NAIC MODEL BULLETIN:

USE OF ~~ALGORITHMS, PREDICTIVE MODELS,~~
~~AND~~ ARTIFICIAL INTELLIGENCE SYSTEMS BY INSURERS

TO: All Insurers Licensed to Do Business In (*Insert Name of Jurisdiction*) ("Insurers")

FROM: [Department/Commissioner]

DATE: [Insert]

RE: ~~   ~~   The Use of Artificial Intelligence Systems in Insurance

This bulletin is issued by the [] (Department) to remind all Insurers that hold certificates of authority to do business in the state that decisions or actions impacting consumers that are made or supported by advanced analytical and computational technologies, including ~~artificial intelligence~~Artificial Intelligence (AI) ~~systems~~Systems (as defined below), must comply with all applicable insurance laws and regulations. This includes those laws that ~~govern~~address unfair trade practices and unfair discrimination. This bulletin sets forth the Department's expectations as to how Insurers will govern the development/acquisition and use of ~~such~~certain AI technologies ~~and systems by or on behalf of the Insurer to make or support such decisions.~~, including the AI Systems described herein. This bulletin also advises Insurers of the type of information and documentation that the Department may request during an investigation or examination of any Insurer ~~that addresses the~~regarding its use of such technologies ~~or systems~~and AI Systems.

SECTION ~~I~~1: INTRODUCTION, BACKGROUND, AND LEGISLATIVE AUTHORITY

Background

~~Artificial Intelligence (AI) techniques, including the application of sophisticated algorithms and machine learning (ML) to big data (BD), are~~AI is transforming the insurance industry. AI techniques are deployed across all stages of the insurance life cycle, including product development, marketing, sales and distribution, underwriting and pricing, policy servicing, claim management, and fraud detection.

AI ~~can~~may facilitate the development of innovative products, improve consumer interface and service, simplify and automate processes, and promote efficiency and accuracy. ~~At the same time, using~~However, AI, including AI Systems, can ~~bring~~present unique risks to consumers, including the potential for inaccuracy, unfair ~~bias resulting in unfair~~discrimination, ~~and~~data vulnerability~~.~~, and lack of transparency and explainability. Insurers should take actions to minimize these risks.

The Department encourages the development and use of innovation and AI Systems that contribute to safe and stable insurance markets. ~~The~~ However, the Department ~~also~~expects that decisions made and actions taken by Insurers ~~that use~~using AI Systems ~~to support decisions that impact~~

1

consumers will do so in a manner that compliescomply with and is designed to assure that the decisions made using those systems meet the requirements of all applicable federal and state laws.

The Department recognizes the *Principles of Artificial Intelligence* that the NAIC adopted in 2020 as an appropriate source of guidance for Insurers as they develop and use AI systems. Those 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. These fundamental principles should guide Insurers in their development and use of AI Systems and underlie the expectations set forth in this bulletin.

Legislative Authority

The regulatory expectations and oversight considerations set forth in Section 3 and Section 4 of this bulletin rely on the following laws and regulations:

- ***Unfair Trade Practices Model Act* (#880)**: The *Unfair Trade Practices Act* [*insert citation to state statute or regulation corresponding to Model #880]* (UTPA)*,* regulates trade practices in insurance by: 1) defining practices that constitute unfair methods of competition or unfair or deceptive acts and practices; and 2) prohibiting the trade practices so defined or determined.

- ***Unfair Claims Settlement Practices Model Act* (#900)**: The *Unfair Claims Settlement Practices Act*, [*insert citation to state statute or regulation corresponding to Model #900*] (UCSPA)*,* sets forth standards for the investigation and disposition of claims arising under policies or certificates of insurance issued to residents of [insert state].

Actions taken by Insurers in the state must not violate the UTPA or the UCSPA, regardless of the methods the Insurer used to determine or support its actions. As discussed below, Insurers are expected to adopt practices, including governance frameworks and risk management protocols, that are designed to assureensure that the use of AI Systems does not result in: 1) unfair trade practices, as defined in []; or 2) unfair claims settlement practices, as defined in [].

