ANTIFRAUD (D) TASK FORCE

Antifraud (D) Task Force Nov. 16, 2020, Minutes
Antifraud (D) Task Force Oct. 30, 2020, Minutes (Attachment One)
Antifraud (D) Task Force Oct. 26, 2020, Minutes (Attachment Two)
Antifraud Technology (D) Working Group Oct. 29, 2020, Minutes (Attachment Three)
Antifraud Technology (D) Working Group Oct. 14, 2020, Minutes (Attachment Four)
Antifraud Technology (D) Working Group Oct. 29, 2020, Minutes (Attachment Five)
Draft Pending Adoption

Draft: 12/1/20

Antifraud (D) Task Force
Virtual Meeting (in lieu of meeting at the 2020 Fall National Meeting)
November 16, 2020

The Antifraud (D) Task Force met Nov. 16, 2020. The following Task Force members participated: Trinidad Navarro, Chair (DE); Tynesia Dorsey, Vice Chair, represented by Michelle Brugh Rafeld (OH); Lori K. Wing-Heier represented by Alex Romero (AK); Alan McClain represented by Crystal Phelps (AR); Ricardo Lara represented by George Mueller (CA); Michael Conway represented by Damion Hughes (CO); Karima M. Woods represented by Juan Garret (KY); James J. Donelon represented by Matthew Stewart (LA); Anita G. Fox represented Jill Huisken (MI); Grace Arnold represented by Michael Marben (MN); Chlora Lindley-Myers represented by Carrie Couch and Marjorie Thompson (MO); Mike Causey represented by Tracy Biehn (NC); Jon Godfried represented by Dale Pittman (ND); Chris Nicolopoulos represented by Brendan Harries (NH); Glen Mulready represented by Rick Wagon (OK); Texas represented by Chris Davis (TX); and Scott A. White represented by Mike Beavers (VA).

1. Adopted its Oct. 30 and Oct. 26 Minutes

The Task Force met Oct. 30 and Oct. 26. During these meetings, the Task Force took the following action: 1) adopted its Summer National Meeting minutes; and 2) adopted its 2021 proposed charges (see NAIC Proceedings – Fall 2020, Executive (EX) Committee and Plenary, Attachment Six).

Mr. Mueller made a motion, seconded by Mr. Beavers to adopt the Task Force’s Oct. 30 (Attachment One) and Oct. 26 (Attachment Two) minutes. The motion passed unanimously.

2. Reviewed its 2021 Proposed Charges

Commissioner Navarro the Task Force met Oct. 26 to review and adopt its 2021 proposed charges. Commissioner Navarro said that there were no new recommendations submitted and that the only changes were to reflect the new deadlines for 2021. Commissioner Navarro said unfortunately, the Task Force did not reach quorum during the meeting, so it conducted an e-vote that concluded Oct. 30 to adopt its 2021 proposed charges.

Commissioner Navarro said in addition to its charges, throughout this year the Task Force has been monitoring the COVID-19 pandemic for potential related fraud. The Task Force held meetings and set time aside during the Summer National Meeting to specifically discuss this topic. Commissioner Navarro said moving forward into 2021, the Task Force will continue to collaborate and monitor the development of any new fraud trends resulting from the pandemic.

3. Adopted Model #1690 Revisions

Commissioner Navarro said this year, the Antifraud Technology (D) Working Group has been working on revisions to the Antifraud Plan Guideline (#1690). He said the Working Group adopted these revisions on Oct. 29 and presented them to the Task Force for review. Commissioner Navarro said the guideline was exposed for a public comment period ending Nov. 12. Commissioner Navarro said no comments were received. Commissioner Navarro said to provide the Task Force with more detail on the process and revisions that took place, he has asked Ms. Rafeld to provide an overview.

