importance of protecting insurer confidentiality of proprietary and competitive information. This is an important element of the transparency principle, particularly in the early stages of development.

Secure, Safe, and Robust
Concepts such as unfair discrimination in rating are insurance concepts, but “unfair bias” is not. Consistent with our overall comments, we think the principles should be focused on the concepts that are specific to insurance rather than broader societal concepts and we have provided revisions to that effect.

Requiring AI actors to ensure traceability in this principle is vague and is redundant to concepts contained in the “Transparent” principle. Any reference to traceability should have some specificity as to what level of traceability is expected. For example, with Deep Learning, absolute traceability (i.e. what neuron fired and why) can be too much to require or not important or relevant to trace.

White House Proposed Guidance for Regulation of Artificial Intelligence Applications
On January 8th, 2020, as part of the White House’s national AI strategy, the American AI Initiative, the Administration released a set of regulatory principles related to private sector AI development. As noted in APCIA’s October 2019 comments regarding the OECD’s Artificial Intelligence Principles, consistency in regulatory expectations and demonstration of adherence to AI guidelines, domestically and globally, is an important objective. We continue to review these principles, but highlight them here because consistent with the second goal of this Working Group to promote consistency across Committees, the Administration’s proposal identifies policy considerations, principles and guidance for government considering regulatory and non-regulatory approaches to the design, development, deployment and operation of AI applications. Similar guidance would be a constructive addition to the Draft Principles.

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Thank you for the opportunity to comment. The Draft Principles are a useful starting point for discussion and APCIA looks forward to continuing to collaborate with the Working Group. We respectfully provide the attached edits as preliminary recommendations for your consideration. Please let us know if we can answer any questions or be of assistance.

Respectfully submitted,

Angela Gleason
National Association of Insurance Commissioners (NAIC) Principles on Artificial Intelligence (AI)

The National Association of Insurance Commissioners:

RECOMMENDS that insurance companies and all persons or entities facilitating the business of insurance that play an active role in the use of AI for the purposes of insurance marketing, distribution, underwriting, ratemaking, and claims settlement (such AI uses hereafter referred to as “AI system” and such insurance companies and entities AI system lifecycle (hereafter referred to as “AI actors”) adhere to these fundamental principles.

CALLS ON all AI actors to promote and consider implement, according to their respective roles, the following principles for responsible stewardship of trustworthy AI.

UNDERLINES that the following principles are complementary and should be considered as a whole.

Fair and Ethical
a. AI actors should respect the rule of law throughout the AI lifecycle. This will include, but is not limited to, laws and regulations with respect to insurance, including those relating to trade practices, unfair discrimination, promotion of fair access to insurance, underwriting and eligibility practices, ratemaking standards, advertising decisions, claims practices and solvency.

b. AI actors should proactively engage in responsible stewardship of trustworthy AI in pursuit of beneficial outcomes for consumers and society, such as augmenting human capabilities and enhancing creativity while continuing to respect cultural, social, and legal norms where they operate. The AI system should generate benefits for people that are greater than the cultural, social, and legal costs. AI systems must not be designed to harm or deceive people and should be implemented in a manner that strives to minimize such negative outcomes.

Accountable
a. AI actors should be accountable for the proper function ensuring that of AI systems operate in and compliance with all stated principles, consistent with the actors’ roles, the risk-based situational context, and evolving best practices/technologies. Any AI system must be appropriate should be compliant with existing laws and regulations governing its use of data and algorithms during its phase of the insurance lifecycle. Data supporting the final outcome of an AI application should be retained and be able to be produced to the extent similar information is required in non-AI applications in accordance with applicable insurance laws in each jurisdiction. AI actors should be responsible for the creation, and implementation and impacts of any AI system that must be identifiable and...
accountable for the impacts of the system, even if the impacts are unintended. AI actors should implement mechanisms and safeguards appropriate to ensuring all relevant laws and rules are followed, including ongoing risk-based (human or otherwise) monitoring, and when appropriate, human intervention. Stakeholders should have access to resources which provide accurate information about their insurance data as well as Consistent with current requirements, stakeholders should have a way to inquire or seek recourse for AI-driven insurance decisions.

