

## **INNOVATION, CYBERSECURITY, AND TECHNOLOGY (H) COMMITTEE**

Innovation, Cybersecurity, and Technology (H) Committee April 5, 2022, Minutes

Revised 2022 Proposed Structure and Charges (Attachment One)

Big Data and Artificial Intelligence (H) Working Group April 5, 2022, Minutes (Attachment Two)

Cybersecurity (H) Working Group March 23, 2022, Minutes (Attachment Three)

SharePoint/NAIC Support Staff Hub/Member Meetings/2022 Spring National Meeting/Committee Meetings/INNOVATION, CYBERSECURITY, AND TECHNOLOGY (H) COMMITTEE/\_Final Minutes/Contents.docx

## Draft Pending Adoption

Draft: 4/18/22

Innovation, Cybersecurity, and Technology (H) Committee  
Kansas City, Missouri  
April 5, 2022

The Innovation, Cybersecurity, and Technology (H) Committee met in Kansas City, MO, April 5, 2022. The following Committee members participated: Kathleen Birrane, Chair (MD); Evan G. Daniels, Co-Vice Chair (AZ); Dana Popish Severinghaus, Co-Vice Chair (IL); Karima M. Woods (DC); John F. King (GA); Amy L. Beard (IN); Chlora Lindley-Myers represented by Cynthia Amann (MO); Troy Downing (MT); Adrienne A. Harris represented by My Chi To (NY); Jon Godfread (ND); Judith L. French (OH); Elizabeth Kelleher Dwyer (RI); Carter Lawrence (TN); Michael S. Pieciak represented by Kevin Gaffney (VT); and Mike Kreidler represented by Michael Walker and Molly Nollette (WA). Also participating were: George Bradner (CT); and Eric Slavich (WA).

### 1. Adopted Proposed Revisions to the Innovation, Cybersecurity, and Technology (H) Committee Structure and its Working Group Charges

Commissioner Birrane said with the retirement of former Superintendent Eric A. Cioppa (ME), there have been some changes to the leadership and membership of the Innovation, Cybersecurity, and Technology (H) Committee (Committee). She said Director Popish-Severinghaus will replace Superintendent Cioppa as the co-vice chair, and Director Lindley-Myers will replace Maine as a member of the Committee.

Commissioner Birrane reviewed the proposed changes to the structure and the charges and proposed a new Committee working group, the Innovation in Technology and Regulation (H) Working Group. She said the structure changes propose moving the Speed to Market (H) Working Group to the Market Regulation and Consumer Affairs (D) Committee and moving the Privacy Protections (D) Working Group to this Committee. She said the proposal also includes a clarifying amendment to the Privacy Protections (D) Working Group charge.

Commissioner Birrane said the new Working Group will be the platform through which the Committee will evaluate and provide educational opportunities for state insurance regulators and others to investigate evolving and new developments on the innovation and technology front. She said this Director Daniels will serve as Working Group chair, and Director Popish Severinghaus and Director French will serve as co-vice chairs. Director Daniels said this Working Group will signal some new ways to educate and facilitate learning amongst state insurance regulators and presents an opportunity for many stakeholders be a part of that. He said he would summarize the charges in two ways. He said first, the objective is to facilitate discussion between all stakeholders—not just technology stakeholders, but also with state insurance regulators who are facilitating innovation in their states. He said many states have produced ways to talk about this area openly and that this Working Group can serve to identify issues affecting the insurance marketplace in the near future.

Mr. Bradner asked about the reasoning behind moving the Speed to Market (H) Working Group to the Market Regulation and Consumer Affairs (D) Committee. He said the charges to the Working Group appeared to include the System for Electronic Rates & Forms Filing (SERFF) Modernization Project, which might be considered something under the purview of the Committee. Commissioner Birrane acknowledged the charges speak to the SERFF Modernization Project, but she said the Working Group has been more focused on edits to the *Product Filing Review Handbook*, and the scope of that work is more granular and specific to rates and forms and not the broader NAIC. Director Daniels said the proposed move should not be considered any signal that the Committee is not interested in following this work, but that it is a touchpoint similar to others identified with other NAIC committees that the Committee will continue to coordinate with like the Health Innovations (B) Working Group. Commissioner Birrane said how state insurance regulators use technology will be a focus of the Committee, but

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that does not mean specific and more granular work will be done outside of the Committee where the subject matter expertise (SME) exists.

Commissioner Downing made a motion, seconded by Director Daniels, to adopt the proposed revisions to the Innovation, Cybersecurity, and Technology (H) Committee's structure and charges (Attachment One). The motion passed unanimously.

### 2. Adopted the Reports of its Working Groups

#### A. Big Data and Artificial Intelligence (H) Working Group

Superintendent Dwyer said the Big Data and Artificial Intelligence (H) Working Group met April 5 and focused on four workstreams. She said the first workstream, led by Mr. Gaffney, is to continue the survey work begun in 2021. She said the workstream will continue to look at the private passenger auto (PPA) artificial intelligence (AI)/machine learning (ML) survey results and use that experience to inform the development of a homeowners and a life insurance survey scheduled to be issued in June and August, respectively. She said the work will culminate in a white paper to be published by the Fall National Meeting. She said the second workstream, led by Commissioner Ommen, will focus on review of third parties providing data and models to determine the appropriate regulatory format for monitoring and overseeing this use. She said this work should be completed by the Fall National Meeting as well. She said the third workstream, led by Superintendent Harris, will gather and evaluate information on governance models and frameworks, software tools and resources from various sources that could assist state insurance regulators in overseeing and monitoring use of data, and AI/ML to eliminate unintended bias. She said the final workstream, led by Commissioner Beard, is focused on how to implement the expectations outlined in the NAIC AI Principles and provide suggestions on next steps, which could include regulatory guidance, such as model governance. She said the Working Group will be holding an open meeting in 45 to 60 days to receive a public update on these workstreams. Lastly, she said the Working Group received an update on the review of the PPA AI/ML survey results.

