

Center for Insurance Research

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Jennifer Cook
Accelerated Underwriting (A) Working Group
NAIC Central Office
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

RE: Comments on AUW Draft Regulatory Guidance 1-25-23

Dear Members of the Working Group:

I am writing to offer my comments on the exposure draft of the AUWG Draft Regulatory Guidance Document (dated January 25, 2023). I am one of the members of the NAIC consumer liaison program, a member of the consumer advisory committee of the Interstate Insurance Product Regulation Commission, and the Director of the Center for Insurance Research. The Center for Insurance Research (CIR) is a nonprofit, public policy and advocacy organization founded in 1991 that represents consumers on insurance matters nationally.

The Draft Regulatory Guidance document currently provides a very high level overview of potential topics for regulatory review without much in the way of granular detail, and I hope that as work continues on the Draft that detailed and specific recommendations for regulatory review are added. There is one particular element that I wish to highlight for inclusion in the draft – a standard noting that regulators should strive to ensure that AUW programs do not incorporate duplicative or proxy factors that weight the same risk factor more than once to the detriment of consumers.

In particular, the use of multiple factors that all weigh the income and economic status of life insurance applicants should be prohibited. Using the same factor twice or more will result in unfair discrimination against low and moderate income insurance purchasers – including families that would benefit from the ability of life insurance to prevent a tragic life event from negatively impacting the lifestyle of surviving family members. Yet, AUW programs often

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incorporate multiple types of data that specifically relate to the economic status of applicants. For example, AUW programs commonly use FCRA data but also drawn upon records of bankruptcy proceedings.¹ It is unclear to me there is any benefit from including credit data (which overlaps with bankruptcy filings) twice in AUW programs other than disadvantaging low-income applicants.

Furthermore, bankruptcy and FCRA records may serve as a proxy for the health insurance coverage of an applicant and their household. While life insurers are of course permitted to inquire about an applicant's personal health history, most life insurance applications (as overseen and approved by regulators) do not commonly ask applicants for proof they have health insurance coverage. Per the Consumer Financial Protection Bureau, 58% of debts recorded in collections were for a medical bill² and 66.5% of bankruptcies are caused directly by medical expenses (the leading cause of personal bankruptcy by a wide margin).³ Thus, rather than add any new risk data that is not provided by an FCRA report, the use of bankruptcy history – as a practical matter – may just serve as a proxy for health insurance coverage and create an unnecessary, artificial barrier to consumers who might not have ready access to an employer provided health plan. Is it the intent of the Working Group that life insurance underwriting be based (in part) on whether an applicant has health insurance coverage? If not, then bankruptcy data should be excluded from AUW programs. Consumers who lack continuous health insurance coverage and their families still need life insurance, and should not be excluded from AUW programs.

The most recent meeting of the A Committee at the Spring National Meeting in Louisville included a Presentation from the American Council of Life Insurers (ACLI) and the Society of Actuaries (SOA) on the Current State of Life

¹ Under many AUW programs a personal bankruptcy within the last 5-10 years disqualifies a consumer from the accelerated underwriting process entirely.
https://content.naic.org/sites/default/files/inline-files/Accelerated_Underwriting-NAIC%20December%202019.pdf

² <https://www.texastribune.org/2022/06/16/americans-medical-debt/>

³ <https://www.retireguide.com/retirement-planning/risks/medical-bankruptcy-statistics/>

Insurance where regulators, consumers and industry representatives all commented on a disturbing trend in the marketplace – the decline of life insurance ownership by family households. In 1971, 85.4% of families reported owning life insurance coverage but by 2019 that number had dropped to 59.4%.⁴ This means that more than 40% of American families, many with minor dependents, had no life insurance coverage to protect surviving family members. CIR believes this is a troubling trend. Life insurance should provide an important backstop for families against tragic life events and should be made available to all – at a fair price. However, relying on multiple sources of duplicative data in AUW programs – all measuring the economic standing of applicants – merely serves to exclude certain consumers from the life insurance marketplace.

As a consumer advocate who has long touted the importance of insurance ownership, it is troubling to life insurance products for middle class families becoming more scarce as insurers focus more exclusively on selling policies as investment and estate planning tools to the same small group of high-income consumers. For a large segment of Americans, fundraising websites like Go Fund Me have essentially replaced life insurance as carriers continue to fixate on high-net wealth individuals who do not actually need life insurance protection so much as investment products. AUW programs may speed up the process of selling life insurance, but this will not expand the life insurance market if AUW programs are permitted to utilize multiple, duplicative proxy economic factors that may penalize lower-income consumers several times over.

Bankruptcy and FCRA data are not the only potential duplicative data elements that may be used in AUW programs. The Accelerated Underwriting In Life Insurance Educational Report adopted by the Working Group on April 7, 2022⁵, identifies several other factors that potentially duplicate the same economic data as credit and bankruptcy information, such as:

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https://content.naic.org/sites/default/files/national_meeting/A_CMTE_MATERIALS_rev.pdf at p. 16.

5

https://content.naic.org/sites/default/files/inline-files/AUWG%20DRAFT%203-4-22%20for%20SNM_0.pdf

- “assessor data” Real estate value would seem to indicate nothing more than the respective wealth of an applicant – which does not necessarily correlate with personal health. It could easily create bias against low income or minority consumers who lack the resources to invest in real estate, but may still take care of their health. Moreover, it could prove misleading. An individual may have inherited a home, in which case it would merely reflect generational wealth, which again would create bias against low income or minority consumers.
- “mortgage amount/lender” Classifying applicants based on their chosen mortgage lender would also raise the prospect of redlining. Should life insurance applicants be punished because only certain types of lenders issue mortgages in their neighborhoods?

CIR believes it is imperative the Regulatory Guidance should advise regulators that AUW programs should not be allowed to the extent they utilize duplicative economic data elements. I fully agree with the Draft Guidance that “when reviewing accelerated underwriting programs used by life insurers to ensure the programs are fair, transparent, and secure ... Making sure that the use of accelerated underwriting is fair to consumers is important because its use impacts both the availability and affordability of life insurance to consumers.” Draft Regulatory Guidance at p. 3-4. Close scrutiny of overlapping economic data elements is necessary to make sure life insurance is both available and affordable to all families across the economic spectrum.

Permitting duplicative economic data factors in AUW programs may also run afoul of certain regulatory considerations identified on Page 4 of the Draft, including:

- Data inputs that may result in “unfair bias.”
- Duplicative economic categories that lack “a causal or rational explanation why a rating variable is correlated to expected loss or expense.”
- Achieving an outcome “that is not unfairly discriminatory.”

Because of these substantial risks, CIR recommends the following be added to the “examples of questions and request for information DOIs may want to

submit to life insurers when reviewing AUW programs” on Page 5 of the Regulatory Guidance Draft:

- “How does the company ensure that data elements in the model(s) are not duplicative or assessing the same risk factor more than once in a manner that is not unfairly discriminatory?”

Finally, I wish to note that CIR strongly supports the statement made on Page 4 of the Draft Regulatory Guidance which calls for “Ensuring that insurers use accelerated underwriting in a transparent manner is important because consumers should understand what personal data is being accessed by insurers and how that data is being used.” Transparency of the types of external data used in AUW programs is vital for both regulators and consumers. Mitigation has always been an important part of the insurance marketplace – but consumers cannot take steps to lower their risk when they do not know what criteria are being used.

Thank you for the consideration of these comments.

Sincerely,

/s/

Brendan Bridgeland
Director