BlueCross BlueShield Association

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May 9, 2024

Commissioner Michael Conway, Chair
Third-Party Data and Models (H) Task Force
National Association of Insurance Commissioners
444 North Capitol Street NW, Suite 700
Washington, DC, 20001

Submitted via email at ssobel@naic.org; kdefrain@naic.org

**RE: Third-Party Data and Models (H) Task Force Work Plan**

Dear Commissioner Conway:

The Blue Cross Blue Shield Association (BCBSA) appreciates the opportunity to provide comments on the National Association of Insurance Commissioners (NAIC) Third Party Data and Models (H) Task Force's work plan.

BCBSA is a national federation of independent, community-based and locally operated Blue Cross and Blue Shield (BCBS) companies (Plans) that collectively cover, serve and support 1 in 3 Americans in every ZIP code across all 50 states and Puerto Rico. BCBS Plans contract with 96% of hospitals and 95% of doctors across the country and serve those who are covered through Medicare, Medicaid, an employer, or purchase coverage on their own.

BCBSA believes everyone should have access to affordable, high-quality health care, no matter who you are or where you live. BCBSA's commitment to the health of our nation includes continuing to improve the way we gain insights on diverse health factors through the appropriate use of new and emerging technologies, and to provide innovative solutions and services to support Blue Plans and their members.

BCBS companies are collaborating to enable the safe, ethical and responsible use of artificial intelligence (AI) to protect each of our 118 million Blue members in every zip code in America. Proactive steps include systemwide commitments around the adoption of industry-recognized AI governance practices, including

the adoption of risk-based evaluations, senior management oversight and compliance with applicable privacy and security laws.

In addition, we appreciate that much of the work on AI, and predictive models generally, is being done by third parties – either through the development of the models themselves or through use of the data these entities possess. While we have concerns with how this work will align with ongoing public policy and private efforts to adapt to this new environment, BCBSA offers the following recommendations in response to the task force's work plan on third-party data and model use:

- **The task force must carefully consider the scope and breadth of the framework.** Definitions form the scope of public policies and are critical to ensuring there is a clear understanding of what and who is being regulated and to what extent. BCBSA notes that the definition of "third party" from the "NAIC Model Bulletin: Use of Artificial Intelligence by Insurers" (model bulletin) is limited to AI provided by an organization other than the insurer, while the definition of "predictive model" is far broader and could encompass a wide array of insurer activities that already have longstanding, effective regulatory infrastructures. Both terms are present in the task force's work plan. BCBSA urges the NAIC to limit the work plan scope in a manner that aligns with the model bulletin's definition of "third party" to prevent potential unintended consequences. If a broader definition were to be used, it would significantly complicate how the requirements should be approached. We strongly support efforts to address potential bias and discrimination in health care and are concerned that an overly broad scope in regulation, or particularly in legislation, may stifle the ability for insurers to implement programs that address these longstanding challenges.
- **Specific to AI systems (AIS), which we recommend as the focus of this framework, the task force should recognize the distinct roles of AIS developers and those who deploy AIS developed by other entities**. Developers and deployers are responsible for different aspects of how AIS impacts consumers and different perspectives on the AIS being deployed, so should have different responsibilities. Public policies will more effectively address these consumer impacts through differentiated requirements. For example, disclosures to consumers can only be achieved by deployers since they hold the relationships with the consumers. Meanwhile, intellectual property rights require developers to be accountable for tasks that entail access to source codes since deployers will not have access.
- **The framework should align to existing Federal requirements to achieve regulatory harmony.** Achieving regulatory harmony requires addressing intersections with existing Federal laws and regulations as many of the policy issues raised by AI are not novel. Most notably, the Health Insurance Portability and Accountability Act already effectively governs issues related to privacy and disclosures for both Covered Entities, as well as third parties that conduct business on behalf of regulated entities – known as Business Associates**.** There are also potential issues related to intellectual property rights and trade secrets protections covered by Federal rules that should be carefully considered. This alignment will prevent conflicting approaches, which help to ensure that requirements complement — not complicate — advances in technology.

- **The framework should also align to existing NAIC models and other widely accepted frameworks.** The draft work plan touches on a wide array of issues, including cybersecurity, privacy, AI, and insurance rate regulation. Many of these issues are already covered by existing NAIC model laws and bulletins. The framework should align to these existing model laws and bulletins, such as the Insurance Data Security Model Law's requirements related to Oversight of Third-Party Service Provider Arrangements. It is vital that this framework does not undo or undermine the successful work that other NAIC committees have conducted and completed. The work plan should also seek to harmonize the task force's approach and align to widely accepted frameworks, such as the National Institute of Standards and Technology Artificial Intelligence Risk Management Framework, which has been subject to extensive industry input. Consistency will reduce burdens on all stakeholders and, more importantly, support adherence to requirements and responsible adoption.

***

Thank you again for your leadership on these important policy priorities. We appreciate your consideration of our comments. If you have additional questions or comments, please contact Randi Chapman, Managing Director, State Affairs at randi.chapman@bcbsa.com.

