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Submitted Electronically to kdefrain@naic.org

Re: Best Practices for Regulatory Review of Predictive Analytics White Paper

Dear Chairman Kelley and Vice Chair Donelon:

I write on behalf of the Consumer Data Industry Association (CDIA) to comment on the exposure draft concerning best practices when reviewing predictive models and analytics. This draft was released by your Casualty Actuarial and Statistical Task Force ("Task Force") on May 14, 2019. Thank you for allowing CDIA a chance to offer comments on behalf of our consumer reporting agency ("CRA") members. We offer comments on section VI in the body of the whitepaper and sections A, B and C in the modeling guide.

The Consumer Data Industry Association is the voice of the consumer reporting industry, representing consumer reporting agencies including the nationwide credit bureaus, regional and specialized credit bureaus, background check and residential screening companies, and others. Founded in 1906, CDIA promotes the responsible use of consumer data to help consumers achieve their financial goals, and to help businesses, governments and volunteer organizations avoid fraud and manage risk. Through data and analytics, CDIA members empower economic opportunity all over the world, helping ensure fair and safe transactions for consumers, facilitating competition and expanding consumers' access to financial and other products suited to their unique needs.

Section VI, 1. c (p. 5) addresses a "Review [of] the individual input characteristics to and output factors from the predictive model (and its sub-models), as well as, associated selected relativities to ensure they are not unfairly discriminatory". Including "sub-models" like Credit-Based Insurance Scores ("CBIS") into this process

will increase the burden of regulatory compliance for CRAs. This unknown increase in regulatory burdens could impede the relationship between insurers and consumers and these new burdens can inject unnecessary friction into consumers who seek quick decisions and competitive prices from their insurers.

The new, proposed obligations in Sec. VI.1.c. also raise the potential for confidentiality concerns not only with the CRAs, but the companies they work with (date furnishers and lenders) in the credit reporting system and their consumers. Depending on the state, certain information in rate filing requests may not be exempt from public records disclosure. This lack of an exemption from public records is a concern because information that has never previously been requested could be subject to the myriad of public disclosure laws around the country. There is no surety to how states will respond to public records requests. The credit reporting system is a consistent nationwide process. Exposing individual characteristics of scoring models to public record requests allows competitors access to information that they can use to gain an unfair advantage over another company. Regulators should be able to know whether scoring models are lawful, but this information should not be accessible as a public record.

We are not convinced that including CBIS in this type of review is mission critical. Yet, if this review needs to be in the process, CDIA recommends the establishment of highly specific rules to protect confidentiality and proprietary information. Additionally, a separate review process of sub-models as an optional request with defined valid concerns making it mandatory would help in addressing concerns.

Credit-based insurance scores do not unfairly discriminatory towards any race, religion, gender, ethnicity, or other established suspect classes and there are studies that show the lack of illegal discrimination. A myth of illegal discrimination pervades many media accounts and public policy debates, but in truth, credit-based insurance scores do not promote redlining or other illegal insurance practices.

Section VI 3. a (p. 6) addresses how to "[e]valuate how the model interacts with and improves the rating plan" and how to "[o]obtain a clear understanding of the characteristics that are input to a predictive model (and its sub-models), their relationship to each other and their relationship to non-modeled characteristics/variables used to calculate a risk's premium." These proposals are confusing. If these provisions are meant to include information relating to the scoring models that CRAs use to create CBIS, there could be a significant regulatory burden on CRAs and this burden would impede the relationship between insurers and consumers and these new burdens can inject unnecessary friction in to consumers who seek quick decisions and competitive prices from their insurers. The regulatory burdens heighten the risk of disclosing proprietary information that is currently kept confidential because of its importance.

In "Selecting Model Input" under subsections A.1.a and A.1.d of "Available Data Sources", we would like to ensure, where allowable by state law, that CRAs' products and data sources remain protected under trade secret and confidentiality guidelines. In some instances, our members are not allowed to disclose the name of an insurance carrier that contributes to a data set. We suggest that aggregated statistics, loss ratios and average premiums, for example, could be used to accept alignment with industry performance standards. There is also the potential for regulatory confusion with the Fair Credit Reporting Act ("FCRA"). Some consumer reporting agency solutions utilize non-FCRA data, this standard would extend some FCRA requirements on non-FCRA data.

Regarding Sec. A.2.f "Determin[ing] if the sub-model was previously approved (or accepted) by the regulatory agency", this score should be recategorized from its current score of two to a one score. This guideline practice would help to eliminate unnecessary and duplicative reviews of third-party and vendor models that have been previously approved.

