

May 14, 2021

David Altmaier, Co-Chair
Dean Cameron, Co-Chair
Special (EX) Committee on Race and Insurance
c/o Kay Noonan, General Counsel – knoonan@naic.org
1100 Walnut St, Suite 1500
Kansas City, MO 64106-2197

Re: Notice of Meeting of Special (EX) Committee on Race and Insurance

Dear Co-Chairs and Committee Members:

On behalf of the National Association of Mutual Insurance Companies (NAMIC),¹ thank you for the opportunity to provide supplemental comments on the committee’s new draft charges released on April 7, 2021. NAMIC remains engaged, ready, and willing to discuss and work on any and all proposals as they are developed. NAMIC and NAMIC’s members remain adamantly opposed to discrimination on the basis of race and unfair discrimination in general, and we support legislative and regulatory policies to prevent these practices.

These supplemental comments are meant to build on our letter of April 9 and continue important discussions by providing additional suggestions for consideration, raise questions about other presentations made to the committee, and encourage the committee to review recent academic work that can further inform the committee’s efforts. Additionally, we thank Director Fox for her invitation to provide specific recommended language during the April 12 meeting; to be responsive to that request, we have attached an appendix with specific recommended changes to the language in the proposed charges for the committee’s consideration.

Charges Focused on the Insurance Talent Pipeline and Suggested Action

We are very supportive of the charges related to enhancing the insurance talent pipeline for both the industry and regulatory communities. Attracting new and diverse students and professionals to help confront the impending

¹ The National Association of Mutual Insurance Companies is the largest property/casualty insurance trade group with a diverse membership of nearly 1,500 local, regional, and national member companies, including seven of the top 10 property/casualty insurers in the United States. NAMIC members lead the personal lines sector representing 66 percent of the homeowner’s insurance market and 53 percent of the auto market.



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talent crisis in insurance is an existential problem we must all face together – across our industry the average age is nearly 60, more than a quarter of workers are expected to retire in the next few years, and employee retention is a rapidly growing challenge across all our business operations. Moving forward, it will be critical to identify ways to invest in future insurance professionals from the classroom to the boardroom. Only by investing in educational programs, scholarships, internships, technological training, and by building inclusive corporate and department cultures will we remain viable as a career choice for future generations.

We appreciate the committee’s leadership and look forward to partnering with you on the important work ahead related to charges C, D, and E. Among other ongoing efforts in this area, NAMIC has developed a Talent Gap resource center² and a Scholarship Program that has awarded more than \$235,000 to recipients since 2012 through our Mutual Insurance Foundation; we encourage the NAIC to pursue these kinds of efforts focused on fostering opportunities for students from diverse backgrounds. Building on the tremendous success of the NAIC’s International Fellows Program, the development of a similar program with internship opportunities at DOI’s for current students to gain experience and exposure to insurance regulation can help address staffing challenges in an environment where fewer than 4% of millennials would consider insurance as a career, in part because of a perceived lack of inclusivity.³ We also support increased NAIC and industry engagement with organizations like Gamma Iota Sigma and participation in programs like Invest or the Dive-In Festival for Diversity and Inclusion in Insurance.⁴ Only through intentional and concrete steps can we address the personnel challenges facing our industry together.

Questions Regarding Charges that Focus on Outcomes or Undermine Risk-Based Pricing

Charges F2 and G regarding unfair discrimination and enhanced data collection are focused on socioeconomic and sociodemographic factors, and both appear to be rooted in outcome-oriented analysis rather than the fundamental insurance principle of risk-based pricing.

Risk-based pricing is the core principle underlying the modern insurance industry. To accept risk efficiently and responsibly, insurers must assess, select, classify, and price risks for any given policy as accurately as possible. Insurers constantly analyze and adjust their risk assessment, classification, selection, and ratemaking standards to better compete in the marketplace and to stay in compliance with shifting state laws and regulations, which prohibit rates that are inadequate, excessive, or unfairly discriminatory.

² <https://www.namic.org/resources/talentgap/industry>

³ <https://riskandinsurance.com/future-of-insurance-talent-gap/>

⁴ <https://diveinfestival.com/>



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While every company uses different rating variables and evaluates them differently, there is broad agreement that factors should be objective, actuarially sound, and have a credible, statistically compelling correlation to expected losses and expenses. There is also agreement and existing law that race, ethnicity, national origin, religion, income, and literacy are among applicant and policyholder characteristics that may **never** be considered. Because factors are correlative, the more information an insurer has, the more accurately it will be able to assess the likelihood of a loss. The inverse is also true: less information makes accurately assessing the likelihood of a loss more difficult.

