

INNOVATION AND TECHNOLOGY (EX) TASK FORCE

Innovation and Technology (EX) Task Force Dec. 13, 2021, Minutes

Big Data and Artificial Intelligence (EX) Working Group Dec. 13, 2021, Minutes (Attachment One)

Speed to Market (EX) Working Group Nov. 16, 2021, Minutes (Attachment Two)

E-Commerce (EX) Working Group Oct. 7, 2021, Minutes (Attachment Three)

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Innovation and Technology (EX) Task Force
San Diego, California
December 13, 2021

The Innovation and Technology (EX) Task Force met in San Diego, CA, Dec. 13, 2021. The following Task Force members participated: Jon Godfread, Chair, and Chris Aufenthie (ND); Elizabeth Kelleher Dwyer, Vice Chair, and Matt Gendron (RI); Lori K. Wing-Heier (AK); Jim L. Ridling represented by Jimmy Gunn (AL); Alan McClain (AR); Evan G. Daniels (AZ); Ricardo Lara represented by Ken Allen and Lucy Jabourian (CA); Michael Conway (CO); Andrew N. Mais (CT); Karima M. Woods represented by Michael Ross (DC); Trinidad Navarro (DE); David Altmaier represented by John Reilly (FL); Colin M. Hayashida (HI); Doug Ommen (IA); Dean L. Cameron represented by Weston Trexler (ID); Dana Popish Severinghaus represented by Erica Weyhenmeyer (IL); Amy L. Beard represented by Jerry Ehlers (IN); Vicki Schmidt represented by LeAnn Crow (KS); Sharon P. Clark represented by Vicki Lloyd (KY); James J. Donelon represented by Tom Travis (LA); Gary D. Anderson (MA); Kathleen A. Birrane (MD); Eric A. Cioppa represented by Benjamin Yardley (ME); Anita G. Fox represented by Chad Arnold (MI); Grace Arnold (MN); Chlora Lindley-Myers represented by Cynthia Amann (MO); Mike Chaney represented by Ryan Blakeney (MS); Troy Downing (MT); Mike Causey represented by Angela Hatchell (NC); Marlene Caride represented by Randall Currier (NJ); Russell Toal represented by Leatrice Geckler (NM); Barbara D. Richardson (NV); Judith L. French (OH); Glen Mulready represented by Teresa Green (OK); Andrew R. Stolfi (OR); Jessica K. Altman (PA); Raymond G. Farmer represented by Michael Wise (SC); Larry D. Deiter (SD); Carter Lawrence (TN); Cassie Brown (TX); Jonathan T. Pike (UT); Scott A. White and Rebecca Nichols (VA); Michael S. Pieciak represented by Kevin Gaffney (VT); Mike Kreidler represented by Molly Nollette (WA); Mark Afable (WI); and Allan L. McVey represented by Robert Grishaber (WV).

1. Adopted its Summer National Meeting Minutes

Commissioner Conway made a motion, seconded by Commissioner Altman, to adopt the Task Force's Aug. 14 minutes (*see NAIC Proceedings – Summer 2021, Innovation and Technology (EX) Task Force*). The motion passed unanimously.

2. Adopted its Working Group Reports

a. Big Data and Artificial Intelligence (EX) Working Group

Commissioner Ommen gave the report of the Big Data and Artificial Intelligence (EX) Working Group. He said the Working Group met Dec. 13 and reviewed its 2022 proposed charges and briefly discussed the progress on its 2021 charges and the relevance of the Working Group's efforts continuing under the proposed Innovation, Cybersecurity, and Technology (H) Committee. He said the Working Group has focused its efforts this year on researching the use of big data and artificial intelligence (AI) in the business of insurance and evaluating existing regulatory frameworks for overseeing and monitoring AI and machine learning (ML), including discussions on model governance. He said during its meeting, the Working Group received a presentation on how to leverage the lessons learned in developing the regulatory framework for cybersecurity to the development of a regulatory framework for the use of AI. Additionally, building on the work of the NAIC's AI principles adopted last year, the Working Group heard a presentation from Monitaur, which is a company that has been active in developing governance and controls for AI/ML models, and SigmaRed, another company developing processes to monitor and mitigate AI bias and enhance model transparency.

Commissioner Ommen said the Working Group received a presentation on the preliminary, aggregate analysis of industry responses to the survey on private passenger auto (PPA) insurers' AI/ML use that was conducted under the examination authority of Connecticut, Illinois, Iowa, Louisiana, Nevada, North Dakota, Pennsylvania, Rhode Island, and Wisconsin. He said this research is intended to inform work in other areas related to the Working Group's charges, such as evaluating the appropriateness of existing regulatory frameworks for overseeing and monitoring the use of AI/ML models. He said it was distributed to PPA insurers with national premium greater than \$75 million and asked a threshold question of whether a company is using or contemplating using AI/ML; followed by questions related to the operational areas of rating, underwriting, claims, fraud detection, marketing, and loss prevention; and additional questions related to specific uses, level of deployment, level of decisions influenced, governance, and types of data used.

Commissioner Ommen said the Working Group discussed the next line of insurance to survey, which included a discussion of conducting surveys for both homeowners and life insurance at the same time, and he said the Working Group will identify state subject matter experts (SMEs) to begin discussions for these two lines while finalizing the analysis of the PPA survey.