Ms. Rafeld said the Working Group met on several different occasions to complete the revision process and that this overview of the guideline will also serve as the Working Group report. She said the intent of the guideline is to be used as a template in creating the NAIC Antifraud Plan submission and repository system that will streamline the process of industry getting their fraud plan to the appropriate insurance departments. Ms. Rafeld said the track changes document looks as though a lot of new updates were made. However, she said a lot of the information was reused and rearranged from other sections to simplify the process. Ms. Rafeld said the Working Group incorporated a comprehensive narrative to the guideline explaining that it is not mandated in all states but rather is a best practice. She said the guideline will be used to promote uniformity amongst the states and to assist states wanting to incorporate this regulation in their legislative process. Ms. Rafeld said the Working Group recognizes some language was changed to flow smoothly with a state’s legislative process. She said the guideline covers the application, definitions, the creation and submission of an antifraud plan, the requirements for creating an antifraud plan, regulatory compliance, and the confidentiality of an antifraud plan.
Draft Pending Adoption

Ms. Rafeld said no additional comments were received from Working Group members, state insurance regulators or interested parties. However, they noticed that three definitions differed from definitions found in other NAIC models that have already been adopted. Ms. Rafeld said that this would be a technical change in nature but that she thought it was worth bringing up during the overview of the guideline. Ms. Rafeld said the definition for “insurance commissioner” or “commissioner” is already used in the Insurance Data Security Model Law (#668) and suggested that to stay uniform, that definition should be used for this guideline. Ms. Rafeld said the next definition is for the term “insurer.” She said in the draft document, the Working Group defines “insurer” as a business entity, who is in the process of obtaining or has obtained a certificate of authority to enter into arrangements of contracts of insurance or reinsurance and who agrees to: 1) pay or indemnify another as to loss from certain contingencies called “risks,” including through reinsurance; 2) pay or grant a specified amount or determinable benefit to another in connection with ascertainable risk contingencies; 3) pay an annuity to another; or 4) act as surety. Ms. Rafeld said the Suitability in Annuity Transactions Model Regulation (#275) definition for “insurer” is a company required to be licensed under the laws of this state to provide insurance products, including annuities. Ms. Rafeld said she proposed that this definition from Model #275 be used, except for the “including annuities.” She said the last definition is for “NAIC.” Ms. Rafeld said the definition found in the draft states that the NAIC is the organization of insurance regulators from 50 states, the District of Columbia and the four U.S. territories. She said to remain uniform she proposes that the definition be changed to state that the NAIC is the organization of state insurance regulators from the 50 states, the District of Columbia and all participating U.S. territories. The Task Force agreed with the proposed changes.

Mr. Mueller made a motion, seconded by Mr. Beavers to adopt the Working Group report including Oct. 29 (Attachment Three), Oct. 14 (Attachment Four) and Sept. 17 (Attachment Five) meeting minutes. The motion passed unanimously.

Mr. Marben made a motion, seconded by Ms. Biehn to adopt the revised Model #1690, including the technical changes to the definitions. The motion passed unanimously.

Commissioner Navarro said the guideline will be presented to the Market Regulation and Consumer Affairs (D) Committee for consideration of adoption during the Fall National Meeting.

4. Received Update from the Antifraud Education Enhancement (D) Working Group

Ms. Rafeld said the Working Group hosted an Investigator Safety Webinar for State Insurance Investigators from all over the country on September 30. Ms. Rafeld said the webinar had another great participate with over 230 participants attending. Ms. Rafeld said the course also received a review rating of 4.6 out of 5. Ms. Rafeld said she would like to the thank Mr. Mueller (CA), Rick Wagonon (OK), Armand Glick (UT) and Mark Torres (NM) for serving as presenters regarding the information and personal experiences shared which helped emphasize how critical investigator safety is in this field work. Ms. Rafeld and said an additional thank you goes to Gerald Pepper (DE) for the assistance provide when the course content was being developed.

Ms. Rafeld said the Working Group has scheduled a webinar for November 19 provided by EcoATM Training. Ms. Rafeld said the ability to recover or obtain discarded cell phones can be critical to State Insurance Fraud Investigators as they conduct criminal investigations. Ms. Rafeld said the webinar will provide information how EcoATM can assist state fraud investigators investigating fraudulent claims involving mobile devises.