Compliant
a. AI Actors must have specific knowledge of resources in place to ensure compliance with all applicable federal and state insurance laws and regulations. AI actors must recognize that insurance is primarily regulated by the individual states and territories of the United States as well as by the federal government, and that AI systems must comply with the applicable insurance laws within each individual jurisdiction. Compliance is required whether intentional or unintentional. Data used by AI systems must be retained and be able to be produced in accordance with each jurisdiction’s requirements. Compliance with state and federal laws is an ongoing process, thus any AI system that is deployed must show consistent risk-based monitoring for compliance with laws. In any case, and safeguards should be taken against outcomes that are either unfairly discriminatory or otherwise violate the agreed-upon cultural, social, and legal standards, law, including privacy and data security laws.

Transparent
a. AI actors should commit to transparency and responsible disclosures regarding AI systems utilized for insurance decisions to relevant stakeholders while maintaining the ability to protect confidentiality of proprietary information and algorithms and adherence to individual applicable state regulations in all states where AI is deployed. To increase public confidence, AI actors must be transparent about the use of AI. This means making proactive disclosures to stakeholders including what data is being used, for what purpose and its consequences for stakeholders.

Secure, Safe and Robust
a. Like other systems used by the insurance industry, AI systems should be robust, secure and safe throughout the entire life cycle so that, in conditions of normal use or reasonably foreseeable use or misuse, or other adverse conditions, the AI system can function in compliance with existing laws and regulations accurately and appropriately. To this end, AI actors should ensure traceability in relation to datasets, processes, and decisions made during the AI system lifecycle. AI actors must also enable analysis of the AI system’s outcomes and responses to insurance-related inquiries as appropriate to the context and as required by law, and in keeping with state-of-the-art technology, methods or processes.

b. AI actors should, based on their roles, the situational context, and their ability to act, apply a systematic risk management approach to each phase of the AI system lifecycle on a continuous basis to address risks related to AI systems, including privacy and digital security, and unfair bias.
Comments for the Center for Economic Justice

To the Artificial Intelligence (EX) Working Group

Regarding Proposed Insurance-Specific Principles for Artificial Intelligence

January 17, 2020

CEJ offers the following comments to the working group. The definition of a “principle” includes:¹

- A comprehensive law, doctrine or assumption
- A rule or code of conduct
- The laws or facts of nature underlying an the working of an artificial device
- A primary source

CEJ suggests that the principles for AI should be universal, meaning that the principles apply regardless of the industry or application. The task for insurance regulators should not be to tweak these universal principles for insurance but to develop second level guidance for how the universal principles should be interpreted for and applied to insurance. Instead of revising the OECD or Australia AI Principles, we suggest the NAIC accept these principles and proceed to develop the interpretation for how these principles apply to insurance, generally, and to U.S. insurance regulation, specifically.

Here are the OECD and Australia AI principles. The Australian AI principles are consistent with the OECD principles with Australia breaking out a few of the OECD principle into multiple principles and adding a principle for privacy protection and privacy rights.

The OECD² “identifies five complementary values-based principles for the responsible stewardship of trustworthy AI:

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¹ https://www.merriam-webster.com/dictionary/principle
² http://www.oecd.org/going-digital/ai/principles/
• AI should benefit people and the planet by driving inclusive growth, sustainable development and well-being.
• AI systems should be designed in a way that respects the rule of law, human rights, democratic values and diversity, and they should include appropriate safeguards – for example, enabling human intervention where necessary – to ensure a fair and just society.
• There should be transparency and responsible disclosure around AI systems to ensure that people understand AI-based outcomes and can challenge them.
• AI systems must function in a robust, secure and safe way throughout their life cycles and potential risks should be continually assessed and managed.
• Organisations and individuals developing, deploying or operating AI systems should be held accountable for their proper functioning in line with the above principles.”