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b. Speed to Market (EX) Working Group

Ms. Nichols gave the report of the Speed to Market (EX) Working Group. She said the Working Group met Nov. 16 and took the following action: 1) adopted its June 30 and June 29 minutes; 2) discussed and reviewed the Casualty Actuarial and Statistical (C) Task Force's *Regulatory Review of Predictive Models* white paper; 3) considered its proposed edits to Chapter Three—The Basics of Property and Casualty Rate Regulation of the *Product Filing Review Handbook* (Handbook) for approval; and 4) adopted the Casualty Actuarial and Statistical (C) Task Force's edits to the Handbook. She said updating the Handbook will be a priority in 2022 for the Working Group.

c. E-Commerce (EX) Working Group

Commissioner Birrane gave the report of the E-Commerce (EX) Working Group. She said the Working Group met Oct. 7 and heard from state insurance regulators, consumer representatives, industry representatives, and other stakeholders on the core concerns and considerations that should shape the scope of its work. She said the American Council of Life Insurers (ACLI) suggested the development of a handbook that would capture the regulatory framework that exists with respect to e-commerce, including variations among jurisdictions. She said the presentations informed the three surveys that were circulated to state insurance regulators and interested parties on Dec. 10: 1) a survey to identify, for each jurisdiction, the laws that regulate electronic insurance transactions, including the status of the state's adoption of the Uniform Electronic Transactions Act (UETA); 2) a survey focused on what accommodations each jurisdiction made to allow electronic transactions to occur during the COVID-19 pandemic, as well as the basis for those accommodations and what would have to happen to allow it to become permanent; and 3) a survey directed to industry focusing on identifying specific and practical ways in which specific laws or regulatory constructs impede electronic commerce in the insurance sector. She said once the survey responses are received, the Working Group will analyze and report on the results, which will inform its next steps.

Commissioner Godfreed asked if there are any questions regarding any of the working group reports. Hearing none, Superintendent Dwyer made a motion, seconded by Director Wing-Heier, to adopt the following reports: 1) the Big Data and Artificial Intelligence (EX) Working Group, including its Dec. 13 minutes (Attachment One); 2) the Speed to Market (EX) Working Group, including its Nov. 16 minutes (Attachment Two); and 3) the E-Commerce (EX) Working Group, including its Oct. 7 minutes (Attachment Three). The motion passed unanimously.

3. Heard an Update on CO SB 21-169

Commissioner Conway said the core goal of Colorado Senate Bill 21-169 is to protect Colorado consumers from insurance practices that result in unfair discrimination on the basis of race, color, national or ethnic origin, religion, sex, sexual orientation, disability, gender identity, or gender expression. He said it is focused on ensuring that external consumer data is not used in a way that unfairly discriminates against consumers. He said the core idea came from recognizing that the insurance department would not have the resources or expertise to compete with insurance companies but needed to find a way to ensure that the industry is using big data components responsibly. He said the intention is to find ways for the industry to stress test their own systems and identify the issues that may be occurring with big data systems and algorithms and find solutions for them. He said this is a problem that is bigger than just the insurance industry, and he provided examples. He said at its core, the legislation says a simple correlation to risk will not be sufficient if the underlying insurance practice also correlates to a protected class and negatively affects that class. He said it will be a balancing test that the law requires to be defined through a stakeholder process. He said the legislation is focused on personal lines of insurance, life, health, property, and casualty. He said the insurance practices subject to the legislation are marketing, underwriting, pricing, utilization management, reimbursement methodologies, and claims management. He said the risk management framework required by the law includes providing information on the external consumer data and information source used, explaining how it is used, establishing and maintaining a risk management framework, attesting to its implementation, and providing an assessment of the results of the framework or a similar process. He said the plan is to begin stakeholder meetings in mid-January 2022, and the rules will not be effective until Jan. 1, 2023. He encouraged all stakeholders to engage with the process.

4. Heard Presentations from Insurtech Coalitions

Commissioner Godfreed introduced J.P. Wieske (American InsurTech Council—AITC) and Scott Harrison (AITC).

a. AITC

Mr. Harrison said the group is formally launching today, Dec. 13. He said he is the co-founder of the AITC, and he is joined by three other co-founders: Jack Friou, Thomas Mays, and Mr. Wieske. He said another co-founder, Teri Hernandez is not able

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to be in attendance. He said the AITC saw the need for an organization to work with state insurance regulators as they develop new standards and regulatory frameworks for Insurtech. He said the AITC's mission is to serve as a dedicated, independent advocacy organization, advancing the public interest through the development of ethical, technology-driven innovation in insurance. Through its advocacy efforts, it also aims to advance public policy interests of insurtechs, insurance carriers, brokers, and other stakeholders by providing policy research, education, and outreach to policymakers, with the public, and across all lines of insurance. Mr. Wieske said the regulation of insurance must change and the regulatory environment modernize. He said the AITC wants to work with state insurance regulators to build this new environment, and it must be state-based. He said the AITC will not be for everybody, and he expects it to be a bit more of an exclusive organization going forward, but he believes these core principles are the key to moving forward.

Director Dieter said South Dakota did an innovation waiver last year, and Mr. Wieske and Mr. Harrison were very helpful in working with the legislature in getting that bill passed.

b. InsurTech Coalition

Commissioner Godfread introduced the second presenter from the InsurTech Coalition, Rachel Jade-Rice (Next Insurance). Ms. Jade-Rice introduced the other InsurTech Coalition members: Bill Latza (Lemonade), Jeremy Deitch (Boost), and Melanie Irvin (Branch). She said the InsurTech Coalition is made up of property/casualty (P/C) insurtechs. She said it is more of a bottom-up type of organization that started with these companies talking about regulation and how best to interface with commissioners given their unique characteristics. She said the InsurTech Coalition's insurtechs are in business to benefit the consumer and, more than thinking about the technologies, think about things in terms of the insurance product and consumer experience as a whole. She said the insurtechs that make up the Insurtech Coalition are focused on three things: 1) customer engagement; 2) convenience; and 3) tailored insurance products. She said the mission is to, first and foremost, be a resource and share information about how they use these technologies. She said founders of these companies recognized that there were underserved consumers in the marketplace, and they worked to bridge that insurance protection gap between what customers need, increasing accessibility and leveraging technology to build a better future. She said the focus of the InsurTech Coalition is speed to market, collaboration, and modernization.