Sincerely,

Clay S. McClure

June 20, 2025

Jason Lapham, Chair
Third Party Data and Models (H) Working Group
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64105

Re: Request for Proposed Definitions of Third-Party Data Vendor and Third-Party Model Vendor

Chairman Lapham:

The American InsurTech Council (AITC) is an independent advocacy organization dedicated to advancing the public interest through the development of ethical, technology-driven innovation in insurance. We appreciate the opportunity to provide the following comments in response to the National Association of Insurance Commissioners' (NAIC) request for proposed definitions of Third-Party Data Vendor and Third-Party Model Vendor.

As a preliminary comment, it remains unclear to us and perhaps others what issue (or issues) concerning insurer use of third party data vendors or third party model vendors the Working Group is attempting to address. Any discussion of regulatory oversight of third party vendors should begin with a clear statement of the issues that need to be addressed. Until that has been made clear we respectfully suggest that an effort to define key terms is premature. AITC would welcome a public discussion that clarifies this question.

In considering the Working Group's request, we revisted the NAIC's statement of Principles on Artificial Intelligence (AI) and the NAIC's statement of Principles on Artificial Intelligence (AI), the Model Bulletin: Use of Artificial Intelligence Systems By Insurers. We also considered how the term third party vendor (or provider) is used in other NAIC models and in common industry practice. At a minimum, the Working Group must ensure that any definition of third party vendor is consistent with the Principles of Artificial Intelligence, the Model AI Bulletin, and existing definitions of third party vendors in state's insurance laws and standards of practice.

Based upon the results of our review, it is not clear why these terms require new definitions, or how definitions could meaningfully add to the authority to oversee insurer use of AI that already exists under state law. To the contrary, we see significant potential for unintended adverse consequences.

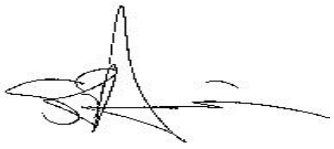
Third-party vendors provide a wide array of services, ranging from providing raw data to complex predictive modeling. These services often combine elements of "data provider" and "data modeler." At a time of rapid change in technology and the development of business use cases for AI that benefit consumers, we would be concerned that attempts to parse descriptions of these services into rigid definitions would undermine the dynamic, rapidly evolving and innovative nature of third-party services to insurers. Rigid definitions would also create confusion in contracting and compliance efforts, impose unnecessary regulatory burdens, and create the conditions for inconsistent interpretations across the states. Existing regulatory frameworks and established industry practice developed over decades already provide sufficient tools to oversee vendor relationships and activities through principles-based risk management, due diligence, and contractual oversight.

Should members of the Working Group determine, however, that a definition is essential AITC would recommend combining both terms into a single definition. The following definition is intended to reflect current practice and standards associated with third party vendors in the context of providing models or data services to insurers.

*"Third-party data or model vendor" means a person, partnership, corporation, or other entity that provides external consumer data, an algorithm, or a predictive model to an insurer for use in an insurance practice, but does not include an employee or affiliate of the insurer.*

Thank you again for the opportunity to address our comments. We look forward to further discussion of these issues.

Respectfully Submitted,



Scott R. Harrison
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cc: Kris DeFrain, NAIC

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June 20, 2025

Jason Lapham
Chair, NAIC Third-Party Data and Models (H) Working Group

Nicole Crocket
Vice Chair, NAIC Third-Party Data and Models (H) Working Group

Re: Definitions of Third-Party Data Vendor and Third-Party Model Vendor for Use in a Regulatory Framework

Dear Chair Lapham and Vice Chair Crocket,

The American Council of Life Insurers (ACLI) appreciates the opportunity to provide feedback on the NAIC Third-Party Data and Models (H) Working Group recent exposure requesting proposals from interested parties on what definitions of "Third-Party Data Vendor" and "Third-Party Model Vendor" may look like for use in a regulatory framework.

ACLI offers the following draft definitions for the Task Force's consideration:

- "Third-Party Data Vendor" means any entity that is not a parent of, affiliate of, related by common ownership with, or affiliated by corporate control with, an insurer, that collects, aggregates, and sells or licenses data (except for publicly available data or data that is originally collected by or on behalf of an insurer or its affiliates) about individuals or entities and contracts with an insurer for the insurer's use of such data in pricing, underwriting, or claims processing.

This definition excludes:

- Entities providing data used exclusively for internal business operations unrelated to underwriting, pricing, or claims processing (e.g., HR, IT security);
- Governmental entities providing public records (e.g., motor vehicle records, court records, weather data, death records);
- Entities providing data for fraud detection, anti-money laundering, or regulatory compliance purposes;
- Insurance agents, brokers, and producers;
- Reinsurers; and
- MIB Group, Inc.

- "Third-Party Model Vendor" means any entity that is not a parent of, affiliate of, related by common ownership with, or affiliated by corporate control with, an insurer, that develops or licenses predictive models or Artificial Intelligence Systems and contracts with an insurer for the insurer's use in pricing, underwriting, or claims processing, where such predictive models or Artificial Intelligence Systems are not developed or materially modified by the insurer or its affiliates.

