



# IDMA's The Regulatory Review

An eBulletin dedicated to providing insurance regulatory information to IDMA members

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**To:** IDMA Members  
**From:** Aimee Siliato, Vice President of Marketing, IDMA  
**Subject:** *The Regulatory Review* eBulletin – 2020, Edition No. 3

## ***Introduction***

*Welcome to another edition of IDMA's Regulatory Review, presented in support of IDMA's commitment to robust education of the insurance data manager.*

*Adapt. Overcome. Preserve. Words spoken throughout the 3-week 2020 NAIC Virtual Summer National Meeting as being the strengths the insurance industry relies upon in facing daily challenges and in times of crisis. COVID-19, social justice, climate change have tested these strengths as never before. We do, and should, rely on data as never before to adapt, overcome and preserve and to address daily challenges and unprecedented ones. Ultimately however important decisions need to be made by educated professionals and educated data management professionals are critical to that effort. Data drives decisions. Professionals make the decisions. Stay safe and healthy.*

## ***Disclaimer***

*The content presented here is not intended to be all-inclusive. Please visit [www.naic.org](http://www.naic.org) and click on Committees for more information or consult your company's regulatory/compliance staff. Any opinions or observations expressed here are strictly those of Ms. Siliato's and do not necessarily represent the opinions or observations of any company, member of IDMA or of IDMA leadership. The independent review of this material by you and/or your company should be considered in any use of this material.*

## ***Comments and Feedback***

*IDMA welcomes your feedback on this communication. Please feel free to send comments to Farouk Yassine, IDMA Executive Director, at [fyassine@idma.org](mailto:fyassine@idma.org) or [team@idma.org](mailto:team@idma.org)*

## NAIC Special Sessions

Three special sessions were held during the meeting on the topics of COVID-19: Lessons Learned, Hurricanes & Resiliency and Race & Insurance – A Candid Dialogue on the Role of the Insurance Sector in Addressing Racial Inequality and Promoting Diversity in the Insurance Industry. Highlights of special session and related discussions include:

### COVID-19

- Streamlining underwriting through the use of technology and new data sources to provide insurance faster (see section on Accelerated Underwriting for more information)
- Internal work stream improvements were necessary in some cases given the realization that some may not have been as paperless as they may have thought
- While financial impacts will be felt for quite some time, the industry was well-capitalized prior to the pandemic
- Need for more uniformity in data calls given limited time and resources coupled with the need for more information for regulators
- Business interruption remains a critical market regulation issue for COVID-19 as well as possible future epidemic/pandemic events
- A number of companies took action with regard to auto premium refunds due to less driving, more are expected to follow
- Need for innovation such as autonomous delivery of drugs when going to a pharmacy may not be possible.

### Hurricanes & Resiliency

- The Saffir-Simpson Hurricane Scale may not be sufficient to measure storm strength as it is a wind-based scale
- Breaking out water and storm surge risk in models is increasingly important as storm surges result in more fatalities according to the National Hurricane Center
- Warmer air holds more water making climate change a major factor in increasingly dangerous storms
- Strong building codes are critical
- Insurance Institute for Business and Home Safety recommends going beyond building code requirements with improvements such as sealed roof decks and superior garage door wind load capabilities, designating structures as “fortified” beyond compliance with building codes
- A task force on Climate & Resiliency was formed by the NAIC

### Race & Insurance

- Lack of African-American leadership in the industry was cited, as well as lack of women and people of color in leadership positions
- Need for their voices to be heard and represented in the industry
- Use of big data and new sources of data such as facial recognition was seen as possibly problematic given much of the data is unregulated and can lead to discriminatory practices, disparate impacts, unconscious bias
- Need more regulatory focus and regulation, similar to financial regulation
- A Special Committee on Race & Insurance was formed to be chaired by NAIC Secretary-Treasurer Missouri Insurance Director Chlora Lindley-Meyers

## Ongoing Committee Activity

Here are highlights of discussions related to ongoing committee activity.