Commissioner Godfread asked Ms. Jade-Rice if the InsurTech Coalition is seeking additional members. Ms. Jade-Rice said the InsurTech Coalition would welcome other members, and it is here to serve and be a resource to state insurance regulators and each other and to help everyone navigate the complex regulatory landscape.

5. Heard a Presentation from the Ad Hoc Drafting Group on Proposed Draft Charges for a New NAIC H Committee

Superintendent Dwyer provided an update on the progress of the Ad Hoc Drafting Group related to drafting charges for a new NAIC committee. She said she chaired the Ad Hoc Drafting Group, and it was vice chaired by Commissioner Birrane and Director Daniels. She said the process was thoughtful and deliberate, and the end product reflects the discussion and comments from all stakeholders, not just the 13 states who served on the Ad Hoc Drafting Group. She said in addition to Arizona, Maryland, and Rhode Island, the following states participated: California, Connecticut, Georgia, Iowa, Michigan, New Mexico, Ohio, North Dakota, Tennessee, and Wisconsin. She said the first meeting was held on Sept. 27, and a "strawman" charges draft was discussed, subsequently revised, and circulated to the members prior to the Commissioners' Conference in late October. She said hearing no objections, the draft was then exposed publicly; a public open comment meeting was held on Nov. 19; and comments, both written and verbal, provided by state insurance regulators, industry, and consumer representatives were taken into consideration following that meeting. She said another meeting of the Ad Hoc Drafting Group was held on Nov. 30 to review the new draft, and the final version was completed and posted on the NAIC website. She said it is open for discussion at the Innovation and Technology (EX) Task Force meeting, will be discussed during the Executive (EX) Committee meeting, and will be brought before the full membership at the Executive (EX) Committee and Plenary for a vote.

Superintendent Dwyer said the intention is to provide more consistency and collaboration, ensure coordination on related workstreams, and provide clarity and understanding regarding who or what committee is doing what and how it aligns and coordinates with related activities taking place in other workstreams. She said in addition, a priority and focus will be given to cybersecurity. She said once a chair and vice chair are named and committee members assigned, the committee will go over its charges and develop its strategy and workplan for addressing the charges. She said that may involve some re-organization of NAIC committees, but those decisions will be made once the committee is formed.

Commissioner Godfread said the new committee, once approved and members appointed, will put the structure in place, and the working groups that come under the committee will continue the work they have been doing in the technology and cybersecurity space and innovation, but it may look just a touch different as the work is elevated up to a letter committee level.

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6. Heard Updates from Other Committees and Working Groups on Related Activities

Commissioner Godfreed asked representatives from other committees whose charges involve related workstreams to those of the Task Force to provide updates.

a. Special (EX) Committee on Race and Insurance

Commissioner Mais said his report focuses on activity of the Special (EX) Committee on Race and Insurance that relates to data issues. He said there has been discussion within the workstreams about data potentially being needed to ensure that unfair discrimination or bias is not occurring in the marketing, underwriting, or rating of insurance. He said Workstream Five, dealing with health, has moved the furthest down this path by drafting a “Principles for Data Collection” document that provides high-level guiding principles for the collection and treatment of data on race, ethnicity, and other demographic characteristics in the health insurance business. He said one consistent theme expressed by stakeholders is that robust data collection is a key to both quantifying existing disparities and evaluating the effectiveness of initiatives to address those disparities. He said the Workstream plans to hold one last meeting on Dec. 20 to finalize the document, then it will be forwarded to the Special Committee for consideration.

Commissioner Mais said the Special Committee is also hearing how race is considered in the banking sector during this national meeting to see what can be learned and leveraged from that regulatory process to better inform workstreams as they begin to consider what additional data may or may not be needed. He said in terms of P/C issues, Workstream Three met Dec. 1 and heard from interested parties about Charge F having to do with continuing research and analysis of insurance, legal, and regulatory approaches to addressing unfair discrimination, disparate treatment, proxy discrimination, and disparate impact. He said the Workstream believes an important first step would be to consider the drafting of a white paper to define some of these terms, as well as to set forth next steps for the Special Committee.

Commissioner Mais said during Workstream Three’s Dec. 1, the Casualty Actuarial Society (CAS) previewed several papers it will be releasing in early 2022 that will define discrimination insurance; potential influences of racial bias on P/C insurance; approaches to address racial bias in financial services, including lessons learned for the insurance industry; and methods for quantifying discriminatory effects on protected classes in insurance. He said the CAS provided an overview of those papers, and it appears they will be useful in drafting the white paper. He said the Workstream also heard from several other consumer and industry groups about how to define these terms, as well as how to audit algorithms to ensure there is no disparate impact. He said the next step will be to have another call to continue these discussions, with a goal of drafting a white paper outline and taking comments on that outline.

b. Privacy Protections (D) Working Group

Ms. Amann said the Privacy Protections (D) Working Group met Dec. 11 and had a lively discussion about privacy protections. She said this work will likely overlap with many other groups. She said during that meeting, the Working Group adopted its charges and minutes from previous meetings. She said the focus of the work going forward would include the right to: 1) opt out; 2) limit and correct information; 3) delete information; 4) data portability; 5) restrict the use of data; 6) data ownership; 7) notice; and 8) non-discrimination or non-retaliation. She said the report was re-worded to replace the word “right” with “categories of discussion,” and this is now the report of the Working Group and not a policy statement as it had previously been labeled.

a. Accelerated Underwriting (A) Working Group

Commissioner Arnold gave the report of the Accelerated Underwriting (A) Working Group. She said the Working Group has been releasing its education report on accelerated underwriting in pieces for comment. She said the latest draft was released on Nov. 8, and comments are due by Dec. 3. She said the Working Group has received four comment letters from NAIC-funded consumer representative Birny Birnbaum (Center for Economic Justice—CEJ), NAIC-funded consumer representative Brendan Bridgeland (CEJ), Sue Bartholf (American Academy of Actuaries—Academy); and David Leifer and Gabrielle Smith (ACLI). Commissioner Arnold said on the Dec. 6 call, each of the commenters had the opportunity to briefly summarize the primary points in their comments. She said she chairs an ad hoc group made up of state insurance regulators working to draft the report, but the ad hoc group has not had an opportunity get together yet to review and consider these comments. The ad hoc group plans to meet following the Fall National Meeting, and it anticipates exposing a revised draft for a public comment period prior to the 2022 Spring National Meeting.