#### B. Cybersecurity (H) Working Group

Ms. Amann said the Cybersecurity (H) Working Group met March 23 to kick off its work for the year. She said that during this meeting, the Working Group reviewed its charges and discussed projects that may be taken on based on its charges and the needs of state insurance regulators. She said the discussion covered the following five items:

1. Consider the development of a cybersecurity response plan to assist state insurance regulators with situations where cybersecurity events take place within the insurance industry intended to leverage the strength of the U.S. system of regulation and allow state insurance regulators to share expertise and to develop a valuable resource to aid states managing complicated responses to cybersecurity events.
2. Consider the development of a cybersecurity survey to better understand cybersecurity practices by insurers and look at controls, working closely with the Center for Insurance Policy and Research (CIPR) and learn from the NAIC's experience with surveys.
3. Develop advice and guidance related to training that would be beneficial to state insurance regulators, and put together training to be offered at the NAIC Insurance Summit.
4. Review and refine the Working Group charges and related topics.
5. Monitor state, federal, and international cybersecurity efforts.

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### C. E-Commerce (H) Working Group

Commissioner Downing said the E-Commerce (H) Working Group met March 30. He said the Working Group heard a presentation and summary from NAIC staff on the recent surveys sent to the states regarding their adoption and various exceptions to the federal Uniform Electronic Transactions Act (UETA), as well as the various steps and other actions taken by the states regarding e-commerce both during and because of the COVID-19 pandemic. He said 20 states responded to the survey, and their results gave the Working Group a good sense of what kinds of orders and bulletins have now either expired or been rescinded, as well as what other actions taken by the states have now become permanent either through legislation or regulation.

The NAIC also presented and summarized the various industry concerns that were received in response to the survey as well. Four industry trade associations provided responses to the survey in which they discussed various concerns and what they consider to be impediments to e-commerce. He said the trades also provided recommendations on how they would like to see state insurance regulators and legislators proceed with respect to e-commerce.

He said going into the meeting, the original intent was to assign issues to buckets and set discreet delivery dates and prioritization based on the survey results and the Working Group analysis. He said that sparked a conversation on whether that would be premature prior to spending time thoughtfully identifying themes and problem statements for each theme. He said at a high level, the industry surveys identified issues related to identifying consumer protection concerns such as opt-in/opt-out for electronic delivery of notices and other overarching themes. He said a small group of state insurance regulators volunteered to further analyze the states' survey results to identify the various overarching themes and issues contained in the survey results and to further clarify the Working Group's work plan. He said the Working Group plans to meet again in May to further discuss its work plan, as well as timelines for any deliverables that may be developed as a result of this work.

### D. Speed to Market (H) Working Group

Commissioner Birrane said the Speed to Market (H) Working Group did not meet prior to the Spring National Meeting but is currently chaired by Rebecca Nichols (VA). She said the Working Group leadership and NAIC staff plan to review and discuss edits to the *Product Filing Review Handbook* and present any proposed changes to the Working Group, as needed. She said the Working Group plans to meet April 20 to continue work on its goals.

Commissioner Godfreed made a motion, seconded by Director French, to adopt the reports of the Big Data and Artificial Intelligence (H) Working Group (Attachment Two), the Cybersecurity (H) Working Group (Attachment Three), the E-Commerce (H) Working Group, and the Speed to Market (H) Working Group. The motion passed unanimously.

### 3. Received an Update on the Casualty Actuarial and Statistical (C) Task Force Predictive Model Review Process

Commissioner Birrane said that consistent with the Committee's efforts to coordinate and ensure collaboration with other related NAIC workstreams, Mr. Slavich, the current the chair of the Casualty Actuarial Statistical (C) Task Force, would provide an update on its Predictive Model Review Process.

Mr. Slavich said the Task Force has been concentrating on predictive modeling activities for the past few years. He provided a description of those activities and charges. Mr. Slavich then provided an update about the NAIC rate model review team's activities. He said first, states are approving rates filed and the rate models are used in support of those rates; therefore, this group is not actually approving the models themselves, as the states are approving the rates. He said second, the rate models evaluated today are for risk classification and not the overall

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rate levels, so the company determines its overall rate needs, determines changes to rating variables not included in the modeling process, and then uses the model as the main support of allocation of the remaining overall rate needed for individual classes.

Mr. Slavich said the Task Force completed its first predictive modeling product in 2020 with its adoption of the NAIC white paper titled *Regulatory Review of Predictive Models*; meets in regulator-to-regulator session to discuss rate filing issues; and facilitates training and the sharing of expertise through predictive analytics webinars, which is referred to as the Book Club. He said the Task Force received a new charge this year to: “Review the completed work on artificial intelligence (AI) from other Committee groups and to coordinate with the Innovation, Cybersecurity, and Technology (H) Committee on the tracking of new uses of AI, auditing algorithms, product development, and other emerging regulatory issues, in as far as these issues contain a Task Force component.”

Mr. Slavich said Task Force members have also been working closely with the NAIC staff hired to form the NAIC rate model review team, including Dorothy L. Andrews (NAIC), a senior behavioral data scientist and actuary, and Sam Kloese (NAIC) and Roberto Perez (NAIC), who are property/casualty (P/C) rate model actuaries. He said this team of experts is led by Kris DeFrain (NAIC), Director of Research and Actuarial Services, and has made considerable progress over the last few years. He said the team has reviewed 54 rate models and produced 127 reports to assist state insurance regulators with their reviews of these models. Mr. Slavich said these reports are stored in a P/C rate model database designed by Task Force regulators and NAIC staff and accessible by the 31 states that have signed the Rate Review Support Services Agreement with the NAIC.

