

August 22, 2022

Commissioner Karima Woods
D.C. Department of Insurance, Securities & Banking
1050 First Street, NE Suite 801
Washington, DC 20002

RE: NAMIC Comments—DISB Request for Comment—Potential for Unintentional Bias in Automobile Insurance

Commissioner Woods,

The National Association of Mutual Insurance Companies (NAMIC) appreciates the opportunity to provide comments about the gathering of data related to the potential for unintentional bias in private passenger automobile insurance policies in the District of Columbia.

NAMIC is the largest property and casualty insurance trade association in the country, with more than 1,500 member companies supporting local, regional, and national member companies who write more than two-thirds of the U.S. private passenger auto insurance market and over \$750 million direct written premium in the District of Columbia.

As society continues to examine fundamental issues of fairness in states and cities across the country, NAMIC would like to continue to urge caution as the Department embarks on its initiative to collect data it believes relevant to the evaluation of the potential for unintentional bias in private passenger auto underwriting and ratemaking.

NAMIC and our members believe firmly in the fair treatment of all policyholders. Mutual insurance companies are built on the notions of community and inclusivity, and the mutual model has a long and proud history of service to minority communities. NAMIC and our members are adamantly opposed to discrimination based on race and unfair discrimination in general, and we support legislative policies to prevent these practices, many of which are already established in the DC Insurance Code.



NAMIC appreciates DISB's transparent and collaborative approach to this review and look forward to continued dialogue throughout the study.

1. **Review of outcome data**

At the outset, it is imperative to establish that insurance is priced differently than virtually every other product available to consumers. Unlike nearly all products and services, the actual cost of providing insurance is unknown at the time it is offered. Because of the prospective nature of insurance pricing, the most important outcome to consider in evaluating fairness is loss ratio, since it shows whether premiums paid are supported by the losses and costs incurred. We address DISB's proposed outcome-based measuring proposals in turn:

Quotes—Utilizing quotes will likely lead to inconsistencies in the data across insurers and policyholders. Quotes can be derived from one of several distribution channels (agents, phone, online direct through carrier or indirect through comparison tools). Each channel may lead to a range of outcomes for the same individual. In addition, there are an assortment of variables and factors that can be used to obtain a quote that could lead to different results for the same individual and the same insurer.

Any study rooted in the analysis of preliminary quotes rather than verified, underwritten, and bound coverage will be of questionable validity, at best. Quotes may be based on incomplete data, change over time, are not necessarily retained, and may not be what consumers pay for insurance after the complete underwriting process – they are preliminary by their very nature and the consumer's decision not to purchase following a quote often means the applicant found cheaper coverage elsewhere. Underwriting often requires more information that may modify initial quotes depending on consumer responses, as well as validation of data provided before and after the quote.

For these reasons, NAMIC is opposed to a data call for quote data and urges caution against oversimplifying the analysis of identified data and rating factors by reviewing quote data. The retention of quote data is not required, and any analysis thereof would fail to present an accurate picture of the cost of auto insurance.

Underwriting decision—Much like quotes, declinations pose significant challenges in contrast to verified, underwritten, and bound coverage. Declinations may occur when a consumer fails to complete an application, fails to provide additional information

following a request from a prospective insurer, or fails to meet underwriting criteria established by rating plans filed with and approved by DISB. While we understand the appeal of a simple yes/no decision for purposes of DISB's analysis, we do not believe such an analysis would provide meaningful results or withstand scientific scrutiny.

Premium—The study of premiums charged should not be done in a vacuum – any analysis of premiums must also include consideration of loss costs. Solely looking at premium charged in the absence of considering the risk of loss would be an incomplete approach to any analysis of insurance pricing.