Ms. Rafeld said is additionally in the process of trying to arrange an Open Source Investigators course for state investigative personnel, and is working with a specific company to arrange an overview of specific data the company collects and their willingness to make their data available to state insurance fraud investigators free of charge.

5. Heard a Report from the Coalition Against Insurance Fraud

Matthew Smith (Coalition Against Insurance Fraud) said this week is International Fraud Awareness Week, Nov. 15–21. He said the Coalition website has several resources available for state insurance departments to utilize. Mr. Smith said the Global Insurance Fraud Summit is also taking place this week, with 28 nations participating. He said earlier today was a U.S. fraud panel to discuss U.S. fraud prevention and regulation. Mr. Smith said the panelists included Ms. Rafeld, Mr. Mueller, Simon Blank (FL) and Anthony DiPaolo (MA). Likewise, he said on Nov. 19, Commissioner Navarro and Ms. Rafeld would be on a panel discussing international insurance fraud.

Mr. Smith said on Nov. 17, the Coalition would be providing a webinar on the civil and criminal sides regarding the impact of COVID-19. He said the Coalition distributed a fraud directors survey concerning COVID-19 to determine whether there has been an impact from the pandemic. The survey will be distributed again in April 2021 to determine any changes in fraud associated directly with COVID-19. Mr. Smith said the Coalition’s new website has been up and running for 60 days. He said
the web page includes an interactive map of the U.S., which allows an individual to search state regulation and all pending regulation. Mr. Smith said lastly, the Coalition’s annual end of year meeting will be virtual on Dec. 15, and he encouraged everyone to join. He said they currently have more than 300 registrants and can easily accommodate more with it now being virtual.

6. **Heard a Report from the NICB**

Alan Haskins (National Insurance Crime Bureau—NICB) said this year the NICB hired a new CEO He and determined new pillars for moving forward: intelligence, analytics, and strategy policy and plan. He said the NICB’s mission is to be an intelligence-driven, operational-focused organization leading the united front with companies, law enforcement regulators and the public to identify and prevent insurance fraud. Mr. Haskins said the NICB’s top priorities include property/casualty (P/C) fraud, commercial fraud, organized fraud and investigative data. He said on the government side, the NICB’s focus will lean towards the budget restrictions that states are experiencing due to the pandemic. Mr. Haskins said the NICB will work with states to help maintain necessary staff. Mr. Haskins said the NICB has continued its work on communication and public affairs with a new NICB magazine. Mr. Haskins said the NICB has also been participating in the Global Insurance Fraud Summit. In addition, he said the NICB has continued its work on learning and development. The NICB will continue to host webinars and other virtual training. Mr. Haskins said on Dec. 3, the NICB will host a dedicated prosecutor fraud webinar and will also continue planning programs for its 2021 fraud academy, which it hopes to hold in person.

Having no further business, the Antifraud (D) Task Force adjourned.
Antifraud (D) Task Force
E-Vote
October 30, 2020

The Antifraud (D) Task Force conducted an e-vote that concluded Oct. 30, 2020. The following Task Force members participated: Trinidad Navarro, Chair (DE); Tynesia Dorsey, Vice Chair, represented by Michelle Brugh Rafeld (OH); Lori K. Wing-Heier represented by Alex Romero (AK); Alan McClain (AR); Ricardo Lara represented by George Mueller (CA); Michael Conway represented by Damion Hughes (CO); Andrew N. Mais represented by Kurt Swan (CT); Karima M. Woods represented by Brian Bressman (DC); Vicki Schmidt represented by Dennis Jones (KS); Sharon P. Clark (KY); James J. Donelon represented by Matthew Stewart (LA); Kathleen A. Brrane represented by James Wright (MD); Anita F. Fox represented Randall Gregg (MI); Grace Arnold represented by Michael Marben (MN); Chlora Lindley-Myers (MO); Mike Chaney represented by John Hornback (MS); Mike Causey represented by Tracy Biehn (NC); Bruce R. Ramge (NE); Jon Godfread represented by Dale Pittman (ND); Chris Nicolopoulos represented by Heather Silverstein (NH); Andrew R. Stolfi represented by Dorothy Bean (OR); Texas represented by Chris Davis (TX); Tanji J. Northrup represented by Armand Glick (UT); and Scott A. White represented by Mike Beavers (VA).

