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National Association of Insurance Commissioners
MARKET REGULATION AND CONSUMER AFFAIRS COMMITTEE
Kim Holland, Hearing Co-Chair—Oklahoma State Insurance Commissioner
Michael McRaith, Hearing Co-Chair—Illinois Secretary Department Financial Regulation

Regarding: Adjustments to Credit Scoring in Light of the Economic Crisis

Dear Commissioners,

We write on behalf of consumers who have suffered economic misfortune not of their own making, but who will nonetheless be subject to auto insurance rate increases because no adjustments have been made to the credit scoring systems approved in most states. Our purpose is to respectfully request that your members make provision for the impact of the economic crisis to be taken into account with respect to the tens of millions of consumers who have lost employment or whose credit scores have been reduced through no fault of their own.

As we all know, the credit score is the major factor comprising a consumer's "insurance score", upon which the auto insurance premium is based. Many NAIC member commissioners have by rule or statute placed restrictions on the use of credit scores, and we believe that a few states do not permit a lowered insurance score to result in an increased rate at renewal. But it appears that the remainder of the states have no restrictions that will prevent what has become (because of our economic crisis) a potentially widespread consumer abuse by the insurance industry.

We respectfully request that these comments be included as part of the public testimony at the forthcoming hearing credit scoring to be held on April 30, 2009.

Our interest in this matter is simply one of seeking common sense and economic fairness for all consumers whose economic situation has deteriorated because of our present economic crisis. We possess no expertise in the many complex areas of regulation that your members deal with. We have not studied the arguments for and against the use of credit scoring in good economic times. Instead, the mission of www.SettlementCentral.Com is simply to provide information, forms, and letters to enable injured accident victims to settle their own insurance claims. Our attorney founders are plaintiff trial attorneys with only moderate experience in representing municipal corporations, and hence, we readily admit that we have no specific expertise in the field of insurance premium rate-setting, credit scoring, or regulations pertaining thereto.

That said, we DO speak for thousands of consumers who are in contact with us via our website or the volunteer efforts of one of our attorneys. David Jackson (aka "Dr. Settlement, J.D.") is a volunteer writer for us and a volunteer at www.allexperts.com, where he is the highest ranking trial attorney volunteering assistance in the area of auto insurance and claims.

Hence, we are in touch with a great many consumers regarding insurance topics, and one area of concern for many is what will happen to their insurance rates in light of the drastic loss of economic position brought upon so many of our countrymen. Two consumers recently told of stress and depression over their inability to keep current with their payments because of losses in their work status. They wrote e-mails to Dr. Settlement in his capacity as a volunteer. Both writers told of having their jobs terminated in the last two years because they (1) were outsourced overseas, and (2) manufacturing was reduced by half.

Both of the writers complained of falling behind on their obligations, and one wanted to know the consequences of driving without insurance. Their credit worthiness has fallen precipitously since the loss of employment, and hence they will suffer unwarranted increases in their auto insurance premiums.

What did those two consumers do to deserve economic punishment? Why should they now be labeled a higher risk for auto insurance loss? Yes, they did go into debt, but that was when they had jobs. And if they were handling the debt when they had work, how can we make them pay more for auto insurance now that the lack of work has caused them to fall behind? Surely none of your members will contend that the insurance industry is entitled to any increased windfall profit to be made on the back of someone's misery.

An equally compelling argument for immediate revision of the credit scoring system is that of the tens of millions of consumers whose credit limits were reduced, even though their historical use of credit was otherwise satisfactory. Typically, these victims of the lower credit limits campaign (led by the banks) were mostly in compliance with their card agreement to pay their bills, and yet their credit limits were drastically cut. Now, the **credit utilization ratio** of those impacted will be greatly increased, and their credit scores will automatically suffer.

There is firm evidence that the leading FICO credit scoring formula is **very sensitive** to how much of one's available credit is being used. Hence, when the credit card limits are lowered or an account is closed, any existing balances will significantly increase the important **credit utilization ratio, and the FICO score will decline.**

So we see that credit scores, and hence insurance scores, have been lowered by loss of employment and reduced credit limits. Surely these factors do not tell us anything about the risk to insurance companies from the driving habits of these economic victims. Without arguing the merits of the use of credit scoring in good economic times, we respectfully submit that it is **TOTALLY INAPPROPRIATE and very harmful** to tens of millions of consumers who have suffered economic misfortune not of their own making.