- ***Corporate Governance Annual Disclosure Model Act* (#305)**: The *Corporate Governance Annual Disclosure Act* [*insert citation to state statute or regulation corresponding to Model #305*] (CGAD), requires Insurers to report on governance practices and to provide a summary of the Insurer's corporate governance structure, policies, and practices. The content, form, and filing requirements for CGAD information are set forth in the *Corporate Governance Annual Disclosure Model Regulation* (#306) [*insert citation to state statute or regulation corresponding to Model #306])* (CGAD-R).

The requirements of CGAD and CGAD-R apply to elements of the Insurer's corporate governance framework that address the Insurer's use of AI Systems to support actions and decisions that impact consumers.

- ***Property and Casualty Model Rating Law* (#1780)**: The *Property and Casualty Model Rating Law*, [*insert citation to state statute or regulation corresponding to the Model #1780]*, requires that property/casualty (P/C) insurance rates not be excessive, inadequate, or unfairly discriminatory.

The requirements of [] apply regardless of the methodology that the Insurer used to develop rates, rating rules, and rating plans subject to those provisions. That means that an Insurer is responsible for assuring that rates, rating rules, and rating plans that are developed using AI techniques and predictive models that rely on BDdata and MLmachine learning do not result in excessive, inadequate, or unfairly discriminatory insurance rates. with respect to all forms of casualty insurance—including fidelity, surety, and guaranty bond—and to all forms of property insurance—including fire, marine, and inland marine insurance, and any combination of any of the foregoing.

- ***Market Conduct Surveillance Model Law* (#693)**: The *Market Conduct Surveillance Model Law* [*insert citation to state statute or regulation corresponding to Model #693*] establishes the framework pursuant to which the Department conducts market conduct actions. These are comprised of the full range of activities that the Department may initiate to assess and address the market practices of Insurers, beginning with market analysis and extending to targeted examinations. Market conduct actions are separate from, but may result from, individual complaints made by consumers asserting illegal practices by Insurers.

An Insurer's conduct in the state, including its use of AI Systems to make or support actions and decisions that impact consumers, is subject to investigation, including market conduct actions. Section 4 of this bulletin provides guidance on the kinds of information and documents that the Department may request in the context of an AI-focused investigation, including a market conduct action.

SECTION 2: DEFINITIONS

For the purposes of this bulletin[1]: the following terms are defined[2]:

"**AI Systems**" is an umbrella term describing artificial intelligence and big data related resources utilized by Insurers.

"**Adverse Consumer Outcome**" refers to a decision by an Insurer that is subject to insurance regulatory standards enforced by the Department that adversely impacts the consumer in a manner that violates those standards.

"**Algorithm**" means a computationalclearly specified mathematical process for computation; a set of rules that, if followed, will give a prescribed result.

"**AI Systems**" is a machine-based system that can, for a given set of objectives, generate outputs such as predictions, recommendations, content (such as text, images, videos, or machine learning process that augmentssounds), or replaces human decision-making in insurance operations that impact consumersother output influencing decisions made in real or virtual environments. AI Systems are designed to operate with varying levels of autonomy.

"**Artificial Intelligence**" is a term used to describe machine-based systems designed to simulate **(AI)**" refers to a branch of computer science that uses data processing systems that perform functions normally

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associated with human intelligence, such as reasoning, learning, and self-improvement, or the capability of a device to perform functions that are normally associated with human intelligence ~~to perform tasks,~~ such as ~~analysis~~reasoning, learning, and ~~decision-making, given a set of human-defined objectives.~~self-improvement. This definition ~~treats~~considers machine learning ~~as~~to be a subset of artificial intelligence.

"Bias" is the differential treatment that results in favored or unfavored treatment of a person, group or attribute.