1. **Adopted its 2021 Proposed Charges**

The Task Force conducted an e-vote to consider adoption of its 2021 proposed charges and Aug. 3 minutes (see NAIC Proceedings – Summer 2020, Antifraud (D) Task Force). Mr. Beavers made a motion, seconded by Ms. Biehn, to adopt the Task Force’s 2021 proposed charges. The motion passed unanimously.

Having no further business, the Antifraud (D) Task Force adjourned.
Antifraud (D) Task Force  
Virtual Meeting  
October 26, 2020

The Antifraud (D) Task Force met Oct. 26, 2020. The following Task Force members participated: Trinidad Navarro, Chair (DE); Alan McClain represented by Paul Keller (AR); Ricardo Lara represented by George Mueller (CA); Michael Conway represented by Damion Hughes (CO); Karima M. Woods represented by Brian Bressman (DC); Vicki Schmidt represented by Dennis Jones (KS); Sharon P. Clark represented by Juan Garrett (KY); James J. Donelon represented by Matthew Stewart (LA); Matthew Rosendale represented by Troy Smith (MT); Mike Causey represented by Tracy Biehn (NC); Jon Godfread represented by Dale Pittman (ND); Chris Nicolopoulos represented by Heather Silverstein (NH); Texas represented by Chris Davis and Kyson Johnson (TX); Tanji J. Northrup represented by Armand Glick (UT); and Scott A. White represented by Mike Beavers (VA).

1. Discussed its 2021 Proposed Charges

Commissioner Navarro said the purpose of this conference call is to review and consider adoption of the Task Force’s 2021 proposed charges. He said because there is no quorum, the Task Force would review the charges and discuss any comments. Then an e-vote request would be distributed to consider adoption of the proposed charges.

Commissioner Navarro said on Oct. 15, NAIC staff distributed an email soliciting comments on the Task Force’s 2021 proposed charges. He said to date, no comments were received.

Commissioner Navarro said there are no significant changes. He said the minor changes reflect deadlines concerning the 2021 proposed charges to coordinate with the three national meetings.

Mr. Beavers made a motion, seconded by Ms. Biehn, to adopt the Task Force’s 2021 proposed charges and Aug. 3 minutes (see NAIC Proceedings – Summer 2020, Antifraud (D) Task Force). Commissioner Navarro said with no quorum, NAIC staff will distribute an email with the 2021 proposed charges for an e-vote to finalize this process.

Having no further business, the Antifraud (D) Task Force adjourned.

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Antifraud Technology (D) Working Group
Virtual Meeting
October 29, 2020

The Antifraud Technology (D) Working Group met Oct. 29, 2020. The following Task Working Group members participated: Michelle Rafeld, Chair (OH); Paul Keller (AR); George Mueller (CA); Matthew Guy (FL); Matthew Stewart (LA); Roberta Baca (NM); Michelle Brugh Rafeld (OH); and Mike Beavers (VA). Also participating were: Vanessa Darrah (AZ); and Kyson Johnson (TX).

1. **Adopted Revisions to Model #1690**

Ms. Rafeld said during the Working Group’s last meeting on Oct. 14 she reviewed all the revisions to the *Antifraud Plan Guideline* (#1690) that the Working Group agreed on. She said a new draft was distributed for comment following that meeting. Ms. Rafeld said at this time, there have not been any additional comments submitted. She provided a brief overview of the revisions that the Working Group agreed on.

Ms. Rafeld said following the Working Group’s last meeting, she followed up with Mr. Johnson regarding potential language to be used within Section 4—Antifraud Plan Guideline. Ms. Rafeld said the first update was to 4A, changing “An antifraud plan is an overview of the insurer’s efforts to prevent, detect and investigate all aspects of suspected insurance fraud related to the different types of insurance offered by that insurer” to now state: “An antifraud plan is an overview of the insurer’s efforts to prevent, detect, investigate and report all aspects of suspected insurance fraud related to the different types of insurance offered by that insurer.” The Working Group discussed and agreed to change.

