

Consumer Representative Comments on the AUW Regulatory Guidance July 11 Draft

We submit these comments on AUWG’s July 11, 2024, draft regulatory guidance document. Preliminarily, we again stress the urgency of moving from high-level principles and guidelines to recommending and implementing substantive consumer protection requirements. Until that is accomplished – or at least begun – the goals of ensuring fair, transparent, safe, and secure AUW programs (and AI programs generally) remain unfulfilled and insurance consumers largely unprotected. The rest of our comments will be on the changes reflected in the July 11 draft, and we attach our July 2 comments which addressed additional issues.

We appreciate many of the changes made and believe they make this a better guidance document. However, we also believe that several important points should be added.

- The draft requires programs that are “fair, transparent, safe and secure.” We agree, but we suggest you use the more comprehensive language the Working Group referred to on page 7: “... the importance of developing AI systems that are fair and ethical, accountable, compliant with insurance laws and regulations, and safe, secure, and robust.”¹ This would also conform the language to the NAIC’s Principles of AI, the NAIC’s guiding document on regulating Big Data and AI.
- Adding “or combination of variables” to point 2 adds an important element, as Brendan Bridgeland discussed at the July 11 public Webex call.

¹ And add “transparent” to clarify that transparency is embedded within these principles.

- Point 5, requiring communications to consumers to be “understandable by the typical consumer,” is an important addition, which can be detailed in future model documents. To avoid vague or general descriptions that provide little guidance to the consumer, we suggest adding the requirement that this information must not only be clear, but also (1) sufficiently detailed to enable consumers to review the specific consumer data that was used and (2) to sufficiently evaluate its accuracy.
- The “. . . at time of authorization” addition on point 6 is vague. “Authorization” should be defined or described so consumers and insurers are clear as to what the “time of authorization” specifically refers to.
- Points 7 and 8 (a helpful addition) address important issues. However, simply requiring that “the insurer has a process [or mechanism] in place” to assist consumers is too vague, easily evaded, and does not assist consumers or insurers in determining what is an adequate process. This guidance document should provide more specific descriptions of what a sufficient process would be. In addition, the draft appears to take the position that insurers need only enable communication between consumers and the “orig

- As we stated previously, we strongly support Point 11’s recommendation as it reinforces the AI Principles statement on avoiding unintentional proxy discrimination.

Thank you for this opportunity to comment on the July 11 draft. We also appreciate the time and consideration the Working Group has given these issues and the multiple opportunities for stakeholders to participate.

Sincerely,

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