Section A.4.c addresses "Identif[ing] material findings the company had during their data review and obtain an explanation of any potential material limitations, defects, bias or unresolved concerns found or believed to exist in the data. If issues or limitations in the data influenced modeling analysis and/or results, obtain a description of those concerns and an explanation how modeling analysis was adjusted and/or results were impacted". This provision should be recategorized from its current score of 1 to a 3 or 4 score. Existing regulations around actuarial rate making standards and state regulations should prevent these items from entering a "final/proposed" model. This should be categorized as three of four (i.e. if model review uncovers issues).

We have several comments regarding Section B, "building the model" :

- Sec. B.1.g, "Obtain[ing] a detailed description of the variable selection process" poses great potential for exposing trade secret information. Changing "detailed" to "general" would help alleviate this concern.
- Sec. B.2.c, "Obtain[ing] a description of univariate balancing and testing performed during the model-building process, including an explanation of the thought processes involved." poses trade secret protection and confidentiality issues
- Secs. B.3.a and B.3.c, Both pose trade secret protection and confidentiality issues that must be addressed in the final white paper.
- Sec. B.3.b, "Obtain[ing] a list of predictor variables considered but not used in the final model, and the rationale for their removal". The best practices and guidelines should be limited to only the variables that were in the final and proposed models.
- Sec. B.3.d, "Obtain[ing] an intuitive explanation for why an increase in each predictor variable should increase or decrease frequency, severity, loss costs,

expenses, or any element or characteristic being predicted." CDIA agrees with the current and actuarially accepted practice of rate making guidelines not requiring intuitive explanations of predictive values. This risk exposing trade secret and confidential information, while also creating the potential for increased fraud and undermining of the insurance industry.

- Secs. B.4.b, through B.4.d. CDIA recommends recategorizing these scores from their current scores of two to a three or four score, along with only making this a requirement if deemed necessary.
- Sec. B.4.e, "Identif[ing] the threshold for statistical significance and explain why it was selected. Obtain a reasonable and appropriately supported explanation for keeping the variable for each discrete variable level where the p-values were not less than the chosen threshold". This is a fairly subjective standard. We recommend that it includes more objective and actuarially sound information and decisions. CDIA also recommends changing this score from its current one to a three or four.

We have several comments regarding "Section C, "The Filed Rating Plan":

- Sec. C.1.a, "In the actuarial memorandum or explanatory memorandum, for each model and sub-model (including external models), look for a narrative that explains each model and its role in the rating system." The term "role" in this instance is very vague, confusing and if left up to interpretation could be problematic. Traditionally, the role of these models is to improve the precision and validity of their subsequent pricing structure.
- Sec. C.1.c, like many other areas, this provision creates potential trade secret and confidentiality issues.
- Sec. C.2.a, "Obtain[ing] a narrative how the characteristics/rating variables, included in the filed rating plan, logically and intuitively relate to the risk of insurance loss (or expense) for the type of insurance product being priced." CDIA agrees with the current and actuarially accepted practice of rate making guidelines not requiring intuitive explanations of predictive values. This risk exposing trade secret and confidential information, while also creating the potential for increased fraud and undermining of the insurance industry.

The "Supporting Data" section, specifically Secs. C.6.a and C.6.b, on "Obtain[ing] an explanation of any material (especially directional) differences between model indications and state-specific univariate indications" pose some concerns for CRAs and could interfere with the insurance process for consumers.

Credit Based Insurance Scores are constructed using nationwide data sets. Scoring or grading their performance out at a state level may not be supported or accurate with this approach. It is also a common occurrence for certain contracts to prevent model providers from sharing distinct or customer specific data with third parties. There are several factors besides credit information and CBIS that go into the

rate setting process. Credit Information and CBIS may be the only ones that are consistent and transferrable across the country, while some of the other factors used can and do differ greatly on a state by state basis.

There is already a large regulatory review presence on the industry. It is already over seen at the federal level by the Consumer Financial Protection Bureau (CFPB) and Federal Trade Commission (FTC), along with several states implementing their own regulations and the Conference of State Banking Commissioners looking into the industry as well. This increased regulation not only hurts the industry, but the consumers it serves. It will significantly hamper speed to market for the products consumers need and does not appear to add much, if any, benefit to the outcome for the industry and its consumer.

In conclusion, we believe that these potential new best practices will create burdensome regulatory difficulties for our members, speed to market issues for insurance companies, their product and the consumers that need them. CDIA members provide quality products that are already regulated and accepted by the insurance industry. CDIA and its members respectfully request consideration and inclusion of its comments in the task force's whitepaper. Thank you for the opportunity to comment and please feel free to contact us with any questions you may have.

Sincerely,

Eric J. Ellman
Senior Vice President, Public Policy & Legal Affairs

cc: Members of the Casualty Actuarial and Statistical Task Force (CASTF) of the Property and Casualty Insurance (C) Committee
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