#### 4. Received an Update on the Privacy Protections (D) Working Group 2022 Work Plan

Ms. Johnson provided the report of the Privacy Protections (D) Working Group. She said the Working Group met April 4 and adopted its minutes from previous meetings. She said the Working Group adopted the final exposure draft of the report on consumer data privacy protections and detailed the changes. She said during its meeting, the Working Group heard updates from Jennifer McAdam (NAIC) and Brooke Stringer (NAIC) on federal privacy legislation and received comments from the American Council of Life Insurers (ACLI) and the Health Coalition on the exposure draft of the Working Group’s work plan, which was adopted by the Working Group.

#### 5. Discussed the Coordination of Related Workstream Activity in Other NAIC Committees

Commissioner Birrane said one of the highest priority charges to the Committee is to facilitate appropriate levels of coordination and collaboration among NAIC working groups with respect to topics that relate to innovation, technology, cybersecurity, and privacy in the insurance sector. She said the charge was a foundational element in the decision to form the Committee—the goal being to assure, to the extent appropriate, that the NAIC’s activities in these areas are identified, coordinated, and transparent. She said the first task was to operationalize that charge and determine what coordination and collaboration means along a continuum that ranges from awareness and monitoring the activities of a particular working group, to the absorption of that working group under the Committee and determine what the appropriate level of interface is between that NAIC working group and the Committee. She said the first step was to identify the working groups within the NAIC that include within their current charges or work focus topics that overlap with the work of the Committee referred to as “related groups.” She said that effort was undertaken by NAIC Committee staff, working across all the NAIC committees, and then the leadership of the Committee met with the leadership of each of the other committees to discuss coordination and collaboration in general and with respect to specific related groups. She said this led to an operational approach and framework that depends on the related group and the ongoing and iterative discussions. She said at a high level the categories are:

- Awareness and monitoring of work focus – This approach applies to groups whose work has no obvious overlap with the Committee but whose work can inform the Committee.

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- Overlapping representation – This approach applies to groups whose work is more directly related and where each should be aware of the work of the other.
- Joint products/projects – This approach applies to circumstances in which the related group is working on a project that very clearly overlaps with the Committee, and it makes sense for the groups to share the work product.
- Absorption into the Committee – The only example of this currently is the Privacy Protections (D) Working Group.

Commissioner Birrane said that is the outline of how the Committee intends to interface with related groups. In addition, however, there are topics that cut across many related groups and that are of broad significance, such as the detection of unfair bias in AI/ML decisional systems or complex predictive models. She said that is an example of something that many working groups are addressing and for topics such as these, the Committee is establishing a Collaboration Forum that will serve as the platform for multiple NAIC working groups to come together to identify and address foundational issues and develop a common framework that, when adopted, can inform the area specific work of those groups.

Commissioner Birrane said that when such a topic is identified, there will be a meeting of the working groups involved and, if consensus exists, a project within the Collaboration Forum will be created. She said that project will be undertaken by a group consisting of each of the related working groups and any other state that wishes to participate, and each will have its own chair and vice chairs, determine the common issues to be addressed, and establish a work plan, deliverables, and time frames. She said the objective of each project within the Collaboration Forum will be to create the common framework and foundational elements of important regulatory issues that are of broad concern and impact to assure that those issues are fully discussed and vetted with the involvement of many disciplines and areas of expertise and focus, moving forward from a firm foundation built on consensus. She said the first project of the Collaboration Forum will be the algorithmic bias project.

Commissioner Birrane said one additional way in which the Committee will facilitate coordination and collaboration is to facilitate awareness and communication around what related groups are working on supported by the launch of the Innovations, Cybersecurity and Technology (ICT) Hub, which will:

- Provide a “portal” or library of resources related to innovation, cybersecurity, data privacy and consumer privacy, and technology, where the user can easily identify various workstreams and work products developed or being developed by different committees and groups at the NAIC.
- Primarily be led by NAIC staff but with significant input from committee members around the look and feel and the practicality of it.
- List related groups with links to their work and allow users to query and identify working groups and work product from a topic driven perspective.

Commissioner Birrane asked if any Committee members, interested state insurance regulators or interested parties wanted to comment. David Snyder (American Property and Casualty Insurance Association—APCIA) asked what the opportunities would be for stakeholder input on these large-scale projects like algorithmic bias. Commissioner Birrane said the group may meet in regulator-to-regulator session for organizational purposes but would then have public meetings to develop a common understanding and to identify appropriate tools for identifying algorithmic bias within certain AI/ML models. She said the objective would be to listen to SMEs and that the work product of the Collaboration Forum would be open for comment. Scott Harris (American InsurTech Council—AITC) said he applauds the efforts being made. He said finding the right balance between appropriate oversight and encouraging innovation, while keeping up with the pace of innovation, is challenging and that the AITC welcomes the opportunity to comment.

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### 6. Discussed Other Committee-Level Projects

Director Daniels said that while the new Innovation in Technology and Regulation (H) Working Group is more outward-focused on what is happening in the marketplace, the Committee will also take on an inward focus as well to look at how state insurance regulators are using innovation and technology to do their jobs. He said there will be a forum for state insurance regulators to discuss concerns or share information about specific technologies or use cases, as well as what might be available in the future, or what SupTech and state insurance regulators will leverage or are leveraging to do their jobs better and more efficiently. Commissioner Birrane said this may have a similar look to what the Casualty Actuarial and Statistical (C) Task Force group is currently doing with its Book Club.