  This definition excludes:

  - Entities that develop or license models used for internal business operations unrelated to underwriting, pricing, or claims processing (e.g., HR, IT security);
  - Entities that develop or license models used for fraud detection, regulatory compliance, or risk management;
  - Insurance agents, brokers, and producers; and
  - Reinsurers.

Thank you once again for the chance to provide these proposals and we look forward to additional discussion soon at a future session of the Working Group.

Sincerely,


cc: Kris DeFrain, NAIC

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June 20, 2025

Jason Lapham, Chair
Third-Party Data and Models (H) Working Group
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

*By Email to: Kris DeFrain at KDefrain@NAIC.org.*

**Re: Request of proposed definitions of "Third-Party Data Vendor" and "Third-Party Model Vendor"**

Dear Chair Lapham:

On behalf of AHIP, thank you for the opportunity to provide feedback on a proposed definition for "Third-Party Data Vendor" and "Third-Party Model Vendor" for consideration by the NAIC Third-Party Data and Model (H) Working Group.

AHIP agrees with the suggestion made during the meeting of the Third-Party Data and Model (H) Working Group on May 22 that definitions be simple and where feasible, align with existing laws, regulations, and industry-supported standards. We believe regulators, industry, and consumers alike would be best served by utilizing terms and definitions that align with current NAIC model law/guidance language around this topic of data use (noted below) with an explicit exception for a licensee's affiliate, similar to definitions under the Data Security and Privacy Model law.

We would also note that since it is unclear how these definitions would be used in any operative language, AHIP looks forward to the opportunity to supplement or adjust our feedback as the context of their use is clarified.

***Draft Definitions for consideration:***

> **Third-Party Data Vendor** means a person or entity not otherwise defined as a Licensee or Affiliate of a Licensee that provides data or data-related goods or services to a Licensee or Affiliate of a Licensee.
>
> **Third-Party Model Vendor** means a person or entity not otherwise defined as a Licensee or Affiliate of a Licensee that provides predictive models or model-related goods or services to a Licensee or Affiliate of a Licensee.

**Current NAIC Model Law / Guidance Language**

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

***Data Security Model Law***
"Third-Party Service Provider" means a Person, not otherwise defined as a Licensee, that contracts with a Licensee to maintain, process, store or otherwise is permitted access to Nonpublic Information through its provision of services to the Licensee.

***Privacy Protection Model Law #674 8.5.24***
"Nonaffiliated third party" means any person except:
(a) A licensee's affiliate; or
(b) A person employed jointly by a licensee and any company that is not the licensee's affiliate (but nonaffiliated third party includes the other company that jointly employs the person).
(2) Nonaffiliated third party includes any company that is an affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or its affiliate in conducting merchant banking or investment banking activities of the type described in Section 4(k)(4)(H) or insurance company investment activities of the type described in Section 4(k)(4)(I) of the federal Bank Holding Company Act (12 U.S.C. 1843(k)(4)(H) and (I)).

"Third party service provider" means a person or entity not otherwise defined as a licensee or affiliate of a licensee that:
(1) Provides services to the licensee; and
(2) Maintains, process or otherwise is permitted access to nonpublic personal information through its provisions of services to the licensee.

Thank you for the opportunity to provide these suggestions. We look forward to discussing them and continuing to collaborate with you and the Working Group in the future.

Sincerely,

Miranda Motter
Senior Vice President, State Affairs and Policy
mmotter@ahip.org
202-923-7346

American Property Casualty Insurance Association
INSURING AMERICA apci.org

June 20, 2025

Jason Lapham, Chair
Third-Party Data and Models (H) Working Group
National Association of Insurance Commissioners

**Re: Definition of "Third Party" for Potential Regulatory Framework**

Dear Mr. Lapham:

The American Property Casualty Insurance Association (APCIA) appreciates the opportunity to provide input in response to the Third-Party Data and Models (H) Working Group's exposure seeking stakeholder feedback on potential definitions of "third party," "third-party data vendor," and "third-party model vendor" for use in a regulatory framework. APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe.

We are committed to working with the NAIC and state regulators on how best to regulate the products and services of third-party vendors. We also wish to express interest in how to provide regulators with sufficient assurances of legal compliance, without overburdening insurers or having the effect of diminishing the availability of useful third-party products and services, which through better data or more efficient operations, ultimately serve consumers.

However, it seems premature to provide meaningful feedback on the definition of "third party," "third-party data vendor," and "third-party model vendor" for use in a potential future regulatory framework. The definitions of these terms will differ depending on the specific objectives of what a potential regulatory framework is trying to achieve. For example, a regulatory framework focusing on AI vendors will require different definitions than a regulatory framework intended to apply more broadly. It is also important for stakeholders to understand which vendors regulators are focused on (e.g., vendors that build custom AI models for an insurer, vendors that offer AI tools generally, etc.) In the absence of context of how the defined terms are intended to be implemented within a regulatory framework, it is challenging to offer a workable definition at this time. Any definitions proposed at this point risk being over-inclusive or under-inclusive depending on the issues that a future regulatory framework is intended to address. For these reasons, the Working Group should provide stakeholders with additional opportunities to comment on definitions as any regulatory framework is further developed.