The Australian Government Department of Industry, Innovation and Science recently published, following public consultation, AI Ethics Principles:3

• Human, social and environmental wellbeing: Throughout their lifecycle, AI systems should benefit individuals, society and the environment.
• Human-centred values: Throughout their lifecycle, AI systems should respect human rights, diversity, and the autonomy of individuals.
• Fairness: Throughout their lifecycle, AI systems should be inclusive and accessible, and should not involve or result in unfair discrimination against individuals, communities or groups.
• Privacy protection and security: Throughout their lifecycle, AI systems should respect and uphold privacy rights and data protection, and ensure the security of data.
• Reliability and safety: Throughout their lifecycle, AI systems should reliably operate in accordance with their intended purpose.
• Transparency and explainability: There should be transparency and responsible disclosure to ensure people know when they are being significantly impacted by an AI system, and can find out when an AI system is engaging with them.
• Contestability: When an AI system significantly impacts a person, community, group or environment, there should be a timely process to allow people to challenge the use or output of the AI system.
• Accountability: Those responsible for the different phases of the AI system lifecycle should be identifiable and accountable for the outcomes of the AI systems, and human oversight of AI systems should be enabled.

CEJ suggests that the best contribution from the NAIC would be to provide the second-level guidance by interpreting the principles for application to insurance operations and insurance regulation. This can be done by developing answers to questions like those set out below.

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While developing the second level guidance – the answers to question like those below – is difficult, such effort is necessary to develop consistent interpretation and application of AI principles to insurance. The development of “insurance-specific” AI principles serves no purpose. “Insurance-specific” AI principles simply repackage the broadly agreed-upon general AI principles while failing to develop a consistent interpretation of the application of the principles to insurance. For example, repackaging the OECD or Australia fairness, ethics and human benefit principles into a “Fair and Ethical” insurance AI principle doesn’t provide any guidance or insurance-specific interpretation for benefits to people greater than costs or minimizes negative outcomes or whether unintentional unfair discrimination is acceptable.

The failure to provide now the second-level guidance – the interpretation of how broad AI principles apply to insurance – will lead to future arguments about what the principles mean once there is a specific incident or AI application. For example, failing to provide guidance now on whether the AI principle for fairness means insurer responsibility to prevent unintentional unfair discrimination – disparate impact – simply pushes that interpretation down the road and renders the general principle useless. Problems of interpretation of general principles will be found for all the issues raised in the questions below, unless addressed now by the working group.

**Questions to be answered for interpreting AI principles for application to insurance:**

1. What does it mean for insurance AI to benefit individuals, society and the environment? What is the role of cost-based pricing in evaluating insurance AI benefits? How are minorities protected when aggregate benefits are assessed?
2. What does it mean for insurance AI to respect human rights, diversity and the autonomy of individuals?
3. What do fairness and unfair discrimination mean for insurance AI? What responsibilities do insurers and regulators have to prevent unfair discrimination, whether intentional or unintentional?
4. What does it mean for insurance AI to be inclusive and accessible?
5. What does it mean for insurance AI to respect and uphold the privacy rights?
6. What does it mean for insurance AI to operate reliably in accordance with the intended purpose? What are permissible and impermissible purposes for insurance AI?
7. What does it mean for insurance AI to be transparent and explainable? To whom should insurance AI be transparent and explainable? What is responsible disclosure to affected consumers and policyholders for insurance AI? What is significant impact by an AI system? How should insurers explain AI systems and their impact to regulators, policymakers, consumers and policyholders?
8. What does it means for insurance AI to be contestible? What is a reasonable process for individuals, businesses or communities impacted by insurance AI to identify and challenge the use and output of those AI systems?
9. What does it mean for insurance AI to be accountable throughout the AI system lifecycle? Who are the responsible parties for insurance AI systems? What type of human oversight of insurance AI systems should be present?
January 19, 2020

Via email to
dmatthews@naic.org

Hon. Jon Godfread, Chair
Artificial Intelligence (EX) Working Group
of the Innovation and Technology (EX) Task Force
National Association of Insurance Commissioners

Re: Exposure Draft of NAIC Principles on Artificial Intelligence

Dear Commissioner Godfread:

Thank you for this opportunity to comment on the exposure draft “National Association of Insurance Commissioners (NAIC) Principles on Artificial Intelligence (AI)” (the “Exposure Draft”).