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7. Heard a Presentation on the MIB's Algorithmic Bias Testing for Life Insurers

Commissioner Godfread introduced Scott Kosnoff (Faegre Drinker) and Christie Corado (MIB Group). Mr. Kosnoff said the MIB Group is a life insurance trusted partner for data; offers insights in digital solutions; and manages a contributory data exchange for life insurance application data, which is known as the MIB Group checking service. He said the MIB Group may be able to help life insurers with algorithmic accountability, especially as it relates to racial bias, and it sees four challenges in this area including: 1) due to liability concerns, most insurers are reluctant to collect, derive, or purchase the demographic information needed to test for racial bias; 2) even if that data is available, there is no agreed upon means of measuring racial bias in algorithms; 3) there is no consensus on what level of correlation with race is acceptable; and 4) there is no consensus on how to mitigate racial bias if it is determined to exist. Ms. Corado said the MIB Group can help by serving as a repository of data, including race and ethnicity information that companies may not want to collect or store from the MIB Group checking service and publicly available data. She said the MIB Group could also promote algorithmic accountability by using actuarial analysis and data analytics to test and validate life insurers' AI algorithms and external data. She said to do this, it would need companies to provide their underwriting outcomes, and if they would, the MIB Group may be able to create industry benchmarks that will allow insurers to compare their results with industry averages. She detailed the reasons why the MIB Group may be uniquely situated to provide this type of service.

Commissioner Afaible asked Mr. Kosnoff and Ms. Corado if they have determined a standard that they are using to test against. Mr. Kosnoff said no, and that is one of the big challenges identified; but if enough companies would use the MIB service, the MIB Group may start to develop the bell curve that would allow it to see what looks and feels normal versus where there are outliers.

8. Received a Presentation on the SERFF Modernization Project

Joy Morrison (NAIC) provided an update on the System for Electronic Rates and Forms Filing (SERFF) Modernization Project. She said SERFF is used in 53 jurisdictions and has been around for 20 years, processing over half a million filings yearly. She said the effort to modernize SERFF started a couple years ago with there being some indication that there was a need for added functionality. She said an assessment was done in 2020, and the team identified many great tools and technologies available that could be leveraged to improve the system. She said the team has done some development work that is currently being demonstrated to state insurance regulators to get their feedback. She said that input is very important, and she encouraged everyone to participate in those demos and provide input and feedback.

9. Discussed Other Matters

Commissioner Godfread said the Task Force had an agenda item to get an update on international work related to innovation and technology, but due to time constraints, that report will be distributed to the Task Force members after the meeting.

Commissioner Godfread thanked everyone who has participated in Task Force activities over the past five years, noting that it will be disbanded with the appointment of the new Innovation, Cybersecurity, and Technology (H) Committee. He said he wants to specifically thank one of his staff members, Mr. Aufenthie, and the vice chair, Superintendent Dwyer, for the work they have done in support of the Task Force. He also thanked the members for their continued engagement and level of interest.

Having no further business, the Innovation and Technology (EX) Task Force adjourned.

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Big Data and Artificial Intelligence (EX) Working Group
San Diego, CA
December 13, 2021

The Big Data and Artificial Intelligence (EX) Working Group of the Innovation and Technology (EX) Task Force met in San Diego, CA, Dec. 13, 2021. The following Working Group members participated: Doug Ommen, Chair (IA); Elizabeth Keller Dwyer, Co-Vice Chair (RI); Mark Afable, Co-Vice Chair (WI); Lori K. Wing-Heier (AK); Jimmy Gunn (AL); Ken Allen (CA); Peg Brown (CO); George Bradner (CT); Frank Pyle (DE); Nicole Altieri Crockett (FL); Erica Weyhenmeyer (IL); Jerry Ehlers (IN); Victoria Lloyd (KY); Tom Travis (LA); Kathleen A. Berrane and Robert Baron (MD); Karen Dennis (MI); Grace Arnold (MN); Cynthia Amann (MO); Kathy Shortt (NC); James Fox (NH); Randy Currier (NJ); Barbra Richardson (NV); Lori Barron (OH); Glen Mulready and Teresa Green (OK); Jessica K. Altman (PA); Raymond G. Farmer (SC); Bill Huddleston (TN); Mark Worman (TX); Don Beatty (VA); Kevin Gaffney (VT); and Molly Nollette and John Haworth (WA).

1. Reviewed its 2022 Proposed Charges

Commissioner Ommen said the NAIC members are considering the formation of a new Innovation, Cybersecurity, and Technology (H) Committee, which includes proposed charges to continue the work of the Big Data and Artificial Intelligence (EX) Working Group. He summarized the charges as follows: 1) research the use of big data and artificial intelligence (AI) in the business of insurance and evaluate existing regulatory frameworks for overseeing and monitoring their use, which may include model governance; 2) 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 AI, and, if appropriate, work to develop modifications to model laws and/or regulations; and 3) assess data needs and required tools for state insurance regulators to appropriately monitor the marketplace, including gaining a better understanding of currently available data and tools and a means to include these tools into existing or new regulatory processes. He said the Working Group has been making expected measurable progress on the charges, but the charges have not been completed.