### Accelerated Underwriting

- Use of behavioral data such as gym membership, facial recognition, alcohol and cigarette sales can result in unintended discrimination against protected classes
- Correlation of characteristics, data elements, data points does not necessarily imply causation
- Issues to consider include informed consent, do consumers understand information being collected and how it is being used, possible discrimination against protected classes, transparency to the consumer
- Proponents cite reduced expenses, shorter time periods for policy issuance, higher acceptance rates of policies with accelerated underwriting compared to traditional underwriting
- A professional should make the final underwriting decision, accelerated underwriting algorithms can assist
- Accelerated underwriting is being used now particularly in life insurance policy issuance
- A work product on accelerated life underwriting is to be completed in third quarter 2021

### Artificial Intelligence

- Guiding principles for the use of artificial intelligence (AI) were adopted by a unanimous vote. They include a call for insurers and others that use AI to take proactive steps to avoid proxy discrimination against protected classes, monitor the operation of its AI system and remediate harmful or unintended consequences, provide responsible disclosures and give consumers an opportunity to inquire about and seek review of AI-driven decisions and take a risk management approach to each phase of the AI system's life cycle. Accountability, transparency and compliance are key requirements.
- Principles are not intended to be a regulation. They do not have the effect of law.
- The international group, the Organization for Economic Cooperation and Development (OECD), AI principles formed the basis for development of the NAIC principles

### Climate and Catastrophe Risk and Insurance

- Better view of what may happen in the future is needed for model development versus many models relying on past events
- New catastrophe models evaluating coastal flood, wildfire, inland flood, hail, tornado/wind in addition to the traditional focus on hurricane and earthquake are being focused on
- Public/private partnership needed to address climate risk, similar to flood risk
- NAIC Climate Change Survey, currently an 8-question survey, is being revised. Possible use of data collection similar to the Financial Stability Board (FSB) Task Force on Climate-related Financial Disclosures (TCFD) instead of the current questionnaire
- Evaluate environmental, social, governance (ESG) risks such as unsustainable practices, land use practices
- The fifteenth extension of the NFIP will take it through 2020, need long-term reauthorization, continued encouragement of growth and participation of the private market

### Predictive Models White Paper

- Best practices white paper adopted to provide guidance to regulators as they review models to determine whether modeled rates are compliant with existing state laws and regulations. While not carrying the weight of law, it is intended that the guidelines and practices apply to and provide guidance to all involved in the use of models in rate development including third parties and consultants.

## **Privacy Protections**

- Date privacy is the focus of the NAIC Privacy Protections Working Group, not data security
- NAIC Model Law 672 Privacy of Consumer Financial and Health Information will be the basis, which aligns closely with HIPPA
- Gap analysis to be done across 672, HIPPA, GLBA, GDPR, CCPA
- The Federal Trade Commission (FTC) should be the guiding federal agency, rather than creation of a new agency which would require time to establish
- Health, life and property/casualty data will all be considered in the upcoming work

## **Market Analysis**

- Market analysis ratios are available on the NAIC website to industry and consumers to see market trends
- Individual companies can see how they compare to the industry as a whole
- Suggestion made to add a new ratio on the number of lawsuits closed with consideration for the consumer

## **Market Conduct Annual Statement**

- Add accelerated underwriting to the annual statement, simple addition of a yes/no question of whether or not it is being used was suggested so regulators would know who/where it was being used
- Add digital versus non-digital claim settlement practices, was a human being on-site for damage evaluation, photos alone may miss damage and settlement money claimant is entitled to or future damage that might occur from missed damage
- Conversely there could be future claim submitted that were in fact part of a past event rather than anything current

## **Terrorism**

- 2020 joint state regulator/US Department of the Treasury data call responses which were due in mid-May are being evaluated now by the NAIC. The state ZIP-code level data supplement is due September 30.
- The national proportion of workers' compensation policies with terrorism charge was 82.4% in 2017 (most recent year data is available) and has remained relatively consistent since 2011.
- NJ has the highest percentage of policies with terrorism charges with 98.91%, followed by NY with 96.84%. Idaho had the least with 28.43%

## **Workers Compensation**

- California workers compensation rates are down 40% due to reforms such as use of evidence-based guidelines for treatment decisions, protocols for treatment regimes, independent medical review
- NCCI noted concerns and challenges going forward related to COVID-19 including PTSD claims, need for new coding for COVID-19

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