

Draft: 8/2/22

Big Data and Artificial Intelligence (H) Working Group
Virtual Meeting
July 14, 2022

The Big Data and Artificial Intelligence (H) Working Group of the Innovation, Cybersecurity, and Technology (H) Committee met July 14, 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 Seema Shah (NY); Kevin Gaffney, Co-Vice Chair (VT); Sian Ng-Ashcraft (AK); Tom Zuppan (AZ); Ken Allen (CA); Peg Brown (CO); Kristin Fabian (CT); Frank Pyle (DE); Rebecca Smid (FL); Judy Mottar (IL); Tom Travis (LA); Caleb Huntington (MA); Kathleen A. Birrane (MD); Sandra Darby (ME); Karen Dennis (MI); Matthew Vatter and Phil Vigliaturo (MN); Cynthia Amann (MO); Kathy Shortt (NC); Chris Aufenthie (ND); Christian Citarella (NH); Gennady Stolyarov (NV); Lori Barron (OH); Teresa Green (OK); Shannen Logue (PA); Anamaria Burg and Andy Dvorine (SC); Carter Lawrence (TN); J'ne Byckoyski and Rachel Cloyd (TX); Tanji J. Northrup (UT); Katie Johnson (VA); Eric Slavich and John Haworth (WA); Nathan Houdek (WI); and Joylynn Fix and Juanita Wimmer (WV).

1. Adopted its Spring National Meeting Minutes

Commissioner Ommen made a motion, seconded by Commissioner Lawrence, to adopt the Working Group's April 5 minutes (see *NAIC Proceedings – Spring 20221, Innovation, Cybersecurity, and Technology (H) Committee, Attachment Two*). The motion passed unanimously.

2. Received Reports on its Workstreams

Superintendent Dwyer said the activity of the Working Group consists of four workstreams. He said the primary purpose today's meeting is to receive updates on the progress of the four workstreams and obtain feedback from state insurance regulators, industry, and consumer representatives to ensure all perspectives are considered as the workstreams develop initial proposals for public discussion and continue their efforts through 2022.

Superintendent Dwyer said the first workstream is focusing on artificial intelligence (AI)/machine learning (ML) surveys. The second workstream is focusing on third-party data and model vendors. This workstream is determining the appropriate regulatory evaluation of third-party data and model vendors, and it will provide recommendations on the appropriate regulatory framework for monitoring and overseeing industry's use of third-party data and model vendors. The third workstream is evaluating tools and resources for monitoring industry's use of data and AI/ML. Superintendent Dwyer said this workstream is gathering data and evaluating 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 eliminating any bias in such use. The fourth workstream is focusing on the broader regulatory framework and governance. This workstream is evaluating how best to implement the expectations outlined in the NAIC AI Principles and will provide suggestions on next steps for developing a regulatory framework.

A. Workstream One

Commissioner Gaffney said NAIC staff have reviewed the data from the private passenger auto (PPA) survey conducted in 2021 and produced analysis needed by the state subject matter experts (SMEs) to draft a report identifying potential next steps. The SMEs will present their report to the Working Group at the Fall National Meeting.

Commissioner Gaffney said the draft homeowners (HO) survey and definitions were posted on the NAIC website

and exposed for a public comment period ending Aug. 1. Insurance companies that were writing HO insurance in 2020 with HO premium of more than \$50 million will be asked to complete the survey. With this criteria, 190 companies will be asked to complete the survey compared to the 193 for PPA survey. Commissioner Gaffney said the definition of AI/ML was modified for the HO survey to provide companies more clarity. The definition of AI/ML for the PPA survey was intentionally written to exclude the types of models that state insurance regulators have been reviewing for a large portion of the industry for more than 20 years. While not changing the definition applicable to most of the HO survey, Commissioner Gaffney said the HO survey includes a couple of rows to provide an indication of the full scope of AI/ML models used, including the older types of models. The goal of this change is to help ensure consistent reporting by all insurers and collect information needed for other workstreams. Commissioner Gaffney said the HO survey also contains some questions about the types of models being used to help state insurance regulators better understand the impact on consumers and the expertise needed in states to properly regulate models. Commissioner Gaffney said the governance questions asked on the PPA survey are now asked for each operational area of an insurer.

Commissioner Gaffney said progress is being made on the life insurance survey, and outreach has been made to a handful of pilot companies for feedback. The SMEs working on the survey will consider the company feedback and then expose the draft survey for comment by all interested parties. Commissioner Gaffney said the SMEs are planning to expose the draft survey in August and that the life insurance survey will issued shortly after the HO survey is completed.

