American Insurance Association

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June 30, 2009

Commissioner Kim Holland, Chair
NAIC Market Regulation and Consumer Affairs (D) Committee

Director Michael McRaith, Chair
NAIC Property and Casualty (C) Committee

National Association of Insurance Commissioners
2301 McGee Street, Suite 800
Kansas City, MO 64108-2662

Dear Commissioner Holland and Director McRaith:

Credit-based insurance scoring has been the subject of legislation and regulation in nearly every state, and has been studied extensively by state and federal governments and even considered previously by the NAIC. The consensus that emerged from all of this deliberation and fact-finding is that insurance scoring has substantial value as a legitimate and lawful risk predictor. And, while its use is to be regulated, generally in line with the NCOIL Model, it would do far more harm than good to ban it.

Many of the comments in this letter respond specifically to items discussed during the June NAIC hearing, and should be read in the context of our earlier testimony and submissions.

The Consensus on Insurance Scoring Serves the Public Well.

Since the advent of insurance scoring, the personal lines of insurance are very competitive and available and prices have generally been quite moderate, outside of a few catastrophe prone areas. Meanwhile, residual markets are at historic lows. And, large majorities of consumers either benefit from scoring in terms of lower rates or the impact on them is neutral.

Unsatisfied with this favorable climate for consumers, anti-industry advocates claim that insurance scores must be going down and premiums up as a result of current economic conditions; the issue should be revisited and the hard won consensus destroyed. The

reality is the opposite, as testified to by credit industry representatives at the April 30 hearing—insurance scores are generally rising or remaining stable.

Credit-based insurance scores differ from credit scores used by lenders. Recent evidence, however, even suggests that the more economy sensitive lending scores are rising. According to the June 17, 2009, Marketwire report, Credit Karma found that from February 2009 to May 2009, credit scores increased across all geographies. In May 2009, the vast majority (73%) increased or stayed the same.

Thus, the latest pretext for rehashing insurance scoring, is, quite simply, non-existent.

The Arguments Against Scoring Have No More Validity Today than Before.

Once having opened the door with now disproven speculation, the old arguments have resurfaced along with a few new ones. The evidence to the contrary is compelling.

- **Insurance scoring is not unfairly discriminatory.** Insurance scoring is subject to and complies with applicable legal standards, especially the "excessive, inadequate and unfairly discriminatory" standard in State rating laws. Insurance scoring is not *per se* intentional discrimination. And even if disparate impact analysis applies, legitimate business necessity justifies its use.

- **Insurance scoring laws address people who manage their finances without credit.** The NCOIL Model provides "thin file" neutrality protections. States may adopt "extraordinary life circumstances" exceptions to provide for unique cases.

- **A moratorium is not justified.** There is no evidence that proves that insurance scores are widely declining. The proposers must know that this is tantamount to a ban, previously rejected in all but four states.

- **Commissioners have enough data to fully analyze the models and to assure compliance with law**. Under the NCOIL model law adopted in most states, the scoring models are fully open to regulators and other state laws give regulators access to risk classification information.

- **Current law and legal standards govern; regulators are not free to make contrary policy.** Legislatures establish legal standards and they have rejected efforts to ban scoring and/or to create new legal standards to be applied by the regulators.

A Standardized Model Would Not Standardize Results/Scores.

Today, even when several insurers use the same model, the results may not be the same for a particular policyholder. Much of the difference is determined by the individual insurer's multivariate rating algorithm, rather than by the model itself. This is because when credit is used as a rating factor, it is typically not used in isolation.

Rather, it interacts with other factors like vehicle type, age, territory, etc. Because each insurer's book of business differs, even with standardization, AIA would expect their scores to differ as well. Regardless, shopping consumers benefit from these differences and from competition. Further, there seems to be no need to stifle this beneficial competition.

No Scores or Thin Files May Not All Be Treated the Same.

The NCOIL Model provides a floor for the treatment of consumers with no hit/score. While it provides a few alternatives, most center around the idea that the he/she be treated as "neutral." There was some discussion of the treatment of seniors as a segment of thin files at the recent joint (C) and (D) Committee meeting. At least one AIA member inputs a more favorable thin file factor for older consumers than for other no scores (which are treated as neutral). Regardless, shopping consumers benefit from these differences and from competition.

Complaint Data Is the Best Tool for Regulators for Considering if Next Steps Are Needed.

Although AIA strongly opposes bans, moratoria and punitive data calls, AIA shares the desires of many regulators to preserve the currently favorable climate for personal lines of insurance. Indeed, regulators have the most valuable and precise source to determine whether there is a problem with insurance scoring or with another factor – consumer complaints. This complaint data is especially reliable in the context of the insurance scoring notice/disclosure system, including "adverse action notices."

A regulator may keep an eye on what is happening in a state with respect to a particular company by monitoring complaints, considering trends and engaging in market surveillance/conduct activities. Good complaint data will give a clear indication of the magnitude of a problem. If a particular state's current complaint data systems do not identify complaints arising out of scoring, then the complaint data systems could be changed to do so. These complaint numbers should then be put into context, by looking at them as a percentage of personal lines policies issued and renewed.

If remedial action is needed, regulators could then work with insurers on responses that address the identified issues but that do not do collateral damage to the market and policyholders. We have offered cooperation in this regard and continue to do so.

Conclusion

AIA wishes to work with regulators, as AIA has in the past, to assure competitive, beneficial insurance markets, and in so doing identify and remedy any problems.

But AIA does not support measures that will actually harm consumers and disrupt markets, as would scoring bans, moratoria and punitive data demands. Indeed, regulators should be mindful of possible unintended consequences that could destroy good personal lines markets that now well serve consumers.

Sincerely,

David F. Snyder,
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Associate General Counsel, Public Policy