"Big Data" ~~are data sets that are characterized by, at a minimum, their~~ consists of extensive datasets – primarily in the characteristics of volume (i.e., ~~the~~ size~~), velocity (i.e., speed of transmission), and~~ of the dataset), variety (i.e., ~~internal, external,~~ data from multiple repositories (including third-party data~~) that requires~~), domains, or types), velocity (i.e., rate of flow), and/or variability (i.e., the change in velocity or structure) that require a scalable ~~computer~~architecture ~~to analyze~~for efficient storage, manipulation, and ~~model.~~ analysis.

~~**"Machine Learning"**~~ is

"Degree of Potential Harm to Consumers" refers to the severity of adverse economic impact that a ~~subset of~~consumer might experience as a result of an Adverse Consumer Outcome.

"Generative Artificial Intelligence (Generative AI)" refers to a class of AI Systems that ~~simulates human learning by identifying patterns in~~ generate content in the form of data ~~either supervised, unsupervised or through reinforcement learning styles to make decisions. "Predictive Analytics" and "Predictive Modeling" are related terms~~, text, images, sounds, or video, that ~~refer to methods~~is similar to, but not a direct copy of, pre-existing data or content.

"Machine Learning (ML)" Refers to a field within artificial intelligence that focuses on the ability of computers to learn from provided data without being explicitly programmed.

"Model Drift" refers to the decay of a model's performance over time arising from underlying changes such as the definitions, distributions, and/or statistical properties between the data used to train the model and the data on which it is deployed.

"Model Risk" is the potential for loss arising from decisions based on flawed or misused models. Four basic sources of model risk are: (1) data limitations in terms of either or both availability and quality; (2) estimation uncertainty or methodological flaws in model design (volatility of estimators, simplifications, approximations, inappropriate assumptions, improper design, etc.); (3) calculation or coding error; and (4) inappropriate use of a model (use outside its intended purpose, lack of resources with knowledge to use properly, failure to update and recalibrate, etc.).

"Predictive Model" refers to the mining of historic data using algorithms and/or machine learning to identify patterns ~~in data to make predictions~~and predict outcomes that can be used to make or support the making of decisions.

"Third-Party" for purposes of this bulletin means an organization other than the Insurer that provides services, data, or other resources related to AI.

SECTION 3: ~~~~REGULATORY GUIDANCE AND EXPECTATIONS

Decisions ~~impacting consumers~~subject to regulatory oversight that are made by Insurers using AI Systems must comply with ~~all applicable~~the legal and regulatory standards that apply to those decisions, including unfair trade practice laws. ~~Those laws~~These standards require, at a minimum, that decisions made by Insurers are not ~~be~~inaccurate, arbitrary, capricious, or unfairly discriminatory. ~~~~Compliance with ~~those~~these standards is required regardless of the tools and methods Insurers use to make ~~them.~~

~~AI Systems rely on large amounts of diverse, ever-changing,~~such decisions. However, because, in the absence of proper controls, AI has the potential to increase the risk of inaccurate, arbitrary, capricious, or unfairly discriminatory outcomes for consumers, it is important that Insurers adopt and ~~sometimes nontraditional forms of data, sophisticated algorithms, and ML and deep learning techniques to develop complex and often opaque predictive models to~~ implement controls specifically related to their use of AI that are designed to mitigate the risk of Adverse Consumer Outcomes.

Consistent therewith, all Insurers authorized to do business in this state are expected to develop, implement, and maintain a written program (an "AIS Program") for the responsible use of AI Systems that make, ~~inform,~~ or support decisions. ~~Current limitations on the availability of reliable demographic data on consumers make it challenging for Insurers and regulators to directly test these systems to determine whether the decisions made meet all applicable legal standards. Therefore, while the Department continues to encourage and emphasize the use of verification and testing methods for unfair bias that leads to unfair discrimination where possible, the~~ 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.

The Department recognizes that ~~we must also rely upon~~ robust governance, risk management controls, and internal audit functions ~~to mitigate~~play a core role in mitigating the risk that decisions driven by AI Systems will violate unfair trade practice laws and other applicable existing legal standards.