This ineluctably leads to a reduced insurance score, which in turn means insurers get increased premiums. Even if the consumer is notified of this adverse action, there is nothing that can be done about it. The credit report can be corrected if there is any error. But we are NOT talking about errors per se here: the credit score has been lowered for the reasons set forth above.

Hence, the consumer needs some ENFORCEABLE RIGHT to an appeal or an arbitration forum to be hosted at the insurer's expense. Some states do provide consumers an opportunity to complain to their insurers and to show that they should have an exemption because of their particular life circumstances. We respectfully submit that this ought to be made into a consumer right, with enforcement provisions. That way, any aggrieved consumer can simply show that her decreased insurance score has no relevance to any evaluation of her driving risk.

We note that over one year ago, Mr. Birny Birnbaum of the Center for Economic Justice asked state insurance regulators to push for a moratorium on insurance scoring as part of an overall program to assist consumers who are the victims of reckless and abusive mortgage lending practices. Was any action taken on that request?

Here we present an even more compelling reason to take IMMEDIATE and EFFECTIVE action inasmuch as the economic victims we describe herein are blameless. Yet, the insurance industry, under your authorization, continues to pretend that their newly lowered credit scores truly do tell us that they are higher risks for auto insurance losses.

The basic premise of credit scoring simply DOES NOT WORK in these times of crisis inasmuch as there is no logical connection between the loss of economic well-being and one's insurance risk as a driver. How does the fact that a worker's job was shipped overseas tell us anything about the risk of that now-unemployed worker's driving habits? How does the fact that credit card limits were lowered have any bearing whatsoever upon that person's risk for auto insurance loss?

We are not at all informed about the mechanics of how the credit scoring systems could be adjusted, and we imagine it is a complex mechanism. But simple common sense tells us that unless the states take IMMEDIATE AND EFFECTIVE action, tens of millions of consumers risk unwarranted increases in their insurance premiums. And, of course, the corollary is that the auto insurance industry stands to reap undeserved windfall profits. Typically, changes to your rules or statutes will take many months—but by then it is too late. You MUST find a way for immediate relief.

This is NOT a good time to let the free market have its way, since we already see how unfairly it has—and will—treat those victims of our economic crisis. And the commensurate profits taken by the insurance industry from unabated use of the present credit scoring system are surely NOT earned. This is a business abuse, and it is YOUR JOB to fix the system since you are the ones who allowed the use of credit scoring in the first place.

In all but a few states, the rules and regulations governing the use of credit scoring will not help those of whom we write. Hence the need for some quick action. We respectfully suggest that this is the time to suspend the right to increase rates because of a decrease in the credit score. But the whole structure of rate-setting is complex, and if the state regulators are not able to find an **immediate** solution, perhaps, in light of this economic crisis, they could at the minimum provide some means for consumers to contest the insurance score or its use in setting premiums. Your members ought to be able to write rules that will ensure there is some kind of **arbitration forum to be hosted at the insurer's expense or other no-cost appeal mechanism** for consumers to utilize if they feel that their credit scores have no relevant bearing upon their risk for an insurance loss. The implementation of such a right would necessarily require continued public service announcements for some time.

Anyone who wishes to access our links to resources regarding the impact of the economic crisis on credit scoring is welcome to read "Employment Losses & Credit Restrictions Cause Auto Insurance Rate Increases: What YOU Should do About It" posted on our website at <http://www.settlementcentral.com/page0464.htm>. We have posted two sample letters to insurance companies (one for employment losses and one for credit limit reductions), and one complaint form for consumers to send to their state insurance commissioner, at "ACTION PAGE: Sample Letters to Insurer, to State Insurance Commissioner & to State Legislative Delegation" at <http://www.settlementcentral.com/page0466.htm>. Your members are welcome to copy and post these letters, so long as attribution is given to www.SettlementCentral.Com.

We would be pleased to furnish any additional information you may deem useful to resolution of this problem. Please feel free to contact the undersigned.

Very Truly Yours,

Douglas H. Green
President
SettlementCentral.Com, Inc.

cc: Pam Simpson and Eric Nordman of NAIC