### 7. Discussed Other Matters

Commissioner Birrane asked Denise Matthews (NAIC) to provide an update on innovation, cybersecurity, and technology-related model law implementation. Ms. Matthews said 19 jurisdictions have passed the *Insurance Data Security Model Law* (#668), and it is pending in six jurisdictions with one state, New York, having passed related legislation. Commissioner Birrane noted that this legislation is close to being passed in Maryland, which will bring the number to 20. Ms. Matthews also said that two states have passed legislation related to the rebating revisions in the *Unfair Trade Practices Act* (#880), and legislation is pending in seven.

Birny Birnbaum (Center for Economic Justice—CEJ) asked if it would be possible for states to report the types of rebates they are finding companies are using and whether they are finding any issues with those rebates. He also said that while states are considering Model #880, some states took action by bulletin such as Maine, and he asked if the NAIC could track those.

Having no further business, the Innovation, Cybersecurity, and Technology (H) Committee adjourned.

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Draft: 2/28/22

Adopted by the Executive (EX) Committee and Plenary, xx/xx/22

Adopted by the Innovation, Cybersecurity, and Technology (H) Committee, xx/xx/22

### **Draft 2022 Revised Proposed Structure and Charges**

#### **INNOVATION, CYBERSECURITY, AND TECHNOLOGY (H) COMMITTEE**

The mission of the Innovation, Cybersecurity, and Technology (H) Committee is to: 1) provide a forum for state insurance regulators to learn and have discussions regarding: cybersecurity, innovation, data security and privacy protections, and emerging technology issues; 2) monitor developments in these areas that affect the state insurance regulatory framework; 3) maintain an understanding of evolving practices and use of innovation technologies by insurers and producers in respective lines of business; 4) coordinate NAIC efforts regarding innovation, cybersecurity and privacy, and technology across other committees; and 5) make recommendations and develop regulatory, statutory or guidance updates, as appropriate.

#### **Ongoing Support of NAIC Programs, Products or Services**

1. The **Innovation, Cybersecurity, and Technology (H) Committee** will:
  - A. Provide forums, resources, and materials for the discussion of insurance sector developments in cybersecurity and data privacy to educate state insurance regulators on how these developments affect consumer protection, insurer and producer oversight, marketplace dynamics, and the state-based insurance regulatory framework.
  - B. Discuss emerging issues related to cybersecurity, including cybersecurity event reporting, and consumer data privacy protections. Monitor and advise on the cybersecurity insurance market, including rating, underwriting, claims, product development, and loss control. Report on the cyber insurance market, including data reported within the Cybersecurity Insurance and Identity Theft Coverage Supplement.
  - C. Coordinate with various subject matter expert (SME) groups on insurer and producer internal cybersecurity. Discuss emerging developments; best practices for risk management, internal control, and governance; and how state insurance regulators can best address industry cyber risks and challenges. Work with the Center for Insurance Policy and Research (CIPR) to analyze cybersecurity related information from various data sources.
  - D. Provide forums, resources, and materials for the discussion of innovation and technology developments in the insurance sector, including the collection and use of data by insurers, producers, and state insurance regulators; as well as new products, services, and distribution platforms. Educate state insurance regulators on how these developments affect consumer protection, data privacy, insurer and producer oversight, marketplace dynamics, and the state-based insurance regulatory framework.
  - E. Discuss emerging technologies and innovations related to insurance; and insurers, producers, state insurance regulators, licensees, or vendors; and the potential implications of these technologies for the state-based insurance regulatory structure—including reviewing new products and technologies affecting the insurance sector, and associated regulatory implications.

- F. Consider and coordinate the development of regulatory guidance and examination standards related to innovation, cybersecurity, data privacy, the use of big data and artificial intelligence (AI) including machine learning (ML) in the business of insurance, and technology, including drafting and revising model laws, white papers, and other recommendations as appropriate. Consider best practices related to cybersecurity event tracking and coordination among state insurance regulators, and produce guidance related to regulatory response to cybersecurity events to promote consistent response efforts across state insurance departments.
- G. Track the implementation of and issues related to all model laws pertaining to innovation, technology, data privacy, and cybersecurity including the *Insurance Data Security Model Law (#668)*, the *NAIC Insurance Information and Privacy and Privacy Protection Model Act (#670)*, the *Privacy of Consumer Financial and Health Information Regulation (#672)*, and the *Unfair Trade Practices Act (#880)* rebating language and providing assistance to state insurance regulators as needed.
- H. Coordinate with other NAIC committees and task forces, as appropriate, and evaluate and recommend certifications, continuing education, and training for regulatory staff related to technology, innovation, cybersecurity, and data privacy.
- I. Follow the work of federal, state, and international governmental bodies to avoid conflicting standards and practices.

2. The **Big Data and Artificial Intelligence (H) Working Group** will:

- A. Research the use of big data and artificial intelligence (AI) including machine learning (ML) in the business of insurance and evaluate existing regulatory frameworks for overseeing and monitoring their use. Present findings and recommendations to the Innovation, Cybersecurity, and Technology (H) Committee including potential recommendations for development of model governance for the use of big data and AI including ML for the insurance industry.
- B. Review current audit and certification programs and/or frameworks that could be used to oversee insurers' use of consumer and non-insurance data, and models using intelligent algorithms, including AI and in alignment with the NAIC AI Principles. If appropriate, issue recommendations and coordinate with the appropriate subject matter expert (SME) committees on the development of or modifications to model laws, regulations, handbooks, and regulatory guidance, regarding data analysis, marketing, rating, underwriting and claims, regulation of data vendors and brokers, regulatory reporting requirements, and consumer disclosure requirements.
- C. Assess data and regulatory tools needed for state insurance regulators to appropriately monitor the marketplace, and evaluate the use of big data, algorithms, and machine learning, including AI/ML in underwriting, rating, claims and marketing practices. This assessment shall include a review of currently available data and tools, as well as recommendations for development of additional data and tools, as appropriate. Based on this assessment, propose a means to include these tools in existing and/or new regulatory oversight and monitoring processes to promote consistent oversight and monitoring efforts across state insurance departments.

