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December 3, 2021

The Honorable Mark Afable
Commissioner of Insurance, State of Wisconsin
Chair, NAIC Accelerated Underwriting (A) Working Group

The Honorable Grace Arnold
Commissioner of Commerce, State of Minnesota
Vice Chair, NAIC Accelerated Underwriting (A) Working Group

Sent via email to: Jennifer R. Cook, Sr. Health & Life Policy Counsel, NAIC Government Relations

Re: Comments Regarding Draft Part 3 of the Accelerated Underwriting White Paper

Dear Mr. Afable & Ms. Arnold:

On behalf of the American Council of Life Insurers (ACLI), thank you for the opportunity to again comment on the Accelerated Underwriting (A) Working Group draft white paper on accelerated underwriting. We appreciate the thoughtful work that has gone into developing this paper. There is much useful information contained in the current draft that should be helpful to regulators and stakeholders as accelerated underwriting evolves. We do have several suggestions we hope the Working Group can consider as it develops the next iteration of the white paper.

ACLI is supportive of establishing a clear process for understanding accelerated underwriting, however, we are concerned that the paper in places mischaracterizes the types of data used in traditional underwriting vs accelerated underwriting. The paper states that traditional underwriting assesses an applicant's physical health for determining coverage. While true, it also involves a financial and behavioral evaluation as is indicated in the list of sources reviewed in traditional underwriting. This statement implies limitation to physical health. We recommend including financial

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The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 95 percent of industry assets in the United States.

and behavioral evaluation as part of the statement.¹ We also recommend clarifying that accelerated underwriting is a process, and not a method. The methods can differ for this process, which is essentially fluidness underwriting.

Presentations made to the Working Group indicated that life insurers use accelerated underwriting in primarily two ways: to triage and rate applicants. The terminology “unsuccessful” and “successful” is misleading here, as accelerated underwriting may triage to a human underwriting, but that does not mean the applicant will be unsuccessful in obtaining coverage.

We recommend in the General Discussions section that the Working Group emphasize that while the technology is new, its risk for unfair discrimination should not be viewed differently than traditional underwriting. Accelerated underwriting utilizes technology to perform the same processes that a human underwriter would perform. Therefore, the focus of regulators should not be on how to regulate it further, but how to create requirements for transparency and explainability.

On page 3, paragraph 5, we recommend adding the following language in red “the accelerated underwriting process is less cumbersome, costs less than traditional underwriting, **it expedites the process and requires less consumer involvement in the purchase and** improves the underwriting experience for consumers. ~~shortens issue times, and increases policy acceptance rates~~ **Accelerated underwriting also holds the promise of improving and refining the underwriting outcomes.**”

On page 4, paragraph 1, there are various references in the paper to correlation or “claimed correlation,” and the idea of having a “valid explanation or rationale.” We recommend the following change in red: “Although medical data has a scientific linkage with mortality, behavioral data may lead to questionable conclusions ~~as correlation may be confused with causation~~ **as the observed correlation may not have a valid explanation or rationale.**” (i.e. ~~diabetes – diabetes causes health problems that are directly correlated with life expectancy. Most medical data is correlated with a medical condition. Underwriting is based on correlation, as opposed to causation, the latter of which reflects the manifested medical condition or disease. Underwriting, which is inherently predicative in nature, cannot function if it is confined entirely to causation.~~

On page 4, bullet 2 in the list of recommendations we recommend adding the following language in red “Ensure that the **use of** external data sources...”

On page 4, bullet 4 we recommend the following: ~~Ensure that the predictive models or machine learning algorithm achieve an outcome that is not unfairly discriminatory.~~ **Monitor the use of predictive models and adjust as necessary, so that outcomes are not unfairly discriminatory.**

Below, we again identify themes for clarification:

- Characterization of Data

The paper in our view mischaracterizes types of data sources in several places, combining those that are more typically or traditionally used with more novel ones that are not used with prevalence (if at all) by the life industry. For example, the paper classifies use of data elements such as wearables and social media as “typical” by carriers, whereas very few life insurers utilize

¹ Traditional life insurance underwriting involves assessing the applicant’s physical health, then determining whether an applicant is eligible for coverage and the risk class to which that individual belongs.

these data sources. The paper conversely identifies traditionally used sources such as court records as “nontraditional” and implies FCRA is “new” in its use by the life industry. The life insurance industry has utilized these data sources (FCRA and non-FCRA) for many decades as part of the underwriting process. We understand the benefit of “flagging” new or novel data sources for regulator awareness, but it is critical in our view that regulators have a solid understanding of the existing and traditional use of data vs. the new or novel sources that are not being used by industry prevalently, if at all. It is also important not to create undue concern around practices that likely are not taking place.

- Public records is listed under both Traditional Data and Nontraditional Data, which may be fine since it is a broad category. However, it seems confusing to have example of “criminal records” listed under both.
- Negative Inferences

The paper seems to draw several conclusions relative to potential negative impacts without providing an opportunity for analysis. These might be more appropriate as questions for analysis and review rather than conclusions. Regulators are rightfully exploring accelerated underwriting and related issues within this Working Group and elsewhere. However, there is no evidence to date that accelerated underwriting has been used in a manner harmful to consumers. To the contrary, consumers seem very pleased with the speed and convenience offered by accelerated underwriting.

ACLI opposes racial discrimination and supports access for all consumers. Accelerated underwriting is an important tool for insurers to improve the underwriting experience, and it may hold the promises of helping insurers reach traditionally underserved markets. It may also be the case that accelerated underwriting can ultimately help reduce human bias. We think it important to bear in mind much of the technology involved in accelerated underwriting is still in the early stages of development. We are committed to advancing this technology while at the same time curtailing any unfair discriminatory effects that may lie within such structure. There is no empirical evidence that accelerated underwriting methods are unfairly discriminatory, but we continue to work on methods to help ensure that they are not.

Another continuing concern we have is over the use of the term “fair” throughout the draft. ACLI appreciates that this term is used in the NAIC AI Principles adopted in 2020, but the concept of “fairness” in insurance underwriting is not as straight forward as a lay person may conceive. Life insurance underwriting at its most basic level involves grouping similar risks together and charging a sufficient premium to the members of that group to cover expected claims, administration, etc. Not everyone is going to be in the same group, nor will every individual be insurable. This may strike some as “unfair”, but it is how the life insurance functions in a solvent fashion. We would urge that the white paper utilize the “unfair discrimination” standard that is well-understood in the industry.

- FCRA and non-FCRA Data

We question the usefulness in distinguishing between FCRA and non-FCRA data. Life insurers have long used FCRA and non-FCRA data and the use of it in accelerated underwriting is no different. We do think the list of “Traditional Data” is very accurate. Some of the discussion under “FCRA Data” is confusing. For example, the term “non-usable credit attributes” is unknown to us. More broadly, the assertion that more data is collected than used may or may not be accurate, but seems out of place in a paper about accelerated underwriting. As a point of correction, life insurers historically use FCRA data along with property/casualty lines.

Thank you again for the opportunity to comment on the White Paper. The drafting Subgroup has produced excellent work, and ACLI and our member companies look forward to reviewing and providing input on future iterations of the paper. As always, please let us know if there is specific information we can provide in furtherance of this project.

Sincerely,

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