With respect to any proposed definition of these terms, transactions among affiliates should be treated differently than transactions with unrelated or unaffiliated third parties. Affiliates are ultimately controlled by their corporate parents and subject to group policies, standards, procedures, and operating models, and their interests are aligned with the group parent, resulting in a sufficient control environment for affiliates. By contrast, vendors that are not related to a party

are not subject to the same level of corporate control or interest alignment, and the relationship between a party and a vendor is governed principally by a contract negotiated at arms' length.

Ultimately, any future regulatory framework should be risk-focused and principles-based, with an emphasis on vendors and models with the greatest impact on consumers, rather than those that are operational in nature. We appreciate your consideration of these views and welcome continued collaboration as this work moves forward.

Sincerely,

Matthew Vece
Sr. Director, Financial & Tax Counsel

Dave Snyder
Vice President, International & Counsel

NAMIC
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June 20, 2025

Jason Lapham (CO), Chair
NAIC Third-Party Data and Models (H) Working Group
c/o Kris DeFrain, NAIC Director, Research and Actuarial Services
Via email kdefrain@naic.org

Re: NAMIC Comments on the Third-Party Data and Models Definitions and Scope

Dear Chair Lapham and Members of the Committee:

On behalf of the National Association of Mutual Insurance Companies (NAMIC)[1], we would like to thank the NAIC Third-Party Data and Models (H) Working Group for requesting and accepting comments on potential definitions of "third party" and scope of issues for the Working Group's efforts. In support of beneficial outcomes for all stakeholders in this work, NAMIC provides below general substantive comments for the Working Group to consider. NAMIC has previously commented on the Working Group's efforts to define "third party" and the scope of work, so please note that those comments are repeated here as applicable.

**Before Defining "Third Party Vendor," Identify How Insurers Use Different Vendors**

The spectrum of third-party data and model vendors that insurers use is vast and understanding the different types of vendors as well as how insurers use them is an essential step in the Working Group's process. NAMIC encourages the Working Group to ensure that this aspect of the work plan is given due time and attention. Part of this process should focus first on defining exactly which third-party services are ones with which regulators have the most concern. The importance of determining how vendors are used and understanding the different vendor types cannot be overstated, as it is the only way the Working Group can then establish scope of its efforts and a definition of "third-party vendor."

**Identify the Challenge to be Solved**

At the 2024 Fall National Meeting, NAMIC provided verbal testimony encouraging the Working Group to explicitly identify the issues and challenges it is looking to solve. Since the Working Group's creation, such issues or challenges have not been made explicit, and the lack of identifying these issues creates question as to the direction of a "framework for regulatory oversight of third-party data and predictive models."[2] NAMIC

[1] The National Association of Mutual Insurance Companies consists of nearly 1,500 member companies, including seven of the top 10 property/casualty insurers in the United States. The association supports local and regional mutual insurance companies on main streets across America as well as many of the country's largest national insurers. NAMIC member companies write $391 billion in annual premiums and represent 68 percent of homeowners, 56 percent of automobile, and 31 percent of the business insurance markets. Through its advocacy programs NAMIC promotes public policy solutions that benefit member companies and the policyholders they serve and fosters greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.

[2] *See* NAIC Third-Party Data Models (H) Task Force 2024 Charges and Work Plan, https://content.naic.org/sites/default/files/2024-charges-and-work-plan-exposure-040524.pdf.

again encourages the Working Group to publicly identify these issues or challenges. Where concrete challenges are identified, they may guide the direction of the Working Group's efforts so as to avoid creating a solution disjointed from any needs of the market. The Working Group should be specific about the identified challenges, and what a new model law or amendments to existing law or regulations are trying to solve. The industry and other stakeholders will then be better suited to provide helpful substantive feedback on definitions and scope.

**Definition of "Third Party Vendor" Should be Narrowly Tailored and Consistent Across the NAIC**

Once the Working Group identifies the issues and concerns with respect to third-party data and model vendors, the Working Group should then ensure that any definition of "third-party vendor" is narrowly tailored to those concerns. NAMIC also encourages the Working Group to publicly engage with other NAIC Committees and Working Groups that may be addressing similar topics and overlapping purposes, as there are many NAIC workstreams that have already touched on third-party vendors or are currently working on third party efforts.[3] NAMIC believes it is important and beneficial for the industry and consumers alike for the NAIC to create consistency in the marketplace with respect to how regulators create and enforce laws, especially when addressing enforcement mechanisms relative to data and model use. Further, given that there are many workstreams engaging in the space, and because there are proponents of different approaches, that indicates a need for a robust investigation into the pros and cons of different strategies and what's necessary given existing law.

**IN SUMMARY**

We close by again thanking the Working Group for allowing NAMIC to submit comments to engage in this extremely important discussion regarding third-party vendors, and we urge you to continue offering additional iterative opportunities for robust, transparent conversations throughout the education process and any potential drafting processes. NAMIC endeavors through these comments to highlight areas that the Working Group should especially direct its focus. NAMIC looks forward to continuing our work with the Working Group to arrive at solutions that protect and stabilize the insurance marketplace while fostering growth and innovation that benefit all stakeholders.