3. The **Speed to Market (HD) Working Group (move to D Committee)** will:

- A. Consider proposed System for Electronic Rates and Forms Filing (SERFF) features or functionality presented to the Working Group by the SERFF Advisory Board (SAB), likely originating from the SERFF Product Steering Committee (PSC). Upon approval and acquisition of any needed funding, direct the SAB to implement the project. Receive periodic reports from the SAB, as needed.
- B. Provide feedback and recommendations concerning the SERFF modernization when requested by the Executive (EX) Committee and any group assigned oversight of the SERFF modernization by the Executive (EX) Committee.
- C. Discuss and oversee the implementation and ongoing maintenance/enhancement of speed to market operational efficiencies related to product filing needs, efficiencies, and effective consumer protection. This includes the following activities:
  - 1. Provide a forum to gather information from the states and the industry regarding tools, policies, and resolutions to assist with common filing issues. Provide oversight in evaluating product filing efficiency issues for state insurance regulators and the industry, particularly regarding uniformity.
  - 2. Use SERFF data to develop, refine, implement, collect, and distribute common filing metrics that provide a tool to measure the success of the speed to market modernization efforts, as measured by nationwide and individual state speed to market compliance, with an emphasis on monitoring state regulatory and insurer responsibilities for speed to market for insurance products.
  - 3. Facilitate proposed changes to the product coding matrices (PCMs) and the uniform transmittal document (UTD) on an annual basis, including the review, approval, and notification of changes. Monitor, assist with and report on state implementation of any PCM changes.
  - 4. Facilitate the review and revision of the *Product Filing Review Handbook*, which contains an overview of all the operational efficiency tools and describes best practices for industry filers and state reviewers regarding the rate and form filing and review process. Develop and implement a communication plan to inform the states about the *Product Filing Review Handbook*.
- D. Provide direction to NAIC staff regarding SERFF functionality, implementation, development, and enhancements. Direct NAIC staff to provide individual state speed to market reports to each commissioner at each national meeting. Receive periodic reports from NAIC staff, as needed.
- E. Conduct the following activities, as desired, by the Interstate Insurance Product Regulation Commission (Compact):
  - 1. Provide support to the Compact as the speed to market vehicle for asset-based insurance products, encouraging the states' participation in, and the industry's usage of, the Compact.
  - 2. Receive periodic reports from the Compact, as needed.

4. The **E-Commerce (H) Working Group** will:

- A. Examine e-commerce laws and regulations; survey states regarding federal Uniform Electronic Transactions Act (UETA) exceptions; and work toward meaningful, unified recommendations. The Working Group will also examine whether a model bulletin would be appropriate for addressing some of the identified issues and draft a proposed bulletin if determined appropriate.

5. **The Cybersecurity (H) Working Group will:**

- A. Monitor cybersecurity trends such as vulnerabilities, risk management, governance practices and breaches with the potential to affect the insurance industry.
- B. Interact with and support state insurance departments responding to insurance industry cybersecurity events.
- C. Promote communication across state insurance departments regarding cybersecurity risks and events.
- D. Oversee the development of a regulatory cybersecurity response guidance document to assist state insurance regulators in the investigation of insurance cyber events.
- E. Coordinate NAIC committee cybersecurity work including cybersecurity guidance developed by the Market Conduct Examination Guidelines (D) Working Group and the Information Technology Examination (E) Working Group.
- F. Advise on the development of cybersecurity training for state insurance regulators.
- G. Work with the Center for Insurance Policy and Research (CIPR) to analyze publicly available cybersecurity related information.
- H. Support the states with implementation efforts related to the adoption of *Insurance Data Security Model Law* (#668).
- I. Engage with federal and international supervisors and agencies on efforts to manage and evaluate cybersecurity risk.

6. **The Privacy Protections (H) Working Group (move to H Committee from D Committee) will:**

- A. Review state insurance privacy protections regarding the collection, [data ownership and use rights](#), and disclosure of information gathered in connection with insurance transactions and make recommended changes, as needed, to certain NAIC models, such as Model #670 and Model #672.

7. ***NEW: The Innovation in Technology and Regulation (H) Working Group will:***

- A. Develop forums, resources, and materials for discussing innovation and technology regarding companies, producers, state insurance regulators, and licensees relevant to the state-based insurance regulatory structure, including new products, services, business models, and distribution mechanisms.*
- B. In conjunction with NAIC staff, explore developing a forum that provides insurers or third parties working with insurers the opportunity to confidentially brief state insurance regulators regarding innovation and technology applications, tests, use cases, and results.*
- C. Identify and discuss regulatory models or programs that may assist state insurance regulators identify and better understand innovation taking place within the insurance industry.*
- D. Monitor innovation work occurring in other NAIC letter committees, task forces, and working groups, and identify areas of possible coordination for the Innovation, Cybersecurity, and Technology (H) Committee.*

NAIC Support Staff: Denise Matthews/Scott Morris

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## Draft Pending Adoption

Draft: 4/18/22

Big Data and Artificial Intelligence (H) Working Group  
Kansas City, MO  
April 5, 2022