As global comments, we suggest the Exposure Draft be revised to contemplate collaborative public-private action. We have three specific proposals intended to accomplish this.

1. The term “AI Actors” should be defined as “all persons or entities engaged in the business of insurance and its regulation that play an active role in the AI system – i.e., in the development, implementation, application and oversight of AI – for use in the business of insurance.” In addition to contemplating a public-private partnership, this definition also would serve to apply the Exposure Draft to that area of interstate commerce well-defined by the South-Eastern Underwriters case, the McCarran-Ferguson Act and eight decades of court decisions, and thereby minimize duplication and possible conflict with the OECD Principles in the United States.

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\text{U.S. v. South-Eastern Underwriters Ass'n, et al., 322 U.S. 533 (1944).}
\]

\[
\text{Codified at 15 U.S.C. §§ 1011, et seq.}
\]

\[
\text{The OECD’s “Principles on Artificial Intelligence (AI)” were adopted May 22, 2019 by the thirty-six member countries of the Organisation for Economic Co-Operation and Development and six other countries, and so will apply in the United States.}
\]
2. The Exposure Draft should include the following as an additional principle, based on language from the *Recommendation of the Council on Artificial Intelligence*, where the OECD Principles are set out:

   Governmental AI Actors should promote a policy environment that supports an agile transition from the research and development stage to the deployment and operation stage for trustworthy AI systems. Governments should review and adapt, as appropriate, their policy and regulatory frameworks and assessment mechanisms as they apply to AI systems to encourage innovation and competition for trustworthy AI.

3. The Exposure Draft’s Fair and Equitable principle should be revised in pertinent part as follows:

   b. AI actors should proactively engage in responsible stewardship of trustworthy AI in pursuit of beneficial outcomes for consumers and society, such as augmenting human capabilities and enhancing creativity while continuing to respect cultural, social, and legal norms where they operate. The AI system should generate benefits for stakeholders that are greater than the cultural, social, and legal costs. AI systems must not be designed to harm or deceive people, and should be implemented in a manner that minimizes negative outcomes.

We also offer the following suggested revisions to three additional portions of the Exposure Draft:

**Accountable**

- **a.** AI actors should be accountable for the proper functioning of AI systems and compliance with all stated principles, laws and regulations, consistent with the roles, the situational context, and evolving technology and best practices. Any AI system must be appropriate in its use of data and algorithms during its phase of the lifecycle. AI actors are responsible for the creation and implementation of any AI system that must be identifiable and accountable for the impacts of the system, even if the impacts are unintended. AI actors should implement mechanisms and safeguards appropriate to ensuring all relevant laws and rules are followed, including ongoing adequate human monitoring, and when appropriate, human intervention. Stakeholders should have access to resources which provide accurate information about their insurance data as well as a way to inquire or seek recourse for AI-driven decisions. This information should be plain, easy-to-

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understand and describe the factors that lead to the prediction, recommendation or decision.

Compliant

a. AI Actors must have specific knowledge of all applicable federal and state insurance laws and regulations. AI actors must recognize that the business of insurance is primarily regulated by the individual states and territories of the United States as well as by the federal government, and that AI systems must comply with the insurance laws within each individual jurisdiction. Compliance is required whether violation is intentional or unintentional. Data used by AI systems must be retained and be able to be produced in accordance with each jurisdiction's requirements. Compliance with state and federal laws is an ongoing process, thus any AI system that is deployed must show consistent monitoring for compliance with laws and safeguards against outcomes that are either unfairly discriminatory or violate the agreed upon cultural, social, and applicable legal standards.

