



IDMA's The Regulatory Review

An eBulletin dedicated to providing insurance regulatory information to IDMA members

May 11, 2021

To: IDMA Members
From: Aimee Siliato, Vice President of Marketing, IDMA
Subject: *The Regulatory Review* eBulletin – 2021, Edition No. 2

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.

2021 marks NAIC's 150 anniversary. Its first meeting was held in May 1871 in New York City. Remarks made by NAIC President Commissioner David Altmaier (FL) noted the heightened emphasis on the "C" in NAIC. It does not simply stand for commissioners but also for the commissioners' commitment to the consumer, to communities and to collaboration. A new logo was unveiled to capture that and a new website will follow. A preview can be found on the current site at www.naic.org. Be safe. Be well.

Disclaimer

The content presented here is not intended to be all-inclusive. Please visit 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.

Ongoing 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 or team@idma.org.

Race and Insurance

- Research continues on level of diversity and inclusion (D&I) in the industry
- Five workstreams established:
 1. Analyze D&I within the industry
 - Positive correlation between D&I and insurer profitability was found
 - Can, and should, do more at all levels
 2. State insurance department and NAIC staff D&I
 - Survey to be conducted to collect D&I information and develop best practices
 - Diversity training for NAIC staff and state insurance department staff
 3. Property/casualty sector
 - Conduct further study on affordability/availability of automobile and homeowners insurance, availability of producer licensing exams in multiple languages
 - Developing tools to assist regulators in determining unfair discrimination in areas such as the use of socioeconomic variables, proxy variables for race, use of third-party data, use of criminal history
 4. Life and annuities sector
 - Examining disparities in number of cancellations
 - Impact of accelerated underwriting among minority policyholders
 5. Health sector
 - Develop model data calls on available care by ZIP code
 - Evaluate efficiency of telehealth for underserved communities
- Circular letter issued by the NY Department of Financial Services (NYDFS) detailing benefits of D&I in the insurance sector and announcing plans to collect certain D&I information from NY-regulated insurers this summer

Big Data and Artificial Intelligence

- Deeper dive in 2021 into how, where and to what extent the industry is using artificial intelligence (AI), related data elements and algorithms, how the technology is being leveraged
- Closer look will be taken with appropriate confidentiality protections
- Anonymous survey on use of AI being considered focusing on commercial automobile and personal automobile. NAIC staff to draft proposed questions.
- Consider including third-party vendors
- Also in 2021 research into governance programs for models to be considered
- Presentation by NAIC on Components of Model Governance Frameworks suggested these development steps:
 - Agree on the key components of the AI model
 - Create consensus on key risks associated with Big Data and AI model
 - Draft baseline requirements for users to build on
 - Draft procedures for insurance examiners
 - Use and amend over time

Cannabis Industry

- Most insurance appears to be in the non-admitted surplus lines marketplace
- Fact-finding hearing to be conducted to learn from insurers

Climate and Resiliency

- Reports from five workstream groups included:
 1. Solvency-Consideration of current US oversight, public sessions to be held, target Fall 2021 for workstream recommendations
 2. Climate risk disclosures-option to respond to either the Financial Stability Board (FSB) Climate-related Financial Disclosures (TCFD) survey or the NAIC survey will remain in effect for the 2021 reporting year
 3. Pre-disaster mitigation-Study on wildfires indicates mitigation reduces risk by 75%
 4. Technology-Reviewing catastrophe models, white paper with Risk Management Services (RMS), new NAIC app for home inventories launched
 5. Innovation-Parametric, micro insurance discussed as possible option to fill insurance gaps. Benefits-faster claim payments, fewer claim expenses, assistance for underinsured/uninsured. Concerns-lack of consumer understanding of the products and limited oversight by regulators

Coded Bias Documentary and Panel Discussion

- NAIC hosted a screening of “*Coded Bias*”, a documentary that explores findings of bias in facial recognition algorithms, machine-learning and AI, followed by a panel discussion (regulator, film, consumer and industry representatives’ participants) on the film.
- Questions raised:
 - Who owns the code?
 - Who should regulate AI?
 - How are current regulations implemented?
 - Are they sufficient in current environment?