Ms. Rafeld said the next change concerned 4C(6)(a). She said Mr. Kyson provided a suggestion to insert additional language regarding the description of the chart outlining the organizational arrangement of all internal special investigation unit (SIU) positions/job titles. The Working Group agreed with change.

Ms. Rafeld said the next suggestion concerned 4C (10) and removing specific language regarding information that is listed as “to be released.” Ms. Rafeld said the decision was to remove the list of items to be released and leave this section more open for interpretation. In addition, the language in the last portion states, “If an insurer has a reasonable belief that information cannot legally be provided to the department, the insurer will be required to provide, in writing, a description of any information being withheld, and cite the legal grounds for withholding such information.” Ms. Rafeld said the word “specific” would be removed from this section. The Working Group agreed.

Ms. Rafeld said with that, the Working Group’s review of the guideline is complete. She said the next step is to consider adoption of revisions so that the Working Group can present it to the Task Force.

Mr. Mueller made a motion, seconded by Mr. Stewart, to adopt the revisions to Model #1690. The motion passed unanimously.

Having no further business, the Antifraud (D) Task Force adjourned.
The Antifraud Technology (D) Working Group met via conference call Oct. 14, 2020. The following Task Working Group members participated: Armand Glick, Chair (UT); Paul Keller (AR); George Mueller (CA); Simon Blank (FL); Matthew Stewart (LA); Roberta Baca (NM); Michelle Brugh Rafeld (OH); Kyson Johnson (TX); and Mike Beavers (VA).

1. **Discuss the NAIC Antifraud Plan Guideline (#1690)**

Mr. Glick said the Working Group has continued to work on revisions to the *NAIC Antifraud Guideline (#1690*. Mr. Glick said on the previous conference call the Working Group discussed and accepted suggestions for the guideline. He said a new draft version of the guideline was created and distributed out prior to the meeting for comment. Mr. Glick said on the last call the Working Group went through all the changes that would be used for the new draft. The purpose of today’s call will be to review those changes and discuss any new suggestions. Mr. Glick said the intent would be to finalize the review and distribute a final draft in preparation for the Working Groups to potentially adopt on next call scheduled for Oct 29.

Ms. Rafeld said new language was added at the beginning of the guideline as a narrative. Ms. Rafeld said some of the previous comments addressed uniformity and the process of how state insurance departments utilize the submitted antifraud plan guidelines. Ms. Rafeld said the narrative was created to not only address those areas but also provide further explanation behind the necessity of the guidelines without having this language included in the body of the guideline.

Ms. Rafeld said Section 1 Application was revised as some of the language was utilized in the narrative. Ms. Rafeld said the revision also streamlined the explanation of purpose of the application per specific state insurance department mandated requirements.

Ms. Rafeld said the Section 2 covers definitions. Ms. Rafeld said the original guideline left this section open advising that the definition section was for state specific information. Ms. Rafeld said while the Working Group agreed there is states specific language to be used it could still benefit from some specific definitions. Ms. Rafeld said in the first draft the suggestion was to add individual and person however it was later determined that neither definition was necessary for the purposes of this guideline. Ms. Rafeld said a list of new definitions including Insurance, Insurance commissioner, insurer, material or substantive change, report in a timely manner, respond in a reasonable time, special investigation unit and suspected insurance fraud.

Ms. Rafeld said the remaining sections within the guideline where reviewed and majority of the language was utilized but the focus was to reorganize the guidelines into a more intuitive order, to eliminate repetitive requirements within the existing guidelines, and add suggestions to better meet existing requirements for nearly all states.

Ms. Rafeld said Section 3 Antifraud Plan Submission Requirement was changed to Antifraud Plan Creation/Submission. Ms. Rafeld provided an overview of the distributed draft. Ms. Rafeld said Section 3 was broke out into five parts to address the creation and submission of an insurer’s guideline.