Transparent

a. AI actors should commit to transparency and responsible disclosures regarding AI systems to relevant stakeholders while maintaining the ability to protect confidentiality of proprietary algorithms and adherence to individual state regulations in all states where AI is deployed. To increase public confidence, AI actors must be transparent about the use of AI. This means making proactive disclosures to stakeholders including what data is being used, for what purpose and its consequences for stakeholders. Existing and potential policyholders should be given plain and easy-to-understand information that describes the factors that lead to the prediction, recommendation or decision.

We appreciate this opportunity to comment. Please do not hesitate to contact us with any questions, or if we can provide any additional information.

Very truly yours,

William D. Latza
+1 (917) 608-9499
bill.latza@lemonade.com
In my opinion, this draft is much improved from the first document sent out.

The only thing of note that I had was at the end of the last paragraph of the Fair and Ethical section b, where when I read minimizes negative outcomes I thought that it should go on to say something such as for insurance consumers or something similar. The thought here is that a negative outcome for a consumer could be seen as a positive outcome for the seller.

Phillip C. Vigliaturo, ACAS, MAAA, APIR
P&C Actuary
651-539-1762
mn.gov/commerce
Minnesota Department of Commerce
85 7th Place East, Suite 280 | Saint Paul, MN 55101
January 17, 2020

Commissioner Jon Godfread, Chair
NAIC Artificial Intelligence (EX) Working Group
c/o Denise Matthews – dmatthews@naic.org
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Re: NAMIC Comments on Artificial Intelligence Principles – ND Draft

Dear Commissioner Godfread, Vice Chair, Members, and Other Interested Regulators,

Please accept the following submission of the National Association of Mutual Insurance Companies (hereinafter “NAMIC”)1 on behalf of its member companies regarding the working group request for comments involving the North Dakota draft exposure of the OECD Artificial Intelligence Principles. NAMIC wishes to thank the working group for the ability to provide comments on the AI Principles and their relation to the insurance industry.

As implementation of innovation and technology in the insurance industry continues to evolve, it is understandable that regulators explore any concerns as to activity undertaken in this regard. However, as a highly-regulated industry which already participates in a robust consumer-protected environment, any adopted principles should complement existing regulatory regimes and not provide more barriers to the growth of ideas and efficiencies employed in the market. The AI principles as derived from the OECD document which applies to a broad spectrum of entities may not fully be applicable or utilized in the insurance context as discussed further herein. Further, due to vagueness, broad terminology, lack of definitions, and lack of focus on insurance-centric issues, NAMIC would respectfully submit that further work is suggested on the product even at this high level.

More specifically, NAMIC would suggest the following:

- Artificial Intelligence (AI) is not defined anywhere in the Principles. This is a very broad and over-generalized term and so it should be made more specific with clear definitions of the different types/kinds of AI, with requirements adjusted to meet specific components and attributes of each type of AI. Otherwise, the scope of activities that these

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1 NAMIC membership includes more than 1,400 member companies. The association supports regional and local mutual insurance companies on main streets across America and many of the country’s largest national insurers. NAMIC member companies write $268 billion in annual premiums. Our members account for 59 percent of homeowners, 46 percent of automobile, and 29 percent of the business insurance markets. Through our advocacy programs we promote public policy solutions that benefit NAMIC member companies and the policyholders they serve and foster greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.
Principles are intended to apply is not clearly understood. As the foundational topic for this endeavor, there should be no question as to the parameters of discussion.

- Under the “RECOMMENDS” paragraph, it is unclear what the draft considers as constituting an “active role” in the AI system lifecycle. Does “active role” include the activities of the following?
  - Data Scientists that build models?
  - Machine Learning Engineers that deploy a model?
  - Operations that execute a model?
  - Leadership that approves a model?
  - Validators?
  - How broad of a scope is contemplated?

- Under the “CALLS ON” paragraph, to the extent “responsible stewardship of trustworthy AI” is requiring duties or requirements in excess of existing applicable insurance laws and regulations the same should be clarified and delineated.