COVID-19 Business Interruption Claims

- Business interruption claims related to COVID-19 often denied due to policy language that there must be direct physical loss of, or damage to, the covered property requiring distinct physical alteration of property
- Recent case in Los Angeles successfully argued that the “presence of people infected with the virus particles renders physical property in their vicinity unsafe and unusable, resulting in direct physical loss to that property”.
- Boardwalk Ventures CA, LLC v. Century-National Insurance Company, et al

Cyber Insurance

- NYDFS established a Cyber Insurance Risk Framework
- Seven practices NY-regulated property/casualty insurers should employ:
 1. Formal cyber insurance risk strategy
 2. Manage and eliminate exposure to silent cyber risk
 3. Evaluate systemic risk
 4. Measure insured risk
 5. Educate insureds and producers
 6. Obtain cybersecurity expertise
 7. Require notice to law enforcement

Innovation and Technology

- NAIC working group established to develop best practices recommendations for e-commerce activities, such as e-signatures, e-notarizations, given rapidly increasing use during the pandemic
- InsurTech presentations:
 - Collaboration between USAA and State Farm on subrogation blockchain solutions
 - Trellis Connect-focus on getting right insurance at the right price for the consumer
 - Vero-customer messaging platform

Market Conduct Annual Statement

- Work being done with objective to add additional lines of business/areas of data collection to the Market Conduct Annual Statement (MCAS), Other health, Travel Insurance, Accelerated Underwriting Digital Claims (automobile and homeowners)
- Goal to incorporate into the 2022 MCAS data call

Predictive Models

- Regulator education on predictive models continues with focus currently on telematics, how driving data can be used to improve pricing, claims and customer engagement
- Aspects of discussion:
 - Access to smartphones, apps
 - Disparate impact
 - Who is the driver at any particular point in time
 - Rewards for good drivers, incentives, fewer crashes
- NAIC Executive Committee unanimously adopted Regulatory Review of Predictive Models White Paper, available on the NAIC website

Privacy Protections

- Pandemic stalled legislative work on these issues at the federal and state level last year
- Two major points of contention:
 - Whether or to what extent federal law should preempt state law
 - Issues regarding inclusion of private right of action
- Proposed legislation often includes privacy protections and related cyber risk issues. While the two are related, the NAIC Privacy Protections Working Group is charged with focusing on privacy protections only.
- Several NAIC groups also looking at privacy protections from other perspectives such as Big Data and Artificial Learning and Accelerated Underwriting. Groups will coordinate to avoid duplication of effort and conflicting approaches.
- Charges completed in 2020 are:
 - Summarization of consumer data privacy protections found in existing NAIC models
 - Identification of notice requirements of states, GDPR and the California Consumer Privacy Act (CCPA) and how insurers may be subject to these requirements.Additional detail and materials can be found on the NAIC website at www.naic.org
- 2021 work will focus on identifying consumer rights that attach to notice requirements such as:
 - Opting out of data sharing
 - Collecting or deleting information
 - Data portability
 - Restricting the use of data
 - How insurers may be subject to these requirements

Note: Once again, IDMA welcomes your feedback on this communication. Please feel free to send comments to Farouk Yassine, IDMA Executive Director, at fyassine@idma.org or team@idma.org.

2021 IDMA Spring/Summer Conference

The Power of Data in Our New World – Adaptation, Flexibility, and Rapid Change

June 16th–17th | Virtual

Register by May 17th and Save \$100 @ <https://events.bizzabo.com/IDMA2021Conf>

Group 3+ Discount – Use promo code **IDMA15GRP**

Sponsorship Opportunities still Available. [Contact us at team@idma.org](mailto:team@idma.org)

*Insurance Data Management Association, Inc. (IDMA)
545 Washington Blvd., 19th Floor, Jersey City, NJ 07310
Phone: (201) 469-3069
Fax: (201) 748-1690
Email: team@idma.org
Website: www.idma.org*