Responsible risk-based pricing requires a balanced approach dedicated to accuracy – being too aggressive with risks means greater than expected claims will compromise a company’s financial health, while being too conservative means a company won’t be able to compete in the market. This balance ultimately benefits consumers as it keeps markets well populated with companies competing for their business, offering coverage for more consumers with downward pressure on rates while avoiding problems of adverse selection and moral hazard that would result in higher costs.

Recommended Regulatory Action to “de-bias” Predictive Models Based on Outcomes Would Undermine Risk-Based Pricing

Contrary to representations made to this committee and the NAIC’s Consumer Liaison committee during the most recent virtual National Meeting, a proposal and equation put forth by the Center for Economic Justice for “de-biasing” insurers’ predictive models to eliminate correlations between protected classes and predictive variables is not a viable solution. The proposal is strikingly similar to a process described by Professors Devin Pope and Justin Sydnor in a 2011 article⁵, praised by Professors Anya Prince and Daniel Schwarcz in their 2018 article recently presented to the NCOIL Committee on Race and Underwriting in Insurance.⁶ The authors’ approach to eliminate proxy effects while maintaining predictive accuracy rather than banning variables outright is admitted by those authors to be theoretical in nature and acknowledged to reduce or compromise rating accuracy.

While appealing on its face, the claim that such an effort would somehow “improve” risk-based pricing is completely unsubstantiated; the methodology has not been tested, subjected to peer review, or gained any level of acceptance in regulating insurance practices. Such an approach cannot be assumed to be meaningfully transferable to insurance pricing; variables are never perfect, nor are their predictive powers eliminated by the

⁵ *Implementing Anti-Discrimination Policies in Statistical Profiling Models*, American Economic Journal: Economic Policy 3 (August 2011): 206-231.

⁶ *Proxy Discrimination in the Age of Artificial Intelligence and Big Data*, Iowa Law Review, Vol. 105, p.1314.



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presence of other factors. Instead, predictive powers are shared or divided among variables, and the addition of new variables can change both the size and the sign of other coefficients. To illustrate, if individuals of a certain protected class drive a higher percentage of vehicles that are safer and cost less to repair, that should be reflected in the rates of people who drive those cars because they drive those cars, not because of their protected class status. This is the opposite of unfair discrimination. Fairness and economic efficiency are achieved best when the prices charged individuals are irrespective of race, national origin, income, or religion and are matched as close to risk as can be made possible.

Recommended Next Steps for the Committee

NAMIC recommends that the committee expand the dialogue to include consideration of its recently commissioned study, *“Matching Rate to Risk: Analysis of the Availability and Affordability of Private Passenger Automobile Insurance.”* Conducted by Dr. Robert Klein, Senior Research Fellow with Temple University, Emeritus Professor of Risk Management and Insurance at Georgia State University, and the NAIC’s former Director of Research, this study made use of the data collected by the (C) and (D) committees over an eight-year period and published in the NAIC’s 2020 Private Passenger Auto Study. Dr. Klein’s analysis, which was reviewed and deemed a “well-researched academic work” by the Casualty Actuarial Society⁷, found, among other things, that loss ratios tend to vary inversely with income, indicating that low-income drivers actually receive more insurance benefits in relation to the premiums they pay than higher income drivers. We encourage the committee to invite Dr. Klein to discuss his findings at its next meeting.

Dr. Klein’s study makes clear that, rather than a sole focus on the risk-based pricing structure of insurance, there are other avenues that should be studied and can contribute meaningfully to the important work of this committee – and NAMIC recommends exploring them. For example, to the extent this committee finds gaps in the availability or affordability of insurance and develops proposals for addressing them, we recommend that regulators consider ideas like consumer subsidies, re-distribution of premium taxes for identified communities, systematic review of historical loss ratios, and 3rd party vendor and algorithm transparency requirements.

The above recommendations should demonstrate clearly that NAMIC is committed to substantive and meaningful action on these salient issues. Thank you for the additional time provided to comment further on the proposed

⁷ Founded in 1914, the CAS is the world’s only actuarial organization focused exclusively on property and casualty risks and serves over 9,100 members worldwide. The CAS ensures that its members and candidates produce work that serves the public and adheres to a high standard of professionalism.



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charges. We look forward to continued discussions with the committee, its members, and NAIC staff on these important issues.

Sincerely,

A handwritten signature in black ink that reads "Jon Bergner". The signature is written in a cursive, flowing style.

Jonathan Bergner
Vice President – Public Policy and Federal Affairs
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