- Under the “FAIR AND ETHICAL” paragraph, it is extremely concerning that the Principles inject a standard of acceptable use of AI that weighs “benefits to people” against the “social, cultural and legal costs.”
  - There is no comparable standard in the insurance laws to anchor these concepts.
  - What, for instance, are acceptable benefits and unacceptable costs?
  - “Negative outcomes” should be further elucidated as to meaning.

- Under the “ACCOUNTABLE” paragraph, it suggests that all AI actors are “…responsible for the creation and implementation of any AI system… even if the impacts are unintentional.”
  - This could suggest the Principles seek to establish an unrealistic standard that holds AI actors jointly responsible even for unforeseen consequences no matter the degree of “impact” which is itself an amorphous and easily manipulated term.
  - Considering how AI systems are used, it is unclear what is served by suggesting that “stakeholders” should have “recourse” for AI-driven “decisions.” Is this discussing the role of the regulator or entering into the public policy realm of legislators? Is this creating additional legal duties or requirements? What are the standards for such recourse?
  - It would appear the Principles would obligate AI actors to disclose the “plain, easy to understand” factors that led to any insurance decision that has a model related to it – and on an individual basis.
  - It would be helpful to understand what the drafters had in mind with the inclusion of this paragraph as to scope and intent.
The Principles stress “accountability” but it raises the question of accountable to whom? The term “stakeholders” is used through the Principles but there is no definition of who those stakeholders are, e.g., insureds, insurers, regulators, the public, or others?

In particular, this section states: “Any AI system must be appropriate in its use of data and algorithms during its phase of the lifecycle.” What does “appropriate” mean and by what standard will that appropriateness be measured, and with what stakeholders? These terms should be clarified and defined.

- Under the “COMPLIANT” paragraph, the last sentence is extremely problematic.
  - The term “unfairly discriminatory” is a legal standard in most insurance laws and should be considered as such.
  - However, the inclusion of cultural and social “standards” as important reference points in the draft AI Principles is a subjective and easily manipulated variable in determining whether an “AI actor” has violated those Principles – and should therefore be excluded from the draft.
  - It is also unclear regarding the exact scope of “data” that should be retained and for what purpose.
    - Raw data?
    - Transformed data?
    - Specific features?
    - Anonymized?
    - And retained consistent with the retention periods for traditional books and records as specified in state insurance laws?

- Under the “TRANSPARENT” paragraph, it would be helpful to have some clarity regarding who the NAIC considers to be a “stakeholder” in seeking AI transparency and disclosure as previously mentioned.
  - If limited to the customer or broader, the current draft should clearly state its intention.
  - Practically speaking, this paragraph has the potential to place an unacceptable burden on the AI actor to proactively inform every customer of the underlying data set for any models that may have been involved in the course of business.
  - It seems the current draft seeks to establish a double standard for the traditional insurance business process versus “AI” usage. It appears to require more of AI usage as opposed to human undertaking of the same activity.

- The “SECURE, SAFE AND ROBUST” paragraph (a) contains system security statements/measures that states: “To this end, AI actors should ensure traceability in relation to datasets, processes, and decisions made during the AI system lifecycle.” The term “traceability” is vague and can mean a number of things in the security context.
  - Is this referring to logging, system monitoring, etc.? These terms/concepts can have a variety of meanings and again depending on the various types of AI could be challenging and cost prohibitive for insurers to execute.
If not clarified, as with other concerns in this document, it could stifle innovation as well.

Consequently, although discussed as a high-level document, the broadness and lack of specificity makes it difficult to accept the Principles as worded. It would be easy to envision the wide-ranging ramifications that could blossom from such usage as currently drafted. Further, it would make compliance extremely difficult given the need for more discernment.

In closing, NAMIC again wants to thank the Chair and the working group for the ability to respond to its well-intended and open process. We look forward to providing continued input in regard to this endeavor. However, due to the existing concerns, NAMIC would suggest a substantial revision to provide greater clarity in regard to intent and purpose.

Sincerely,

Andrew Pauley, CPCU
Government Affairs Counsel
National Association of Mutual Insurance Companies (NAMIC)
Suggestions for the NAIC Statement of Principles on AI.