Sincerely,

Lindsey Klarkowski
Policy Vice President – Data Science, Artificial Intelligence, and Cybersecurity
NAMIC

[3] As of the writing of this letter, NAMIC is aware of the following groups at the NAIC looking at third party models and data to some extent: The Big Data and AI (H) Working Group, Generator of Economic Scenarios (GO/ES) (E/A) Subgroup, Cybersecurity (H) Working Group, the Supervisory Technology (H) Workstream, and the Advisory Organizations (D) Working Group.

REINSURANCE ASSOCIATION OF AMERICA

June 20, 2025

Jason Lapham, Chair
Third-Party Data and Models (H) Working Group
National Association of Insurance Commissioners
c/o Ms. Kris DeFrain
Director, Research and Actuarial Services
Via email kdefrain@naic.org

**Re: RAA Comments Regarding Definitions of Third-Party Data Vendor and Third-Party Model Vendor**

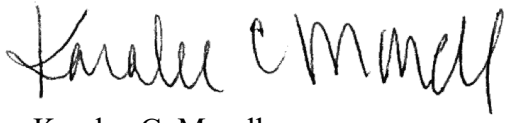
Dear Mr. Lapham:

The Reinsurance Association of America (RAA) appreciates the opportunity to submit comments to the Third-Party Data and Models (H) Working Group regarding your request for proposed definitions of third-party data vendor and third-party model vendor for use in a regulatory framework. The Reinsurance Association of America (RAA) is a national trade association representing reinsurance companies doing business in the United States. RAA membership is diverse, including reinsurance underwriters and intermediaries licensed in the U.S. and those that conduct business on a cross-border basis. The RAA also has life reinsurance affiliates and insurance-linked securities (ILS) fund managers and market participants that are engaged in the assumption of property/casualty risks. The RAA represents its members before state, federal and international bodies.

The RAA appreciates the Working Group's continued thoughtful engagement in this space. While RAA does not have a proposed definition to offer the Working Group, we believe it is important that any such definition should not include reinsurers as a third-party, unless the reinsurer is also a model or data provider for the ceding company. Many reinsurers use models to identify and manage their own portfolio of risk. These internal analytical tools should not be subject to either the definition of third-party data vendor or third-party model vendor in a regulatory framework. The definitions should continue to focus on models that relate to the lifecycle of an insurance product with a potential consumer impact.

The RAA appreciates the opportunity to work with you on this important project and specifically to address our reinsurance-specific concerns. We would be happy to meet with members of the Third-Party Data and Models (H) Working Group and NAIC staff to discuss excluding internal reinsurer models from any definition of third-party. We look forward to further engagement on these issues.

Sincerely,



Karalee C. Morell
SVP and General Counsel
Reinsurance Association of America

UNITEDHEALTH GROUP

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June 20, 2025

Mr. Jason Lapham
Chair, Third-Party Data and Models (H) Working Group
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1000
Kansas City, MO 64106-2197

RE: Request for Definitions of "Third-Party Data Vendor" and "Third-Party Model Vendor"

Dear Chair Lapham,

Thank you for the opportunity to comment on potential definitions of "third-party data vendor" and "third-party model vendor" for use in a regulatory framework. While UnitedHealth Group (UHG) is not proposing specific definitions of these terms, we hope that the below comments are helpful to the Third-Party Data and Models (H) Working Group (Working Group).

UHG believes the NAIC's Model Bulletin: Use of Artificial Intelligence Systems by Insurers (Model Bulletin) provides a robust regulatory framework for "third-party data vendors" and "third-party model vendors." Section 3 of the Model Bulletin outlines regulatory guidance and expectations for an insurer's "process for acquiring, using, or relying on (i) third-party data to develop AI Systems; and (ii) AI Systems developed by a third party."[1] Section 4 of the Model Bulletin outlines the types of information and documentation that insurers should expect to produce for departments of insurance regarding data collected from and AI Systems developed by third-parties during an investigation or examination.[2] The Model Bulletin also includes a definition of "third-party."[3]

A primary objective of the NAIC should be to encourage states that have not adopted the Model Bulletin or do not have their own insurance-specific standards to adopt it before moving forward with further regulatory considerations. If, however, members of the Working Group determine that the state adoptions of the Model Bulletin need to be amended, UHG encourages the Working Group to continue adhering to a risk-based approach to regulation, promoting AI standards focused on the evaluation and management of risk. Those developing or deploying AI uses that may pose a higher risk should assume greater accountability. Additionally, AI uses classified as "high-risk" should receive this classification based on the AI's capability to pose actual, material risk of harm to an individual's health, safety, or fundamental rights. Accordingly, greater regulatory scrutiny and obligations should be reserved for those uses, ensuring that older technologies and lower-risk AI applications remain appropriately supported to preserve intended efficiencies.