Loss ratio—Loss ratio is a significantly more appropriate basis for analysis than the other three proposed in DISB's request for comments. The analysis of losses and costs is consistent with the traditional legal understanding of unfair discrimination established under D.C. Code § 31-2231.11. There have been several studies conducted that have found no evidence of unfair discrimination by insurers with respect to pricing. That is to say, loss ratios in areas where there is a higher proportion of minority and/or low-income households are similar or even higher than loss ratios in other areas, including a recent analysis performed by Prof. Robert Klein: *Matching Rate to Risk: Analysis of the Availability and Affordability of Private Passenger Automobile Insurance*.¹

2. **Factors not considered reflective of unintentional bias**

To offer competitive policies, insurers use a number of rating factors and models to predict potential losses and charge accurate prices to policyholders. Through this practice, rather than a punitive one-price-fits-all approach, consumers who present lower risk pay less for their coverage. Ultimately, risk-based pricing makes it possible for insurers to offer customers competitive rates while remaining financially stable.

Analyzing past losses helps forecast potential future losses. However, prior claims alone are not enough to accurately predict future risk. Even for the safest of drivers, things like weather, theft, and being hit by riskier drivers are all considerations of future risk. To match risk to rate as accurately as possible, insurers rely on actuarial science to ascertain and measure the future risk predictors most fairly.

¹ https://www.namic.org/pdf/publicpolicy/210202_naic_study.pdf



Underwriting and ratemaking depends on an insurer’s ability to collect and use accurate information about potential policyholders. Every insurer uses different factors and evaluates them differently. There is broad agreement that factors should be objective, actuarially sound, and have a credible, statistically significant correlation to expected losses and expenses. Rating factors are correlative: the more information an insurer has and can use, the more accurately it will be able to assess the likelihood of a loss and that accuracy is reflected in the premium that is paid by the policyholder.

The chart below provides examples of rating factors that are often considered, potentially considered, and never considered by insurers in the rate making process. The list is in no sense comprehensive--and exact factors, as well in the manner they are weighted, change frequently and vary from carrier to carrier. It is simply a useful illustration of factors that may or may not be considered in setting insurance rates. NAMIC supports insurers’ ability to continue to use factors that are objective, actuarially sound, and have credible statistically significant correlation to expected losses.

Often Considered	Potentially Considered	Never Considered
Location	Gender	Race
Claims History	Occupation	Ethnicity
Age of vehicle	Education	National Origin
Vehicle type/use	Marital Status	Religion
Driving record/experience	Credit-Based Insurance Score	Income
Miles driven annually	Previous Insurance Coverage	Literacy

Ultimately, consumers benefit greatly from risk-based pricing. In today’s highly competitive marketplace, insurers compete for potential policyholders by offering lower rates and better coverage than their competitors.

3. **Consideration of factors that are a protected class and comply with ASOP #12**

NAMIC supports insurers’ ability to continue to use factors that are objective, actuarially sound, and have credible statistically significant correlation to expected losses, including but not limited to gender and marital status. Just because the connection between a factor and driving behavior is not intuitive does not remove the proven ability to predict the risk of a loss.

When developing auto insurance rates, insurers consider many vehicle and environmental risk-predicting factors like vehicle information, vehicle safety equipment, location, and weather exposures. They also use driver characteristics such as age, driving record, and gender that have been found to have significant correlation with risk. Gender is a widely used factor by auto insurers when assessing the risk drivers represent. Efforts to ban gender as a risk factor are misguided and could have the unintended consequence of saddling responsible drivers with higher premiums.

As a general matter, men, especially younger men, are riskier on the road and should pay higher premiums representative of the risk gap; which is why it is a factor worthy of consideration by insurers. Data from the U.S. Department of Transportation shows that, as a group, younger men are even more likely to engage in risky behavior and are that much more costly to insure. The marked differences between younger women and younger men in terms of driving behavior and potential liabilities are impossible to ignore. Without gender as an objectively considered factor, statistically safer drivers will pay more.

Where marital status is concerned, there are also a number of factors that some insurers believe reduce the likelihood of experiencing a loss, justifying differences in rating. For starters, married persons drive less often than single persons – married couples generally share driving responsibilities, resulting in each person spending less time behind the wheel. Married couples may also be able to take advantage of joint or multi-vehicle policies, all of which will affect not only the premiums they pay, but their general risk tolerance and the manner in which they drive, resulting in fewer crashes and claims.