~~For these reasons, all Insurers authorized to do business in this state are encouraged to develop, implement,~~ The Department also encourages the development and ~~maintain a written program for the~~ use of verification and testing methods to identify errors and bias in predictive models and AI Systems ~~that is designed to assure that~~, as well as the potential for unfair discrimination in the decisions ~~impacting consumers made or supported by~~and outcomes resulting from the use of predictive models and AI Systems~~ are accurate~~.

The controls and ~~do not violate unfair trade practice laws or other applicable legal standards (AIS Program). An AIS Program~~ processes that an Insurer adopts and implements as part of its AIS Program should be reflective of, and commensurate with, the Insurer's own assessment of the degree and nature of risk posed to consumers by ~~its use of an~~the AI ~~System~~Systems that it uses, considering: (i) the nature of the decisions being made, informed, or supported using the AI System; (ii) the ~~nature~~type and ~~the degree~~Degree of ~~potential harm~~Potential Harm to ~~consumers from errors or unfair bias~~Consumers resulting from the use of ~~the~~AI ~~System;~~Systems; (iii) the extent to which humans are ~~"in-the-loop"; and~~ involved in the final decision-making process; (iv) the transparency and explainability of outcomes to the impacted consumer; and (v) the extent and scope of the ~~Insurer's~~insurer's use or reliance on data, predictive models, and AI Systems from third parties. Similarly, controls and processes should be

commensurate with both the risk of Adverse Consumer Outcomes and the Degree of Potential Harm to Consumers.

As discussed in Section 4, the decisions made as a result of an Insurer's use of AI Systems isare subject to the Department's examination to determine whether decisions made or actions taken inthat the reliance on AI Systems are compliant with all applicable legal standards. Regardless of whether an Insurer adopts a formal AI Program or the scope of that Program, an Insurer's use of AI and AI Systems is subject to investigation, including marketexisting legal standards governing the conduct actions. However, the existence of an AIS Program, including documentation related to the Insurer's adherence to the standards, processes, and procedures set forth in the AIS Program, will facilitate such investigations and actions.of the Insurer.

AIS Program Guidelines

1.0   General Guidelines

1.1   The AIS Program should be designed to mitigate the risk that the Insurer's use of AI Systems to make or support decisions that impact consumers will result in decisions that are arbitrary or capricious, unfairly discriminatory, or that otherwise violate unfair trade practice laws. an AI System will result in Adverse Consumer Outcomes.

1.2   The AIS Program should address governance, risk management controls, and internal audit functions.

1.3   The AIS Program should be adopted by the board of directors or an appropriate committee of the board.

1.3   The AIS Program should vest responsibility for the development, implementation, monitoring, and oversight of the AIS Program and for setting the Insurer's strategy for AI Systems with senior management reportingaccountable to the board or an appropriate committee of the board.

1.4   The AIS Program should be tailored to and proportionate with the Insurer's use and reliance on AI and AI Systems. Controls and procedures should be focused on the mitigation of Adverse Consumer Outcomes and the scope of the controls and procedures applicable to a given AI System use case should reflect and align with the Degree of Potential Harm to Consumers with respect to that use case.

1.5   The AIS Program may be independent of or part of the Insurer's existing enterprise risk managementEnterprise Risk Management (ERM) program. The AIS Program may adopt, incorporate, or rely upon, in whole or in part, a framework or standards developed by an official third-party standard organization, such as the National Institute of Standards and Technology. (NIST) Artificial Intelligence Risk Management Framework, Version 1.0.

1.56   The AIS Program should address the use of AI Systems across the insurance product life cycle, including areas such as product development and design, marketing, lead generation and use, applications, underwriting, rating and pricing, case management, claim administration and payment, and fraud detection.

1.6   The AIS Program should address all phases of an AI System's life cycle.

1.7   The AIS Program should address all of phases of an AI System's life cycle, including design, development, validation, implementation (both systems and business), use, on-going monitoring, updating and retirement.