B. Workstream 2

Commissioner Ommen said the first objective of the workstream is to identify third-party vendors that provide nontraditional data and/or models to insurers. This includes models and data from rating, underwriting, marketing, fraud detection, claims, and loss prevention. The second objective is to identify whether and how states are currently licensing these third-party vendors. Commissioner Ommen said the SMEs for this workstream are reviewing state statutes and definitions for the licensing of advisory organizations, rating organizations, insurance service organizations, and statistical agents. The third objective is to better understand the operating practices of third-party vendors and then develop examination standards or questions that state insurance regulators can use to engage with the third-party vendors. Commissioner Ommen said the results of the PPA survey have been used for these discussions, and the meetings have remained regulator-to-regulator since the SMEs have been discussing third-party vendors identified through the PPA survey.

C. Workstream 3

Ms. Shah said the objective of this workstream is to evaluate the tools and resources for monitoring the insurance industry's use of data and AI. She said this workstream is gathering data and information from publicly available sources, including third-party vendors, academia, and international regulatory authorities. Ms. Shah said this review should help identify governance models and software tools state insurance regulators could use to monitor the insurance industry's use of data with a specific focus on how to detect and mitigate for bias AI/ML activity related to claims, underwriting, and rating. Ms. Shah said the workstream is establishing a foundational vocabulary and a common understanding of concepts to enable a productive dialogue. She said the workstream is seeking input from all parties on the following three questions: 1) What are the tools/metrics and/or resources currently being used by or available to the industry for managing AI/ML activity? 2) What governance frameworks is industry using or are available for managing its AI/ML activity? and 3) What are the strengths and weaknesses of these tools/metrics, resources, and governance frameworks?

D. Workstream 4

Commissioner Beard said this workstream is focusing on the regulatory framework and how best to implement the expectations outlined in the NAIC AI principles, which include regulatory guidance such as model governance. Commissioner Beard said the workstream has started to evaluate other regulatory structures and guidance for overseeing risk. This includes the prior Innovation and Technology (EX) Task Force's presentation on components of a model governance framework, the Big Data and Artificial Intelligence (H) Working Group presentation on applying cybersecurity lessons learned for AI regulation, and the New York State Department of Financial Service's (DFS') climate change disclosure survey review framework. Commissioner Beard said the Information Systems Audit and Control Association (ISACA) framework, National Institute of Standards and Technology (NIST) framework, and European Insurance and Occupational Pensions Authority (EIOPA) approach to monitoring AI are being considered. Commissioner Beard said the workstream is also reviewing *Market Regulation Handbook* and the *Financial Condition Examiners Handbook* guidance related to data breaches, cybersecurity, and information technology (IT) security to identify a potential auditing framework. Commissioner Beard said the workstream will monitor and consider the work products from the other workstreams in the overall recommended regulatory framework.

Commissioner Beard said the workstream is seeking comments from all interested parties on published governance frameworks related to AI, including the ISACA Governance Framework, the NIST Draft Risk Management Framework, the EIOPA AI Governance Principles, or other internationally published guidance such as the Singapore's AI Governance Framework. Commissioner Beard said the PPA survey results indicated few companies are using existing standards or guidance and is also seeking comments from interested parties to better understand industry's reasons for not adopting a standard or a publicly available governance framework. Commissioner Beard said the workstream will use its review and feedback from interested parties to develop an outline of components for a potential regulatory framework.

Birny Birnbaum (Center for Economic Justice—CEJ) questioned how workstreams three and four interact with each other, the Special (EX) Committee on Race and Insurance, and the Collaboration Forum. Mr. Birnbaum also asked if the Working Group anticipates allowing interested parties to make presentations in addition to providing comments on the drafts for the workstreams. Superintendent Dwyer said the workstreams are being coordinated through the Working Group, and the use of workstreams is intended to break up the broad scope of work into smaller units. Superintendent Dwyer said some of the work across other areas of the NAIC are being coordinated through the Innovation, Cybersecurity, and Technology (H) Committee.

Mr. Birnbaum said he thinks the collection of more granular data and analysis of consumer outcomes are essential tools for state insurance regulators to use in monitoring the use of data and AI. Mr. Birnbaum said the monitoring of consumer outcomes is important to identify and eliminate unintended bias since algorithms do not always produce the intended results. Mr. Birnbaum said a governance framework does not guarantee fair treatment of consumers. Mr. Birnbaum said any model governance approach should include the collection of more granular data to test the actual outcomes of algorithms.

David Snyder (American Property Casualty Insurance Association—APCIA) said the development of common definitions and an understanding of the existing statutory standards that govern what insurance companies can or cannot do is important for further discussions and engagement. Mr. Snyder said it is important that the discussions do not divert from these standards and that all parties keep in the mind both the cost and effectiveness of potential regulatory frameworks.

Superintendent Dwyer emphasized the desire to have input from all interested parties as draft work products are developed and circulated. Superintendent Dwyer also encouraged all parties to follow individual state efforts, such as the efforts in Colorado and the District of Columbia

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

[BDAI Min 7.14.22](#)