2. Received a Presentation on Applying Cybersecurity Lessons Learned to AI Regulation

Jillian Froment, an independent insurance regulatory advisor, provided a presentation on the similarities of cybersecurity and AI from a regulatory viewpoint. She said the similarities between cybersecurity and AI include their consumer impact and the fact that neither is a traditional area of insurance regulation nor an area of expertise for state insurance regulators. She said both areas are constantly evolving compared to typical insurance issues and have a potential for federal overlap. She said there are also external expectations for state insurance regulators to develop an appropriate regulatory framework. She said there are five actionable areas for AI regulation similar to the areas of regulation set forth in *the Insurance Data Security Model Law* (#668). These include proactive identification and mitigation of risks, ongoing monitoring and reporting of potential risks, insurer accountability of third parties, compliance certification to state insurance regulators, and transparency to state insurance regulators. Ms. Froment said this is an ongoing process and includes a governance solution that places responsibility on insurer. She said AI has similar challenges for state insurance regulators as cybersecurity. She said the overlay of the NAIC's AI Guiding Principles on the five actionable areas could provide a structure for the foundation of a governance model over the insurers' use of AI.

3. Received a Presentation on a Possible AI Regulatory Path

Commissioner Ommen said the Working Group's charges include researching the use of big data and AI in the business of insurance and evaluating existing regulatory frameworks for overseeing and monitoring their use, which may include model governance. He said the NAIC's AI Guiding Principles developed expectations regarding insurers' use of AI, which include being diligent in assessing the risks involved and mitigating those risks. He said one path forward, as explained by Ms. Froment, is to leverage the regulatory framework for cybersecurity. He said there are technical standards, audits, and certifications established for cybersecurity, and he suggested that there could be similar technical and audit standards developed for AI, which Anthony Habayeb (Monitaur) will discuss.

Mr. Habayeb said Monitaur provides a Machine Learning Assurance (MLA) software platform for model governance that helps companies monitor AI risks. He said a potential next step for regulating insurers' AI risk could include the NAIC identifying what controls should be in place for insurers to manage AI risk based upon the expectations set forth in the NAIC AI Guiding Principles. He suggested that this is a risk-centric approach that could be immediately implemented. He reviewed the potential steps to implement regulatory oversight, which include defining the principles, understanding the current status, defining key risks to the principles, defining assurance statements and frequencies, providing a period of time for carriers to implement practices, and defining market conduct questions and practices.

4. Received a Presentation on Monitoring and Mitigating AI Bias and Enabling Transparency

Commissioner Ommen said the next presentation has aspects of governance, but it also addresses the Working Group's charge to assess data needs and required tools for state insurance regulators to appropriately monitor the marketplace. If there is an agreed upon governance model developed, he said the next presentation will provide some thoughts on what resources or tools might be needed to verify that insurers are adhering to established expectations set forth in a governance model.

Kashyap Murali (SigmaRed) said AI is being adopted in an accelerated manner, and AI has risks related to bias, transparency, and robustness. He said there are also multiple AI regulations world-wide that require responsible AI, including the one published by the NAIC. He provided an overview of AI governance, which includes transparency and explainability, fairness and non-discrimination, accountability, safety and security, privacy, human control of technology, professional responsibility, and promotion of human values. He said prominent vendor solution archetypes include: 1) single segment solutions, which are targeted towards one component of AI governance; 2) custom, mitigative multi-segment solutions, which work on multiple components for AI governance; 3) preconfigured, non-mitigative multi-segment solutions, which work on multiple components of AI governance but do not work on custom metrics or provide solutions to mitigate risks; and 4) consulting and specific services, which provide hands-on service for customers who are just starting to implement AI and require aid for supporting technology services and non-technical services. He said SigmaRed's platform provides companies the ability to assess AI risk on an ongoing basis, provide immediate mitigation of risk, while also making AI explainable and compliant with regulatory standards.

Birny Birnbaum (Center for Economic Justice—CEJ) said he appreciates the perspectives provided, but he said there is a distinction between cybersecurity and AI because AI is an existing regulatory concern, which requires state insurance regulators to collect market outcome data to test whether AI models are producing the expected consumer outcomes. He said unlike cybersecurity, insurers and consumers will have different opinions on what is and is not an appropriate consumer outcome, and a model governance or model audit will not resolve these differences of opinion. Commissioner Ommen said he agrees that model governance is not the only solution, but he said the ideas of governance should be discussed.

5. Received a Presentation on PPA AI/ML Survey Results

Commissioner Ommen said the Working Group has been researching the use of big data and AI in private passenger auto (PPA) insurance to inform the Working Group of areas related to its charges, such as evaluating the appropriateness of existing regulatory frameworks for overseeing and monitoring the use of AI, as well as informing the Working Group of the need to develop or modify model laws and regulatory guidance.

Superintendent Dwyer said the survey was conducted under the market conduct authority of the nine requesting states (Connecticut, Illinois, Iowa, Louisiana, Nevada, North Dakota, Pennsylvania, Rhode Island, and Wisconsin). She said all documents, materials, and other information requested under this authority and held by the requesting states is confidential. Superintendent Dwyer said companies that were writing PPA business in one or more of the nine requesting states and had national direct written premium of \$75 million or more were requested to respond to the survey. The survey responses captured national activities, not just within nine states. Responses were not requested or provided on a state-by-state basis.

Superintendent Dwyer said a group of subject matter experts (SMEs), one from each of the nine states and several commissioners, collaborated with NAIC staff to develop the survey instrument. She said the NAIC established a weblink for the survey, which includes the survey template, filing guidance for the companies, definitions, validations, a frequently asked questions (FAQ) document, and a user guide for the tool used to submit the information. She said call letters were sent to the Government Relations, Market Conduct, and Market Conduct Annual Statement company contacts. The survey template was published on Aug. 9, and the survey submission link was released on Sept. 28. Superintendent Dwyer said the requesting states expected to receive 188 filings and received 192.