1.8   The AIS Program should address the AI Systems used by or on behalf of the Insurerwith respect to make decisions that impact consumers,regulated insurance practices whether developed by the Insurer or a third-party and whethervendor.

1.9   The AIS Program should include processes and procedures providing notice to impacted consumers that AI Systems are in use and provide access to appropriate levels of information based on the phase of the insurance life cycle in which the AI Systems are being used by the Insurer or by an authorized agent or representative of the Insurer. .

2.0   Governance

The AIS Program should include a governance framework for the oversight of AI Systems used by the Insurer. Governance should prioritize transparency, fairness, and accountability in the design and implementation of the AI Systems., recognizing that proprietary and trade secret information must be protected. An Insurer may consider adopting new internal governance structures or rely on the Insurer's existing governance structures, but the ; however, in developing its governance structureframework, the Insurer should address: consider addressing the following items:

2.1   The standards that the Insurer adopted for its development of AI Systems generally and at each stage of the AI System life cycle.

2.22.1   The policies, processes, and procedures, including risk management and internal controls, to be followed at each stage of an AI System life cycle., from proposed development to retirement.

2.32   The requirements adopted by the Insurer to document compliance with the AIS Program policies, processes, procedures, and standards. Documentation requirements should be developed with Section 4 in mind.

2.4   Commensurate with the Insurer's development and use of AI Systems, defined roles, and responsibilities for key personnel charged with carrying out the AIS Program generally and at each stage of an AI System life cycle, including consideration of:

a)   A2.3   The Insurer's internal AI System governance accountability structure, such as:

  a) The formation of centralized or, federated committee, or otherwise constituted committees comprised of representatives from allappropriate disciplines and units within the Insurer, such as business units, product specialists, actuarial, data science and analytics, underwriting, claims, compliance, and legal.

7

b) A description of the roles and responsibilities of each discipline and/or unit of the Insurer as they relate to the AI System, the AIS Program, and, where applicable, on the Insurer's internal AIS Program committee.

c) The qualifications of the persons serving in the roles identified.

d) Coordination and communication between persons with roles and responsibilities with the committee and among themselves.

b) e) Scope of responsibility and authority, chains of command, and decisional hierarchies.

c) f) The independence of decision-makers and lines of defense at successive stages of the AI System life cycle.

d) g) Escalation procedures and Monitoring, auditing, escalation, and reporting protocols and requirements.

e) h) Development and implementation of ongoing training and supervision of personnel.

2.5 Monitoring, auditing, and reporting protocols and functions.

2.6 2.4 Specifically with respect to predictive models: the Insurer's processes and procedures for designing, developing, verifying, deploying, using, updating, and monitoring predictive models, including a description of methods used to detect and address errors, performance issues, outliers, or unfair discrimination in the insurance practices resulting from the use of the predictive model.

3.0 Risk Management and Internal Controls

The AIS Program should document the Insurer's risk identification, mitigation, and management framework and internal controls for AI Systems generally and at each stage of the AI System life cycle. Risk management and internal controls should address the following items:

3.1 The oversight and approval process for the development, adoption, or acquisition of AI Systems, as well as the identification of constraints and controls on automation and design to align and balance function with risk.

3.2 Data practices and accountability procedures, including data currency, lineage, quality, integrity, bias analysis and minimization, and suitability, and updating. .

3.3 Management and oversight of algorithms and predictive models, (including: algorithms used therein), including:

a) Inventories and descriptions of algorithms and the predictive models.

8

b) Detailed documentation of the development and use of ~~algorithms and~~the predictive models ~~demonstrating compliance with the AIS Program requirements~~.

c) ~~Measurements~~Assessments such as interpretability, repeatability, robustness, regular tuning, reproducibility, traceability, model drift, and the auditability of ~~those~~these measurements where appropriate.

d) ~~Benchmarking against alternative models and systems.~~

e) ~~Evaluation for drift.~~

~~3.4   Validation, testing, and auditing of data, algorithms, and predictive models.~~

3.4   Validating, testing, and retesting as necessary to assess the generalization of AI System outputs upon implementation, including the suitability of the data used to develop, train, validate and audit the model. Validation can take the form of comparing model performance on unseen data available at the time of model development to the performance observed on data post-implementation, measuring performance against expert review, or other methods.

