

April 9, 2021

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

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

Dear Co-Chairs and Committee Members:

On behalf of the National Association of Mutual Insurance Companies (NAMIC), thank you for the opportunity to provide initial comments on the Committee's new draft charges released on April 7, 2021. Following a productive conversation with the NAIC officers and NAMIC's board officers and executive leadership, we have anxiously anticipated the opportunity to partner with you on this very important work. Since the inaugural meeting on September 17, 2020, NAMIC has remained committed to constructive dialogue with the NAIC, regulators, and other interested parties on issues at the nexus of race and insurance.

NAMIC continues to have a strong desire to work with the NAIC in this space on behalf of our industry members. Mutual insurance companies are built on the notions of community and inclusivity; the mutual model has a long and proud history of service to minority communities. NAMIC and NAMIC's members are adamantly opposed to discrimination on the basis of race and unfair discrimination in general. We have a long history of support for legislative and regulatory policies to prevent these practices. We strongly believe that the elimination of racism improves every aspect of our relationships, institutions, and business communities, and that treating all employees and policyholders with dignity and fairness is essential to the continued success of our industry.

It seems imperative to mention that NAMIC finds itself troubled that such opportunity for engagement and partnership has been so limited on such an important and large body of work. We can certainly appreciate the especially challenging operational year we have all had in the wake of COVID-19, however, we are concerned with the lack of transparency in the committee's operations to-date, which have included dozens of regulator-only meetings involving the development of a substantive work product like the updated proposed charges. We respectfully request that appropriate time and attention is given to ensuring that future meetings are open and stakeholders are provided sufficient opportunity to provide insightful input, as we all work to find solutions that are "right" and "implementable." Going forward, we strongly encourage the Committee to, at minimum, provide



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adequate time to review proposals/exposures, as well as access to forums where these very important proposals are being discussed.

In light of the short time window provided to comment on the draft updated charges for 2021, the following non-exhaustive comments are framed as a series of questions we believe should be publicly considered and addressed before any additional substantive work takes place.

General Questions:

- Is it the Committee's intention to develop a model law or regulation? If so, is it the NAIC's intention that such a model would be an accreditation standard?
- Does the Committee intend to develop specific definitions for historically underrepresented and disadvantaged groups?
- How will "workstreams" be treated under the NAIC Open Meetings Policy? Will the open meetings policy be amended to include the term "workstream?"
- Is the Committee or the NAIC willing to make a commitment to risk-based pricing? Such a commitment, in writing or in public statements, could alleviate many industry concerns regarding the direction of some of the conversations around the Committee's activity.

Charge Specific Questions and Comments:

- A. Language is used in the charges regarding practices that "potentially" disadvantage people of color and/or historically underrepresented groups – how will the potential for disadvantage be defined and measured?
- B. We appreciate the desire to avoid duplicative work – if issues of race are to be studied by other NAIC working groups and task forces, will instructions be added to their charges? Will stakeholders be provided adequate time to comment on those additional charges?
- C. We commend the committee for proposing to continue research and development of recommendations on action steps to improve the level of diversity and inclusion across the industry. We look forward to continued partnership with state regulators interested in supporting these critical talent pipeline efforts.
- D. Have State DOI's requested the NAIC's assistance regarding DE&I efforts? If so, what form have such requests taken, and were they approved by the corresponding state legislatures?
- E. It appears the research envisioned regarding State DOI best practices on DE&I efforts would fit more appropriately within the scope of workstream two, not three. Will this change be made?
- F. We would recommend the charge be "whether" unfair discrimination is present and "whether" additional appropriate steps are necessary.



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F2. Is the contemplated development of analytical and regulatory tools to assist regulators in determining unfair discrimination going to be completed exclusively by NAIC staff? Will new agreements be put in place for the delegation of authority? Which NAIC staff would be involved, and how would that be determined? Would ongoing monitoring of these analytical and regulatory tools be the responsibility of a standing letter committee? Will industry be provided the opportunity to self-monitor with the same tools and participate in the development of those tools? What will happen if an NAIC standard for unfair discrimination is in conflict with state law?

F2 a-f. The additional study to evaluate the validity of the use of correlation rather than causation seems to suggest that a causation standard for underwriting factors is being contemplated; is this accurate? If so, in what ways does the Committee believe any underwriting factor can be said to “cause” a loss? Similarly, it is unclear what “disparate impact considerations” means – under some interpretations, “disparate impact” can mean a simple outcomes-based approach to analysis that is fundamentally incompatible with risk-based pricing.

- G. Given that insurers do not currently collect data about policyholder race, would enhanced data reporting to identify the race of insureds be effective? If mandatory collection of racial information is being contemplated, has the committee considered how such a collection requirement may be at odds with state law in some instances and/or raise privacy concerns? How does the Committee envision handling mixed and multi-racial policyholders, or those policyholders that refuse to identify?
- H. Charge H6 indicates that steps need to be taken to mitigate the impact of residual markets, premium financing, and nonstandard markets. Does the committee have specific evidence regarding these markets that interested parties may see? If not, we suggest the approach of first investigating “whether” this is the case.

Thank you for the opportunity to comment on the proposed charges. We look forward to continued discussions with the committee, its members, and NAIC staff on these issues in a transparent and constructive manner.

Sincerely,

A handwritten signature in black ink that reads "Jonathan Bergner".

Jonathan Bergner
Vice President – Public Policy and Federal Affairs
National Association of Mutual Insurance Companies
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