Superintendent Dwyer said the survey starts with a simple question of whether a company is using or contemplating using AI/machine learning (ML). If no, the survey asked for information regarding why not, and if yes, the survey continues with questions about what operational areas the company is using AI/ML: rating, underwriting, claims, fraud detection, marketing, loss prevention, and “other.” The survey then requested information on specific uses within each area, including the level of deployment, level of decisions influenced, governance being applied, and types of data used.

Superintendent Dwyer said the filing deadline was Oct. 28, and the survey results are now being analyzed, but that much more needs to be completed, especially more analysis of the text information provided. She said this also needs to be completed in accordance with state confidentiality laws and agreements. She said the last response was received on Nov. 29, and out of the 192 filings received, 168 companies reported using, planning to use, or exploring the use of AI/ML. Twenty-four companies reported that they were not using AI/ML. If a company indicated that it is not planning to use AI/ML, the survey asked why to provide some insight, such as whether regulatory issues were creating obstacles. Superintendent Dwyer said just over 57% of the companies indicated that they are developing the models internally, and about 43% indicated using third parties for model development. Additional analysis will provide more detail on the development of models for each of the operational areas.

Superintendent Dwyer said the survey process has gone very well and thanked the companies for their participation in the survey. Commissioner Afable said the SMEs received a lot of input from all stakeholders, and they want to hear feedback on the survey because the Working Group will use the survey template for other lines. Superintendent Dwyer said the next steps include apprising a broader group of NAIC members and state insurance regulators about the preliminary analysis, completing more detailed analysis of the data, analyzing the open ended/free-form questions, determining what information can be made public, and analyzing strengths and weaknesses of the survey instrument for use in surveying additional lines of business.

Commissioner Ommen said the survey is focused on problem-scoping and what areas might require more attention. Mr. Haworth questioned if there is more detail on the “other” uses of AI. Superintendent Dwyer said this analysis is ongoing. Mr. Birnbaum asked how many insurer groups are represented by the company responses. Superintendent Dwyer said this would be included in the additional analysis.

6. Discussed the Next Line of Insurance to Survey

Commissioner Ommen said the Working Group always planned to learn how to improve the survey questions and process from the PPA survey and develop surveys for additional lines of insurance. Commissioner Afable suggested that the Working Group should continue to focus on personal lines and life or homeowners insurance. Director Wing-Heier agreed that the Working Group should focus on personal lines and homeowners as the next line of insurance. Superintendent Dwyer asked if the Working Group conducts a survey on life insurance whether the survey would be limited in scope, such as focusing on term life. Ms. Amann said it would be helpful to have the survey to be broken out by coverage types within homeowners insurance. Commissioner Ommen encouraged people with expertise in life insurance to become involved in the next survey if life is selected. He suggested that the Working Group would pursue surveys for both homeowners insurance and life insurance. Mr. Birnbaum said there will be overlap in company reporting for the PPA survey and homeowners insurance, and there is no information from life insurers.

7. Discussed its 2022 Work Plan Development

Denise Matthews (NAIC) said the Working Group has outlined some next steps with surveys of homeowners and life insurance. She said the new Innovation, Cybersecurity, and Technology (H) Committee, if formed by the NAIC members, will likely be looking for some more detailed plans, and she encouraged the Working Group members to think about priorities and timelines for 2022.

8. Discussed Other Matters

Commissioner Ommen said the American Academy of Actuaries (Academy) has authored a paper titled *Big Data and Algorithms in Actuarial Modeling and Consumer Impacts*, which is an excellent resource document. He said the paper does a good job establishing terms and definitions, which could be very helpful to the Working Group going forward. He said individuals who want more information about the paper should reach out to Dorothy L. Andrews (NAIC).

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

Draft: 1/4/22

Speed to Market (EX) Working Group
Virtual Meeting
Nov 16, 2021

The Speed to Market (EX) Working Group of the Innovation and Technology (EX) Task Force met Nov 16, 2021. The following Working Group members participated: Rebecca Nichols, Chair (VA); Maureen Motter, Vice Chair (OH); Erick Wright (AL); Jimmy Harris (AR); Shirley Taylor (CO); Susan Jennette (DE); Julie Rachford (IL); Marcia Kramer (KS); Tammy Lohmann (MN); Camille Anderson-Weddle (MO); Ted Hamby (NC); Chris Aufenthie (ND); Frank Cardamone (NH); Russell Toal (NM); Mark Worman (TX); Lichiou Lee (WA); and Barry Haney (WI).

1. Adopted its June 30 and June 29 Minutes

The Working Group met June 30 and June 29 and took the following action: 1) adopted its March 10 minutes; 2) heard an update from the Information Technology Group (ITG); and 3) discussed and considered the suggestions received for updates to the product coding matrices (PCMs) and uniform transmittal document (UTDs).

Mr. Toal made a motion, seconded by Ms. Jennette, to adopt the Working Group's June 30 and June 29 minutes (see NAIC Proceedings – Summer 2021, Innovation and Technology (EX) Task Force, Attachment Two). The motion passed unanimously.

2. Adopted the *Regulatory Review of Predictive Models* White Paper Edits to the Handbook

Ms. Motter stated that there are updates that need to be made to the *Product Filing Review Handbook* (Handbook). She stated many of the updates to be made are technical edits involving corrections, such as updating obsolete information, removing working groups that no longer exist, updating current uniform resource locators (URLs), correcting punctuation, updating the formatting, editing areas to be consistent with the currently published NAIC Style Guide, etc. Ms. Motter explained that technical types of edits like that will not need the Working Group's review, as they do not require adoption since they are not content-related; those corrections will just be made, and the release of the updated Handbook would reflect those technical edits. She stated technical edits also include those that the System for Electronic Rates & Forms Filing (SERFF) team would be submitting, such as updating the list of current SERFF tools and updating the number of filing submissions.