3.5   The protection of non-public information, particularly consumer information, including unauthorized access to ~~algorithms or~~the predictive models themselves.

3.6   Data and record retention.

3.7   Specifically with respect to predictive models: a narrative description of the model's intended goals and objectives and how the model is developed and validated to ensure that the AI Systems that rely on such models correctly and efficiently predict or implement those goals and objectives.

4.0   Third-Party AI Systems and Data

Each AIS Program should address the Insurer's ~~standards~~process for ~~the acquisition, use of,~~acquiring, using or ~~reliance~~relying on (i) third-party data to develop AI Systems; and (ii) AI Systems developed ~~or deployed~~ by a third-party, ~~including~~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~~, and its AI governance and risk management protocols in order~~ acquired from the third-party to ~~assure~~ensure that ~~third-party~~decisions made or supported from such AI Systems ~~used to make or support decisions~~ that ~~impact consumers are designed to~~could lead to Adverse Consumer Outcomes will meet the legal standards imposed on the Insurer itself.

4.2   ~~The~~Where appropriate and available, the inclusion of terms in contracts with third parties that:

a) ~~Require third-party data and model vendors and AI System developers to have and maintain an AIS Program commensurate with the standards expected of the Insurer.~~

9

b) Entitle the Insurer toProvide audit the third-party vendor for compliance.

c)a) Entitlerights and/or entitle the Insurer to receive audit reports by qualified auditing entities confirming the third-party's compliance with standards. .

d)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 and require the third-party to cooperate with the Insurer's regulators as part of the investigation or examination of the Insurer.

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

SECTION 4: REGULATORY OVERSIGHT AND EXAMINATION CONSIDERATIONS

The Department's regulatory oversight of Insurers includes oversight of an Insurer's conduct in the state, including its use of AI Systems to make or support decisions that impact consumers. Regardless of the existence or scope of a written AIS Program, in the context of an investigation or market conduct action, an Insurer can expect to be asked about its development, deployment, and use of AI Systems, or any specific predictive model, AI System or application and its outcomes (including Adverse Consumer Outcomes) from the use of those AI Systems, as well as any other information or documentation deemed relevant by the Department.

Insurers should expect those inquiries to include (but not be limited to) the Insurer's governance framework, risk management, and internal controls (including the considerations identified in Section 3), as well as). In addition to conducting a review of any of the items listed in this Bulletin, a regulator may also ask questions regarding any specific model, AI System, or its application, including requests for the following kindstypes of information and/or documentation:

1. **Information and Documentation Relating to AI System Governance, Risk Management, and Use Protocols**

    1.1. Information and documentation related to or evidencing the Insurer's AIS Program, including:

    a) The written AIS Program or any decision by the Insurer not to develop and adopt a written AIS Program.

    b) Information and documentation relating to or evidencing the adoption of the AIS Program.

    c) The scope of the Insurer's AIS Program, including any AI Systems and technologies not included in or addressed by the AIS Program.

    d) How the AIS Program is tailored to and proportionate with the Insurer's use and reliance on AI Systems, the risk of Adverse Consumer Outcomes, and the Degree of Potential Harm to Consumers.

    e) The policies, procedures, guidance, training materials, and other information relating to the adoption, implementation, maintenance, monitoring, and oversight of the Insurer's AIS Program, including:

        i. Processes and procedures for the development, adoption, or acquisition of AI Systems, such as:

        (1) Identification of constraints and controls on automation and design.

        (2) Data governance and controls, any practices related to data lineage, quality, integrity, bias analysis and minimization, suitability, and updatingData Currency.