Ms. Rafeld said the next section is Section 4 Antifraud Plan Requirements. Ms. Rafeld provided an overview of this section and explained that in the original guideline section 5 addressed 18 USC 1033 and 1034. During the initial review, the Working Group decided to include this language in Section 4. Ms. Rafeld said this is not typically handled within an antifraud guideline plan but at the initial licensing or hiring process and the Working Group determined it should be removed from the guideline completely. Ms. Rafeld’s overview explained that Section 4 addresses information that should be included in the guideline, criteria used for investigations, internal and external fraud awareness, corporate polices for preventing detecting and investigating suspected fraud, use of third party as an SIU, description of methods used to document SIU referrals, the procedures for reporting suspected fraud and the steps taken to achieve a timely reporting process. Mr. Johnson said concerning Section 4C(10)(b) Texas has some language concerning an overview of all internal SIU position and job titles that might be useful. Mr. Johnson said the term specifically been requested leaves open concern that if we do not specifically request a document it may be open for an insurer may be at litter to not supply some information since it wasn’t specifically requested. Mr. Johnson said it would be more appropriate to include language that references any information instead of specifically. The Working Group discussed and agreed with change.
Ms. Rafeld said Section 5 which was originally 18 USC 1033 and 1034 Compliance was eliminated and the new Section 5 would be Regulator Compliance. Ms. Rafeld said the language in this section changed slightly eliminating the first sentence “A Department of Insurance has the right to review insurer antifraud plans in order to determine compliance with appropriate state laws.”

Ms. Rafeld said Section 6 Confidentiality of Antifraud Plan which was formerly Section 7 remained unchanged.

Ms. Rafeld said Section 8 Required Antifraud Plan Submission was removed as it was addressed throughout other portions in the guideline.

Having no further business, the Antifraud Technology (D) Working Group adjourned.

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Antifraud Technology (D) Working Group
Virtual Meeting
September 17, 2020

The Antifraud Technology (D) Working Group of the Antifraud (D) Task Force met Sept. 17, 2020. The following Working Group members participated: Armand Glick, Chair (UT); Paul Keller (AR); Crystal Phelps (AZ); George Mueller (CA); Scott Woods (FL); Matthew Stewart (LA); Roberta Baca (NM); Michelle Brugh Rafeld (OH); Chris Davis (TX); and Mike Beavers (VA).

1. Discussed Guideline #1690

Ms. Rafeld said the Working Group has continued to work on the NAIC Antifraud Plan Guideline (#1690) that began with its initial exposure for comment in December 2019. She said the Working Group received four comments, and those suggestions have been applied throughout the document for the Working Group to review and determine if appropriate.

Ms. Rafeld said the first section for review is Section 2—Definitions. She said the original 2011 guideline left this portion blank with language stating, “[d]efinitions reserved for state specific information.” She said while this is still accurate, there are some definitions that could be included that would assist with the process. She said she will work with NAIC staff to include NAIC adopted definitions.

Ms. Rafeld said the next section for review is Section 3—Antifraud Plan Creation/Submission, specifically Section 3D concerning how an insurer shall submit their antifraud plan and accordance with state specific code. She said the American International Group (AIG) and the Coalition Against Insurance Fraud (CAIF) presented comments suggesting that the Working Group look to use more generic language. She said generic language should be used, along with a drafting note. She said the eventual creation of the guideline will assist with this process. The Working Group discussed this and agreed.

Ms. Rafeld said the next comment concerns Section 3E. She said comments were received from the AIG, the American Property Casualty Insurance Association (APCIA), and Nationwide. She said Section 3E states:

> If an insurer amends the manner in which they detect, investigate and/or report suspected insurance fraud, or there is a change in the person(s) responsible for the insurer’s antifraud efforts, the insurer will be required to amend [and submit] their antifraud plan within [insert number of days] of the change(s) being made.