Ms. Motter stated there are, however, some areas of the Handbook that may need some substantive or nontechnical content edits, and that she, Ms. Nichols, and Petra Wallace (NAIC) have started to review the Handbook to identify these types of edits. She stated this is one of the things that will be a priority in 2022 and may require Working Group involvement. Depending on the level of edits needed, a request for volunteers may be made to assist with these edits. Ms. Motter stated the main thing for the Working Group to address now is accepting the edits to Chapter 3 of the Handbook that were adopted by the Casualty Actuarial and Statistical (C) Task Force. She stated the Task Force was charged to propose modifications to reflect current best practices for the regulatory review of Generalized Linear Models (GLM) predictive analytics. Ms. Motter stated that even though these edits have already been reviewed and adopted by the Task Force, because they are considered content-related changes, the Working Group must ultimately review and accept them since revisions to the Handbook is one of this Working Group's charges. A copy of the *Regulatory Review of Predictive Models* white paper was provided for review prior to the meeting, posted on the Working Group's committee page, and shared during the meeting for review, along with a copy of the Handbook.

Ms. Motter stated many sections of Chapter 3 had no proposed changes. She stated the areas of the Handbook that were edited or added were: Interaction Between Rating Variables (Multivariate Analysis), Approval of Classification Systems, Predictive Modeling, Generalized Linear Models, What Is a Best Practice, Best Practices for the Regulatory Review of Predictive Models, Confidentiality, Questions to Ask a Company, Additional Ratemaking Information, Other Reading, and the Summary.

Mr. Toal made a motion, seconded by Ms. Lohmann, to adopt all changes proposed by the Task Force in the *Regulatory Review of Predictive Models* white paper to Chapter 3 of the Handbook. The motion passed unanimously.

3. Discussed the PRL Contacts

Ms. Nichols stated that in the past, many states have not been utilizing the Product Requirements Locator (PRL) tool. She stated she wanted to provide information about whom states can contact for assistance with inactivating the PRL tool once a state has made the decision to discontinue using or updating the tool, and for assistance with updating the PRL if a state is still using it.

Ms. Nichols explained that states should use their state's assigned persons to make PRL updates if needed. The assigned individual or individuals have a username and password that allow for the adding, changing, or deleting of product content requirements at any time. She explained that if needed, the assigned information technology (IT) liaison for a state can assist with identifying who has the PRL role, or that states can reach out to the NAIC Help Desk at 816-783-8558 or help@naic.org if additional research into that role for a state is needed. The Help Desk is also whom the PRL user for a state would need to contact if a password reset is needed to access the PRL tool. The log-in ID would be the same as the person's myNAIC login.

Ms. Nichols stated that if a state is not using or updating the PRL, the assigned persons for that state can contact Alex Rogers at arogers@naic.org, and his team can assist with inactivating that state in the PRL tool. The application removal itself will not take place until the NAIC takes it down, after the full transition into the new SERFF platform, which is still a couple of years away. She noted that this is not something states are being asked or required to address right now; this information is just being shared for any states that are looking to remove information from the PRL at this time or that might need assistance in making updates. Ms. Nichols stated there is a help document that outlines how to make PRL changes for states that are still using the tool and that it has been posted under the document tab for this Working Group's web page.

Having no further business, the Speed to Market (EX) Working Group adjourned.

[November 16 Speed to Market Minutes](#)

Draft: 1/4/22

E-Commerce (EX) Working Group
Virtual Meeting
October 7, 2021

The E-Commerce (EX) Working Group of the Innovation and Technology (EX) Task Force met Oct. 7, 2021. The following Working Group members participated: Kathleen A. Birrane and Robert Baron, Chair (MD); Jully Pae (CA); Heather Droge (KS); Tom Travis (LA); Cynthia Amann (MO); Chris Aufenthie (ND); Martin Swanson (NE); Lori Barron (OH); John Lacey (PA); Elizabeth Kelleher Dwyer (RI); and Bryce Carlen (WA).

1. Considered Adoption of its June 30 Minutes

Commissioner Birrane asked the Working Group whether it had an opportunity to review the June 30 minutes that were included in the meeting materials. Hearing no changes or edits to the June 30 minutes, Mr. Aufenthie made a motion, seconded by Ms. Amann, to adopt the Working Group's June 30 minutes (see NAIC Proceedings – Summer 2021, Innovation and Technology (EX) Task Force, Attachment Three). The motion passed unanimously.

2. Discussed its Overall Status, a Potential Survey to the States, and the Timeline for its Work Plan

Commissioner Birrane reminded the Working Group of its 2021 charges, including survey states regarding federal Uniform Electronic Transactions Act (UETA) exceptions and additional questions regarding the actions taken by the states in response to the COVID-19 pandemic. She also stated the possibility of including an additional survey question to be provided to the insurance industry regarding their actions in response to the COVID-19 pandemic. She stated that the goal of the survey would be to review the responses and continue to work toward meaningful, unified recommendations with the hope being that the survey would be sent out before the end of 2021.

3. Heard a Presentation on the E-Commerce Legal Landscape, COVID-19 Regulatory Accommodations, and State Adoption of E-Commerce Rules/Guidance

Gabrielle Griffith (American Council of Life Insurers—ACLI) and Angela Gleason (American Property Casualty Insurance Association—APCIA) provided a presentation entitled, “Consumer Driven, Consumer Protected – Regulatory Supported Innovation” and focused on developments in innovation in e-commerce and their continued support of consumers maintaining their ability to choose how they interact with insurers. Ms. Griffith and Ms. Gleason discussed the various requirements some states maintain requiring first-class mail delivery for certain insurance documents and notices and how many of these provisions were adopted and put in place long before the advent and development of e-commerce. This has resulted in a lack of clarity and uniformity among the states.

