



# IDMA's The Regulatory Review

An eBulletin dedicated to providing insurance regulatory information to IDMA members

January 26, 2021

**To:** IDMA Members  
**From:** Aimee Siliato, Vice President of Marketing, IDMA  
**Subject:** *The Regulatory Review* eBulletin – 2021, Edition No. 1

## **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.*

*“The future ain't what it used to be.”*

*A popular “Yogi-ism” from NY Yankee baseball legend Yogi Berra*

*We can all relate to that now. In fact it was said during the multi-week 2020 NAIC Virtual Fall National Meeting which took place in November and December. Discussions focused on plans for progress on critical 2020 issues-COVID-19, race and insurance, climate change, building on 2020 successes while addressing ongoing regulatory issues and responsibilities. Here are highlights of regulatory and related discussions on topics of interest to the data community. Stay safe. Be well.*

## **Disclaimer**

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## **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)*

**COVID-19**

- Regulatory/industry response, assistance to states in 2020 included:
  - Coordinating with federal agencies, advising Congress
  - Regulatory action to facilitate use of telemedicine
  - Reporting/claim filing extensions
  - Data call for business interruption premiums, claims and losses
  - Automobile premium return (in light of what was referred to as “2 weeks to a gallon”)
  - Providing forums for discussion

**Pandemic Business Interruption Federal Insurance Mechanism**

- Many believe federal mechanism likely necessary for widespread availability of business interruption coverage.
- Lessons learned from existing federal programs-flood, crop, terrorism-critical to discussions for pandemic coverage.
- Resources and background materials on business interruption/pandemics and other federal programs can be found on the Center for Insurance Policy & Research section of the NAIC website.
- Litigation example: December 3, 2020 federal district court for the district of Kansas dismissed business interruption claim, finding plaintiff wholly ignored the modifiers direct and physical that precede both loss and damage in the policy language.

**Race and Insurance**

- Research level of diversity in the industry
- Five areas of interest being addressed
  1. Review publically available data regarding diversity
  2. Look at state insurance department resources on data such as demographics and how that data can be shared with other departments
  3. Evaluate property/casualty sector practices and/or barriers, 5 major categories
    - Availability and affordability
    - Access
    - Unfair discrimination, disparate impact
    - Use of data including Big Data, Artificial Intelligence
    - Producer issues such as licensing, testing, training
  4. Evaluate life and annuities sector, disparities in underwriting, cancellations
  5. Evaluate health sector, affordability and accessibility

**Climate and Resiliency, Catastrophe Risk**

- Five workstreams being addressed
  1. Solvency-impact of insurers’ exposures, including investment, to climate-related risks
  2. Climate risk disclosures-promote uniformity in regulatory reporting requirements
  3. Pre-disaster mitigation-educational efforts, enhanced building codes, consumer education and awareness
  4. Technology-apply technology to understand and evaluate climate risk exposures
  5. Innovation-use of innovative products to reduce climate risks

- Responses to the annual NAIC Climate Risk Disclosure Survey being analyzed. Concern that the 8-question survey may not provide enough or the correct type of data in today's climate risk environment. Discussion continues on possible use of or combination with the Financial Stability Board (FSB) Climate-related Financial Disclosures (TCFD) given the potential financial risk to the industry and need for more information for regulators in that area. Gap analysis between the NAIC survey and TCFD will be done by the American Academy of Actuaries, target conclusion summer 2021. The Academy assisting the NAIC in the survey analysis.
- Consumer representatives suggested "all perils" (fire, flood, earthquake, wildfire, wind, hurricane, etc.) policy language, no peril being excluded.

### **Accelerated Underwriting**

- Educational report being drafted for guidance
- No model law contemplated at this point

### **NAIC 2021 Leadership**

- President-Commissioner David Altmaier (FL)
- President-Elect-Director Dean Cameron (ID)
- Vice President-Director Chlora Lindley-Myers (MO)
- Secretary/Treasurer-Commissioner Andrew Mais (CT)

### **Predictive Models**

- Regulator education on predictive models continues with focus on:
  - Telematics, how driving data can be used to improve pricing, claims and customer engagement.
  - Gradient boosting models, use decision trees that individually predict small differences in target.
- How data is collected, how it is processed and enhanced, how data is stored in the modeling/model development process.
- Regulatory topics, as presented to regulators by the Werner Advisory company, include:
  - Additional complexity for rate review process
  - Reliance on growing number of third party vendors
  - Effect on disparate impact concerns
  - Mass market access to telematics product (e.g., have/need smartphone?)
  - Privacy and responsible data storage and usage
  - Data portability for the consumer

### **Privacy Protections**

- Gap analysis done between NAIC Model Law 672-Privacy of Consumer Financial and Health Information and NAIC Model Law 670-Insurance Information and Privacy Protection with objective to use or build on the most relevant parts of each, rather than reinvent or rewrite.
- Key areas of focus:
  - Notifications to consumers
  - Portability
  - Opt-In/Opt-Out
  - Disclosures to consumers

### **Market Conduct Annual Statement**

- More detailed, possibly transaction-level data is needed, discussions ongoing

## **Market Regulation**

- Online market conduct examinations available in approximately 28 states in 2020, number of states will increase in 2021

## **California Privacy Rights Act (CPRA)**

- Strengthens California Consumer Protection Act (CCPA)
- Will make data minimization a requirement for organizations
- Only retain personal information data necessary to achieve the purpose for which it was collected
- Effective January 1, 2023
- Includes the right to correct inaccurate consumer data

## **TDWI 2020 Data and Analytics Survey**

- Addressed the question how has demand for advanced analytics such as predictive analytics and machine learning changed in your organization over the past year. 105 respondents.
  - 71% say that demand has increased
  - 11% say it has decreased
  - About 15% are mature in the technology
  - Most organizations are in the self-service/visual analytics stage moving towards predictive analytics and machine learning

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Insurance Data Management Association, Inc. (IDMA)  
545 Washington Blvd., 19<sup>th</sup> Floor  
Jersey City, NJ 07310  
Tel: (201) 469-3069  
Fax: (201) 748-1690  
Email: [team@idma.org](mailto:team@idma.org)  
[www.IDMA.org](http://www.IDMA.org)  
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