We also recommend that the Working Group continue to allow insurers to address AI governance through an existing Enterprise Risk Management (ERM) program and to rely upon, in whole or in part, standards developed by the National Institute of Standards Technology (NIST) Artificial Intelligence Risk Management Framework (AI RMF) or other official third-party

[1] NAIC Model Bulletin: Use of Artificial Intelligence Systems by Insurers, Section 3, 4.0 Third-Party Systems and Data, p. 7.
[2] Id., Section 4, 2.0 Third-Party Systems and Data, p. 9.
[3] Id., Section 2, "Third Party" for purposes of this bulletin means an organization other than the Insurer that provides services, data, or other resources related to AI, p. 3.

standard setting organization.[4] UHG supports the development of responsible use programs by third parties that rely upon, in whole or in part, standards developed by NIST or other official third-party standard setting organizations. Allowing third parties developing and deploying AI to rely on the NIST AI RMF will promote consistency with existing standards, enabling the development and maintenance of robust AI responsible use programs.

Thank you again for the opportunity to comment. If you have any questions, please reach out to me at mollie_k_zito@uhg.com.

Sincerely,

Mollie K. Zito

Mollie K. Zito
Deputy General Counsel

[4] NAIC Model Bulletin: Use of Artificial Intelligence Systems by Insurers, AIS Guideline 1.5, p. 5.

# Regulatory comment letter

**To:** -Third-Party Data and Models (H) Working Group, Interested Regulators, and Interested Parties
-Colorado DORA - Proposed Amended Regulation 10-1-1 regarding governance and risk management requirements for the use of external data and predictive models in insurance
**From:** David Schraub
**Date:** 5/28/2025
**Subject:** Response to Request for comments

## Introduction

This letter is submitted as comments to both (1) the email from Kris DeFrain dated May 22, 2025, titled "Request for Third-Party Definitions"[1] and the Big Data and AI (H) Working Group AI Request for Information[2] (RFI), as well as (2) the draft Proposed Amended Regulation 10-1-1 regarding governance and risk management requirements for the use of external data and predictive models in insurance from Colorado Department of Regulatory Agencies, Division of Insurance[3] ("draft Colorado regulation 10-1-1").

I am David Schraub, an independent actuarial consultant specializing in artificial intelligence and bias testing.

Please note that I also contribute as a volunteer with the American Academy of Actuaries to offer comments on related topics, including this one.

## Concerns Regarding Bias Testing of External Data

Section 5.A.9. of the draft Colorado regulation 10-1-1 states:

> "Documented evaluation of ECDIS for statistical bias, statistical representativeness, data quality, data validity, and appropriateness for the intended purpose and steps taken to address and correct such data quality issues."

Additionally, the RFI asks:

> "Given feedback from industry representatives about the amount of staff resources that could be devoted to implementing a governance program, the ability and

[1] Appendix 1
[2] Appendix 2
[3] Appendix 2

effectiveness of smaller insurance companies in negotiating with third-party vendors... should requirements vary by company size?"

Although Actuarial Guideline 23 – Data Quality – supports the evaluation of third-party data, requiring individual insurers to test for bias poses several challenges:

- Inconsistent outcomes across business lines: A company might interpret the same data differently depending on its line of business.
- Competitive disparities: Different insurers may reach conflicting conclusions, potentially affecting market fairness.
- Impracticality with certain sources: Testing data from government agencies or highly regulated entities may be problematic.
- Undue burden to small companies, as noted above.
- Negotiation effectiveness with vendors, when the latter are significantly larger than the insurer, as noted above.

## Definitional Clarification: What Is a Third Party?

It is not immediately obvious to me whether an external company working as an agent for the insurance company would be considered as part of the insurer (similar to captive agents) or third party. For example, an external vendor performing insurance functions (e.g., underwriting, claim triage) using tools such as generative AI (e.g., ChatGPT), predictive algorithms, or PDF summarizers—whether working with insurer-provided data or data directly from the insured.

## Proposed Solution

To promote consistency and fairness, I recommend a centralized certification requirement focused on bias auditing. This could take numerous forms, similar to HIPAA, ISO or SOC 2 compliance certification, to financial audit, or to ratings provided by the Nationally Recognized Statistical Rating Organizations (not pass fail criteria, but grade). The regulatory community should be an active actor in articulating the requirements and/or the testing criteria. Verification of the effectiveness of such mechanism would be part of the regulatory oversight.

Advantages of this option include:

- Provide insurers with confidence in third-party tools;
- Eliminate redundant and potentially inconsistent bias testing by individual insurers;
- Establish a higher baseline for consumer data protections across the industry.

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Thank you for offering the opportunity to comment on these documents. I believe these questions are critical to developing a sound regulatory framework for a thriving fair industry for the benefit of the society.

Respectfully submitted,
David Schraub
Founder and CEO of David Schraub Actuarial Consultancy
david@davidschraubactuary.com

## Appendix 1: Excerpt from DeFrain Email (May 22, 2025)

To Third-Party Data and Models (H) Working Group, Interested Regulators, and Interested Parties:

The Third-Party Data and Models (H) Working Group met today and requested proposed definitions of third-party data vendor and third-party model vendor for use in a regulatory framework. Please send to Kris DeFrain (kdefrain@naic.org) by Friday, June 20.