11

    ii. Processes and procedures related to the management and oversight of ~~algorithms and~~ predictive models, including measurements, standards, or thresholds adopted or used by the Insurer in the development, validation, and oversight of models and AI Systems.

    iii. Protection of non-public information, <u>particularly consumer information,</u> including unauthorized access to ~~algorithms or~~<u>predictive</u> models themselves.

1.2. Information and documentation relating to the Insurer's pre-acquisition/pre-use diligence, monitoring, oversight, and auditing of <u>data or </u>AI Systems developed ~~or that~~<u>by</u> a third--party ~~deployed, including any authorized agent or representative of the Insurer when acting as such~~.

1.3. Information and documentation relating to or evidencing the Insurer's implementation and compliance with its AIS Program, including documents relating to the Insurer's monitoring and audit activities respecting compliance, such as:

    a) Documentation relating to or evidencing the formation and ongoing operation of the Insurer's coordinating bodies for the development, use, and oversight of AI Systems~~,~~ ~~including documentation identifying key personnel and their roles, responsibilities, and qualifications~~.

    b) <u>Documentation related to data practices and accountability procedures, including data lineage, quality, integrity, bias analysis and minimization, suitability, and data currency.</u>

    ~~b)~~<u>c)</u> Management and oversight of ~~algorithms,~~ predictive models~~,~~ and AI Systems, including:

    i. The Insurer's inventories and descriptions of ~~algorithms,~~ predictive models, and AI Systems used by ~~or on behalf of ~~the Insurer to make or support decisions that ~~impact consumers~~<u>can result in Adverse Consumer Outcomes</u>.

    ii. As to any specific ~~algorithm,~~predictive model~~,~~ or AI System that is the subject of investigation or examination:

    (1) Documentation of compliance with all applicable AI Program policies, protocols, and procedures in the development, use, and oversight of ~~algorithms,~~ predictive models~~,~~ and AI Systems deployed by ~~or on behalf of ~~the Insurer.

    (2) Information about data used in the development and oversight of the specific model or AI System, including the data source, provenance, data lineage, quality, integrity, bias analysis and minimization, suitability, and ~~updating~~<u>Data Currency</u>.

12

(3) Information related to the techniques, measurements, thresholds, benchmarking, and similar controls adoptedused by the Insurer.

(4)d) ValidationDocumentation related to validation, testing, and auditing, including evaluation of drift to assess the reliability of outputs that influence the decisions made based on predictive models. Note that the nature of validation, testing, and auditing should be reflective of the underlying components of the AI System, whether based on predictive models or Generative AI.

2.   Third-Party AI Systems and Data

Investigations and examinations of anIn 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 may include requests forshould also expect the Department to request the following kindsadditional types of information and documentation related to data, models, and AI Systems developed by third parties that are relied on or used by or on behalf of the Insurer, directly or by an agent or representative.

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, data use, intellectual processesproperty rights, confidentiality and disclosures, and/or cooperation with regulators.

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

2.4   Documentation pertaining to validation, testing, and auditing, including evaluation of model drift.

The Department recognizes that Insurers may demonstrate their compliance with the laws that regulate their conduct in the state in their use of AI Systems through alternative means, including through practices that differ from those described in this bulletin. The goal of the bulletin is not to prescribe specific practices or to prescribe specific documentation requirements. Rather, the goal is to ensure that Insurers in the state are aware of the Department's expectations as to how AI Systems will be governed and managed and of the kinds of information and documents about an Insurer's AI Systems that the department expects an Insurer to produce when requested.

As in all cases, investigations and market conduct actions may be performed using procedures that vary in nature, extent, and timing in accordance with regulatory judgment. Work performed may include inquiry, examination of company documentation, or any of the continuum of market actions described in the NAIC's *Market Regulation Handbook*. These activities may involve the use of contracted specialists with relevant subject matter expertise. Nothing in this bulletin limits the authority of the Department to conduct any regulatory investigation, examination, or enforcement action relative to any act or omission of any Insurer that the Department is authorized to perform.