Ms. Rafeld said the AIG suggests that not all states are filing, so language should reflect this information. The APCIA suggested replacing “amends” with “makes material change.” Nationwide suggests listing contacts separate and apart from the fraud plan so as not to have insurers refile due to staffing changes. The Working Group discussed these comments and agreed. Ms. Rafeld said the Working Group will change this section to replace “amends” and work on a definition with material or substantive changes. She said concerning the reporting to departments of insurance (DOIs), the Working Group can address that portion when creating the repository.

Ms. Rafeld said the next comment concerns Section 4—Antifraud Plan Requirements. She said the original language stated:

> The following information should be included in the submitted antifraud plan to satisfy this Section. The plan is an acknowledgment that the insurer and its SIU has established criteria that will be used to detect suspicious or fraudulent insurance activity relating to the different types of insurance offered by that insurer. All antifraud plans submitted shall be subject to review by the Commissioner.

Ms. Rafeld said the APCIA suggested that this section defines the plan as a “comprehensive” overview of the insurer’s antifraud efforts, which is consistent with the APCIA’s earlier comment on the use of the term “fully.” The APCIA suggested that the preamble to this section read, “[a]n antifraud plan documents the insurers efforts to…” The Working Group discussed this and agreed to the change.

Ms. Rafeld said the CAIF submitted a comment to add language that fraud plans must address all aspects of insurance fraud, including first- and third-party claims, contractors, vendors, attorneys, service providers, and internal antifraud programs as detailed herein. She said this suggestion will be tabled and reviewed as the Working Group moves further into the guideline.
Ms. Rafeld said the next comment is from the APCIA and Nationwide, suggesting the deletion of Sections 4(2)(b) and (c) because the data points that are reported change from year to year. The Working Group discussed and agreed to delete these sections. Ms. Rafeld said this information could be a possible system enhancement once the repository is built. She said this information could potentially be pulled from other NAIC databases.

Ms. Rafeld said the next comment is from the Center for Economic Justice (CEJ), suggesting the addition of a new section to Section 4. She said the suggestion is to add language stating:

> A description of the insurers’ policies and practices regarding use and protection of consumer data and antifraud predictive models and artificial intelligence, including:

(a) Proactive efforts to avoid proxy discrimination against protected classes, including training for personnel in the auditing and detection of unfair bias in data, algorithms and antifraud personnel.

(b) Analyzing data and algorithms for the presence of systemic racism and inherent bias against protected classes and minimizing these effects consistent with the sound antifraud practices.

(c) Consumer data protections consistent with the protections of the Fair Credit Reporting Act, including disclosure, adverse action notice, access to contested data, ability to correct erroneous data, and reconsideration based on corrected data.

(d) Protection of personal consumer data.

(e) Transparency and explaining the ability of algorithms and algorithmic decisions to stakeholders.

Ms. Rafeld said the Working Group recognizes the purpose from this suggestion; however, these issues are being addressed by other committees, task forces and working groups, and it is beyond the scope of the Working Group and the guideline at this time. The Working Group agreed with this decision.

Ms. Rafeld said the next comment is from Nationwide, concerning a drafting note in Section 4 stating:

> Drafting Note: (Upon exploring the creation of an electronic fraud plan submission system, the Working Group will explore the possibility of the above noted information, auto-populating based upon NAIC carrier data maintained by individual/group codes).

Ms. Rafeld said Nationwide suggests reviewing the data that some states require to be submitted on the annual Special Investigative Unit (SIU) statistical filings. Nationwide’s comment suggests that overarching data that most states require is PIF, DWP, Claims, Number of Suspected Fraudulent Referrals Received by the SIU, Number of Cases Opened by the SIU, Number of Referrals Sent to the Fraud Bureau/Law Enforcement/DOI, etc. Ms. Rafeld said no changes need to be made at this time, but she recognizes Nationwide’s comments. The Working Group agreed.

Ms. Rafeld said the next comments received concern Section 4B(3). The CAIF suggests that this section should avoid systemic discriminatory practices. Ms. Rafeld said the decision is to leave this section generic and remove the examples included. The Working Group discussed this and agreed.