-----Some discussion from the Working Group's virtual meeting-----

Jason Lapham, Chair, noted complications regarding these definitions to get the conversation started:

1. The simple definition of "third party" is "anyone other than the insured and insurer." He said there are nuances to discuss needed for a regulatory framework.
2. Should we focus on vendors that market at least one model or dataset for use in insurance operations?
3. What would insurance operations include? Does that exclude models such as those that may be used by HR or anything that might be part of the company's AI system? Are there different buckets of third-party models and data to consider?
4. Should a third-party vendor within the insurance group be distinguished from or treated differently than unrelated/unaffiliated third parties?
5. How far would we ideally want the regulatory system extended or are there limits on what types of data we would want to be able to get more information?
6. Should we distinguish data vendors such as Google, Facebook, or the U.S. government where our review methods may differ?

Note: Jason Lapham said there was nothing "magical" about these questions or the priority of such; these were provided to get conversation started.

Some additional issues regarding definitions were noted by Working Group members, interested regulators, and interested parties:

1. There could be different treatment of different types of 3rd party data. For example, government (e.g., motor vehicle reports); weather data; and 3rd party aggregators gathering data from different sources.
2. Facebook: may not want insurers to comb Facebook; but then again, Facebook is useful in fraud investigations.
3. Third party vs. holding company and affiliate
4. A definition of "other than insured or insurer" seems to count agents as third parties. Agents would be 1st party, representing the insurer.
5. When we say "3rd party data"... we really mean 1st party data - policyholder data - that 3rd parties have collected. I think we want to say an entity outside the insurance transaction that has data about one or more parties to the insurance transaction and for which the data is used in the insurance transaction"
6. For usefulness, may need sub definitions.

## Appendix 2: Regulatory links

Big Data and AI (H) Working Group AI Request for Information
https://content.naic.org/sites/default/files/inline-files/RFI%20-%20AI%20Model%20Law_0.pdf

Draft Proposed Amended Regulation 10-1-1 regarding governance and risk management requirements for the use of external data and predictive models in insurance from Colorado Department of Regulatory Agencies, Division of Insurance

https://drive.google.com/file/d/1Wd60KO1wIIcsYtsA2eOy7p46imaG-KTZ/view

**From:** Jessica Baggarley <Jessica.Baggarley@scc.virginia.gov>
**Date:** June 18, 2025 at 6:05:24 PM EDT
**To:** "DeFrain, Kris" <kdefrain@naic.org>
**Cc:** "Lowe, Eric" <Eric.Lowe@scc.virginia.gov>, "Bumpus, Dan" <Dan.Bumpus@scc.virginia.gov>, "Tillinghast, Zuhairah" <Zuhairah.Tillinghast@scc.virginia.gov>
**Subject: RE: Request for Third Party Definitions**



Dear Kris,
Hope you are doing great! In response to the request for comments for proposed definitions of third-party data vendor and third-party model vendor, the Virginia Bureau of Insurance wishes to provide the following.

It may be helpful to lean on other NAIC sources which include a definition of "third-party" as a starting point for our work.

1. MO-668- provides:

"Third-Party Service Provider" means a Person, not otherwise defined as a Licensee, that contracts with a Licensee to maintain, process, store or otherwise is permitted access to Nonpublic Information through its provision of services to the Licensee.

"Licensee" means any Person licensed, authorized to operate, or registered, or required to be licensed, authorized, or registered pursuant to the insurance laws of this State but shall not include a purchasing group or a risk retention group chartered and licensed in a state other than this State or a Licensee that is acting as an assuming insurer that is domiciled in another state or jurisdiction.

"Person" means any individual or any non-governmental entity, including but not limited to any non-governmental partnership, corporation, branch, agency or association.

1. Virginia has also adopted the AI Bulletin where "Third Party" means an organization other than the Insurer that provides services, data, or other resources related to AI. (Could replace AI with a term chosen by the Working Group)

While VA supports and recognizes the definitions of third-party data vendor and model vendor are critical to the work being undertaken, it may be beneficial to take a step back and hone in on which part(s) of the insurance process(s) the working group wishes to build a framework around. The definitions, unless broad, will inherently change based on the scope of the framework. By narrowing our focus, coming to definitions may occur more organically.

Thank you for your time!

**From:** Crockett, Nicole <Nicole.Crockett@floir.com>
**Sent:** Tuesday, June 3, 2025 9:21 AM
**To:** Lapham, Jason <jason.lapham@state.co.us>; DeFrain, Kris <kdefrain@naic.org>; Sobel, Scott <SSobel@naic.org>
**Subject:** Third Party



Good morning team,

I requested that my team provide feedback based on the questions we discussed on our last call regarding the TP framework. Pasted below is FL's feedback. We can discuss in more detail on our next call between us four; meanwhile, take a look and let me know if you find value here.