The Big Data and Artificial Intelligence (H) Working Group of the Innovation, Cybersecurity, and Technology (H) Committee met in Kansas City, MO, April 5, 2022. The following Working Group members participated: Elizabeth Keller Dwyer, Chair (RI); Amy L. Beard, Co-Vice Chair (IN); Doug Ommen, Co-Vice Chair (IA); Adrienne A. Harris, Co-Vice Chair, represented by My Chi To and Kaitlin Asrow (NY); Kevin Gaffney, Co-Vice Chair (VT); Lori K. Wing-Heier (AK); Ken Allen (CA); Peg Brown (CO); Andrew N. Mais (CT); Frank Pyle (DE); Nicole Altieri Crockett (FL); Erica Weyhenmeyer (IL); Kathleen A. Birrane (MD); Timothy N. Schott and Benjamin Yardley (ME); Karen Dennis (MI); Cynthia Amann (MO); Kathy Shortt (NC); Chris Aufenthie (ND); Christian Citarella (NH); Barbara D. Richardson (NV); Judith L. French (OH); Glen Mulready and Teresa Green (OK); Doug Hartz (OR); Michael Humphreys (PA); Raymond G. Farmer and Michael Wise (SC); Frank Marnell (SD); Bill Huddleston (TN); Mark Worman (TX); Eric Lowe (VA); Molly Nollette and John Haworth (WA); Nathan Houdek and Jennifer Stegall (WI); and Juanita Wimmer (WV).

### 1. Discussed its Work Plan

Superintendent Dwyer said the 2022 work plan builds on the Working Group's discussions last year and the three themes of: 1) artificial intelligence (AI)/machine learning (ML) surveys; 2) tools for monitoring AI/ML; and 3) AI/ML regulatory frameworks and governance. She said third-party data and model vendors, while included in the survey work last year, will be a new workstream in 2022. Superintendent Dwyer said the workstreams tie back to the Working Group's charges. The first charge is to research the use of big data and AI/ML in the business of insurance, and evaluate existing regulatory frameworks for overseeing and monitoring their use. This charge includes the potential recommendation for the development of model governance for the use of big data and AI/ML. Superintendent Dwyer said the second charge is to review current audit and certification programs and/or frameworks, and assess data and regulatory tools needed for state insurance regulators to appropriately monitor the marketplace that could be used to oversee insurers' use of consumer and non-insurance data and models using intelligent algorithms. She said the third charge focuses on the assessment of data and regulatory tools needed, which will include, as appropriate, recommendations for the collection of additional data and the development of additional tools.

Superintendent Dwyer said the work plan provides a summary of these charges and the following four workstreams: 1) survey work; 2) third-party data and model vendors; 3) evaluation of tools and resources for monitoring industry's use of data; and 4) regulatory framework and governance. She said the first workstream will continue the analysis of the AI/ML private personal auto (PPA) survey data, use the PPA survey data and experience to inform the development of an AI/ML homeowners (HO) survey, and develop an AI/ML life insurance survey. The second workstream will determine the appropriate regulatory evaluation of third-party data and model vendors and produce a recommended regulatory framework for monitoring and overseeing industry's use of third-party data and model vendors. The third workstream will gather data and evaluate information on governance models and software tools, which could assist state insurance regulators in overseeing and monitoring industry's use of data and AI/ML and eliminate any bias in such use. The fourth workstream will evaluate how best to implement the expectations outlined in the NAIC AI Principles and provide suggestions on next steps, which could include regulatory guidance such as model governance.

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### 2. Discussed 2022 Workstreams

Mr. Gaffney said Workstream One will build on the survey work completed in 2021 and will continue the analysis of the PPA survey data. As noted by Superintendent Dwyer, Mr. Gaffney said the subject matter experts (SMEs) will use the lessons learned from the PPA survey to develop the HO survey and life insurance survey. Mr. Gaffney said he anticipates the HO survey will be issued in June, and the life insurance survey will be issued in August, with company responses being collected on a confidential basis. Finally, Mr. Gaffney said the HO survey will be similar to the PPA survey, but the life insurance survey will be developed by a different group of regulatory SME. Mr. Gaffney said the survey results and white paper to be completed by the Fall National Meeting will support the other workstreams, especially Workstream Two and Workstream Four.

Commissioner Ommen said Workstream Two is focusing on third-party data and model vendors. As noted in the work plan, a group of state insurance regulator SMEs will evaluate the activities of third-party data and model vendors and produce a recommended regulatory framework for monitoring and overseeing industry's use of these vendors. Commissioner Ommen said the findings and insights will be reported to the Working Group for public discussion and recommendation to the Innovation, Cybersecurity, and Technology (H) Committee. As these efforts proceed, future work will likely be referred to other NAIC committees, task forces, and working groups. To provide a little more context to these efforts, Commissioner Ommen said the first area of focus is to identify new entities operating in the marketplace, better understand their operating practices, and identify whether and how states are currently licensing these entities. While this work will be broader than rating, he said the Casualty Actuarial and Statistical (C) Task Force's recent survey identifying the types of licenses states issue may help inform these initial discussions. These licenses include Advisory Organizations, Rating Organizations, Rate Service Organizations, Statistical Agent, Statistical Organizations, and Insurance Service Organizations. He said Workstream Two will address all vendors that provide nontraditional data and models to insurers, such as vendors providing data for marketing, fraud detection, and claims settlement. Commissioner Ommen said this is one of the reasons why future work will likely be referred to other NAIC committees, task forces, and working groups. He said the second area of focus is to develop examination standards or questions that states can use for engaging with third-party data vendors and insurers regarding their use of third-party data vendors. Because this work is broader than advisory organizations and rating issues, Commissioner Ommen said the current examination standards for advisory organizations do not provide the right focus but that these standards will be kept in mind as examination standards are developed for third-party data and model vendors.