Ms. Rafeld said the next comment concerns Section 4B(5). She said the APCIA suggests changing the “frequency and number” of training hours provided. This may vary based on the needs of the individual; therefore, the APCIA suggests that this be revised to require the “frequency and minimum number” of training hours provided. The Working Group discussed this and agreed with change.

Ms. Rafeld said Nationwide suggested on same section to provide states with some guidance to help level-set on this issue. She said the decision is that the Working Group would not be able to provide guidance. The Working Group agreed.

Ms. Rafeld said the next comment concerns Section 4C(4) from the AIG, suggesting that the language seems misplaced and would be more appropriate in Section 6—Regulatory Guidance. The Working Group agreed.

Ms. Rafeld said the next comment concerns Section 4C(5). The APCIA suggests that references in this section should be clarify that they apply to suspected internal fraud. The Working Group agreed.
Ms. Rafeld said the next comment on Section 4C(5)(a) concerns U.S. Code § 1033 and 1034. She said Nationwide suggests that the Working Group consider omitting this from the guideline. Nationwide believes that New Hampshire might be the only state to have incorporated this into its antifraud plan requirements. The Working Group discussed this and agreed that the decision will be to remove this section concerning U.S. Code § 1033 and 1034 since this would be at the initial licensing and hiring process and not at the fraud director level. Mr. Blank said he agrees with this decision to delete.

Mr. Rafeld said the next comment received concerns Section 4C(6)(b) from the CAIF, suggesting that the description of the insurer's policies and efforts to ensure systemic bias and discriminatory practices are not occurring in the identification and investigation of potential fraud. She said while she agrees with the suggestion, it is not in the scope of the Working Group and guideline, so the Working Group will not make the change. The Working Group agreed.

Ms. Rafeld said the next comment concerns Section 4(7) from the APCIA, suggesting that this language could be interpreted as requiring submission of a new plan whenever there is any change in personnel. The APCIA said it does not believe that is the drafters' intent, and it suggests revising this requirement to a “written description.” Ms. Rafeld said the Working Group will review the guideline as a whole and not this specific section to determine the outcome of this comment at a later time. The Working Group agreed.

Ms. Rafeld said the next comments concerning Section 4C(8) from Nationwide and the APCIA concerns third parties. She said the Working Group will table this suggestion for now and look at this language further to see what should change. The Working Group agreed.

Ms. Rafeld said the next comments concerning Section 4C(10)(a) from the AIG and the APCIA request the identification of “who.” She said the APCIA provided language stating that Section 4C(10)(a) requires a statement identifying “who” is responsible for reporting suspected fraud on the insurer’s behalf. The APCIA suggests that this be revised to “the individuals or group within the organization…” so that a single change in personnel does not trigger an obligation to file a new report. The Working Group agreed with change.

Ms. Rafeld said the next comment concerns Section 4C(11). The APCIA suggests that this section require insurers to incorporate a plan to provide information to the fraud agency in a timely manner, going on to provide an extensive list of materials. The intent of the section appears to be ensuring that the insurer has a plan for timely responses to requests for information, rather than specifying what materials be requested. The APCIA suggests that the list of materials be removed for clarity. Ms. Rafeld said the decision is to accept the change and review for further changes. The Working Group agreed.

Ms. Rafeld said the next comments received concern Section 4C(11). The APCIA suggests that this section require insurers to incorporate a plan to provide information to the fraud agency in a timely manner, going on to provide an extensive list of materials. The intent of the section appears to be ensuring that the insurer has a plan for timely responses to requests for information, rather than specifying what materials be requested. The APCIA suggests that the list of materials be removed for clarity. Ms. Rafeld said the decision is to accept the change and review for further changes. The Working Group agreed.

Ms. Rafeld said the last comment concerns Section 4C(11)(2) and (3). The APCIA suggests that (2) and (3) are in conflict with one another. Ms. Rafeld said after reviewing, it appears that these two can be combined to eliminate conflict. The Working Group agreed.

Having no further business, the Antifraud Technology (D) Working Group adjourned.