Hi Nicole,

We discussed with the rates team and our thoughts are in red:

1. The simple definition of "third party" is "anyone other than the insured and insurer." He said there are nuances to discuss needed for a regulatory framework. **Any party suppling data, other than the insurer, which is analyzed to assist with performing key tasks. This would include aggregated data, which may include the insurer as one data source.**
2. Should we focus on vendors that market at least one model or dataset for use in insurance operations? **Yes, I think the focus should be one vendor that have active models/datasets that are currently being used by insurers in the market. We should consider some prioritization criteria to ensure the models impacting the most consumers are reviewed first.**
3. What would insurance operations include? **Ratemaking, underwriting, and claims handling (including fraud detection).**
    a. Does that exclude models such as those that may be used by HR or anything that might be part of the company's AI system? **I think those uses are beyond the scope of the current project.**
    b. Are there different buckets of third-party models and data to consider? **Yes, I think these can be divided into buckets. I think it would be helpful to define the buckets and maybe focus on the third-party data's use. Consider evaluating aggregated data differently than data that is modified/enriched prior to aggregation. Some vendors sell data only, but others use a model to complete indexes/scores, which are very different.**
4. Should a third-party vendor within the insurance group be distinguished from or treated differently than unrelated/unaffiliated third parties? **Think these should be treated the same, but we may lack regulatory authority for certain data vendors.**
5. How far would we ideally want the regulatory system extended or are there limits on what types of data we would want to be able to get more information? **I think there are limits to**

**how far this extends, and I suggest focusing on data used for the primary functions of the insurer – including ratemaking and underwriting.**

6. Should we distinguish data vendors such as Google, Facebook, or the U.S. government where our review methods may differ? **I would think all data vendors would be treated the same, with similar review methods.**

Thanks,
Richie

**From:** Esbrook, Jordan <jordan.esbrook@iid.iowa.gov>
**Sent:** Thursday, May 29, 2025 1:47 PM
**To:** DeFrain, Kris <kdefrain@naic.org>
**Subject:** Proposed definitions for the Third-Party Data and Models (H) Working Group



Dear Kris,

I am assisting Commissioner Ommen with his work with this working group. These are the definitions we've been working with in our office as we think about these issues. I drafted these based on earlier NAIC discussions of models and data. I'm sending these in response to your May 22 email. Thank you!

Jordan Esbrook

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Third-Party Vendor means any person, company, or entity, not licensed as an insurer in this state, that sells or seeks to sell external consumer data or predictive models to insurers doing business in this state.

Predictive model means a mathematical or computational method or process that can estimate the probability or expected value of an outcome given a set amount of input data; for example, predictive models can predict the frequency of loss, the severity of loss, or the pure premium.

External consumer data means data or information used – in whole or in part – to supplement traditional medical, life, property or casualty underwriting, rating or pricing, as a proxy for traditional underwriting, rating or pricing, or to identify "lifestyle indicators" that contribute to an underwriting, rating or pricing assessment of an applicant for insurance coverage. External consumer data includes, but is not limited to: credit-based insurance score, financial credit score, other types of non-credit "score", public records, demographics, census records, telematics type data, driving behavior, online media public records, e.g., assessor data, genealogy records, court filings, voter information, property/casualty data from adjacent carrier(s), marketing and social data, e.g., shopping habits, mortgage amount/lender, occupation and education, and social media, professional licenses, biometric data, e.g., voice analysis, facial analysis, and other analytics based on personal physical features and characteristics, and data collected from wearable devices. External consumer data includes data included in a set as "unknown" or "missing."

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**Jordan Esbrook**
**General Counsel**
**Iowa Division of Insurance**

**From:** Jennifer Crutchfield <jcrutchfield@clearcover.com>
**Sent:** Wednesday, July 2, 2025 4:00 PM
**To:** DeFrain, Kris <kdefrain@naic.org>
**Subject:** Fwd: FW: Request for Third Party Definitions

Hi Kris,

We, the Insurtech Coalition, appreciate the thoughtful attention being given to the topic of third-party data and models and recognize the importance of ensuring these tools are appropriately used to serve consumers and support fair, transparent insurance markets. At the same time, as the discussion evolves, we find it challenging to provide fully substantive feedback because it is not entirely clear what specific problem or regulatory gap this effort is intended to address. Many models currently used — particularly those supporting underwriting, pricing, and claims — are already subject to robust regulatory oversight through rate filings, product approvals, market conduct exams, and existing governance processes that regulators review in practice. Even models that are not directly filed are often examined through supervisory oversight or corporate governance structures.

With that in mind, it would be helpful for this group to first clearly identify and narrowly define the particular concerns or risks that are viewed as unaddressed, so that any future framework can be appropriately targeted and effective. Without that clarity, we risk developing duplicative or overly broad requirements that may not meaningfully advance consumer protection or market oversight. We would also note that related aspects of third-party data, models, and AI governance are actively being discussed in other NAIC workstreams, and we encourage ongoing coordination across those efforts to ensure a holistic, balanced approach. We welcome continued collaboration as these conversations progress, and remain committed to constructive dialogue on how best to address any true gaps while supporting innovation and consumer outcomes.