Superintendent Dwyer said Superintendent Harris is leading Workstream Three with Ms. To and Ms. Asrow. Ms. Asrow said this Workstream will review existing trends, tools, and approaches that can be deployed, or are being deployed, by supervisors to monitor the use of AI/ML by insurance companies. Ms. Asrow said these tools are referenced as SupTech and will include discussion of statistical methods that allow state insurance regulators to better identify disparate impact or unfair discrimination. This Workstream will also discuss tools and vendors the insurance industry is using directly to detect discrimination or bias that might result from the use of data or new processes. Ms. Asrow said the goal is to produce a summary of the supervisory approaches and processes that state insurance regulators can use. This summary will also identify best practices in the regulation of AI/ML, such as relevant model governance frameworks that have been used by state insurance regulators for insurance, banking, or other financial services. Ms. Asrow said one potential option is focus on the mitigation practices of insurance companies rather than directly reviewing for bias using technical tools. Ms. Asrow said this Workstream will primarily coordinate with Workstreams Two and Workstream Four.

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Commissioner Beard said Workstream Four will focus on how to implement the expectations outlined in the NAIC's AI Principles and provide suggestions on the appropriate regulatory framework for monitoring AI/ML, which could include model governance. She said this Workstream will be dependent upon the efforts of the other three workstreams.

Birny Birnbaum (Center for Economic Justice—CEJ) said the work plan is comprehensive and requested the Working Group review potential antitrust issues arising from insurers' use of third-party data and model vendors. Mr. Birnbaum recommended the Working Group confirm insurers have responsibility for the outcomes that arise from their use of third-party data and model vendors. He also recommended the issues of consumer transparency and avoidance of unfair discrimination and racial bias be addressed. Regarding Workstream Four addressing the regulatory framework/governance, Mr. Birnbaum stressed the need for modernized data collection and market regulation. In addition, he said this Workstream should examine the actual consumer impacts because there are limitations to front-end reviews and model governance procedures. Mr. Birnbaum said these types of regulatory reviews do not guarantee positive consumer outcomes.

Scott Harrison (American InsurTech Council—AITC) said he thinks the work plan is well thought out and appropriately recognizes the impact this work will have on every line of insurance and committee across the NAIC. Matthew Smith (Coalition Against Insurance Fraud) said the Coalition will issue a study in September addressing the use of data and AI/ML to identify insurance fraud. Mr. Smith said the Coalition is beginning this work through a survey and encouraged the Working Group members to contact him if there are questions that they would like to be considered for the survey. David Snyder (American Property Casualty Insurance Association—APCIA) said the work plan looks logical and encouraged the Working Group not to lose sight of how AI/ML has extreme value for consumers, in terms of delivering the kind of products consumers expect and promoting market competition. Regarding Workstream Three, Mr. Snyder said he hopes this Workstream will be completed within the context existing state laws on unfair discrimination.

Superintendent Dwyer said she would review the comments made today and work with the SME lead for each Workstream to make any necessary changes to the work plan. She then requested each Workstream to provide an update on their work in 45 to 60 days during an open Working Group meeting.

### 3. Received a Presentation on AI/ML Survey Work

Mr. Gaffney said Workstream Three has five key objectives: 1) learn directly from the industry about what is happening in this space; 2) get a sense of the current level of risk and exposure and how the industry is managing or mitigating that risk; 3) develop information for trending, such as how the risk is evolving over time, and the industry's responsive actions; 4) become more informed to develop a meaningful and useful regulatory approach for overseeing and monitoring AI/ML in the insurance market; and 5) learn from prior surveys to inform and improve future surveys. He said the initial surveys will allow state insurance regulators to document what the industry reports is happening in the PPA, HO, and life insurance markets regarding use of data and AI/ML and get a good sense of the current level of risk and exposure, as well as explore what companies might be doing to mitigate and/or manage its risk and exposure. Mr. Gaffney then reviewed in detail the additional, preliminary results of the PPA.

Mr. Gaffney said the PPA survey was conducted under the market conduct examination authority of nine states—Connecticut, Illinois, Iowa, Louisiana, Nevada, North Dakota, Pennsylvania, Rhode Island, and Wisconsin—and was sent to only larger companies, defined as those PPA writers with more than \$75 million in direct premium written.

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The nine states received 193 responses, and almost 90% of the companies responding indicated they are using AI/ML in some manner. He said the largest use of AI/ML models is in claims, then fraud detection, marketing, rating, underwriting, and loss prevention. Mr. Gaffney said state insurance regulators are surprised by the results for the rating and underwriting categories as some of the companies that reported no use of AI/ML in these areas have filed rate models in support of their rates. Because of this, the analysis includes an evaluation of the accuracy of reporting.

Mr. Gaffney said 155 of the 193 respondents are using AI/ML in their claims processes, with 113 companies using AI/ML to evaluate images for the claim. He said no companies reported using AI/ML to automatically deny a claim.

Mr. Gaffney said 111 companies indicated they are or will be using AI/ML for fraud detection, and almost all these companies are using AI/ML to refer claims for fraud review. He said only 29 companies use AI/ML to fast-track claims in a determined non-fraud situation. Mr. Gaffney said companies reported using fraud detection models for claims triage, medical provider fraud detection, fraudulent quote detection, organized crime ring identification, and social network analysis.

Mr. Gaffney said about half the companies are using AI/ML models for marketing, with 75% of the companies using their own models and 25% of the companies using third-party vendors. Marketing models are most often used for targeted online advertising. Mr. Gaffney said other marketing models are used to identify potential customers, decide what advertising to do via mail or in print ads, and implement natural language processing for customer interactions.

Mr. Gaffney said 77 companies reported using AI/ML for rating, with 52 companies implementing rating models in production. He said the survey results also reflect that the use of telematics data was prevalent among companies with rating models in production. Mr. Gaffney said around 80% of models being used are developed internally by the companies, which highlights a regulatory need for continued preparation in the states to review independently developed rate models.