NAMIC supports the ability for insurers to consider a wide variety of actuarially proven factors to assess risk accurately and fairly. We note that extensive research has been conducted on rating factors and the underwriting and rating of auto insurance by academics, regulators, and the federal government. In particular, we again recommend DISB review the recent work by Dr. Robert Klein mentioned above, as well as the article published by Dr. Lars Powell in the *Journal of Insurance Regulation* titled *Risk-Based Pricing of Property and Liability Insurance*.²

² <https://content.naic.org/sites/default/files/jir-za-39-04-el-risk-based-pricing.pdf>

4. **Criteria to be Evaluated for Bias**

NAMIC believes that racism has no place in today's world, and its elimination improves every aspect of our relationships, institutions, and business communities. We believe that at its very core, insurance underwriting is a system predicated on and sustained by fair and equal treatment, and that a level playing field is achieved through applying equal, objective standards of risk assessment to all consumers, *not* by contemplating an individual's race when assessing risk.

Comments to date from the Department and its consultant have made it clear that DISB intends to move forward with an analysis using inference methodology to infer the races of D.C. policyholders. Property and casualty insurers do not collect race data from their policyholders and have no interest or desire to do so; NAMIC urges the Department to consider the following questions:

- A. How can the data validate the inferences being drawn in this study?
- B. Since the department intends to infer consumer race information, will underlying data and inference methodology be made available for public review, in addition to any findings?
- C. Even using a generally accepted methodology like BIFSG, there will necessarily be an error rate that results in misclassifying a percentage of the population – how does the department intend to address this concern and the limitations it creates?
- D. Will insurers have due process to dispute particular findings, and if so, how?
- E. DISB uses new terminology not in the existing laws in D.C. and not defined by the DISB, namely “bias”. How is that defined and how will the definition not conflict with the existing terminology of “unfair discrimination” and “unfairly discriminatory rates” that ensure insurers do not treat similarly situated risks differently and do not separate the price from the underlying costs and expenses?
- F. How will DISB use loss ratio information for the segmented groups since any analysis of “unfairness” without a loss ratio analysis provides only half the picture and is certain to lead to unfair subsidization of higher risk drivers?
- G. What will DISB do if the loss ratio illustrates that one protected class pays less due to lower losses and another protected class pays more due to higher losses?

While the purposes and intentions of the Department's initiative may be laudable, it is important to conclude with some level-setting: The Private Passenger Auto insurance



market is driven by the effort to match rate to risk above all else. Matching rate to risk promotes accuracy, which is the essence of insurance fairness – a system in which insurers most accurately price risk and charge a commensurate premium. Policyholders benefit from risk-based pricing as insurers compete for business and ensure that lower-risk policyholders are not unfairly forced to subsidize higher-risk policyholders.

Rating factors that enhance accuracy should be embraced, not prohibited. We agree that rating factors should be responsibly and continuously considered and validated for accuracy, credibility, and objectivity by insurers, actuaries, and policymakers. What is already certain, however, is **more** risk-based factors improve fairness and consumer choice by enhancing the accuracy of a consumer’s overall risk assessment. Eliminating valid factors not only intentionally creates cross-subsidies, but it does nothing to reduce the overall costs of coverage. Additionally, the removal of any proven factor necessarily increases reliance on other remaining factors, while reducing accuracy and making coverage unaffordable for more consumers.

Thank you again for the opportunity to provide comments. NAMIC appreciates the Department’s commitment to this open dialogue and a data-driven process. We look forward to working with you moving forward on these and other initiatives to best ensure that private passenger auto coverage is available to residents of the District of Columbia at a rate that matches their risk of loss, something we believe can be best achieved through a system predicated on and sustained by fair and equal treatment, using objective standards of risk assessment for every applicant and policyholder.

Sincerely,

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