**Comments are requested by close of business Friday, March 24, 2023**

**MEMORANDUM**

TO: **Market Conduct Examination Guidelines (D) Working Group** of the Market Regulation and Consumer Affairs (D) Committee

FROM: Accelerated Underwriting (A) Working Group of the Life Insurance and Annuities (A) Committee

DATE: January ?, 2023

RE: Suggested additions to the NAIC’s *Market Regulation Handbook* addressing accelerated underwriting in life insurance

The Accelerated Underwriting Working Group (AUWG) was created by the Life Insurance and Annuities (A) Committee at the NAIC 2019 Summer National Meeting to “… consider the use of external data and data analytics in accelerated life underwriting, including consideration of the ongoing work of the Life Actuarial (A) Task Force on the issue and, if appropriate, drafting guidance for the states.”

The AUWG drafted an education paper that was adopted by the Life Insurance and Annuities (A) Committee on April 7, 2022. The AUWG continues its work to draft guidance for the states reviewing life insurers’ use of accelerated underwriting. As part of that work, the AUWG makes this referral to the Market Conduct Examination Guidelines (D) Working Group to include additional guidance in the NAIC’s *Market Regulation Handbook* (MRH) that will address questions involving accelerated underwriting in life insurance. The AUWG believes that adding additional explanation and review criteria about accelerated underwriting in the MRH is necessary to alert the market conduct examiner to the novel data and processes utilized by life insurers in accelerated underwriting.

Existing regulations apply to accelerated underwriting programs in the same way as traditional underwriting programs. DOIs have broad authority to examine the processes and procedures of life insurers to determine if their accelerated underwriting programs comply with the statutes and regulations of the department, in particular the state equivalent to the *Unfair Trade Practices Act* (#880)[[1]](#footnote-1), to ensure that these accelerated underwriting programs are not unfairly discriminatory.

The AUWG recommends that a new standard be included in Chapter 23 – Conducting the Life and Annuity Examination related to a life insurer’s use of big data, artificial intelligence, and machine learning to underwrite life insurance. The applicable standard should address how accelerated underwriting programs used by life insurers are fair, transparent, and secure. The types of documents to be reviewed by examiners should include policy rates and forms, accelerated underwriting models and/or summaries of those models, information about source data used as part of the accelerated underwriting program, consumer disclosures, and testing and/or auditing policies and procedures of the models.

Review procedures and criteria should include the following:

* Ensure data is fair. Determine if the company has policies in place for and regularly performs audits of its data sets, predictive models, and machine learning algorithms to ensure data inputs are accurate and reliable, and do not result in unfairly discriminatory outcomes. Determine if the predictive model(s) and machine learning algorithms are based on sound actuarial principles.
* Ensure data use is transparent. Determine if the company discloses to applicants for life insurance the external information used in its accelerated underwriting program and how that external information is used in the accelerated underwriting program. Determine if the company provides a process or recourse to applicants for life insurance if they receive an adverse underwriting decision. Determine if the company provides applicants for life insurance an opportunity to correct mistakes in external data or information used in the accelerated underwriting program.
* Ensure data is secure. Determine how external data or information about life insurance applicants is utilized, stored, and destroyed by the company after the completion of the underwriting process.

The AUWG defers to the Market Conduct Examination Guidelines (D) Working Group regarding whether any updates to the MRH should be made to the chapter pertaining to life insurance as recommended above, or should be included in a chapter that deals specifically with the use of big data, algorithms, and machine learning by insurers generally. The AUWG looks forward to working with the Market Conduct Examination Guidelines (D) Working Group to draft the recommended changes to the MRH.

1. See Section 4G(1) Unfair Discrimination. Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any life insurance policy or annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such policy. [↑](#footnote-ref-1)