Mr. Gaffney said the use of AI/ML in underwriting is similar to its use in rating, with 59 companies indicating they are using or plan to implement AI/ML models for underwriting purposes, with 34 of the 59 companies indicating they are implementing underwriting models in production. He said an important aspect regarding the use of AI/ML in underwriting is the prevalence of externally sourced data elements, with more than 60% sourced from third-party providers. Mr. Gaffney said underwriting models are used for tiering and company placement, input into denials and approvals, renewals and reinstatements, and policy anomaly detection. He said only three companies are currently using AI/ML to identify high-risk customers for loss prevention.

Mr. Gaffney said the goal is to finalize the PPA survey analysis this summer and to present a report to Big Data and Artificial Intelligence (H) Working Group by the Fall National Meeting. He said the report is expected to include recommendations for regulatory guidance to better monitor the use of AI/ML. One idea is to potentially outline some type of risk hierarchy and describe company governance of risks and best practices that support the NAIC's AI Principles.

Having no further business, the Big Data and Artificial Intelligence (H) Working Group adjourned.

Draft: 3/31/22

Cybersecurity (H) Working Group  
Virtual Meeting  
March 23, 2022

The Cybersecurity (H) Working Group of the Innovation, Cybersecurity, and Technology (H) Committee met March 23, 2022. The following Working Group members participated: Cynthia Amann, Co-Chair (MO); Wendy Erdly, Co-Chair (NY); C.J. Metcalf, Co-Vice Chair (IL); Michael Peterson, Co-Vice Chair (VI); Sian Ng-Ashcraft (AK); Evan G. Daniels (AZ), Mel Anderson (AR); Damon Diedrich (CA); Wanchin Chou (CT); Matt Kilgallen (GA); Lance Hirano (HI); Shane Mead (KS); Jake Martin (MI); Troy Smith (MT); Martin Swanson (NE); Keith Briggs (NC); Colton Schulz and Chris Aufenthie (ND); Don Layson and Todd Oberholtzer (OH); Dan Petterson (VT); John Haworth (WA); and Nathan Houdek (WI).

1. Heard Opening Remarks and Updates

Ms. Amann welcomed the state insurance regulators to the Working Group's first meeting. She said that the goal of the meeting is to discuss the group's charges and, in the process, lay out a plan for the group's work for the year. Although the hope was to cover all the charges, she said the focus of the discussion is going to be on the projects associated with two of the Working Group's charges: 1) to interact with and support state insurance departments responding to insurance industry cybersecurity events; and 2) work with the Center for Insurance Policy and Research (CIPR) to analyze publicly available cybersecurity-related information.

In addition, the new Working Group will work to compliment the work of others with an increased focus on cybersecurity.

2. Received an Update on the Macroprudential Risk Assessment Process

Ms. Amann then led a discussion of the Working Group's charges starting with the charge to interact with and support state insurance departments responding to insurance industry cybersecurity events. She noted that the Working Group could support state insurance regulators with the development of a repository of procedures/controls to assist them in responding to insurer cybersecurity events.

Miguel Romero (NAIC) noted that although the financial exam and market conduct exam processes have been updated to better incorporate cybersecurity concepts, there remains a need for a response plan type of document to assist state insurance regulators responding to cybersecurity events. Over the years, state insurance regulators have asked for assistance responding to security events, and a cybersecurity response plan focused on the regulator's role could be beneficial in meeting that need. The response plan could help states take a lead role in responding to security events. Such a response plan could be viewed as an optional practice aid that states use only as needed.

Mr. Peterson noted that he looks forward to working on this project given the complexity of cybersecurity discussions. There are many stakeholders that get involved in cybersecurity events, including law enforcement officials, so he said a response plan resource could help states understand their communication expectations.

Mr. Haworth asked if there would be a training component for insurance companies as part of this project. Ms. Amann indicated openness to the idea. Mr. Romero noted that state insurance regulators could continue the discussion on training insurers. He said the Working Group does have a charge to train state insurance regulators, but the regulators would have to evaluate if they would be the best body to train insurance companies specifically.

Ms. Amann, Mr. Peterson, and Mr. Romero next talked about the possibility of partnering with the CIPR to collaborate on a survey of insurance company cybersecurity practices. This work would be the practical implementation of the Working Group's charge to work with the CIPR to analyze publicly available cybersecurity-related information. Mr. Romero noted that a good survey could give state insurance regulators meaningful information that would then help them prioritize future projects. Ms. Erdly also talked about the role that data could play in helping to identify control best practices.

Beyond these two charges, Ms. Amann talked about the importance of working with Market Regulation and Consumer Affairs (D) Committee and Financial Condition (E) Committee subject matter experts (SMEs) to avoid duplication and leverage expertise. Ms. Amann also expressed a desire to see more in the way of cybersecurity-related training. Ms. Amann and Mr. Romero further talked about the need to have a group that monitors international and federal work and also considers whether corresponding efforts are relevant and/or necessary domestically.

Mr. Chou requested that because of the wide-ranging topics the Working Group will cover, it should take steps to make sure the agenda provides enough detail to allow state insurance regulators to understand the expertise that should participate in the Working Group's meetings. Mr. Chou also referred to the American Academy of Actuaries (Academy), which recently published insights on cybersecurity via its Cyber Risk Task Force. He said that might be beneficial to state insurance regulators on the Working Group's projects. Richard Gibson (Academy) noted that the Cyber Risk Task Force also prepared a Cyber Risk Toolkit that could be useful to state insurance regulators. Additionally, Mr. Hirano commented on the importance of controls and reviewing third-party work in any cybersecurity risk discussion. Mr. Romero said that there may be training on reviewing third-party work at the NAIC's Insurance Summit.

Having no further business, the Cybersecurity (H) Working Group adjourned.

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