Ms. Griffith and Ms. Gleason continued by discussing the various regulatory accommodations that were put in place due to the COVID-19 pandemic, including the waiting for wet signatures for various filing, allowing remote notarization, allowing remote regulatory examinations, and allowing for remotely proctored producer examinations. Ms. Griffith stated that industry does not believe new laws or regulations are necessary for further innovation in the e-commerce space; instead she recommended the drafting and preparation of an innovation and technology handbook that could provide clarity and guidance for both state insurance regulators and industry. She explained that a draft handbook table of contents was prepared, and she discussed various recommended chapters to include in the handbook.

Ms. Griffith and Ms. Gleason explained that industry believes that the regulatory accommodations made during the COVID-19 pandemic worked very well, and to the extent that they were not made permanent, they should be. Ms. Griffith also stated that industry's hope is that legislators and state insurance regulators remain open to evolving electronic transactions, and the traditional opt-in regime is no longer needed.

4. Heard a Presentation on Operational and Technology Issues Confronting the Retirement Income Industry

Sarah Wood (Insured Retirement Institute—IRI) and Bryan Harmelink (IRI) said the IRI is the leading association for the entire supply chain of insured retirement strategies and has 113 member companies. Ms. Wood and Mr. Harmelink explained that the various benefits of implementing electronic solutions include providing consumers with secure, efficient, and easy-to-use

methods to purchase insurance and service insured retirement products; providing state insurance regulators with a robust model of traceability, and providing industry a clear audit trail to prevent and detect fraud.

Ms. Wood and Mr. Harmelink explained that the IRI maintains an Operations and Technology Committee, which is a board-level working group. In early 2020, this Committee approved commitments to digital solution implementation and adoption, and as the pandemic unfolded, the Committee recognized the immediate need for remote ways of transacting business. These efforts included increasing both e-signature availability of application order entry platforms and increasing e-delivery consumer availability. Ms. Wood stated that while many of these options have been available for more than 20 years, some states still require manual steps that lead to roadblocks when adopting these types of provisions. She also said as the various temporary e-commerce accommodations expire, it will create a patch work of requirements and inconsistencies among the states. Ms. Wood and Mr. Harmelink encouraged the NAIC to encourage permanent adoption of temporary accommodations made during the pandemic, address specific issues as they are identified through regulatory change and/or guidance, and develop model guidance or a model bulletin.

5. Heard a Presentation on State Efforts to Review E-Commerce Laws, Rules, and Regulations Prior to and As a Result of the COVID-19 Pandemic

Ms. Amann said Missouri reviewed where its regulatory processes are lacking from a technology perspective as well as its processes that were affected by the COVID-19 pandemic. Missouri began reviewing all regulatory processes across all departments in 2017 as part of a state-wide effort, which resulted in the reduction of one out of every five regulatory restrictions. When Missouri's governor signed an executive order in 2020 declaring a state of emergency in response to the COVID-19 pandemic, it enabled the governor to waive certain state laws and regulations where necessary. This resulted in nearly 2,500 modifications to the Missouri Department of Insurance's (DOI's) rules and processes and identified many regulatory processes that need to be improved and streamlined.

Ms. Amman said the Missouri DOI and its system of regulation must keep pace with a rapidly evolving marketplace fueled by seismic shifts in consumer behavior, technological advances, and a dynamic policy and regulatory environment. She also said while Missouri remained open for business, any steps taken could not be at the expense of decreasing consumer protection responsibilities.

Ms. Amman said the Missouri DOI took several steps to help the insurance industry and the DOI itself to continue serving consumers during the pandemic, such as issues bulletins that provided guidance on health insurance issues and coverage for COVID-19 testing, providing temporary grace periods that allowed consumers to retain their coverage during the first few months of the pandemic, waiving license requirements, waiving onsite examination requirements for title insurers, and many others. She said the Working Group should identify concerns that must be addressed via legislative action, and the departments should identify each waiver they issue during the pandemic, while also asking whether they intend to let the waiver expire, keep the waiver in place, or propose modifications.

6. Heard a Presentation on Telematics and Privacy Issues Confronting Insurance Consumers

Lee Tien (Electronic Frontier Foundation—EFF) provided a presentation on telematics and privacy issues confronting insurance consumers.

7. Heard a Presentation on Issues Regarding Insurance Consumers and E-Commerce in the Insurance Space

Birny Birnbaum (Center for Economic Justice—CEJ) said while advances in digitalization and e-commerce hold huge potential to speed up traditional insurance processes and help insurers reach new markets, insurance is not like most consumer products. He said insurance is a complex financial protection product that promises consumers a future benefit for which there is no data about how well the product performs. He said that every digital transaction comes with terms and conditions, and that is no oversight of such e-commerce terms and conditions. He said regulatory guidance for plain language and unacceptable provisions in e-commerce terms and conditions is needed. As an example, he explained the various required consents for a hypothetical title transaction, including the requirement that a consumer provide a release allowing the company to use their name, image, likeness, etc. in various manners and mediums.

Mr. Birnbaum also explained dark patterns, which is a term used to describe digital designs created to make users do things they might not want to do that benefit the business but not the user. He said action is needed by state insurance regulators to develop the skills necessary to recognize dark patterns in insurance and stop unfair and deceptive digital interactions.

Mr. Birnbaum continued by discussing e-commerce activity analytics and how the use of e-commerce creates new personal consumer information about the consumer's digital behavior and interactions. These new data include things such as how quickly a consumer completes an online application, and some insurance vendors are already marketing algorithms to assess consumer's biological age and candor from video interactions with consumers. Mr. Birnbaum also said the use of e-commerce and increased digital interactions must not marginalize historically disadvantaged group or communities, and the use of e-commerce tools should explicitly consider potential bias based on race and ensure access for people with disabilities.

Having no further business, the E-Commerce (EX) Working Group adjourned.

[E-Commerce WG Minutes 10.07.21.docx](#)