I can’t recall if it was mentioned in Austin but a limited section for definitions ought to be included. Specifically I think we should at least include a definition of “Artificial Intelligence” and the “AI Lifecycle”.

I think it is important to differentiate AI from other modelling processes. I understand we could spend weeks deciding on a best definition but I think we should at explain what we mean when we say AI. I think the simplest distinction is that AI includes the ability of the modeling process to self-correct with additional data in real time.

The AI Lifecycle may not need to be defined in this statement if AI is well explained. However, I don’t think it would hurt to put forth a high level description of general steps as was done in the OECD recommendations.

Other suggestions by Section:

**Fair and Ethical:** Paragraph (b) last line “AI systems ought must not be designed to harm or deceive people and should be implemented in a manner that minimizes negative outcomes.”

**Accountable:** Good as is

**Compliant:** I think it is unrealistic to expect all AI actors to have specific knowledge of federal and state insurance laws. I suggest replacing the first sentence with: “Insurance companies are responsible for making their AI Actors aware of all applicable federal and state laws and regulations specific to the purpose of the AI system.”

I don’t think the third sentence is clear. Either explain what is intended or not intended or remove the sentence. I suspect we are talking about violations of law. They are still violations regardless of intentionality, but that is usually understood. I don’t think the sentence is necessary.

**Transparent:** I would explicitly include consumers as stakeholders in this section. In addition, I would swap first and second sentences and replace a few words. My suggestion:

“For the purpose of improving the public’s confidence in AI, Actors must be transparent about how they use these systems. AI Actors should commit to transparency and responsible disclosures regarding AI systems to relevant stakeholders, including consumers, while maintaining the ability to protect confidentiality of proprietary algorithms and adherence to individual state regulations in all states where AI is deployed. Among these proactive disclosures include revealing the kind of data being used, the purpose of the data in the AI system and consequences for all stakeholders.”

**Secure, Safe and Robust:** Good as is
Christian Citarella, ACAS, MAAA
Chief Property & Casualty Actuary
New Hampshire Insurance Department
21 South Fruit Street, Suite 14
Concord, NH 03301

Telephone: (603)271-2113
Fax: (603) 271-1406

Email: Christian.Citarella@ins.nh.gov

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National Association of Insurance Commissioners (NAIC) Principles on Artificial Intelligence (AI)

RECOMMENDS that insurance companies, advisory organizations, rating bureaus, regulators, third-party vendors and all other persons or entities facilitating the business of insurance that play an active role in the AI system lifecycle (hereafter referred to as “AI actors”) adhere to these fundamental principles.

CALLS ON all AI actors to promote, implement, and monitor and implement, according to their respective roles, the following principles for responsible stewardship of trustworthy AI.

UNDERLINES that the following principles are complementary and should be considered as a whole.

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a. AI actors should respect the rule of law throughout the AI lifecycle. This will include, but is not limited to, laws and regulations relating to trade practices, discrimination, promotion of fair access to insurance, underwriting and eligibility practices, ratemaking standards, advertising decisions, claims practices and solvency.

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and federal laws is an ongoing process, thus any AI system that is deployed must show consistent monitoring for compliance with laws and safeguards against outcomes that are either unfairly discriminatory or violate the agreed upon cultural, social, and legal standards.

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**Secure, Safe and Robust**

a. AI systems should be robust, secure and safe throughout the entire life cycle so that, in conditions of normal use or reasonably foreseeable use or misuse, or other adverse conditions, the AI system can function accurately and appropriately. To this end, AI actors should ensure traceability in relation to datasets, processes, and decisions made during the AI system lifecycle. AI actors must also enable analysis of the AI system’s outcomes and responses to inquiries as appropriate to the context, and in keeping with state-of-the-art technology, methods or processes.

b. AI actors should, based on their roles, the situational context, and their ability to act, apply a systematic risk management approach to each phase of the AI system lifecycle on a continuous basis to address risks related to AI systems, including privacy, digital security, and unfair bias.