



May 14, 2021

Commissioner David Altmaier and Director Dean L. Cameron  
Co-Chairs, Special (EX) Committee on Race and Insurance  
National Association of Insurance Commissioner  
1100 Walnut Street, Suite 1500  
Kansas City, MO 64106

**Via Electronic Mail: [knoonan@naic.org](mailto:knoonan@naic.org)**

RE: 2021 Proposed Charges – Special (EX) Committee on Race and Insurance

Dear Commissioner Altmaier and Director Cameron:

The American Property Casualty Insurance Association (APCIA) appreciates the opportunity to provide specific recommendations to the Special Committee (EX) on Race and Insurance's (Special Committee) proposed charges. Overall, we support the Special Committee's proposed process to promote a consistent approach to race and insurance issues by centralizing the policy work into the Special Committee with collaboration and outreach to other NAIC-related groups as needed. Nonetheless, we do have several suggested revisions to the draft proposed charges.

Attached is a mark-up of APCIA's recommended edits and below a brief explanation for our recommendations.

**Proposed Charge B – Coordination w/ groups such as the AI and Big Data Working Group and CASTF**

APCIA's recommended edits are intended to reflect the importance of collaboration on issues related to bias for people of color and/or historically underrepresented groups among the Special Committee, the AI and Big Data Working Group, and CASTF. These comments also seek to acknowledge that notwithstanding its singular importance, these issues are part of a much broader package of work for those NAIC groups. The APCIA recommendations seek to promote a balanced approach that recognizes that insurers are putting in processes and procedures to address the concerns being raised.

**Proposed Charge E – DEI efforts among state insurance departments**

Promoting DEI efforts is an equally important effort for regulators and industry. Each group is seeking to foster and build a diverse talent pipeline. As such, we recommend an amendment that would encourage identifying opportunities to share ideas in this space between industry and regulators. Additionally, APCIA recommends deleting the reference to "best" before practices only because it necessitates a follow-up question as to who defines what is "best" and removal will potentially broaden the universe of ideas that can be shared.

### **Proposed Charge F – Research and Analysis of Life and P/C Insurance Practices**

As drafted, Charge F has predetermined the outcome of the research and analysis that it dictates. Regulators, industry, and consumers have committed to a diligent, timely, and robust examination of race and insurance issues that will provide meaningful change for all. APCA strongly believes that to achieve this goal, we must first come to a consensus on the concerns to be addressed within the existing legal and regulatory framework.

For instance, the proposed charge includes the following phrase: “. . . unfair discrimination, *specifically* proxy discrimination, and disparate impact . . . .” (emphasis added). This phrase equates “proxy discrimination” with “disparate impact”, contrary to the law of protected class discrimination which defines each term differently. “Unfair discrimination,” “proxy discrimination,” and “disparate impact” are all terms with longstanding statutory and legal meanings and the analytical framework for determining whether one or the other exists is very different under the law. It is critical that we have the foundational dialogue to reach consensus on the meaning of these terms, so that we are all speaking from the same page, consistent with their long-standing statutory and legal definitions.

Once consensus is reached on the existing legal and regulatory framework an analysis and prioritization of the concerns can then lead to a productive dialogue to identify and match potential solutions.

APICA’s recommendations are intended to clarify the process that we believe proposed charge F intends while maintaining what regulators have generally identified as particular areas of interest for exploration.

### **Proposed Charge G – Enhanced Data Collection and Record Keeping Requirements of Sociodemographic Factors**

Proposed charge G assumes that insurers collect sociodemographic factor data. This is not the case. Collecting this type of data raises significant legal, privacy, liability, and other public policy concerns. We recommend eliminating this charge. Alternatively, APCA provided language to amend the charge to research loss cost drivers in specific zip codes to identify opportunities for consumer outreach or community partnerships.

### **Proposed New Charges – Research on Loss Cost Drivers and Economic Empowerment Initiatives**

APCIA continues to stress that our core competency as an industry is enabling economic empowerment through sustainable risk transfer and risk mitigation solutions for our customers at a price that is commensurate with actual or expected losses. This means some challenges may not lend themselves to insurance-specific solutions but will require the business community, government partners, and consumer groups to collaborate on holistic approaches that allow all to reach their highest economic potential.

APCIA has offered new charges for your consideration to address these important issues.

Thank you for the opportunity to comment. APCA looks forward to continued collaboration and we stand ready to answer any questions that you may have.

Sincerely,

Angela Gleason